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Preface by the Executive Director

In January of 2023, the Commission for Environmental Cooperation (CEC) launched an introspective exercise into the origins, evolution, community advocacy and public policy related to environmental justice (EJ) in North America. EJ is complex and in its most modern conceptualization involves overlaying vulnerabilities related to environmental and systemic inequities that include dimensions of race, ethnicity, class, gender, culture, age, sexual orientation, migratory status, income level, and geography, among others.

Understanding EJ in all of its dimensions and nuances and how North American awareness of and action to advance EJ have evolved since the inception of EJ as a concept in the mid to late 20th Century and across three very different countries as well as its manifestations around the world, is a critical first step to identify persistent inequities and vulnerabilities that are still faced by many groups, communities and individuals and to explore potential solutions to overcome them.

EJ activism and scholarship over many decades have helped us understand that not everyone suffers equally the impacts of air and water pollution, extreme heat, flooding, drought, biodiversity loss and other environmental and climate externalities. Some, because of their race, ethnicity, class, gender identity or sexual orientation, age, migratory status, visible or invisible disabilities, or some other aspect of their personal experience and/or identity, face multiple layers of vulnerability. In 1989, Kimberle Crenshaw employed the term *intersectionality* as: "a metaphor for understanding the ways that multiple forms of inequality or disadvantage sometimes compound themselves and create obstacles that often are not understood within conventional ways of thinking."¹ Crenshaw provided us a lens through which to consider environmental justice and the compounded and intersecting vulnerabilities faced by certain communities and people.

This discussion paper explores these multiple dimensions of EJ, the intersectional nature of EJ vulnerability and the inter-relationship between such terms as *environmental justice*, *environmental racism*, *environmental discrimination* and *environmental equity*. It does not present a unique North American definition of EJ, as the complexities of EJ and its many facets do not neatly fit into a common definition that are applicable to all EJ cases. With contributions from a number of CEC team members,² as well as dozens of interviews held with EJ activists, academics, public officials and community leaders, this discussion paper looks at the evolution of environmental justice in the North American region, identifying past and present key events that helped forge the EJ movement, past, current and emerging EJ paradigms and definitions that help us give literal meaning to EJ, and legal frameworks and EJ public policy that have emerged in the region to address historical and systemic discrimination and inequities in the sharing of environmental benefits and burdens across Canada, Mexico and the United States.

This discussion paper is intended to help guide the CEC in its EJ-focused engagement. It will be presented publicly as background material for the upcoming *Experts Roundtable with the Executive Director on Environmental Justice: Origins, Evolution, and Emerging Policy in North America*, to be held at the 2024 CEC Council Session that will take place in Wilmington North Carolina in June of 2024.

¹ See 2018 interview with Crenshaw, at: <https://www.youtube.com/watch?v=ViDtnfQ9FHc&t=3s>.

² CEC contributors include Executive Director Jorge Daniel Taillant, José Antonio Casis and Giulia Brito Pound who contributed to research and drafting, Abril Gómez and Laura Nuñez CEC EJ Interns that conducted early research, Ivet Reyes Maturano and Carlos Daniel Valdovinos CEC's EJ Fellows, and Caitlin McCoy of the SEM Unit that contributed to recent editions of this draft.

Introduction

Since the 1960s, and especially over the course of the last three to four decades the topic of environmental justice or EJ) has emerged, evolved and has been embraced by civil rights advocates and other community leaders, by Indigenous Peoples and by many environmental activists across North America and around the world. Likewise, EJ advocates and scholars, (though sometimes with different reasons and in very different socio, political and economic contexts) have embraced EJ narratives and an EJ conceptual framework to address the inequity of how environmental benefits and burdens are enjoyed and suffered. EJ as a focus area for government action, has risen to the forefront of public policy, law, and government programs, and has become an aspirational symbol and a public policy imperative for achieving equitable sustainable development and to secure a more just future for the most environmentally vulnerable communities.

Although defining precisely what EJ is and where it is manifest is sometimes elusive, as cases of environmental *injustice* may vary and look very different from community to community, what is common and what unites EJ causes across countries, cultures and communities, and what makes the issue of EJ distinguishable as a lens for analysis and action, is its focus on addressing the *inequity* and *discrimination* of the environmental harm certain communities face compared to others. And what truly underscores EJ cases is the unfairness of *who* is suffering environmental harm, *where* they're suffering it and what decisions were taken beyond their control that led to *why* they are being polluted.

It is important to stress that as EJ was emerging as a social movement it focused on the impacts of pollution on already disadvantaged and historically marginalized people, setting itself apart from the more traditional environmental movement focused on the conservation of natural resources. At its core, and since its origins, environmental justice, and the environmental justice movement is about protecting people from pollution and harm. It's about racism, discrimination and human rights violations caused by the inequitable impacts of environmental degradation and pollution.

As EJ emerged, it was *new* terminology that quickly expanded from being the call of African American communities in urban neighborhoods in the United States denouncing racism in public policy that led to environmental degradation, to being the call of a global community seeking social justice in cases of environmental pollution and degradation. Robert Bullard, a renowned EJ academic and activist, describes the dominant stream of EJ as a concept that embraces the principle that all people and communities are "entitled to equal protection of environmental, energy, health, employment, education, housing, transportation, and civil rights laws and regulation."³

One of the lessons we can draw from an analysis of EJ cases, is that EJ is a very *local* affair, involving communities in very specific geographical locations with very specific socio-political, socio-economic, cultural, racial, ethnic, and historical contexts. Many of the well-recognized and documented "EJ" events and EJ movements that one can find in EJ academia, are race-related, situated and rooted in very geographically specific cities, neighborhoods and regions of the United States, however, the concern over environmental justice is not confined to the United States. Not all EJ cases are race-related, nor are EJ cases a phenomenon that occurs solely in the United States. EJ is an issue of relevance and

³ See: Bullard, 2021 p.244

importance and very much engrained into social discourse and public policy in the three North American countries: Canada, Mexico, *and* the United States.

Persistent and systemic environmental “injustices” that can be found in particular neighborhoods or sectors of a city or region, or that befall a certain subsector of society be it racially defined, or due to some other defining characteristic of the affected group or community, are oftentimes manifested alongside other social and economic inequities and can be correlated to class, ethnicity, race, Indigenous identity, gender, sexual orientation, disability, age, migratory status, geography or other aspects and experiences that define the identity of communities and people. The “intersectionality” of these vulnerabilities can greatly augment suffering, escalate, and compound the impacts of environmental pollution.

As we will explore in this discussion paper, claims for environmental justice have taken on different forms, not always readily identified with the same taxonomy or specifying by name the underlying tenets of the US-based and self-labeled EJ movement. As a broader EJ movement expanded beyond race and borders, through dialogue and a growing movement that embraced EJ principles, so did the narrative around EJ and its new attributions. No matter where EJ cases manifest, they share underlying similarities that naturally bring the experiences of disadvantaged and marginalized communities in the three countries and from around the world, under a similar EJ framework. This discussion paper explores these differences and similarities. It is important to stress however, that we are not only exploring what EJ was in the past or where it came from, but rather we are also interested in what EJ has become over the generations of social and environmental advocacy that has shaped it, and most importantly, how actions to promote EJ can help ensure a more sustainable and equitable future.

The evolution of EJ advocacy and public policy has occurred alongside a global shift and maturation of policy objectives adopted through a human rights-based approach to development. It emerged with the appearance and consolidation of globally embraced human rights such as the UN’s Universal Declaration of Human Rights in 1948 and the Covenants on Civil, Political, Economic, Social and Cultural Rights in 1966,⁴ the UN Declaration on the Rights of Indigenous Peoples in 2007,⁵ and a growing sustainability agenda that over time incorporated specific targets to realize those rights, including the Millenium Development Goals⁶ which emerged in the year 2000, and the Sustainable Development Goals⁷ in 2012 leveling up the development rights and sustainability discussions with ambitious targets on poverty, good health, gender, clean water and sanitation, reduced inequalities, and sustainable communities.

The progressive linking of the human rights, collective rights, Indigenous rights, and international environmental advocacy agendas transformed and expanded the EJ movement, which since its inception has been in constant flux and evolution, shaping our current local, regional, and global understanding of environmental justice.

⁴ See: <https://www.ohchr.org/en/what-are-human-rights/international-bill-human-rights>

⁵ See: https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

⁶ See: <https://www.un.org/millenniumgoals/>

⁷ See: <https://sdgs.un.org/goals>

Definitions

This discussion paper focusses specifically on the current state and the evolution of EJ in North America, examining cases, social movements, policy evolution and legal frameworks, as well as EJ definitions, that involve different dimensions of environmental justice across three very different countries, with very diverse societies with different historical contexts and as well as diverse social, economic, and political systems. The research and the analysis undertaken in the preparation of this paper reveal that we cannot speak of a single North American environmental justice movement. Nor is there a unique definition of environmental justice across the three countries that is applicable to all cases, though there are some strong unifying elements. Even the term “environmental justice” has not always been utilized to refer to or describe EJ issues. Other terms such as “environmental racism,” “environmental discrimination,” or “environmental equity” and more recently “environmental intersectionality” or even subsets of EJ such as “climate justice,”⁸ “intergenerational justice,”⁹ or “healing justice”¹⁰ have emerged in parallel to and in compliment to the term and concept of EJ.

The prioritization of more contemporaneous focusses of EJ advocacy have expanded the EJ movement into new domains, to include more recently recognized dimensions of systemic group and community vulnerability, around issues such as (but not limited to) climate change, energy, youth, 2SLGBTQIA+, gender, and migratory status, to name a few. These emerging areas of EJ advocacy focus present a significant challenge when attempting to define and understand the full breadth of EJ issues at a North American (or global) level, in a way that is inclusive of these differences and co-existing EJ streams, and of the diverse realities faced by unique people and populations across the three North American countries or in other regions. A mere interpretation of EJ as we understood it when the term and movement first appeared, in a present-day context, falls short of describing the current EJ movement.

An important distinguishing EJ factor in cases of environmental injustice is that while anyone may be unjustly treated or impacted by a law, policy, or industrial decisions that has led to environmental pollution, not everyone has suffered or is suffering currently from racial or cultural bias, from systemic racism or historical discrimination, or targeted because of some other identifying experience or socio-economic trait or status (such as their gender identity, sexual orientation, age, migratory status, or whether they have a disability). A unifying EJ-specific issue is the element (or elements) of *discrimination* involved, and that impacted individuals or communities are at a disadvantage or at some degree of vulnerability with respect to others. These disadvantages may be seen through diverse lenses, for example including health, land rights, property, displacement, culture and cultural heritage, language, identity, self-governance, food security, etc.

Given this diversity of context, origins and evolution of EJ, it is important to recognize the challenges and constraints in defining EJ. Any attempt to introduce EJ legislation or EJ policy or to design solutions to EJ problems, or even developing an academic study program around EJ, or defining a philanthropic strategy to advance EJ, will have to wrestle through these conceptual boundaries and set the limitations of their own EJ definition and scope.

⁸ See: Cripps. 2022.

⁹ See: Brown Weiss. 2008

¹⁰ See: Gonzalez-Hidalgo et.al. 2022.

Robert Kuehn's theoretical conceptualization of EJ is useful to frame EJ from a broad or universal perspective. In his article: "A Taxonomy of Environmental Justice," Kuehn proposes categorizing environmental justice on four key principles that are commonly identified as aspirational targets of EJ advocacy:

- **Distributive Justice**, aiming for the fair allocation of the benefits and burdens of natural resource exploitation among and within nations.
- **Procedural Justice**, aiming at achieving informed and inclusive decision-making processes.
- **Corrective Justice**, striving for the compensation for historic inequities and refraining from repeating the conduct that caused the harm.
- **Social Justice**, recognizing that environmental struggles are inextricably intertwined with struggles for social and economic justice.

Kuehn suggests that this framework "moves beyond definitions and expands upon earlier works of Dr. Robert Bullard and others [and] offers a method of collapsing the seemingly broad scope of environmental justice and identifying common causes of and solutions to environmental injustice."¹¹

As a *concept*, EJ is aspirational. The mere reference to EJ implies pre-existing social inequity problems. However, in practice, and across so many individuals and groups that embrace EJ narratives and principles, there is little consistency of how EJ, as a term, is used. EJ is often employed to refer to an ideal of fairness in terms of reaping environmental benefits or it's evoked in reference to environmental burdens suffered by specific groups or communities. Definitions may even refer to environmental *injustices*, as a pivot and reference point to define EJ. References to EJ are utilized to call out, identify, give entity to, and recognize persistent circumstances of socio-economic inequality and the specific environmental injustices some communities have and continue to face in their daily struggles. When EJ is evoked, one immediately thinks of the need for public policy responses, regulations, laws, and programs that must be designed and implemented to address and to reverse environmental injustices.

Scholars tend to refer to EJ as a social movement that emerged in the United States. However, applying a US-centered view of EJ is not so practical when trying to understand and contextualize regional or global EJ movements. This is something the authors of this discussion paper struggled with throughout its drafting. As David Carruthers in his review of EJ experience across Latin America noted, taking questions that have arisen in one geographic or social context and seeing what insights they might reveal elsewhere presents challenges.¹² The tenets of a US-centric EJ *movement* have particularities that are very specific to its US context, and that do not necessarily align with a broader *concept* of EJ that may be found in other countries or regions. As we will see in the next section, the US EJ *movement* found its force and momentum in civil rights advocacy in the 1950s and 1960s, primarily in African American communities. It later expanded to other areas, actors and issues, in other localities across the country and the region, encompassing a broader set of issues, dynamics, and communities.

While some cases of environmental pollution—and community actions to address them in Mexico and in Canada—may resemble cases with EJ dynamics in the United States, it is important to stress that Canadian and Mexican experiences of communities and other affected groups addressing pollution have their own local contexts, origins and characteristics. Similar examples might include disadvantaged or marginalized communities living next to waste sites, or fence line communities next to the oil and gas industry that live with polluted air or water. And while these cases may appear EJ-related (from a US

¹¹ Robert Kuehn. A Taxonomy of Environmental Justice. Environmental Law Reporter. 2000

¹² Carruthers, 2008. p.4

perspective), these communities may not necessarily embrace an EJ narrative to frame and describe their disadvantages or vulnerabilities to pollution, or to develop the advocacy strategies they are following. As Carruthers notes, in much of Latin America, including in Mexico, environmental concerns are deeply woven into the fabric of popular mobilization for social justice and equity, and thus, environmental activism is nestled into a broader framework of the pursuit of social justice.¹³

In Canada, the notion of “environmental racism” has materialized as the dominant lens through which EJ is being considered today. And while present in some academia of the early 1970s, the Canadian focus on environmental racism, has only recently regained force in advocacy and policy. “Environmental racism” as a concept has not been present in Mexico at all during that time. Instead, the emergence of EJ as a topic in Mexico is borne from a *procedural* understanding of the term and centered on legal processes to address problems of environmental contamination for any and all individuals (not specifically for disadvantaged or marginalized groups or communities). Conversely, some parallel “procedural” EJ dynamics did and do also play a role in the US and in Canada.

Words matter in policy, academia, and in community advocacy, and what words are used and what importance is assigned to them, makes a large difference as to how EJ advocacy and how EJ policy evolved in the region and specifically in the three countries. Whether referenced or not in law or public policy, or in community advocacy, EJ as a concept of social relevance, is very much engrained across North America and is part of the region’s social, cultural and environmental DNA. Recognizing the various forms of EJ manifest in the region may be challenging, but there are distinct EJ features at play across the three countries.

A key element that characterizes EJ is whether the environmental injustice in question comes by way of *explicit, implicit, or even unintentional* action, be it from government agencies, policy, legislation, industry, or other actors or socio-economic and political dynamics. The difference is important, as the cause of the injustice may be relevant to the way in which responses to it are or may need to be understood, considered, designed or implemented.

The origins of the EJ movement, particularly as it emerged in the United States, responded to *explicit* and intentional segregation of a portion of the population and the intentional planning and permitting of specific pollution (such as waste sites), transit routes, or polluting industries to operate in those same segregated areas. In other cases, we may find that while there was no specific *intention* to direct pollution to certain geographical areas, the failure to correct past inequities leads to inadvertently perpetuating inequitable environmental impacts. Similarly, the failure to carry out EJ due diligence in planning, policy and project development, can also result in or exacerbate environmental injustices.

It may also be the case that the victims of environmental injustices are not completely aware of the injustices (or the causes of the injustices) they face, because they lack access to information about the decisions being made (and the impacts of these decisions to their health and to the environment). This lack of information on the part of disadvantaged and impacted communities, and impediments to participate in decision-making about polluting projects or activities in their own neighborhoods, may lead to explicit, implicit, intentional or unintentional public policy decisions that negatively impact the quality of the environment in these communities.

While it may seem obvious, *environmental justice*, and *access to justice to resolve environmental injustices*, are not the same thing. *Access to justice*, in a judiciary and procedural sense, is certainly an essential pillar of achieving environmental justice when faced with environmental injustices that are

¹³ Carruthers, 2008. P. 7

legally actionable. Accessing judicial and legal pathways to resolve an environmental problem is a fundamental tool and procedure of democratic governance systems for people suffering environmental pollution. However, access to judicial remedy is not in and of itself a singular save-all solution for environmental injustices. Just as EJ is not merely limited to situations of racially motivated pollution, EJ is also not reduced to providing all people facing environmental injustices with effective legal channels to resolve their environmental problems.

As noted in this section, EJ is a complex and multidimensional issue with many interrelated facets. When and how EJ has been defined according to the context where discussion around the EJ issue emerged and for which EJ actions have been defined or acted upon, depends as much on the historical context in which it evolved as well as on the specific location and circumstances in which it materialized. Equity, fairness, the need to reverse past and present environmental injustices and the need to repair and compensate harms are at the heart of EJ.

Historical discrimination, segregation or racism in policy resulting from explicit and/or intentional actions that led to environmental injustices form an important genre of EJ considerations, particularly in the communities and specific contexts where these injustices have occurred. But so are many of the other legacy environmental injustices that we see today, often accepted over time, with their historical reality forgotten or willfully tolerated by present societies that have failed to draw attention to and take action to reverse these persistent and continued injustices committed against communities that continue to be victims of environmental impact legacies that have never been addressed. The fact that people do not frame or refer to a visible environmental injustice as an “EJ” issue, does not imply that there aren’t underlying EJ dynamics at play.

Sundberg, in her study of entrenched racial dimensions of environmental justice across Latin America, notes that there is a tendency to deny and forget past discrimination and segregation, that exclusionary policies and practices have naturalized discrimination over time. She stresses that in many cases of environmental injustices, there is little understanding of how race intersects with the environment to create socio-environmental inequalities. While political and institutional racism and discrimination intersect with environmental inequalities, its institutional denial has often displaced the focus of analysis and political action out of the scope of racial segregation.¹⁴

We now turn to review how environmental justice has been included and defined across North America.

¹⁴ Sundberg, Juanita. *Tracing Race: Mapping Environmental Formations in Environmental Justice Research in Latin America*. In Carruthers, 2008, pp. 25-47.

Definitions of Environmental Justice in the United States

The term *environmental justice* did not appear in regular use in the United States until the mid-1990s. Prior to this, the issue of EJ was referred to either as “environmental equity” or as “environmental racism,” the latter a term most attribute to Benjamin Chavis who referred to environmental racism at a press conference in the 1980s regarding the Warren County Landfill case. The US EPA adopts the former term and first utilized it (linking it to public policy responses) in a 1992 report entitled: “Environmental Equity: Reducing Risk for All Communities.”¹⁵ The report refers to *environmental equity* as:

...the distribution of environmental risks across population groups and to our policy responses to these distributions.

EPA also delineates several elements included in its definition of environmental equity as:

- *how patterns of environmental problems converge on different places,*
- *how people who live in those places are affected, and*
- *how environmental programs should be further refined to address identified differences.*

The report affirms:

“The causes of these differences are often complex and deeply rooted in historical patterns of commerce, geography, state and local land-use decisions and other factors that affect where people live and work. With respect to some types of pollutants, race and income, however, appear to be correlated with these distributions.”

In 1994, through Executive Order 12898, the first EJ-focused White House policy created the inter-agency working group on EJ and, while not providing a definition of EJ, refers to it as:

*“disproportionately high and adverse human health or environmental effects on minority populations and low-income populations ... [and required] greater public participation, improved research and data collection relating to health and environment, identifying differential patterns of consumption of natural resources.”*¹⁶

As the incorporation of dimensions of EJ evolved in community activism and in government policy, so did environmental justice definitions. Numerous US federal and state agencies have established their own EJ definitions which have changed (and continue to change) over time. Some examples are:

The US Department of Energy¹⁷

Environmental justice means the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability, in agency decision-making and other Federal activities that affect human health and the environment so that people: (i) are fully protected from disproportionate and adverse human health and environmental effects (including risks) and hazards, including those related to climate change, the cumulative impacts of environmental and other burdens, and the legacy of

¹⁵ See p.2 of <https://nepis.epa.gov/Exe/ZyPDF.cgi/40000JLA.PDF?Dockey=40000JLA.PDF>

¹⁶ See: <https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf>

¹⁷ See: <https://www.energy.gov/lm/what-environmental-justice>

racism or other structural or systemic barriers; and (ii) have equitable access to a healthy, sustainable, and resilient environment in which to live, play, work, learn, grow, worship, and engage in cultural and subsistence practices.

The US Department of the Interior¹⁸

Environmental justice refers to meeting the needs of these underserved communities (hereinafter “environmental justice communities”) by reducing disparate environmental burdens, removing barriers to participation in decision making, and increasing access to environmental benefits that help make all communities safe, vibrant, and healthy places to live, work, learn, and engage in recreation.

The US Department of Justice (USDJ)¹⁹

The USDJ’s Environmental Justice Enforcement Strategy, aims to: [provide] a roadmap for using the Justice Department’s civil and criminal enforcement authorities, ... to advance environmental justice through timely and effective remedies for systemic environmental violations and contaminations and for injury to natural resources in underserved communities that have been historically marginalized and overburdened, including low-income communities, communities of color, and Tribal and Indigenous communities.

One of the most recent US government definitions of EJ is in Executive Order 14096 (of April 2023), *Revitalizing our Nation’s Commitment to Environmental Justice for All*.²⁰ In this order, *Environmental Justice* is defined as follows:

(b) “Environmental justice” means the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability, in agency decision-making and other Federal activities that affect human health and the environment so that people: (i) are fully protected from disproportionate and adverse human health and environmental effects (including risks) and hazards, including those related to climate change, the cumulative impacts of environmental and other burdens, and the legacy of racism or other structural or systemic barriers; and (ii) have equitable access to a healthy, sustainable, and resilient environment in which to live, play, work, learn, grow, worship, and engage in cultural and subsistence practices.

Nestled in the broader context of a changing economy with targeted climate policies and strategies to contain global warming, we find a more current and *intersectional* dimension of EJ in the recently released US 5th Climate Assessment which affirms:

A “just transition” ... involves reducing impacts to overburdened communities, increasing resources to underserved communities, and integrating diverse worldviews, cultures, experiences, and capacities into mitigation and adaptation actions. ... a just transition would [address] existing racial and gender disparities [and] would take into account key aspects of environmental justice, recognizing that certain people have borne disparate burdens related to current and historical social injustices and, thus, may have different

¹⁸ See: https://www.doi.gov/sites/doi.gov/files/uploads/doi_ej_strategic_plan_final_nov2016.pdf

¹⁹ See: <https://www.justice.gov/aseg/page/file/1499286/download>

²⁰ See: <https://www.federalregister.gov/documents/2023/04/26/2023-08955/revitalizing-our-nations-commitment-to-environmental-justice-for-all>

*needs; ensuring that people interested in and affected by outcomes of decision-making processes are included in those procedures through fair and meaningful engagement; distributing resources and opportunities over time, including access to data and information, so that no single group or set of individuals receives disproportionate benefits or burdens.*²¹

The US Environmental Protection Agency has over the years, updated its definition of environmental justice. As of May of 2024, the EPA offers the following definition of environmental justice on its website:²²

Environmental justice means the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability, in agency decision-making and other Federal activities that affect human health and the environment so that people:

- *are fully protected from disproportionate and adverse human health and environmental effects (including risks) and hazards, including those related to climate change, the cumulative impacts of environmental and other burdens, and the legacy of racism or other structural or systemic barriers; and*
- *have equitable access to a healthy, sustainable, and resilient environment in which to live, play, work, learn, grow, worship, and engage in cultural and subsistence practices.*

²¹ See: <https://nca2023.globalchange.gov/#overview-section-5>

²² See: <https://www.epa.gov/environmentaljustice>

Definitions of Environmental Justice in Mexico

The research for this discussion paper could not define a precise moment when the term environmental justice (EJ) first appeared in Mexico, however it seems to have occurred sometime during the 1990s. Likewise, the notion of EJ in Mexico has been closely associated to procedural and judicial processes.

Over the course of the last decade, EJ has been taken up as a theoretical framework to address and to map environmental conflicts, both by civil society organizations and by governmental entities.²³ Also in recent years, the issues of climate justice and energy justice have appeared in public discussions as relates to climate change.²⁷ In this section we focus only on definitions of EJ that have appeared in institutional programs in Mexico's public environmental agencies.

The Attorney General for Environmental Protection (Profepa), created in 1992, was amongst the first agencies to refer to EJ, both in its mandate as well as in activities of the organization. And while the term "environmental justice" does not appear in its foundational statutes,²⁴ Profepa adopted the concept of "environmental justice," mentioning EJ in its institutional programs. Profepa understood (and continues to understand) EJ in terms of guaranteeing all persons the judicial channels necessary to effectively take environmental complaints to good port through the procedural and administrative systems, which corresponds to the responsibilities of the organization.

In 1998 a National Environmental Justice Forum²⁵ was held in the Legislative Palace of San Lazaro. Participants included members of Congress, judges, attorneys, judicial experts, and academics. It is clear from the report of the event that the concept of EJ was already in use by this time, albeit this embracement was exclusively understood relative to the judicial and criminal systems, in line with the way Profepa understands environmental justice to this day.

As of the year 2000, the conceptual links of EJ in Mexico to legal frameworks, institutions, and programs devoted to environmental protection were strengthened. On the one hand, Profepa continued to refer to EJ in its institutional programs and documents as relates to the legal and procedural frameworks available to protect the environment and to its own tasks and competencies. On the other hand, the Program to Procure Environmental Justice 2001–2006, designed to strengthen and expand the territorial reach of Profepa to promote the inspection and protection of environmental resources, also strengthened the conceptual link of EJ with the institutions and normative frameworks dedicated to environmental protection.²⁶

²³ During the last decade, there has been a proliferation of maps of environmental conflicts in Mexico, embracing the theoretical framework of EJ, amongst these, the EJAtlas, the Observing Goliath Project, and the Observatory of Socioenvironmental Conflicts (OCSA in Spanish), and in the governmental sector, the National Atlas of Vulnerability to Climate Change (ANVCC) of the National Institute of Ecology and Climate Change (INECC), and the Observatory of Conflicts over Water in Mexico of the Mexican Institute of Technology and Water (IMTA).

²⁴ See: https://dof.gob.mx/nota_detalle.php?codigo=4677606&fecha=17/07/1992#gsc.tab=0

²⁵ See: <https://biblioteca.semarnat.gob.mx/janium/Documentos/Ciga/libros2009/225398.pdf>

²⁶ See: https://dof.gob.mx/nota_detalle.php?codigo=2143229&fecha=22/03/2006&print=true

In the current Millenium, Profepa expanded its definition of EJ, linking it to its work areas focused on environmental protection, to public interest and to the promotion of sustainable development, as we can see from its Annual Report 2008:

Profepa proposes to Mexican society and to the country as a whole, a modern scheme for procuring environmental justice to safeguard environmental rights and the interests of the population, linked to the protection of the environment and the preservation of ecological equilibrium, for achieving sustainable development, and the effective compliance of environmental norms, promoting social participation and carrying out actions included in the Natural Resources and Environmental Sectoral Program 2007–2012.

The mission of this new scheme of the Procurement of Environmental Justice is to guarantee the legality of authoritative acts, to juridically link its work with the different instances of the three orders of government; to guide each on the exercise of their environmental rights; to take the necessary actions before legislative assemblies, administrative authorities and judicial bodies, to efficiently impart environmental justice; and in its area of competency, combat impunity and eliminate corruption. (p. 88 of the Report)²⁷

While the Mexican government in its Environment and National Resources Sectoral Program 2020–2024 continues to frame EJ in a judicial and procedural sense, in this same program, we find a broader understanding of EJ, integrated as one of its priority objectives. On the one hand, the analysis by Promarnat 2020–2024 expands its understanding of EJ by recognizing gaps relative to inequalities amongst diverse groups of the population, including inequalities regarding access to freshwater and sanitation services in rural and urban areas. Additionally, the program makes reference to environmental injustices and links EJ with the protection of environmental and territorial defenders, proposing as a priority to:

Promote access to justice in environmental matters and the protection of environmental defenders through normative frameworks and effective, opportune and transparent administrative procedures, all with a human rights, gender, and culturally pertinent perspective.²⁸

Likewise, one of the five priority objectives explicitly addresses the term environmental justice, linking it to strengthening territorial governance and human rights:

“Strengthen environmental governance, through free, effective, meaningful, and co-responsible citizen participation in public policy decisions, ensuring access to environmental justice with a focus on land and human rights.”

Alluding to the National Development Plan 2019–2024, the Environment and National Resources Sectoral Program 2020–2024, established three principal axes: governance, social and economic policy:

²⁷ See: http://centro.paot.org.mx/documentos/profepa/profepa_2008.pdf, p. 88.

²⁸ See: *Secretaría de Medio Ambiente y Recursos Naturales. 2020 Programa Sectorial de Medio Ambiente y Recursos Naturales 2020–2024*, pág. 85. <https://www.gob.mx/profepa/acciones-y-programas/programa-sectorial-de-medio-ambiente-y-recursos-naturales-promarnat-2020-2024>.

... [that] the Federal Executive considers in all circumstances, the impacts that its policies and programs will have on the social fabric, on the environment, ... [and that] it will be guided by the idea of development that repairs social injustices and that promotes economic growth without provoking impacts on peaceful coexistence.²⁹

It defines EJ narrowly, linked to judicial and procedural elements (in its glossary of terms of the Sectoral Program) as:

...the obtention of an opportune judicial solution to a specific environmental conflict, taking into account that all persons must begin with the same conditions to access environmental justice.³⁰

Additionally, Profepa's Procurement of Environmental Justice Program 2021–2024³¹ proposes a definition of EJ (also in its glossary of terms) that includes additional and broader aspects that are related to EJ, defining EJ as:

...rights of nature for all; individuals, families, communities, companies and other human groups in relation to the environment, considered as a common good, but in exchange of responsibilities and legal obligations these responsibilities and obligations oftentimes are grouped under the notion of "social and environmental responsibility, the liberty to exploit the environment ends where it threatens others (and so it is an obligation not to over-exploit a resource), and where the environment (biodiversity, natural habitats, and genetic diversity) would be themselves threatened by human activities.

As we can see in this last definition, Profepa adopts a definition of EJ that is more inclusive and that is broader and that goes further than judicial and procedural issues, contemplating rights of Nature, the relationship between Nature and people, the obligation to protect the environment and to not limit the ability of others to benefit from the environment as result of activities that people carry out.

Additionally, in its Procurement of Environmental Justice Program 2021–2024, Profepa proposes strategies and specific actions that influence access to justice, access to information, effective and co-responsible participation of the citizenry, public complaints, strengthening environmental governance, and to address socio-environmental problems, rights of Nature, among others. Specifically, this program refers to the importance of involving citizens in concrete actions and considers it "necessary to bring together social actors whose experience, knowledge and traditional ways to be incorporated into public policy and that assist the environmental management of lands."

²⁹ See: https://www.dof.gob.mx/nota_detalle.php?codigo=5596232&fecha=07/07/2020#gsc.tab=0

³⁰ See: https://www.dof.gob.mx/nota_detalle_popup.php?codigo=5596232

³¹ See: https://www.gob.mx/cms/uploads/attachment/file/646837/PPJA_2021-2024.pdf

Definitions of Environmental Justice in Canada

While EJ has not been until very recently officially defined in Canadian policy or law, we are seeing several EJ definitions and concepts emerge. Below for example, is the definition of EJ as appeared recently in the Glossary on Climate Change and Public Health of Environment and Climate Change Canada (ECCC). Notable in the definition are the references to elements of intersectionality such as race, ethnic origin, religion, sex, gender, age, social class, economic status, as well as to *equity*, and to procedural elements such as *participation* and *decision-making*:

Environmental Justice:

*The principle under which every person, regardless of their race, ethnic origin, religion, sex or gender, age, social class or socioeconomic status, is entitled to equitable protection under environmental laws and can participate in environmental decision-making processes in their community.*³²

ECCC also offers a definition of “environmental injustice” which serves to contextualize the understanding of environmental justice in the Canadian context (highlighting *equity of risk*, *human health* and *climate vulnerability*):

*“Environmental injustice refers to inequitable exposure to environmental risks, including to health risks, making some populations more vulnerable to climate change.”*³³

In the same glossary, the term “climate justice” (CJ--framed from a *human rights* perspective, distribution of *burdens and benefits*, and *vulnerable people*) is also defined as:

*“Justice that combines development and human rights to address climate change from a human rights perspective that safeguards the rights of the most vulnerable people and distributes the burdens, benefits and impacts of climate evolution fairly and impartially.”*³⁴

Canada’s National Collaborating Centre for Environmental Health (NCCEH) has its own reference and definition of EJ (underscoring necessary *actions* and *activism* as well as historical *root causes*) as follows:

*“Environmental justice ... involves the actions and activism necessary to spotlight environmental inequities to address their root cause(s) in a way that leads to long-term equitable outcomes.”*³⁵

A more recent definitional appearance of EJ can be found in Canada’s recently published *National Adaptation Strategy (2023)*, which outlines an overarching direction the nation should follow to increase resilience to the impacts of climate change.³⁶ Notably the strategy outlines the need to

³² See: <https://www.btb.termiumplus.gc.ca/publications/changements-climatiques-sante-publique-eng.html>

³³ Ibid.

³⁴ Ibid.

³⁵ See: <https://ncceh.ca/resources/blog/renewed-attention-environmental-equity-and-justice#:~:text=Environmental%20justice%20goes%20one%20step,long%2Dterm%2C%20equitable%20outcomes.>

³⁶ <https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/national-adaptation-strategy.html>

"advance equity and *climate and environmental justice*" and minimize inequities which in turn, need diverse perspectives at the table, including a novel inclusion in an EJ-relevant definition of 2SLGBTQI+,³⁷ women, religion, income level, youth, the elderly and individuals with disabilities. It also focuses on populations who are at greater risk of being confronted with environmental challenges based on historical and ongoing practices that actively shape lived experiences. It defines EJ by defining environmental "injustice" as follows:

*Environmental injustice reflects the procedural and geographic discrimination of Indigenous, Black, Racialized, religious, low-income, 2SLGBTQI+, women, and other marginalized communities such as the very young, older adults, or people who experience structural inequity, poverty, or isolation, placing said communities in close proximity to environmental hazards, often resulting in direct health impacts. These same communities are also under-represented in environmental decision-making spaces.*³⁸

The guiding principles of the National Adaptation Strategy also reference EJ (in a climate context) by saying:

Adaptation efforts must act to advance climate justice and more broadly environmental justice. This includes addressing and minimizing social, gender, racial, and intergenerational inequities which requires diverse perspectives at the table—including youth and persons with disabilities. It also includes prioritizing populations and communities at greater risk of climate change impacts—e.g., due to historical and ongoing practices and policies that shape lived experiences, capacity and access to resources. As we build systems and solutions that are more climate resilient, we have the opportunity to address systemic inequities that make people more vulnerable.

³⁷ 2SLGBTQIA+ refers to two spirit, lesbian, gay, bisexual, transgender, queer and questioning, intersex, asexual and other sexually and gender diverse individuals.

³⁸ See: <https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/national-adaptation-strategy/full-strategy.html>; the definition of EJ can be found in the glossary of terms at: <https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/national-adaptation-strategy/full-strategy.html#toc24>;

Indigenous Environmental Justice Considerations

One point of consideration in any discussion of EJ in North America is whether a differentiated framework is necessary for considering EJ from an Indigenous Peoples' perspective and, if so, to what extent would that framework differ from more general or universal EJ narratives and conceptual frameworks? Are Indigenous Rights or issues similar to or distinct from EJ related rights and issues? Are they interrelated? There is a growing body of scholarly work on this precise question of *Indigenous Environmental Justice* or IEJ.³⁹

One important difference to consider is that Indigenous people view their relationships to the Earth, Nature, and the environment generally, significantly differently from Western European outlooks. It is hence logical to presume that we may need an alternative cultural framework to address environmental pollution inequities in Indigenous contexts.

Furthermore, Indigenous Peoples often argue that historical and present Western-influenced development models are strongly anchored in dynamics of colonial history and persistent colonial and settler governance systems, and hence contain shortcomings and deficiencies that must be deconstructed and *decolonized* in order to build a sustainable balance between the natural, spiritual and human worlds. This decolonized view of the present state of things is recurrent in Indigenous rights advocacy and has subsequently informed not only IEJ-specific approaches but EJ advocacy more broadly.

Authors Jarrett-Snider and Nielsen, who focus their research on IEJ, point to three key characteristics that make IEJ distinct from general EJ:

1. *Native American tribes are governments, not ethnic minorities*
2. *Connections to traditional homelands*
3. *The continuing effects of colonization*

They stress that the relationship between Indigenous Peoples and the environment has existed since time immemorial, while the emphasis on justice is relatively new. They also offer insight as to why EJ narratives have gravitated to the Indigenous rights movement, pointing to trends such as illegal dumping and resource extraction on Indigenous lands as the nexus point for a natural alliance between Indigenous Peoples and the EJ movement. They also highlight the *Doctrine of Discovery* (the concept that Christian settlers had a self-perceived right to advance on native lands) as the underpinning legal framework for discriminatory colonial laws and institutional discrimination against Indigenous Peoples.⁴⁰

At the 1991 First National Peoples of Color Environmental Leadership Summit (considered by many to be the first international EJ gathering), hundreds of activists, including Indigenous leaders, African American community leaders, Chicano leaders, immigrant leaders and many others, launched 17 EJ principles⁴¹ that have become some of the underlying principles of today's EJ movement and that the substantial agreement generated at this gathering offers at least a partial,

³⁹ See: Gilio-Whitaker et al 2019, Temper 2019, Jarratt-Snider et al 2019, McGregor et al 2020, Dunaway 2021, Dhillon 2022

⁴⁰ See Jarratt-Snider, K and Nielsen, M. (Eds) *Indigenous Environmental Justice*. (2020). pp. 9, 10, and 18.

⁴¹ See: <https://www.ejnet.org/ej/principles.pdf>

common platform for EJ advocacy and for Indigenous and other affected community leaders. One of those principles (#11) refers specifically to the rights of Native Peoples, while many of the others are not materially different from frequently-cited treaties, declarations and claims pertaining to Indigenous rights (for instance those found in UNDRIP⁴², ILO169⁴³, etc.), particularly on the affirmation of the sacredness of Mother Earth, on ecological unity and the interdependence of all species, on the balanced and responsible uses of land, or on issues of procedural significance (such as the call for access to information, participation in decision-making, etc.).

We can identify several EJ-relevant aspirational goals in Indigenous rights advocacy, for example in the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP). Some of these goals advocate diversity, historic and social justice, non-discrimination, equity, participation in decision-making, access to information, and access to justice, physical and mental health, redress, reparations and compensation, as well as intersectional considerations for vulnerable groups (including youth, elders, women and people with disabilities), non-discriminatory conservation of the environment and proper management of toxic waste.

One area for analysis in comparing and contrasting IEJ and more traditional EJ frameworks has to do with the calls for autonomy, sovereignty, self-determination and self-governance, and the prioritization of the deconstruction of colonial legacies. In comparison to this aspirational target of Indigenous Peoples, many non-Indigenous EJ leaders, while similarly critical of the inequities of historical governance systems, seek to achieve inclusion and participation in existing governance systems rather than autonomy or self-governance. Upon further reflection, Western definitions of “justice” do not necessarily align with Indigenous concepts of equity and justice and may even be specifically at odds with the legitimate systems which supposedly render “justice.”

As Jarrett-Snider and Nielson argue, the issue of sovereignty is a critical one in this discussion as it goes to the central issue of Indigenous communities with the colonial state. Since many Indigenous communities consider themselves sovereign nations, they do not necessarily locate themselves within the colonial state model as an ethnic or racial group, but rather distinguish themselves on a matter of form and principle. These specifically Indigenous perspectives to the EJ discussion, present challenges when considering Western-conceived notions of EJ policy or legislative solutions. Different value systems, cosmovision and structures pertaining to how society organizes itself and should be governed, challenge to some degree any integration of Indigenous approaches with some of the common pillars of the EJ movement.

Deborah McGregor, who has also written specifically about IEJ, notes:

“It is not enough to put forward alternative models of Indigenous EJ frameworks and expect them to flourish, as these must operate in a capitalist and colonial context. The more commonly accepted environmental justice conceptions must also be decolonized to generate the space for how we might ‘know’ about these other conceptions of justice. ... Extending conventional notions of environmental justice and sustainable futures to a narrative that considers or is inclusive of nonhuman entities through a “rights of nature” discourse demonstrates innovation based perhaps in part on Indigenous world views. ...

⁴² See: https://www.un.org/development/desa/indigenouseoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

⁴³ See: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REV.en.C169./Document

EJ seen from an Indigenous point of view is more than this: it involves a unique set of considerations which draws Indigenous sovereignty, law, justice, and governance into the conversation. It requires an examination not only of power relations among peoples, but also of the colonial legacy that continues to play out in laws, litigation, and policies that systematically, institutionally, and structurally enable ongoing assaults on Indigenous lands and lives.”
[McGregor posits] a nuanced understanding of Indigenous EJ [by establishing] that environmental justice is relevant beyond the human dimension, ... drawing upon knowledge and laws that originate from the lands and waters themselves.

It is simply not rational for Indigenous Peoples to rely on these global, national, and regional economic and political frameworks for environmental justice. ... Decolonizing or indigenizing the concept of EJ will not fully illuminate a profound understanding and practice of EJ. ... Further insights into this fundamental dichotomy are required to articulate, from an Indigenous perspective, the laws, norms, protocols, and traditions essential for achieving Indigenous EJ.”⁴⁴

⁴⁴ McGregor, D. (2021) pp.61-62

The Origins and Evolution of Environmental Justice

Though environmental *injustices* have been identified in many countries at different historical moments throughout history and of a variety of forms, there are select and specific recent events which are commonly cited as medullar to the consecration of the concept of “environmental justice” and which in retrospect are considered as inspiring moments where the specific issue of *environmental justice* took hold in the narrative of communities seeking to revert environmental discrimination.

The particular use of the term “environmental justice” to describe specific situations where environmental injustices have occurred, and where resulting advocacy action or a social movement advocating for addressing human impacts caused by environmental pollution, has strong grounding in North America, and particularly in the United States, where it has had a specific focus on “racial” discrimination in the distribution of environmental burdens (Wyatt and Arroyo–Quiroz, 2018). The actual mention of the term “environmental justice,” however predates its appearance in reference to *community* protests against inequitable and discriminatory pollution and can be found in literature from as early as 1970 (not included in most academic writing on the history of EJ), exploring labor rights concerns of workers exposed to toxic substances at their place of work, where the term actually had a more rights-based and procedural connotation.⁴⁵

Key international events and trends in the evolution of EJ as a concept and movement

Although the origins of EJ as a concept and as a movement are widely disputed, the self-proclaimed Environmental Justice movement initiated in the United States (Martinez-Alier et al., 2016, p. 733; Wyatt and Arroyo–Quiroz, 2018 p. 22). The EJ movement emerged with a very distinct narrative associated to the impacts of racial segregation. It was born from the Civil Rights Movement that began in the 1950s and evolved into the 1960s in the United States. The EJ movement specifically set itself apart from the more traditional conservationist environmental movement focused on protecting Nature.

At its core and from its emergence, EJ has been about protecting people from pollution. It is about human rights that are inequitably violated due to environmental degradation. The broader and global EJ movement that began in the late 20th century can be linked to a parallel emerging international environmental movement more broadly anchored in the defense of human rights, social justice and environmental protection. This broader international environmental rights movement argued that environmental degradation was a product of unsustainable growth models that produce racial, gender, economic, cultural, ethnic, and other inequalities.

⁴⁵ See: Page, Joseph A. and Sellers, Gary B. (1970) "Occupational Safety and Health: Environmental Justice for the Forgotten American," Kentucky Law Journal: Vol. 59: Iss. 1, Article 8. Source: <https://uknowledge.uky.edu/klj/vol59/iss1/8>

The United States Environmental Protection Agency offers a detailed Environmental Justice Timeline⁴⁶ (EPA, 2023) and cites a very specific historical event as the original starting point of the EJ movement, namely, the 1968 *Memphis Sanitation Strike* which took place in Memphis, Tennessee.⁴⁷ Touting the protest call of “I am a man,” the *Memphis Sanitation Strike* is considered an inaugural moment for EJ advocacy as it marked one of the first examples of Black solidarity and activism related to environmental concerns. The strike erupted after two African American waste workers were killed, crushed while performing their duties. Demands from the workers’ union advocated for fair pay, a safer working environment, and better working conditions. According to the EPA, it was the first time African Americans mobilized a national, broad-based group to oppose environmental injustices.

Subsequent EJ milestones, such as the 1982 sit-in against the Warren County PCB Landfill, began to consolidate the identity, narrative and nomenclature of the EJ movement. As study after study began appearing in academic circles and public agencies, correlating pollution with neighborhoods where African Americans and other people of color resided, terms such as “environmental racism” were used to describe and provide underlying narratives for the rising EJ movement, particularly in the United States, but as we will see later, such studies also emerged contemporaneously in other countries, including in Canada.

Environmental racism is recognized as historical and systematic discrimination along racial lines and embedded in environment decision-making processes. It was purportedly Reverend Benjamin Chavis, the Executive Director of the Commission for Racial Justice of the United Church of Christ, who in 1982 began utilizing the term “environmental racism” in denouncing the injustices at the Warren County PCB Landfill as a product of “environmental racism.”⁴⁸

The Creation of North America’s Federal Environmental Protection Agencies

The 1970s marked a significant decade for institutional responses to environmental threats around the world, and this was definitely occurring in North America. Government agencies began to appear to address environmental pollution, and particularly how pollution impacted people and communities.

United States

As social and political concerns over air, water, litter, chemical spills, and other forms of environmental pollution and risks gained traction in the 1960s in the US, public concerns regarding deteriorating city air, degradation of natural public spaces and contamination of water supplies resulted in US President Richard Nixon taking political action to create a public agency that would address these concerns. The US EPA was created on December 2, 1970,⁴⁹ alongside Public Law 91-90, of 1969, the National Environmental Policy Act (NEPA).⁵⁰ NEPA was the first major environmental law in the US, and was signed into law earlier that same year, to “encourage productive and enjoyable harmony between man and his environment and to

⁴⁶ <https://www.epa.gov/environmentaljustice/environmental-justice-timeline>).

⁴⁷ This case prompted civil rights activist Martin Luther King Jr’s presence and his “Mountaintop Speech” (Mountaintop speech, Memphis, TN, 1968), where he stated in his speech that “something is happening in Memphis. Something is happening in our world.”

⁴⁸ See: <https://www.nrdc.org/stories/environmental-justice-movement>

⁴⁹ See: <https://www.epa.gov/history/origins-epa>

See: <https://www.diva-portal.org/smash/get/diva2:1616319/FULLTEXT01.pdf>

⁵⁰ See: <https://www.epa.gov/nepa/what-national-environmental-policy-act>
original text: <https://www.govinfo.gov/content/pkg/STATUTE-83/pdf/STATUTE-83-Pg852.pdf>

promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man.” NEPA established that federal agencies needed to assess the environmental impacts of their actions, evaluate the environmental impacts of federal projects, assure a safe and healthful productive environment, and fulfill the social, economic requirements of present and future generations.

Canada

In response to a mobilizing global wave of environmentalism and rising social concern regarding environmental pollution, Canada passed the Canada Water Act of 1970,⁵¹ and on June 11, 1971, Canada established its own formal agency to advance environmental protection, the Department of Environment (later Environment and Climate Change Canada (ECCC)).⁵² Canada’s Department of Environment began with five primary services: Atmospheric Environment Service, Environmental Protection Service, Fisheries Service, Land, Forest and Wildlife Service, and Water Management Service. Later in the 1990s, the ECCC adopted the lead role of ensuring the cleanup of hazardous waste and oil spills and also acquired the responsibility for international environmental issues.

Mexico

In 1971 Mexico turned its focus on the effects of environmental pollution on human health and enacted its first Law to Prevent and Control Environmental Contamination.⁵³ In 1972, the Sub-Secretariat for Environmental Improvement of the Health Secretariat (SMA)⁵⁴ was created as the first federal government agency devoted to environmental protection in Mexico. In similar fashion and around the same time as its northern neighbors, the Mexican environmental protection agency was designed to help develop programs related to the prevention and control of pollution. The Undersecretary’s Office of Improvement of the Atmosphere was created in 1972 in the Ministry of Health. The Secretariats of Health and Assistance (SSA) were the first frameworks to focus on human health problems caused by pollution.⁵⁵ Over the course of the following decades, Mexico enacted key pieces of environmental legislation and created its present environmental Secretariat: including the Law for Environmental Protection in 1982, the General Law of Ecological Equilibrium and Environmental Protection (LGEEPA) in 1988,⁵⁶ the Secretariat of Environment, Natural Resources and Fisheries (Semarnap), created in 1994, which was replaced by the current environmental agency, the Secretariat of Environment and Natural Resources (Semarnat) in 2000.⁵⁷

⁵¹ See: <https://www.canada.ca/en/environment-climate-change/services/water-overview/governance-legislation/federal-policy.html>

⁵² See:

[https://ec.gc.ca/default.asp?lang=En&n=BD3CE#:-:text=Environment%20and%20Climate%20Change%20Canada%20was%20created%20on%20June%2011,Service%20\(established%20in%201947\)](https://ec.gc.ca/default.asp?lang=En&n=BD3CE#:-:text=Environment%20and%20Climate%20Change%20Canada%20was%20created%20on%20June%2011,Service%20(established%20in%201947))

⁵³ See: <https://legislacion.edomex.gob.mx/sites/legislacion.edomex.gob.mx/files/files/pdf/gct/1971/mar311.pdf>

⁵⁴ See: https://www.dof.gob.mx/nota_detalle.php?codigo=691867&fecha=13/08/2003#gsc.tab=0

⁵⁵ See: https://www.profepa.gob.mx/innovaportal/v/1402/1/mx/our_history.html

⁵⁶ See: <https://www.diputados.gob.mx/LeyesBiblio/pdf/LGEEPA.pdf>

⁵⁷ See: https://www.gob.mx/cms/uploads/attachment/file/558608/3_LaSemarnatW.pdf

Global Rights Environmental and Human Rights Based Advocacy

The environmental “rights” or civil rights advocacy focus of many activists in the EJ movement continued strongly in the United States after the initial EJ movement appeared in the late 1960s and through its early evolution of the 1970s and into the 1980s and the '90s.

At the global level, environmental concerns began to shift into the 1990s moving from merely focusing on pollution and environmental threats to the ways in which environmental harms affect, impact, and violate human rights and hinder human rights realization. There emerged a new way of thinking of development through a “rights-based” lens. The “rights-based approach to development” (building on and with a view to implement international human rights treaties such as the UN Universal Declaration of Human Rights,⁵⁸ and the International Covenant on Economic, Social and Cultural Rights)⁵⁹ was espoused by development organizations such as the United Nations.

This emerging human rights-based trend to tackle socio and economic development challenges focused on the most marginalized and excluded sectors of society, calling for greater access to resources and equity, much as the EJ movement in the United States understood their own claims, and their calls for environmental justice.⁶⁰ It was also the moment where key Indigenous rights movements gained force, including in 1989 when the Indigenous and Tribal Peoples Convention of the International Labor Organization (ILO 169) was adopted, calling for environmental safeguards and protections, rights of consultation and participation in decision-making, impact studies, and non-discrimination for Indigenous Peoples.⁶¹

By the 1990s and early 2000s, US-based EJ groups, Indigenous Peoples, and environmental and human rights groups around the world were talking to each other regularly and finding common ground, sharing experiences and coordinating, in essence, what were EJ advocacy strategies—whether they were calling them Environmental Justice or not.

First National People of Color Environmental Leadership Summit and the 17 EJ Principles

One key meeting that took place as information and technology were exploding, and that catapulted the EJ movement nationally in the United States but also regionally and globally, was the 1991 *First National People of Color Environmental Leadership Summit*, where hundreds of activists from across the United States (every state, including Puerto Rico, was represented as were several tribes), and from Mexico, Canada, Central America, and beyond, gathered in Washington, DC, where they issued *17 Principles of Environmental Justice*,⁶² which are considered pillars of the EJ movement still today.

⁵⁸ See: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

⁵⁹ See: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

⁶⁰ For further reflections on “a rights based approach to development: see:
- <https://unsdg.un.org/2030-agenda/universal-values/human-rights-based-approach>;
- <https://www.ohchr.org/sites/default/files/Documents/Issues/Development/RTDBook/PartIChapter3.pdf>
- <https://www.openglobalrights.org/rights-based-approaches-to-development-from-rights-talk-to-joi/>
see also articles e.g. Cornwall and Nyamu (2004); Twomey, Patrick (2007)

⁶¹ See: https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE.P55_LANG.P55_DOCUMENT.P55_NODE:REV,en,C169,/Document

⁶² See: <https://www.ejnet.org/ej/principles.pdf>

The Preamble of the Declaration set the tone of this landmark international EJ meeting and laid the groundwork for many of the central tenets of the EJ movement, not only of the global EJ movement but also of much of the current environmental public policy we see in the region today, reads:

“We, the People of Color, gathered at this multinational People of Color Environmental Leadership Summit, to begin to build a national and international movement of all peoples of color to fight the destruction and taking of our lands and communities, do hereby re-establish our spiritual interdependence to the sacredness of our Mother Earth; to respect and celebrate each of our cultures, languages, and beliefs about the natural world and our roles in healing ourselves; to ensure EJ; to promote economic alternatives which would contribute to the development of environmentally safe livelihoods; and to secure our political, economic, and cultural liberation that has been denied for over 500 years of colonization and oppression, resulting in the poisoning of our communities and land and the genocide of our peoples.”

The 17 principles⁶³ affirm (in summary form):

1. the sacredness of Mother Earth, ecological unity and the interdependence of all species;
2. mutual respect, justice and the freedom from discrimination;
3. the right to an ethical, balanced and responsible use of land and renewable resources;
4. universal protection from nuclear testing, and the extraction, production and disposal of toxic wastes and poisons that threaten air, land, water and food;
5. the right to political, economic, cultural and environmental self-determination of all peoples;
6. the cessation of the production of all toxins, hazardous wastes, and radioactive materials, and the accountability of their producers;
7. the right of participation in decision-making, planning, implementation, enforcement and evaluation;
8. the right to a safe work environment;
9. the right of compensation and reparation for damages, and the right to health care;
10. the linking of human rights violations and genocide to environmental injustice;
11. the recognition of Indigenous Peoples and treaties made with them, and their sovereignty and self-determination;
12. the need for urban and rural environmental policies to clean up and rebuild cities and rural areas in balance with nature;
13. the right to informed consent;
14. the opposition to destructive multi-national corporations;
15. the opposition to military occupation, repression and exploitation of lands, people and cultures;
16. the right to environmental education of present and future generations; and
17. the need for individuals to reduce consumption, reduce waste, reprioritize lifestyles to insure the health of Nature for present and future generations.

This summit was one of the first North American regional (and global) advocacy meetings that can largely be attributed to projecting EJ from national issue in select US-based communities to a global issue. The narrative employed by EJ activists in the 1991 summit clearly moves the EJ discussion beyond the “racial” dimension that dominated the United States EJ groups and that were originally the pillars of the US-based EJ movement, to a realm that addressed the concerns of many other groups around the region and the world. Many grassroots environmental activists as well as Indigenous rights leaders, would set their compass setting in their own advocacy to call for many of the EJ principles cited in this

⁶³ See: <https://www.communitycommons.org/entities/f5511283-eea3-4c01-9c63-31ba3a4a6ad9>

declaration. This 1991 summit was viewed as a place ‘to begin to build a national and international movement of all peoples of color to fight the destruction and taking of our lands and communities’.

The Earth Summit and Principle 10 of the Rio Declaration

The following year a United Nations Conference on Environment and Development (UNCED) also known as the “Earth Summit” or the Rio Summit, held in Rio de Janeiro Brazil,⁶⁴ marked an international landmark of evolving international EJ discourse. Thousands of non-governmental activists attended the summit, calling for public officials to tackle climate change. EJ groups (most were not yet calling themselves that) from around the world attended the summit.

The Rio Declaration of 1992⁶⁵ laid out a fundamental framework for environmental protection that would enshrine some of the essential principles forming the basis of international understanding of EJ, particularly in the American region. This includes Principle 1, declaring that humans are entitled to a healthy and productive life in harmony with nature, Principle 3, stressing equity and inter-generational needs, Principle 5 focused on disparities lived by people around the world, Principle 6, highlighting the most vulnerable to be given priority [a key focus of EJ today], women and youth are highlighted in Principles 20 and 21, respectively, as needed to be included and consulted, as well as Principle 22, which highlights the vital role that Indigenous Peoples play in environmental management and development thanks to their traditional knowledge and practices, and finally Principle 10, below, which has special relevance to the EJ discussion as it has become one of the central tenets for EJ policy and focus for countries around the world (strongly rooted in the “procedural” elements of EJ):

Principle 10. Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

The UN Millenium Declaration 2000 and the Millenium Development Goals (MDGs) in 2001

In the year 2000, 189 countries adopted the *UN’s Millenium Declaration* which gave rise to eight development goals with 21 targets and a series of health indicators focused on social development, and a strong people-focused prioritization of public policy, including a focus on poverty, education, infant mortality, health, gender, youth, nutrition, slums, water and sanitation, as well as migrant and marginalized community rights. The Declaration called for the elimination of racism and xenophobia, to be more inclusive and to promote public participation. It called on governments’ “collective responsibility to uphold the principles of human dignity, equality and equity at the global level [and the] duty to all of the world’s people, especially the most vulnerable and in particular, the children of the world, to whom the future belongs.”⁶⁶ These targets had clear connections with the narrative of the evolving EJ movement.

⁶⁴ See: <https://www.un.org/en/conferences/environment/rio1992>

⁶⁵ See: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf

⁶⁶ See: <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-millennium-declaration>

The World Social Forums

Following the growing activism and participation of nongovernmental organizations and social movements at international summits, and a growing call from civil society for ending globalization, as well as a push by civil society groups to be their own vehicle towards social change, the World Social Forum (WSF) emerged under the slogan “Another World is Possible.” The first WSF took place in Porto Alegre, Brazil, in 2001 and developed over time as a space for leading activists around the world to give voice to those traditionally excluded from international summits directed by the global elite.⁶⁷ The WSFs were an ideal space for EJ activism to gather force and create resonance amongst activists advocating for a multitude of concerns related to environmental pollution and resulting impacts on human rights, including advocating for a healthy environment, the improvement of access to information on health, the emerging consolidation of the right to water, corporate accountability for human rights compliance and many other human rights and environmental priorities for impacted communities. A recurring theme of the WSFs was the need for access to information as well as participation in decision-making. The WSFs were hubs for advocacy groups to connect, communicate and learn from each other, set common agendas and plan out collective, regional and global advocacy strategies.

The World Conference Against Racism (WCAR), 2001

Originally launched in 1978 after the UN General Assembly established the Decade for Action Against Racism,⁶⁸ a subsequent WCAR took place in Durban, South Africa, in 2001. This conference advanced conversation on topics related to international racism, racial discrimination and xenophobia. The specific topic of *health and environment* emerged at WCAR, focusing on demands to develop environmental control measures to ensure a healthy environment for individuals subject to racism, racial discrimination and other forms of discrimination. Specific narrative around environmental justice was also present (note the influence of the Rio Declaration on the WCAR statement) and found its way into the declaration. Notable to EJ is Article 111 of the 2001 WCAR Declaration, which:

“invites States to consider non-discriminatory measures to provide a safe and healthy environment for individuals and groups of individuals, victims of or subject to racism, racial discrimination, xenophobia and related intolerance, and in particular:

- (a) To improve access to public information on health and environment issues;
- (b) To ensure that relevant concerns are taken into account in the public process of decision-making on the environment;
- (c) To share technology and successful practices to improve human health and environment in all areas;
- (d) To take appropriate remedial measures, as possible, to clean, re-use and redevelop contaminated sites and, where appropriate, relocate those affected on a voluntary basis after consultations,⁶⁹

⁶⁷ See for example: <https://ggjalliance.org/programs/world-social-forums/>

⁶⁸ See: <https://www.un.org/en/conferences/racism/geneva1978#:~:text=The%20first%20UN%20conference%20focusing.Discrimination%20took%20place%20in%201978.>

⁶⁹ See: https://www.un.org/en/durbanreview2009/pdf/DDPA_full_text.pdf

This global racism- and discrimination-focused conference explicitly served to connect the issue of racism to international policy discussions on the environment, outlining demands for improving access to public information on health and environmental issues as well as considering racially relevant issues and discriminatory dynamics that should be taken into consideration in the process of decision-making on environmental matters. Paragraph 42 of the WCAR declaration also affirms the evolving rights for Indigenous Peoples to manage their own lands and natural resources and to have access to justice on the basis of equality. The WCAR presented a UN-sponsored international framework policy lens to Indigenous groups to link their own advocacy to the “environmental racism” approach of the EJ movement. Environmental and human rights advocacy groups from the Latin America region, who were not necessarily embarked on a “racism” agenda in their work, also found opportunities and points of international engagement overlap with the WCAR that would be relevant to their own evolving advocacy narratives.

UN and OAS Resolutions on Human Rights and Environment and their EJ relevance.

A suite of Organization of American States (OAS) and UN Resolutions on Human Rights and Environment between 2001 and 2012, helped build a bridge between the EJ movement and the human rights movement, as it brought environmental impacts and the inequities of these impacts squarely into the human rights focus. These resolutions stemming mainly from the global and regional human rights bodies (the UN High Commission for Human Rights and the Inter-American Human Rights System), helped focus the discussion on specific human rights issues to a correlated focus on environmental pollution as well as on the intersectional issues that the more modern understanding of EJ has come to incorporate (gender, poverty, age, intergenerational equity, etc.) The resolutions also helped institutionalize human rights and environment (and its EJ relevance) in the form of officers (Special Rapporteurs) at these institutions who would follow the most relevant human rights and environment issues, as well as draft reports to continue to expand on the theory and practice. Some key resolutions include:

- OAS Resolution 1819 of 2001 and 1896 of 2002 on Human Rights and the Environment,⁷⁰ linking environmental impact considerations to economic, social and cultural rights, as well as to poverty and patterns of unsustainable development, the importance of accessing information, and the more active participation of society on environmental matters.
- OAS Resolution 1926 in 2003,⁷¹ which helped link human rights and environment to climate.
- *UN Resolutions 2003/71 and 2005/60 on Human Right and the Environment*⁷² emphasized that “environmental damage can have potentially negative effects on the enjoyment of human rights” and that “environmental degradation may affect ... women, children, Indigenous People, or disadvantaged members of society, including individuals and groups of individuals that are victims or subject to racism,” and emphasized the procedural elements of Principle 10 of the Rio Declaration, and particularly access to justice mechanisms.

⁷⁰

2001: See: <https://www.oas.org/usde/FIDA/documents/res1819.htm>

2002: See: https://www.oas.org/juridico/english/ga02/agres_1896.htm

⁷¹ See: <https://www.oas.org/usde/FIDA/documents/res1926.htm>

⁷²

2003: See: <https://www.refworld.org/legal/resolution/unchr/2003/en/12635>

2005: See: <https://www.refworld.org/legal/resolution/unchr/2005/en/38926>

- *UN Resolution 7/23 in 2008 and 10/4 2009 on Human Rights and Climate Change*,⁷³ centered on the inequitable burdens of climate change on the poor and their limited ability to adapt to climate change, highlighted key intersectional dimensions of the climate change problem, including: geography, poverty, gender, age, indigenous or minority status and disability.
- UN Resolutions 9/1 Of 2008 and 12/18 of 2009 on the adverse effects of the movement and dumping of toxic waste and dangerous products and wastes on the enjoyment of human rights,⁷⁴ linked toxic waste to human rights violations.
- UN Resolution 16/11 in 2011 on Human Rights and Environment,⁷⁵ reaffirmed that environmental damages have negative implications to the enjoyment of human rights, placing persons at the center of sustainable development policy, and that environmental impacts are felt most acutely by populations that are already in vulnerable situations.
- UN Resolution 19/10 in 2012 on Human Right and Environment,⁷⁶ emphasizing the important linkages between the Covenant on Economic, Social and Cultural Rights and the elimination of racism, the Principles of the Rio Declaration, that the person is at the center of development, and importance of gender dynamics of discrimination.

Sustainable Development Goals (SDGs) 2012–2015

Building on the earlier *Millenium Development Goals*⁷⁷ of the year 2000, the *Sustainable Development Goals*⁷⁸ appeared in 2012 during the UN Conference on Sustainable Development in Rio de Janeiro, and later were established as 17 SDGs in 2015. They were focused on peace, prosperity, people and planet, forging global policy targets on poverty, good health, gender, clean water and sanitation, economic development, clean energy, oceans, biodiversity, reduced inequalities, climate change and sustainable communities. Again, like the MDGs, the SDGs continued to forge a connection between human rights advocacy and EJ advocacy, at a global level.

The Escazú Agreement 2018

In 2018, building on Principle 10 of the 1992 Rio Declaration and after intense regional negotiations, the Latin American and Caribbean (LAC) region adopted the legally binding *Escazú Agreement on access to information, participation and access to justice* in environmental matters.⁷⁹ It is of the region and for the region, rights-based, and focused on environmental protection and environmental equality, and on the need for redressing, restoring and compensating for past harms, which is especially important for the most vulnerable and marginalized communities. The UNDP denotes Escazu as an agreement “toward environmental justice for all.”⁸⁰ It is the first, landmark environmental treaty of and for the LAC region and the first to include legally-binding provisions to protect environmental human rights defenders (Article 9). One could argue that it is the first legally-binding international EJ treaty. The Escazú

⁷³

2008: See: https://ap.ohchr.org/documents/e/hrc/resolutions/a_hrc_res_7_23.pdf

2009: See: https://www.uncclearn.org/wp-content/uploads/library/a_hrc_res_10_4.pdf

⁷⁴

2008: See: https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_9_1.pdf

2009: See: <https://digitalibrary.un.org/record/667067/usage?ln=ru>

⁷⁵ See: https://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/a.hrc.res.16.11_en.pdf

⁷⁶ See: <https://documents.un.org/doc/resolution/gen/g12/131/59/pdf/g1213159.pdf?token=7hMRajmqOoFwkYj3Bg&fe=true>

⁷⁷ See: <https://www.un.org/millenniumgoals/>

⁷⁸ See: <https://sdgs.un.org/goals>

⁷⁹ See: <https://repositorio.cepal.org/server/api/core/bitstreams/7e888972-80c1-48ba-9d92-7712d6e6f1ab/content>

⁸⁰ See: <https://www.unep.org/news-and-stories/speech/escazu-agreement-towards-environmental-justice-all>

Agreement is noteworthy for recognizing the right of present and future generations to live in a healthy environment. Article 3 of the Escazú Agreement lays out the foundational pillars of the agreement essential to EJ discussion and considerations, including, for example: equality and non-discrimination, accountability, intergenerational equity, and disclosure. The agreement also highlights special considerations that should be made for vulnerable groups, and Indigenous Peoples, and those affected by specific activities.

From the 1968 *Memphis Sanitation Strike*, to the comprehensive 2021 efforts of the WSFs and OECD Global Forum on Environment, to Mexico's leadership in advancing the *Escazu Agreement*, to the emerging climate change crisis and efforts to address it, to recent trends in Canada on revisiting the issue of *environmental racism* and streamlining it into policy and legislation, the EJ "journey" by thousands of activists and advocates, spans numerous decades and crosses through into the 21st century. EJ has evolved among the three nations of North America according to local dynamics in each country according to the very specific events occurring in each country, and in communities within those countries where environmental discrimination was such a problem. EJ also evolved through international discussions around environmental pollution, human rights violations, and what to do about them.

International events, agreements, resolutions, treaties, and other international forums, advocacy groups, and other international influences have also contributed significantly to the evolution of EJ as a concept and as a movement has undergone extensive homegrown development but has also been influenced, inspired, and shaped by the international evolution of an underlying call for socio-economic and environmental justice.

United States

Environmental justice as a standalone concept emerged as an environmental dimension of the US Civil Rights Movement and through social movement dynamics in specific African American localities in the late 1960s, 1970s and early 1980s. EJ was and is understood in the United States as a convergence of social movements and advocacy action around public health, civil rights, and labor issues, in the face of discriminatory environmental pollution, and has contributions to these movements from African American, Native American, Latino, Chicano and Asian American communities.⁸¹

At its origin, EJ activism in the United States did not have the environment at the center of, or even in, its advocacy discourse, but instead centered its concerns on the human victims of discriminatory pollution, impacting marginalized, segregated and otherwise disadvantaged neighborhoods and communities. Race and discrimination were at the center of EJ activism. EJ focused on bringing awareness about the direct human health consequences of pollution and to reversing the systemic inequities that disproportionately exposed marginalized communities to pollution and environmental hazards. The EJ movement in the United States is ultimately about human rights.

Robert Bullard acknowledged that “whether by conscious design or institutional neglect, communities of color in urban ghettos, in rural ‘poverty pockets’, or on economically impoverished Native American reservations face some of the worst environmental devastation in the nation” (EPA 2023). The EJ movement derived from the Civil Rights Movement and placed its focus on how racism (particularly legally sanctioned racism) specifically affected the environmental characteristics of certain neighborhoods and, more specifically, how the health of the people living in certain neighborhoods was affected by officially sanctioned or unfairly tolerated pollution.

Over time, and as environmental injustices became more and more apparent in numerous locations and in numerous communities, the EJ movement attracted activists and advocacy groups from different sectors of society across the United States, including Indigenous leaders, immigrants, and other minority or other affected groups, who found in EJ discourse a lens through which to understand their own predicaments and challenges relative to environmental pollution.

Key events in the development and evolution of the EJ movement in the United States

A few early cases of community uprisings against environmental pollution, which are often cited as having laid the steppingstones to the EJ movement, include the 1967 protest of Black students in Houston, Texas, who took to the streets to oppose a city garbage dump that had caused two deaths of children in the community. The following year in 1968, residents of West Harlem in New York City fought the siting of a sewage treatment plant in their neighborhood.⁸² Both events ignited events and community protests across the country, which revealed evidence showing that pollution was not located

⁸¹ See: Pearthree, G. (2008). Bridging the Divide: Activism and Academia in the Environmental Justice Movement (Undergraduate honors thesis, University of Redlands). P. 3. Retrieved from <https://inspire.redlands.edu/proudian/47>

⁸² See : <https://www.nrdc.org/stories/environmental-justice-movement>

haphazardly across society, but rather, was being sited such that it impacted minority and already disadvantaged communities.

Although not cited in EJ historical or timeline literature, one of the earliest known publications to mention the term “environmental justice” was published in 1970 by Joseph Page and Gary Sellers in the Kentucky Law Journal. In fact, the article's title includes one of the earliest known academic references to EJ: “Occupational Safety and Health: Environmental Justice for the Forgotten American.”⁸³ The article is actually *not* focused on environmental justice for impacted communities as we would understand the term today, but rather on the *health and safety of workers in industry*. The issue of *diseases* contracted by workers exposed to toxins at their place of work was never included in work-safety discussions or reports to governmental authorities about work-related injuries.

The Page and Sellers study points to an array of work-related diseases caused by environmental pollution, from coal miners dying of “black lung” to workers exposed to fumes, gases, dust, heat noise, radiation and a host of other toxic chemicals, including cadmium in the welding industry, to pesticides, to dyes, and to asbestos exposure having crippling effects on workers, leading to blindness, respiratory problems, strokes or other serious illnesses or life-ending diseases. The authors make the point that these diseases and incidents are of enormous concern, but are largely ignored by authorities. The problem of pollution and its human health impacts, however, was very much on the minds of workers at the time.

For Labor in the 1960s and into the 1970s, “health” was emerging as a front and center issue. Workers were organizing to change the way disease, resulting from the workplace, was addressed (or failed to be addressed) by companies and by government. In the words of Peter MacIntrye, president of the Chemical Workers local in Sayreville, New Jersey:

What can be done? What can we be told about gases when they're mixed together? ... We have operators who have been working with these gases and fumes since 1961. We'd like to know what's happening to these people. (Page and Sellers, p.127)

Another key issue raised in the article, which relates directly to modern day discussions around EJ, is the plight of immigrant workers.

“Foreign workers arriving in great waves of immigration ... were quickly converted into industrial cannon fodder. Coming from peasant societies, unable to speak English, they greased the wheels of industry with their blood. ... [but] because of language problems and unfamiliarity with the law ... found it uncommonly difficult to press legal claims against their employers.”

The authors close the article with a call for a “Worker’s Bill of Health Rights” which, when looked at through a modern EJ lens, shows clear delineation from worker struggles 50 years ago, to those of the modern day, including specific focuses on human rights and some of the common procedural rights associated with EJ:

- *the right to biological, social and psychological health;*
- *the right to protection from hazards;*
- *the right to health;*
- *the right to information about job hazards;*
- *the right to medical information, testing and treatment;*

⁸³ See: Page, Joseph A. and Sellers, Gary B. (1970) "Occupational Safety and Health: Environmental Justice for the Forgotten American," Kentucky Law Journal: Vol. 59: Iss. 1, Article 8. Source: <https://uknowledge.uky.edu/klj/vol59/iss1/8>

- *the right to know of exposure vulnerability;*
- *the right to know of and access epidemiological and environmental data;*
- *the right to monitoring of hazards;*
- *the right to the enforcement of standards;*
- *the right of protection;*
- *the right to recover damages;*
- *the right to compensation.*

The awakening of workers to toxics exposure in industrial practices was a steppingstone that eventually led to "looking over the fence line" into communities for the workers, which had been located in proximity to the industries, by virtue of decisions by public officials and the businesses. An EJ movement drawing attention to community risks was a logical next step.

The Memphis Sanitation Strike, 1968

The Memphis Sanitation Strike, involving union protest and Black unity following the death of two waste facility workers working in an unsafe environment, was cited above in the international timeline of EJ events. While not specifically labeled an "environmental" issue at the time, it is nonetheless recognized as one of the first community uprisings that would solidify a community focus on the industry of pollution and its inequitable distribution throughout society. It remains a landmark event on the EJ timeline, globally and nationally in the United States. On the eve of his death, Martin Luther King spoke publicly in support of the sanitation workers' strike, which catapulted the protests surrounding the incident to national and international attention, which linked the Memphis Sanitation Strike and the birth of EJ to one of the most renowned civil rights leaders in global history.

Bean v. Southwestern Waste Management Corp., 1979

The 1979 *Bean v. Southwestern Waste Management Corp.* offers another emblematic case showing the evolution of EJ as an issue and focus for advocacy. *Bean v. Southwestern Waste Management* involved an African American neighborhood, Northwood Manor, in East Houston, Texas, which unified to fight a sanitary landfill project, slated to be built within a 1,500 ft. proximity to a local school.⁸⁴ Local residents and their representatives charged that placing a waste facility within their neighborhood was racially motivated and would cause irreparable harm to the health of the community. Neighborhood residents filed a class action lawsuit to block the landfill, one of the first legal cases in the US to use civil rights laws to bring attention to environmental discrimination in waste facility placement, linking pollution advocacy to civil rights advocacy and placing people and human rights at the forefront of environmental activism.⁸⁵

*Warren County Landfill, 1982*⁸⁶

⁸⁴ See: <https://www.usccr.gov/files/pubs/envjust/ch2.htm>

⁸⁵ See: <https://law.justia.com/cases/federal/district-courts/FSupp/482/673/2095959/>

⁸⁶ See: <https://www.sustainchapelhill.org/featured/2021/8/16/environmental-justice-and-climate-equity-in-the-climate-action-plan>

The Warren County Landfill case in 1982 centered on racial profiling.⁸⁷ It involved siting a landfill that would relocate 60,000 tons of highly toxic polychlorinated biphenyl-laced toxic soil and waste to Afton, a predominantly African American (84%) neighborhood in Warren County, North Carolina. This was especially concerning as the water table was close to the surface, with contamination highly risky possibility for affecting the health of residents. Local community leaders and civil rights activists protested the choice of the landfill site regularly from 1978 to 1982 and filed numerous lawsuits to stop the landfill. Non-violent protest resulted in the arrest of over 500 protesters. That event was the catalyst for an emerging national environmental justice movement, as it was the first time that a movement of people of color protesting on environmental issues gained widespread national attention (EPA, 2023). That followed a press conference about the case where EJ advocate Benjamin F. Chavis purportedly first used the term “environmental racism,” in reference to the decision of deliberately placing a toxic landfill in a racialized community.⁸⁸

Siting Hazardous Waste Landfills and Their Correlation with Racial and Economic Status of Surrounding Communities, 1983 RCED-83-168

This US General Accounting Office (GAO) study provided empirical support to the environmental justice movement and supported its advocacy claims, providing evidence that three out of four hazardous waste landfills were in communities where African Americans made up at least 26% of the population, and whose income levels were below the poverty line.⁸⁹

Solid Waste Sites and the Black Houston Community, 1983

Also in 1983, Robert Bullard published *Solid Waste Sites and the Black Houston Community*, in the journal *Sociological Inquiry* (vol. 53, issue 2-3). This landmark publication detailed the locations of municipal trash disposal facilities in the City of Houston and is considered one of, if not the first, documented and explicit examination of “environmental racism” in the United States. The study proved that Houston's African American communities, as well as Black schools, were frequently picked as the locations for toxic waste sites. Bullard also suggests that “institutionalized discrimination in the housing market, lack of zoning and decisions by public officials over the past fifty years are major factors that have contributed to Houston’s Black neighborhoods becoming the dumping ground for the area's solid waste.”⁹⁰

Toxic Wastes and Race in the United States

Another study released by the United Church of Christ Commission on racial justice, was the 1987 *Toxic Wastes and Race in the United States: A National Report on the Racial and Socioeconomic Characteristics of Communities with Hazardous Waste Sites*.⁹¹ This study, important as it was the first of its kind to address the issue of race, class and the environment at a national level, confirmed what activists were claiming: that *race and ethnicity* were the most determining factors in the siting of waste facilities,

⁸⁷ See: <https://library.unc.edu/2022/08/we-birther-the-movement/>

⁸⁸ See: <https://avoice.cbcbinc.org/exhibits/environmental-justice/history/>

⁸⁹ See: <https://www.gao.gov/products/rced-83-168>

⁹⁰ See: https://drrobertbullard.com/wp-content/uploads/2014/07/Bullard-Solid-Waste-and-Houston-Black-Community_Sociological-Inquiry-Vol-53-Spring-1983_4-7-14.pdf

⁹¹ See: <https://www.nrc.gov/docs/ML1310/ML13109A339.pdf>

landfills and other environmental hazards. The study examined the relationship between the location of a hazardous waste site and the racial and socioeconomic composition of host communities nationwide, finding that over 15 million African Americans, eight million Hispanics, and half of all Asian/Pacific Islanders and Native Americans, resided in communities with at least one abandoned or uncontrolled toxic waste site.⁹²

The First National People of Color Environmental Leadership Summit, 1991

It was in the context of all this emerging data and clear evidence on the discriminatory burden of environmental pollution suffered by minority and disadvantaged communities, that the *First National People of Color Environmental Leadership Summit* (mentioned in the previous chapter) was held in 1991, marking the first North American (and more broadly, international) meeting focusing specifically on EJ. The dynamics of this summit is described in more detail in the previous chapter on the global evolution of EJ. It suffices to say here that hundreds of activists from across the United States (including Puerto Rico), Canada, Mexico, Central America, and beyond gathered to talk about EJ and share cases of environmental injustice and issued *17 Principles of Environmental Justice*,⁹³ many of which remain to this day central pillars of the EJ movement in the United States.

EJ policy and institutionalization of EJ in United States

The first efforts to establish an EJ policy to address the emerging evidence of environmental injustices appeared following the cases mentioned in the previous section, along with the emerging academic studies that underpinned the calls for advocacy, each of which gained national attention and increased the pressure on government and governmental agencies to address EJ. As the academic evidence of environmental discrimination grew, mounting pressure from local community activists to address discriminatory environmental pollution led public officials to act. In 1990, US EPA Administrator William Reilly established the Environmental Equity Working Group and set up a meeting with EJ leaders across the country, which led to a series of executive policies and the institutionalization of EJ in the federal government.⁹⁴

Office of Environmental Equity (OEI) and the EPA's Report on Environmental Equity

In 1992, following the creation of an *Environmental Equity Working Group* that same year, and consultations with numerous EJ activists in different locales, and with academics who were studying discriminatory pollution, the EPA published the report, *Environmental Equity: Reducing Risk for All Communities*,⁹⁵ which contained evidence of higher blood lead levels in African American children compared to white children and of the potential for increased exposure in African American communities to major pollutants. The report also affirms that residents of communities where there is exposure to environmental risks may be more likely than the general population to experience disease or early death, and that “issues such as these, and how government agencies respond, have come to be

⁹² Cited in: <https://www.usccr.gov/files/pubs/envjust/ch2.htm>

⁹³ See: <https://www.communitycommons.org/entities/f5511283-aaa3-4c01-9c63-31ba3a4a6ad9>

⁹⁴ See: https://www.ucc.org/wp-content/uploads/2021/03/toxic-wastes-and-race-at-twenty-1987-2007_Part3.pdf

⁹⁵ See: <https://nepis.epa.gov/Exe/ZyPDF.cgi/40000JLA.PDF?Dockey=40000JLA.PDF>

known as issues of environmental equity...[which] refers to the distribution of environmental risks across population groups and to our policy responses to these distributions.”

The report (p. 2) states:

“the EPA has begun to assess how patterns of environmental problems converge on different places, how people who live in those places are affected and how environmental programs should be further refined to address identified differences. The causes of these differences are often complex and deeply rooted in historical patterns of commerce, geography, state and local land use decisions and other factors that affect where people live and work. With respect to some types of pollutants, race and income, however, appear to be correlated with these distributions.”

The working group made several recommendations to the EPA to tackle this problem and created the *Office of Environmental Equity (OEI)* charged with coordinating EJ work. In 1994, the name of that office changed to the *Office of Environmental Justice*, which is the leading EJ office at the EPA today.⁹⁶

The National Environmental Justice Advisory Council (NEJAC)

In 1993 the *National Environmental Justice Advisory Council (NEJAC)*⁹⁷ was created as a federal advisory committee to the EPA, to provide advice and recommendations about EJ issues, incorporating the views of a multiplicity of affected groups. It also advises the EPA and the EPA Administrator on ways to integrate EJ in EPA priorities and initiatives, including the evaluation of a broad range of strategic, scientific, technological, regulatory, community engagement, and economic issues related to EJ.

Executive Order 12898, 1994

Executive Order 12898, from February 1994, under then President Bill Clinton focused on *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*.⁹⁸ The Order created the EPA's *Office of Environmental Justice*,⁹⁹ and extended EJ as a mission for all federal agencies by calling on them to identify and develop strategies to address any disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority and low-income populations. The Order mandated studies and data collection on environmental pollution and on related health impacts, and created an interagency working group led by EPA to tackle EJ across government. It also called for public participation of minority populations to comment on the development and design of EJ research strategies. The Order also extended EJ action to preexisting Native American programs, mandating consultation with federally recognized tribes, an important official step in bringing Indigenous issues into the official EJ discourse and public policy. And finally and significantly, it made EJ a White House priority (as it remains to this day) by mandating regular reporting to the President on advancement and implementation of EJ policy and strategy.

⁹⁶ See: <https://avoice.cbefinc.org/exhibits/environmental-justice/history/>

⁹⁷ See: <https://www.epa.gov/environmentaljustice/national-environmental-justice-advisory-council>

⁹⁸ See: <https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf>

⁹⁹ See: <https://www.justice.gov/oej>.

EJ Small Grants Program, 1994

In 1994, the *Environmental Justice Small Grants Program* was established with the aim of providing grants to support and empower community-based organizations and tribal governments working on solutions to address EJ issues.¹⁰⁰ The grants program has awarded over US\$37 million in funding to over 1500 community-based organizations, tribal governments as well as Native American organizations. Community groups that have been supported through this grant program include organizations focused on refugees, sustainable business and green development.¹⁰¹ The grants program has been a key tool for the federal government to advance the implementation of environmental targets and objectives.

Executive Order 14008, 2021

Executive Order 14008 issued in 2021, *Tackling the Climate Crisis at Home and Abroad* aims to address climate change while emphasizing the importance of advancing domestic actions in promoting environmental sustainability.¹⁰² This Order reinvigorates past commitments to institutionalizing EJ in government policy and brings EJ narrative and policy into the climate emergency and specifically into federal climate policy.¹⁰³ The Order explicitly states (Section 219) the objective of:

“turning disadvantaged communities—historically marginalized and overburdened—into healthy, thriving communities, and undertaking robust actions to mitigate climate change while preparing for the impacts of climate change across rural, urban, and Tribal areas.”

Part II of this Order makes the bridge between the climate crisis and EJ, emphasizing the importance of “[delivering] environmental justice in communities all across America.” The Order also establishes an inter-agency working group that is mandated to consult EJ organizations and tribal officials. It also reaffirms historical EJ policy while squarely bringing EJ into the US government’s climate policy and responses. Section 219 of the order reads:

“Agencies shall make achieving environmental justice part of their missions by developing programs, policies, and activities to address the disproportionately high and adverse human health, environmental, climate-related and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts. It is therefore the policy of [the] Administration to secure environmental justice and spur economic opportunity for disadvantaged communities that have been historically marginalized and overburdened by pollution and underinvestment in housing, transportation, water and wastewater infrastructure, and health care.”

Section 220 of the Order also establishes a *White House Environmental Justice Interagency Council* to “develop a strategy to address current and historic environmental injustice by

¹⁰⁰ See: <https://www.epa.gov/system/files/documents/2021-12/2001-environmental-justice-small-grants-program-summaries.pdf>

¹⁰¹ The full list of the 2021 recipients of this grant can be found in: https://www.epa.gov/system/files/documents/2021-12/2021-selected-ejsg-project-descriptions_0.pdf

¹⁰² See: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>

¹⁰³ To understand all implications of this E.O., please visit: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>

consulting with the *White House Environmental Justice Advisory Council*¹⁰⁴ and with local environmental justice leaders.”

Critical to the effectiveness of actually implementing EJ policy, the Order (in Section 222) calls for:

- *the creation of “a geospatial Climate and Economic Justice Screening Tool,*
- *[that the Council] shall annually publish interactive maps highlighting disadvantaged communities, ...*
- *[strengthening] the enforcement of environmental violations with disproportionate impact on underserved communities, ...*
- *[and the creation of] a community notification program to monitor and provide real time data to the public on current environmental pollution, including emissions, criteria pollutants, and toxins, in frontline and fence line communities—places with the most significant exposure to such pollution,*
- *[ensuring] comprehensive attention to environmental justice through the Department of Justice, ... to coordinate environmental justice activities.*
- *[the launch of the] Section 223: Justice40 Initiative¹⁰⁵ ... on how Federal investments might be made toward the goal that 40 percent of the overall benefits flow to disadvantaged communities ... [focused] on investments in the areas of clean energy and energy efficiency; clean transit; affordable and sustainable housing; training and workforce development; the remediation and reduction of legacy pollution; and the development of critical clean water infrastructure.*

The Inflation Reduction Act, 2022

Explicitly linked to previous executive initiatives like Justice40, the Inflation Reduction Act of 2022, expands executive action on EJ into the legislative realm, giving it a much stronger foundation, targeting government spending to promote a number of environmental reforms and investments, including advancing EJ grants programs and specific EJ actions, such as fence line monitoring and reducing pollution at public schools, cleaning up ports, addressing diesel emissions, tackling extreme heat, and improving community climate resilience across US states. The IRA is specifically aimed at reducing pollution and revitalizing communities that are marginalized, underserved and overburdened.¹⁰⁶

¹⁰⁴ See: <https://www.whitehouse.gov/environmentaljustice/white-house-environmental-justice-interagency-council/>

¹⁰⁵ For more information about Justice40 see: <https://www.whitehouse.gov/environmentaljustice/justice40/>

¹⁰⁶ See: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/17/fact-sheet-inflation-reduction-act-advances-environmental-justice/>

Executive Order 14096, 2023

The most recent EJ-related Executive Order, issued in 2023, *Executive Order 14096 Revitalizing our Nation's Commitments to EJ for All*,¹⁰⁷ reaffirms key tenets of the historical EJ discourse, grounding executive policy in objectives of *justice, liberty, and equality* and linking these to:

- clean air to breathe;
- clean water to drink;
- safe and healthy foods to eat; and
- an environment that is healthy, sustainable, climate-resilient, and free from harmful pollution and chemical exposure.

The order also affirms that “restoring and protecting a healthy environment...is a matter of justice and a fundamental duty that the Federal Government must uphold on behalf of all people.” And it brings back into the EJ discussion the link of EJ to civil rights, where it emerged in a historical context:

We must advance environmental justice for all by implementing and enforcing the Nation's environmental and civil rights laws, preventing pollution, addressing climate change and its effects, and working to clean up legacy pollution that is harming human health and the environment. (Section 1. Policy, of the order)

There are 11 sections in this Executive Order, guiding the advancement of environmental justice policy and specifying the need for federal agencies to address and mitigate the disproportionate environmental and health impacts on marginalized communities. The Order affirms the Government's *whole-of-government approach* to environmental justice, particularly to procedural element of EJ, stating that:

All people should be afforded the opportunity to meaningfully participate in agency decision-making processes that may affect the health of their community or environment. [and that] the Federal Government must continue to remove barriers to the meaningful involvement of the public in such decision-making, particularly those barriers that affect members of communities with environmental justice concerns, including those related to disability, language access, and lack of resources. (Section 1. Policy)

The 5th National Climate Assessment, 2023

According the White House's release of the 5th National Climate Assessment in November of 2023, the executive is providing investments to increase community resilience to climate change and advancing environmental justice.¹⁰⁸

¹⁰⁷ See: <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/04/21/executive-order-on-revitalizing-our-nations-commitment-to-environmental-justice-for-all/>

¹⁰⁸ See: <https://www.whitehouse.gov/briefing-room/statements-releases/2023/11/14/fact-sheet-biden-harris-administration-releases-fifth-national-climate-assessment-and-announces-more-than-6-billion-to-strengthen-climate-resilience-across-the-country/>

And while we will not explore the issue of climate justice as a focus of this paper, the assessment includes a chapter focused on Social Systems and Justice, and within this chapter, the issue of “climate justice” is included. It refers to climate justice in EJ terms, indicating that:

Climate justice is “the recognition of diverse values and past harms, equitable distribution of benefits and risks, and the procedural inclusion of affected communities in decision-making processes.”¹⁰⁹

The section of the assessment focused on response to climate change also makes to EJ dimensions of the climate problem:

“Effective Adaptation Requires Centering Equity. People and communities are affected by climate change in different ways. How people and institutions adapt depends on social factors, including individual and community preferences, capacity, and access to resources. Adaptation processes, decisions (about whether, where, and how adaptation occurs), and actions that do not explicitly address the uneven distribution of climate harms, and the social processes and injustices underlying these disparities, can exacerbate social inequities and increase exposure to climate harms.”

Many US states have also incorporated EJ into their laws, policies and agencies to differing degrees. A growing number of these subnational governments have made exceptional efforts to streamline EJ into a significant number of government initiatives, including policy, creating EJ offices, hiring EJ officers or establishing EJ advisory groups, committees, task forces, EJ programs, etc.¹¹⁰

¹⁰⁹ See: <https://nca2023.globalchange.gov/chapter/20/>

¹¹⁰ See for example (not an exhaustive list):

- Arizona: <https://azdot.gov/business/civil-rights/environmental-justice/principles>
- California: <https://calepa.ca.gov/envjustice/>
- Colorado: <https://cdphe.colorado.gov/ej/action-task-force>
- Connecticut: <https://portal.ct.gov/DEEP/Environmental-Justice/01-Our-Commitment-to-Environmental-Justice>
- Delaware: <https://dnrec.delaware.gov/environmental-justice/>
- Illinois: <https://epa.illinois.gov/topics/environmental-justice/officer.html>
- Indiana: <https://www.in.gov/idem/airquality/featured-topics/>
- Kentucky: <https://eec.ky.gov/Pages/Environmental-Justice.aspx>
- Massachusetts: <https://www.mass.gov/info-details/members-of-the-environmental-justice-council>
- Michigan: <https://www.michigan.gov/egle/public/learn/environmental-justice>
- Minnesota: <https://www.pca.state.mn.us/about/mpca/environmental-justice>
- Mississippi: <https://www.mdeq.ms.gov/about-mdeq/office-of-community-engagement/environmental-justice/>
- Nevada: https://gov.nv.gov/layouts/full_page.aspx?id=353070
- New Hampshire: <https://www.des.nh.gov/about/civil-rights-and-environmental-justice>
- New Jersey: <https://dep.nj.gov/ej/>
- New Mexico: <https://www.env.nm.gov/general/environmental-justice-in-new-mexico/>
- New York: <https://dec.ny.gov/get-involved/environmental-justice>
- Oregon: <https://www.oregon.gov/dsl/about/pages/ej.aspx>
- Pennsylvania: <https://www.dep.pa.gov/publicparticipation/officeofenvironmentaljustice/Pages/default.aspx>
- North Carolina: <https://www.deq.nc.gov/outreach-education/environmental-justice>
- South Carolina: <https://scdhec.gov/environment/environmental-justice-ej>
- Tennessee: <https://www.tn.gov/health/cedep/environmental/healthy-places/healthy-places/health-equity/he/environmental-justice.html>
- Vermont: <https://anr.vermont.gov/about-us/civil-rights-and-environmental-justice/vermont-ej-law/interagency-environmental-justice>
- Virginia: <https://www.deq.virginia.gov/our-programs/environmental-justice>
- Washington: <https://governor.wa.gov/boards-commissions/board-commission-profiles/Environmental%20Justice%20Council>

Mexico

In alignment with a growing international trend to advance environmental protection toward the end of the 1970s, environmental issues in Mexico began to gain more visibility as a central focus of societal demands, related to prevalent modes of production and the exploitation of natural resources (including the environmental and societal impacts of large industries, such as large-scale mining, energy production, monoculture and agroindustry, among others),¹¹¹ the defense of territories,¹¹² social struggles of farmers¹¹³ and the desire for self-determination by Indigenous Peoples. These struggles, linked to claims for human rights, as well as social, collective, economic, political and cultural rights, form an important basis of the struggle for EJ in Mexico.

A large part of environmental and territorial conflicts occurs in Indigenous contexts and many of these conflicts originate in lands under social ownership¹¹⁴ (the *ejido* and agrarian communities).¹¹⁵ These territories correspond to the most biodiverse areas of Mexico, including “60% of mining concessions, 60% environmentally protected areas, 58% water reserves, and 80% forests.”¹¹⁶

It is common in Mexico for environmental conflicts to be expressed as social struggles (in both urban and rural contexts) that mobilize seeking social and cultural justice, a better quality of life and a healthy environment, with the objective of creating a healthy and safe place for people.¹¹⁷ Mexico has also witnessed many alliances forged between Indigenous organizations and diverse networks at the national level.¹¹⁸

- Wisconsin: <https://evers.wi.gov/Documents/EO/EO161-OEJ.pdf> For a useful resource to locate EJ policies, programs and agencies by US State: <https://ejstatebystate.org/directory>

¹¹¹ Paz Salinas M. F. (2012). *Deterioro y resistencias. Conflictos socioambientales en México*. In *Conflictos socioambientales y alternativas de la sociedad civil*. Tetreault D., Ochoa García H. and Hernández González E. (Coord). Universidad Jesuita de Guadalajara. Instituto Tecnológico y de Estudios Superiores de Occidente. México.

¹¹² Tischler S. y Navarro M. (2011). Tiempo y memoria en las luchas socioambientales en México. *Desacatos*. Saberes y razones (37), pp. 67-80.

¹¹³ Ramírez Guevara S. J., Galindo Mendoza M. G. y Contreras Servín A. (2015). Justicia ambiental. Entre la utopía y la realidad social. In *Culturales*. Época II - Vol. III - Núm. 1 / enero-junio de 2015. págs. 225-250.

¹¹⁴ In Mexico, at least until 2019, half of the territory and its biodiversity were under social land holdings (Suárez, cited in: Torres Mazuera, Gabriela, and Recondo, David. 2022. This is in reference to *ejidos* and *agrarian communities*; the two Mexican forms of social land property instituted in article 27 of the Mexican Constitution of 1917. It is worth noting that while the *ejidos* and the *agrarian communities* were originally intended to allot land to peasants, and recognize land ownership of indigenous communities respectively, many indigenous communities had to form *ejidos* due to complex administrative requirements (see: Morett-Sánchez, C. y Cosío-Ruiz, C. (2017) y Concheiro Bórquez, L., and Robles Berlanga H. (2014)

¹¹⁵ See: Ver: Zaremberg G., Guarneros-Meza V., Flores-Ivich G. y Róo Rubi M., (2018)

‘Conversing with Goliath: Participation, mobilisation and repression around neoextractionist and environmental conflicts’, FLACSO México y de Montfort University, Torres Mazuera, Gabriela, and Recondo, David. 2022. “Asambleas Agrarias y Comunitarias en el Sureste Mexicano: Claroscuros de la Participación Colectiva sobre Proyectos Eólicos.” *Desacatos: Revista de Ciencias Sociales*, ISSN 1607-050X, N.º. 68, 2022 (*Ejemplar Dedicado A: Extractivismo Participativo*), Págs. 12-29.

¹¹⁶ See: Suárez citado por Torres Mazuera, Gabriela, and Recondo, David. 2022. “Asambleas Agrarias y Comunitarias en el Sureste Mexicano: Claroscuros de La Participación Colectiva Sobre Proyectos Eólicos.” *Desacatos: Revista de Ciencias Sociales*: 13.

¹¹⁷ Arroyo Quiroz I. y Wyatt T. (edit). (2018). *Criminología Verde en México*. Centro Regional de Investigaciones Multidisciplinarias. Universidad Nacional Autónoma de México. México.

¹¹⁸ Amongst these, for example: the Asamblea de Pueblos del Istmo en Defensa de la Tierra y el Territorio (APIIDTT), the Asamblea de Defensores del Territorio Maya, Múuch’ Xíinbal), the Red de Afectados por la Minería (REMA), the Asamblea Nacional de Afectados Ambientales (ANAA), or the Alianza Mexicana contra el Fracking.

As in the rest of the region, visible “environmental injustice” is found both in urban and rural settings. Historically, this has been the result of economic disequilibrium with strong calls for participation in decision-making that later results in the deterioration or destruction of natural resources on which impacted communities depend.

Other factors that are common between Mexico and the rest of North America, in terms of EJ, have to do with the demands of Indigenous Peoples. Similar to the cases in the United States and Canada, in Mexico we find general claims of discrimination, of cultural links to territory, of collective rights, of lack of inclusion and lack of access to free and prior information and lack of participation in decision-making with respect to public policy that affect Indigenous Peoples.

If we analyze, for example, the San Andres Accords of 1996, which enumerate a series of demands by Indigenous Peoples of Chiapas to the federal government, we find concern over the destruction of their natural environments, the particular vulnerabilities of Indigenous Peoples (and of Indigenous women in particular), the vulnerability of immigrants due to the lack of access to information, infrastructure and press, access limits on the use of natural resources, discrimination suffered in different dimensions of public space, and the lack of access to justice.¹¹⁹

The strong claim for self-determination, for the revindication of Indigenous knowledge, practices and cultures and, in particular, relative to the self-management of natural resources in their territories, these claims find echo in the EJ discourse amongst Indigenous communities of all of North America. Amongst these, we also see claims in urban settings and especially in marginal urban areas, where communities live close to the impacts of environmental degradation and pollution that result from planning decisions, from industrial activity, and due to the dumping of toxic waste.¹²⁰

Key events in the development and evolution of the EJ movement in Mexico

During the 1970s, as in many countries of the region as well as internationally, Mexico was a protagonist in negotiating several international agreements and treaties.¹²¹ One of the most significant was the Stockholm Convention, signed in 1972. It adopted a declaration recognizing the relationship between conservation and the improvement of the human environment, and offered recommendations for conservation, establishing that the *health of the environment* is essential for the *well-being* of man.¹²² The Stockholm Declaration emphasizes the state and quality of the environment as a necessary basis to assure the health of people and to enjoy *human well-being*, the importance of *environmental education* and the need to compensate victims. Stockholm also makes reference to the inter-generational nature of responsibility and the need to eliminate racial

¹¹⁹ See: <https://www.ilo.org/public/spanish/region/ampro/mdtsanjose/indigenous/sandres.htm>

¹²⁰ See: Flores Adrián y Deniau Yannick. 2019. El megaproyecto para la península de Yucatán. México: GeoComunes / Consejo Civil Mexicano para la Silvicultura Sostenible; Venegas-Sahagún, Beatriz Adriana, and Juan Alberto Gran-Castro. 2023. “Injusticia Ambiental Y Violaciones de Los Derechos Humanos En Jalisco, México.” *Íconos - Revista de Ciencias Sociales*, no. 77: 197–216.

¹²¹ PAOT. (2003). Acceso a la Justicia Ambiental en el Distrito Federal. Procuraduría Ambiental y del Ordenamiento Territorial del D.F. Informe Anual 2003. Apéndice Temático. Documentos de Referencia. Available at: http://centro.paot.org.mx/documentos/paot/informes/informe2003_borrarme/temas/justicia.pdf

¹²² See: <https://documents.un.org/doc/undoc/gen/n73/039/07/pdf/n7303907.pdf?token=YHD4It8Jh5DmK51C9x&fe=true> (in introductory section on proclamation)

segregationist and colonially oppressive policies.¹²³ Subsequent to Stockholm, Mexico and its state institutions devoted to environmental protection, embrace the strengthening of an environmental normative framework, and specifically the justiciability of this framework: the effective compliance of environmental law as a mechanism to ensure a healthy environment for all people.

During the decade of the 1980s, the evolution of this environmental debate focused on the negative social and environmental effects of development models in the rural sector. In 1987 Mexico reformed its Constitution: a first step toward the right to enjoy an adequate environment (a right that was eventually added to the Constitution in 1999).¹²⁴ The package of reforms included federal, state and municipal action on environmental protection and preservation, and the restoration of environmental equilibrium.

Subsequently, during the 1990s, the environmental debate turned to the analysis and solution of organizational problems and social participation linked to the use and conservation of natural resources. Due to particular characteristics relative to land ownership in Mexico (presented in the previous section), the debate over environmental policy focused on the importance of collective actions and participation that would define the use and conservation of natural resources. In 1990, the government of Mexico ratified International Labor Organization (ILO) Convention 169, which recognizes the rights of Indigenous Peoples and tribes to their culture, lands, territories and natural resources, as well as their right to participate in decisions that affect them. Like other parts of the region, collective action and community participation are consolidated in Mexico as fundamental procedural EJ pillars.

As mentioned in the previous section, the 1992 Rio Summit recognized the urgency of integrating and finding balance between economic, social and environmental concerns to satisfy our necessities.¹²⁵ Principle 10 of the Rio Declaration affirms the importance of access to information, participation, and access to justice, and it's precisely this trinomial that plays such a vital importance in the definition of environmental laws and the direction of public policy that follows, reflected in the recognition in Mexican Constitutional law of a healthy environment (incorporated, as previously mentioned in 1999)¹²⁶ and in the General Law of Ecological Equilibrium and Environmental Protection (LGEEPA).¹²⁷

It is precisely after the 1990s that we see structural reform, including the agrarian reform of 1992, that gave autonomy to the use of lands, facilitating land transfers to private entities, as well as the country's integration to global markets, through treaties such as the North American Free Trade Agreement (NAFTA)¹²⁸ in 1994 and the North American Agreement on Environmental Cooperation (NAAEC),¹²⁹ signed in January 1994, establishing obligations regarding environmental protection,

¹²³ For more information see: <https://www.un.org/es/chronicle/article/de-estocolmo-kyotobreve-historia-del-cambio-climatico#:~:text=La%20Conferencia%20Cient%C3%ADfica%20de%20las%20Naciones%20Unidas%20tambi%C3%A9n%20onocida%20como,acci%C3%B3n%20que%20conten%C3%ADa%20recomendaciones%20para>

¹²⁴ PAOT. (2003). Acceso a la Justicia Ambiental en el Distrito Federal. Procuraduría Ambiental y del Ordenamiento Territorial del D.F. Informe Anual 2003. Apéndice Temático. Documentos de Referencia. Disponible. Available at: http://centro.paot.org.mx/documentos/paot/informes/informe2003_borrame/temas/justicia.pdf

¹²⁵ For more information see: <https://www.un.org/es/conferences/environment/rio1992>

¹²⁶ This Constitutional change occurs during a period when several countries incorporate the *right to a healthy environment* in their constitutions.

¹²⁷ PAOT. (2003). Acceso a la Justicia Ambiental en el Distrito Federal. Procuraduría Ambiental y del Ordenamiento Territorial del D.F. Informe Anual 2003. Apéndice Temático. Documentos de Referencia. Available at: http://centro.paot.org.mx/documentos/paot/informes/informe2003_borrame/temas/justicia.pdf

¹²⁸ See: https://tcc.export.gov/Trade_Agreements/All_Trade_Agreements/NorthAmericanFreeTA.asp

¹²⁹ See: <http://www.cec.org/about/agreement-on-environmental-cooperation/>

fostering hemispheric policies to prevent pollution and promoting the compliance of environmental laws. Coincidentally, in December of 1994, the Secretariat of Environment, Natural Resources and Fisheries (Semarnap), was created, “as a response to the need for management planning of natural resources and environmental policies from an integrated perspective.”¹³⁰

In this same decade (1990s) we see a rise in social activism, borne decades earlier, which clearly articulated a revindication of ethnic and cultural differences and territorial self-governance. Even while one of the clearest examples of these manifestations was the resurgence of the National Liberation Zapatista Army in 1994, in this decade we also see the rise of different movements embracing ethnicity, community organizations leading in the self-management of natural resources (for example, forest communities in the Northern Sierra of Oaxaca), as well as other self-governance urban movements (for example, Indigenous communities in Mexico City). These paved the way for more recent movements which affirmed a diversity of identities (for example, gender and sexual orientation) linked to environmental and territorial protection. Furthermore, as we have already mentioned, we also see the appearance networks and partnerships between urban and rural organizations at the regional and national levels.¹³¹

EJ policy and institutionalization of EJ in Mexico

In the lead up to the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992, Mexico creates the National Institute of Ecology (INE) and the Attorney General for Environmental Protection (Profepa), with faculties to control and receive citizen complaints regarding the compliance of environmental norms.¹³² As mentioned in the section on definitions, the term “environmental justice” is found in the public sector in the Profepa. Shortly afterwards, public documents and events of the 1990s, such as the Forum on the Procurement of Environmental Justice in 1998, make mention of EJ.

Among the assignments given to Profepa, we find the responsibility to inform and foster public participation on issues that have to do with environmental protection, and to process complaints by the public on environmental matters (both contained in paragraphs under Article 22). Institutionally and by its mandate, Profepa offers citizens via the judicial and procedural means, a mechanism to present complaints in order to legally guarantee the protection of the environment, and also complies with the task of disseminating information and fostering public participation of citizens in ecological matters. Likewise, we emphasize that according to the agreement of the current Program for the Procurement of Environmental Justice of Profepa, “environmental legislation must evolve in accordance with demands of national context, in order to have better judicial tools (faculties) that give it a greater reach for its action, and to the effect of transitioning from a patrimonial and individualistic focus to a focus on broad, collective and intergenerational interests, that defend environmental rights of persons in Mexico.”¹³³

¹³⁰ See: Espinoza, G. and Soto, N. (2020). La Semarnat y la normatividad ambiental. Diálogos Ambientales. p.22. Available at: https://www.gob.mx/cms/uploads/attachment/file/558608/3_LaSemarnatW.pdf

¹³¹ The genealogy of social and socio-environmental movements is beyond the scope of this discussion paper. Nevertheless, its recognition is critical to understand the evolution of EJ in Mexico.

¹³² See: https://dof.gob.mx/nota_detalle.php?codigo=4677606&fecha=17/07/1992#gsc.tab=0

¹³³ See: https://www.gob.mx/cms/uploads/attachment/file/646837/PPJA_2021-2024.pdf, p.24

It is important to point out the recent work of the National Supreme Court, which by way of the Center for Constitutional Studies, has created a research agenda on the reaches and content of the human right to a healthy environment, including perspectives of environmental justice, with a view to eradicate inequality and discrimination that is aggravated when environmental degradation disproportionately affects society's people and most vulnerable groups.¹³⁴

Taking into account the focus in Mexico on EJ is from a procedural and judicial perspective, it is worth analyzing some elements of current and emerging legislation, that offer victims of environmental injustices, the mechanisms necessary to resolve their conflicts and how these address elements of EJ. The next section offers a non-exhaustive compilation of some of the principal instruments that promote EJ in Mexico.

Mexico's Political Constitution

Article 4 of Mexico's 1999 Constitution states:

*"All persons have a right to an adequate environment for their development and well-being."*¹³⁵

Subsequently, in 2012, a revision to this article was included, as Article 4, paragraph 5, establishing:

*"Every person has a right to a healthy environment for their development and well-being. The State guarantees the respect of this right. Environmental impacts and degradation generate responsibilities for the perpetrator in terms of that which is established by law."*¹³⁶

This addition to the Constitution recognizes the environment as an indispensable element for the survival and development of Mexicans; and defines the environment as a public good, the enjoyment or detriment of which could affect not only individuals, but communities in general.¹³⁷ For those countries with recent or reformed constitutions, that include the right to a healthy environment, this is starting point, since it is the highest legal charter that provides environmental guarantees to every individual.

*General Act of Ecological Equilibrium and Environmental Protection (LGEEPA)*¹³⁸

¹³⁴ Rabasa A., Camaño D., Carrillo J.A. y Medina R.G. (2020). Contenido y alcance del derecho humano a un medio ambiente sano. *Cuadernos de Jurisprudencia*, núm. 3. Centro de Estudios Constitucionales. Suprema Corte de Justicia de la Nación.

¹³⁵ See: <https://www.cndh.org.mx/index.php/noticia/se-establece-en-la-constitucion-en-el-art-4o-el-derecho-de-toda-persona-un-medio-ambiente>

¹³⁶ See: https://www.cndh.org.mx/index.php/noticia/se-establece-en-la-constitucion-en-el-art-4o-el-derecho-de-toda-persona-un-medio-ambiente#_ftn%202

¹³⁷ CNDH. (2023). Available at: https://www.cndh.org.mx/index.php/noticia/se-establece-en-la-constitucion-en-el-art-4o-el-derecho-de-toda-persona-un-medio-ambiente#_ftn%202

¹³⁸ See: https://www.diputados.gob.mx/LeyesBiblio/ref/lgeepa/LGEEPA_orig_28ene88_ima.pdf

Environmental legislation in Mexico has as its guiding axis the LGEEPA, enacted on January 28, 1988. This framework environmental act emerges shortly before the Earth Summit in Rio of 1992. It places Mexico at the cusp of the evolution of juridical instruments to procure EJ, addressing issues such as poverty and Indigenous rights. In articles 5 and 18, the Act recognizes the federal government as having the faculty to promote public participation on environmental matters. Additionally, in article 15, the Act explains the formulation and execution of environmental policies, and that federal Executive Power must observe the following principles with respect to the preservation and restoration of ecological equilibrium and environmental protection:

“XII.- That every person has the right to enjoy an adequate environment for their development, health and well-being. The authorities, in the terms of this and other laws, shall take measures to guarantee this right;

XIII.- Guarantee the right of communities, including Indigenous Peoples, to the protection, preservation, use and sustainable benefit of natural resources and the safeguard and use of biodiversity, according to what the present act and other applicable orders determine;

XIV.- The eradication of poverty is necessary for sustainable development;

XV.- Women play an important function in the protection, preservation, and sustainable benefit of environmental resources and development. Their complete participation is essential to achieve sustainable development.”

It is worth noting that article 21, paragraph IV of section III of the LGEEPA on Economic Instruments, makes specific reference to the concept of “equity”, linking “social equity” to economic instruments regarding the costs and benefits of environmental policy.

“Article 21. The Federation and federal entities, in the orbit of their respective competencies, will design, develop and apply economic instruments that incentivize the compliance of the environmental policy objective, through which they will procure:

IV. Promote more social equity, with an intercultural and gender perspective, in the distribution of the costs and benefits associated to environmental policy objectives.”

Thus, the LGEEPA touches on distinct elements that establish the Mexican legal framework within the commonly understood EJ conceptual framework, including public participation in environmental decision-making (with a particular focus on gender), and the intrinsic relationship between environmental well-being and social and economic well-being.

General Act on the Preservation and Integral Management Waste

Published in 2003, this Act has as its objective to guarantee the right of every person to a healthy environment and to foster sustainable development through the prevention of the generation, the valuation and the integral treatment of toxic waste, of urban solid waste and of special

management; as well as preventing the contamination of locations with this waste and carrying out remediation.¹³⁹ The Act includes important provisions in our analysis of EJ: public participation and right to information, two basic elements of the procedural dimensions of EJ. In article 35, the Act states that the three levels of government (federal, state and municipal), in their orbits of competency, shall promote participation of all sectors of society in the prevention of the generation, valuation, and integral management of waste. In regard to the right of information, article 37 mandates the integration of a System of Information on the Integral Management of Waste;¹⁴⁰ article 38 mandates the annual preparation and dissemination of reports on the relevant aspects contained in the systems of information; and article 39 mandates the preparation, update and dissemination of inventories on the generation of toxic waste, of urban solid waste, and special treatment waste, according to the responsibilities relative to the three levels of government.

Federal Environmental Responsibility Act

Published in 2013, this Act is a tool to strengthen distributive justice in Mexico.¹⁴¹ The Act regulates environmental responsibility that derives from harms caused to the environment, as well as the reparation and compensation of such harms, the alternative mechanisms of conflict resolution, administrative procedures and those that correspond to the commitment of crimes against the environment and environmental management. It also recognizes that national sustainable development must consider economic, social and environmental valuations. In article 17, the Act defines that environmental compensation shall consist of the investments or actions that the responsible party will assume, that generate an environmental improvement, substituting the total or partial reparation of the harm caused to the environment, as may be the case, and equivalent to the adverse effects caused by the harm.

The Federal Transparency and Access to Public Information Act (LFTAIP)

Access to information has been consolidated internationally as one of the indispensable pillars to reverse situations of inequity, providing communities with the knowledge necessary to be able to confront the urgent environmental concerns that they face, and that are key to ensure EJ. The right of access to information is fundamental to ensure the enjoyment of other rights, such as the right to a healthy environment and the right to health.¹⁴² In Mexico, the Act that establishes at a federal level the human right of access to information is the Federal Transparency and Access to Public Information Act (LFTAIP). This Act establishes that access to information includes rights to “request, investigate, disseminate, procure and receive information: and one of its objectives is to

¹³⁹ See: <https://www.gob.mx/profepa/documentos/ley-general-para-la-prevencion-y-gestion-integral-de-los-residuos-62914>

¹⁴⁰ The article mandates that the system should contain information relative to local circumstances, to general waste that is generated, to available infrastructure for its management, to the juridical disposition that is applicable according to its regulation and other aspects that facilitate the achievement of the objectives of the law and the orders that derive from it and from other applicable dispositions.

¹⁴¹ See: https://www.diputados.gob.mx/LeyesBiblio/pdf/LFRA_200521.pdf

¹⁴² Anglés Hernández M. (2012). Del derecho de acceso a la información al acceso a la información pública ambiental en México. In Coord. Carmona Lara M del C., Hernández Meza M. de L., & Acuña Hernández A. L., 20 Años de Procuración de Justicia Ambiental en México. Un Homenaje a la Creación de la Procuraduría Federal de Protección al Ambiente. Universidad Nacional Autónoma de México. Secretaría de Medio Ambiente y Recursos Naturales. Procuraduría Federal de Protección al Ambiente. Instituto de Investigaciones Jurídicas. México.

make “public management more transparent through the dissemination of opportune, verifiable, intelligent, relevant, and integral information (...).”¹⁴³

The National Development Plan 2019–2024

The National Development Plan (*PND*) 2019–2024 is the document in which the Government of Mexico explains which are its priority objectives during the current six year government cycle.¹⁴⁴ While the PND does not make explicit references to EJ, in its section on *Not Leaving Anyone Behind, Not Leaving Anyone Out*, the government underscores some of the foundational elements of the concept of EJ, including exclusion, discrimination, minorities, equity and inequality:

“Non-inclusive economic growth that concentrates wealth in few hands, oppressor of community sectors and minorities, predator of our surroundings, is not progress but rather regression. We are and will be respectful of Indigenous Peoples, their uses and customs and their right to self-determination and the preservation of their territories (...) and the right of youth to have a place in the world (...). We seek a development model that is respectful of its inhabitants and of habitat, equitable, oriented to repair and not heighten inequalities, in defense of cultural diversity and of the natural environment, sensitive to the modalities and economic, regional and local singularities and aware of the needs of the future inhabitants of the country, to which we cannot bequeath a land in ruins.”

Additionally, in its section on Sustainable Development, the PND recognizes the relationship between a healthy environment, with social and economic development; and it also recognizes the need to repair social injustices through an integrated model of sustainable development.

“The Mexican Government is committed to promote Sustainable development, that in present times has been recognized as an indispensable factor of well-being. (...) Additionally, we will be guided by the idea of development that repairs social injustices and that promotes economic growth without provoking impacts to peaceful coexistence, to the bonds of solidarity, to the cultural diversity or to the surroundings.”

The Environment and Natural Resources Sectoral Program (Promarnat) 2020–2024

Aligned with the PND 2019–2024, the Promarnat 2020–2024 integrates the environmental policy objectives of the six-year government cycle through five priority objectives.¹⁴⁵ Following the postulates of the guiding principle *Not Leaving Anyone Behind, Not Leaving Anyone Out*, the Promarnat strongly delineates various postulates with basic principles of EJ. Its five objectives are based on the identification of gaps related to inequality, lags or impacts in existing causes and/or impacts of identified public problems. The most important of these include gaps between geographic regions, the urban and rural environments, women and men, in the course of life and with regard to Indigenous Peoples and Afro-Mexicans.

¹⁴³ DOF. (9 de mayo de 2016). Ley Federal de Transparencia y Acceso a la Información Pública. Última reforma publicada DOF 20-05-2021. Obtained at: https://www.diputados.gob.mx/LeyesBiblio/pdf/LFTAIP_200521.pdf

¹⁴⁴ See: https://www.dof.gob.mx/nota_detalle.php?codigo=5565599&fecha=12/07/2019#gsc.tab=0

¹⁴⁵ See: https://www.dof.gob.mx/nota_detalle.php?codigo=5596232&fecha=07/07/2020#gsc.tab=0

In its priority objective number 2, that refers to strengthening action on climate, the Promarnat addresses EJ in its distributive justice dimension, emphasizing attention to the most vulnerable groups:

“(...) climate change disproportionately affects the population, exacerbating social, economic, gender and access to resource inequalities. For example, groups in situations of poverty and extreme poverty are the most vulnerable, as they often live in precarious homes that have high risks (such as mountainsides, ravines or areas that are prone to flooding) and do not have the economic capacity to recuperate from disasters.”

Additionally, in its objective number 5, the Promarnat emphasizes the importance of

Strengthening environmental governance, through free, effective, meaningful and co-responsible public participation in decision-making on public policy, ensuring access to environmental justice with a territorial and human rights perspective and promoting environmental education and culture.

Among the strategies that are mentioned to achieve this objective, the program emphasizes the importance of participation with a focus on gender, the dialogue to address socio-environmental problems, the right of information and transparency and the respect of human rights. The specific definition of EJ by the Promarnat, one of the most emblematic of Mexican public policy, is analyzed below.

The Procurement of Environmental Justice Program 2021–2024

In contrast to many other countries, the Mexican Government has an Attorney General for Environmental Protection (Profepa), an institution charged by mandate to procure EJ through the application and compliance of federal environmental legislation. Aligned with the Promarnat 2020–2024, Profepa has an Environmental Justice Procurement Program 2021–2024¹⁴⁶ which has four priority objectives, of which objective 1 has particular relevance for EJ:

“Strengthen speedy, expedited, and transparent access to justice, tied to the principles of legality and efficiency, fostering effective and co-responsible public participation of the citizenry.”

To attain this objective, the program has four strategic priorities: promoting effective and co-responsible public participation in order to strengthen the procurement of EJ; assuring access of the entire population to EJ; strengthening the capacity to tend to and resolve public complaints; and updating norms to close legal gaps.

¹⁴⁶ See: https://www.gob.mx/cms/uploads/attachment/file/646837/PPJA_2021-2024.pdf

Canada

Over the last decade “environmental justice,” as a specific concept and area of policy focus to describe environmental pollution problems, has appeared more consistently in Canadian sustainability and development narrative. “Environmental justice” and “environmental racism” have been cited more frequently in Canadian literature and have also firmly taken root in nascent policy, strategies, development discussions and legislative bills. However, discussions around EJ in Canada (while not necessarily utilizing EJ taxonomy) predate the more recent treatment of the matter, and in fact emerge alongside the seminal moments of the US EJ movement in the late 1960s and early 1970s.¹⁴⁷

In particular, EJ emerges as a framework of reference relative to a broader discussion of Indigenous communities and the environmental impacts they face, as well as in reference to Black and other racial minorities in Canada, whether they are long-established immigrant Black communities, or recent Black or other minority immigrant arrivals.¹⁴⁸ There are some similarities and some differences in terms of how EJ (and the awareness of EJ issues) has evolved over time in Canada, and in relationship to its parallel evolution in the United States and in Mexico.

From the literature and other resources reviewed, it is common in Canada for those currently engaged in EJ discussions or EJ actions, whether they are government officials, advocacy groups, Indigenous leaders, or community representatives, to contextualize those discussions in a framework of *settler-colonial history*, and particularly on how this history affected Indigenous groups.¹⁴⁹ Several Canadian scholars (Whyte 2022, Dombey 2019, Parsons et al. 2021)¹⁵⁰ point to settler-colonialism as the first cases of environmental injustice in Canada, recognizing the forced relocation and exclusion of Indigenous communities from natural resources and environmental decision-making as symptoms of environmental injustice.

The environmental injustices faced by Indigenous Peoples across the region are rooted in historical events dating back five centuries, while the concept of “environmental justice” has only recently emerged as a narrative lens through which to understand certain dynamics of this injustice. As conveyed by Wilma Mankiller, a former Principal Chief of the Cherokee Nation,

“(E)nvironmental racism is not a phenomenon that came into being because recent studies now document disproportionate impact along lines of race. Nor is it a phenomenon that is the

¹⁴⁷ The first known study linking pollution to socio-economic variables dates back to 1971. Income and Air Quality in Hamilton, Ontario. (Quoted in L. Fryzuk 1996, citing Handy 1977).

¹⁴⁸ See Ingrid Waldron. Environmental Racism in Canada. The Canadian Encyclopedia. Published online 2020. <https://www.thecanadianencyclopedia.ca/en/article/environmental-racism-in-canada>

¹⁴⁹ Scholars (Whyte, 2018, Adelson, 2005, Mascarenhas, 2007) have expressed that there is a gap between environmental justice and Native American and Indigenous communities. Hernandez (2019, p.4) talks about “Indigenizing Environmental Justice” - a concept that aims to raise the importance of including Indigenous experiences when discussing movements claiming environmental justice since Indigenous populations are often overlooked by the overarching EJ movement.

¹⁵⁰ Parsons, M., Taylor, L., & Crease, R. (2021). Indigenous environmental justice within marine ecosystems: A systematic review of the literature on Indigenous Peoples’ involvement in marine governance and management. *Sustainability*, 13(8), 4217. <https://doi.org/10.3390/su13084217>

Whyte, Kyle. "Settler Colonialism, Ecology, and Environmental Injustice." *Indigenous Resurgence*, 2022, pp.127–146
Dombey, M. (2019). Environmental racism: how governments are systematically poisoning Indigenous communities and the U.N.'s role. *University of Miami International and Comparative Law Review*, 27(1), 131–154.

product of the 20th century industrial and technological development. It is a phenomenon that has existed on this continent for 500 years.”¹⁵¹

While we often recognize that we can view colonial development impacts to Indigenous communities generally through an EJ framework, Indigenous communities or Indigenous rights advocates do not necessarily embrace EJ taxonomy to refer to or address these inequities. This is also true for the treatment of cases of historical injustices faced by Indigenous communities in other parts of North America. Many EJ-affected communities may fight for inclusion and participation in governance, while others, as is the case for many Indigenous communities, are fighting for autonomous government (and *not* to participate in existing governance structures). Both may be calling for reparations or information about the pollution they face but they may have fundamentally different perspectives on the origins of their conflict and the vision for the outcomes they desire. There is no wholesale acceptance of the EJ narrative or taxonomy by Indigenous communities which makes adopting an EJ framework to Indigenous rights issues and claims, challenging or at least not entirely straightforward.

As in the case of the United States, a parallel evolution and existence of EJ discourse (parallel to that relevant to Indigenous communities) exists in Canada relative to Black communities and specific immigrant groups or otherwise disadvantaged individuals and communities facing inequitable environmental impacts. In some cases, EJ narratives framing inequitable environmental impacts faced by Black (or other racialized or disadvantaged minorities) coincide with the Indigenous-focused perspective and narrative, yet in others, they stand alone with very specific dynamics relative to their geographical, socio-economic, race, lived experiences, or other defining characteristics, circumstances and vulnerabilities. As the EJ movement surfaced in certain African American communities in the United States, so it did in African descendant communities in Canada (including of Black loyalists leaving the United States during and after the civil war. EJ dynamics are also manifest in relation to other Black immigration that occurred in more recent times, and though different in their own context to US EJ cases, these communities were suffering similar environmental inequities in their specific geographies.

Mikellena Nettos (2021) looks at EJ cases involving minority communities in Ontario and suggests there is “relatively limited academic research on environmental racism towards non-indigenous visible minorities in Canada,” and in addition to EJ impacts suffered by Indigenous peoples in Canada, “other visible minority communities have been struggling with environmental injustices for years” and that as a result, “environmental racism in Canada, therefore warrants further attention.”¹⁵² There are numerous examples of cases of non-Indigenous environmental injustices that have been documented in specific neighborhoods of cities across Canada, manifesting elements of race-based, or immigrant status-based discrimination.¹⁵³ These are communities that have suffered environmental injustices displaying similar patterns, dynamics and attributes along the lines of many EJ cases that have been documented in the

¹⁵¹ Cited in <https://www.ucc.org/30th-anniversary-the-first-national-people-of-color-environmental-leadership-summit/>

¹⁵² See:

https://dr.library.brocku.ca/bitstream/handle/10464/15748/BROCK_NETTOS_MIKELLENA_2021.pdf?sequence=2&isAllowed=y

¹⁵³ In addition to the cases cited in this paper under the Canadian timeline, Ingrid Waldron, in her report: Environmental Racism in Canada (for the Canadian Commission for UNESCO) and in a subsequent online article, cites: petrochemical contamination in Aamjiwanaang First Nation communities near Sarnia; the case of contamination from pulp and papermill pollution at Boat Harbour near Pictou Landing in Nova Scotia; the West Moberly First Nations case in caribou habitat; the Site of the C hydroelectric dam and its impacts to local communities; the Lincolnville landfill case in Nova Scotia; the Morvan Road landfill in Shelburne Nova Scotia; a pipeline in Sipekne'katik First Nation; another pipeline in Wet'suwet'en First Nation in British Columbia; a case of mercury contamination Grassy Narrows First Nation in Ontario; as other examples of EJ cases.

United States, including several cases that emerged and were documented at approximately at the same time as the EJ movement was taking shape in the US.

The fairly recent introduction of *environmental racism* and *environmental justice* narratives into public debate related to non-Indigenous populations (including recent efforts to pass federal legislation to address environmental racism) may be indicative of a historical delay in recognizing the existence of EJ issues in racialized communities and the growing call by these affected communities to treat these issues from an EJ perspective, and specifically from an “environmental racism” perspective. Discussions with Canadian-based EJ advocates consulted for this discussion paper suggest that the EJ movement in Canada has been fairly limited as compared to the EJ movement in the United States, perhaps due to the cultural erosion over time of Black communities, and the comparative lack of NGOs focusing specifically on EJ issues to sustain a permanent EJ movement, something that is starting to change in recent years. Other dynamics may include the size of the Black population in Canada, which is substantially smaller than in the United States, which may also contribute to the diminished visibility of certain EJ issues in Canada, that are very much present in Black or other racially defined neighborhoods.

Canadian references to EJ, the recognition of the existence of “environmental injustices” problems in Canada that were documented and made public in similar fashion to those documented in the 1980s and 1990s across the border, draw strongly from and mirror the US case approach to EJ. There is no doubt that growing EJ advocacy taking place in the United States in the latter 20th century sparked academics and activists across the region, and specifically in Canada, to identify, study, seek data on, and disseminate information about similar environmental injustice dynamics in Canada. It also encouraged emerging Canadian EJ advocates to join forces with their US counterparts, if only by embracing the EJ narrative and framework and pushing for environmental justice in their own contexts and jurisdictions.

A significant defining moment for the “regionalization” and “globalization” of the EJ movement, and where Canadian actors were present, occurred with the already mentioned 1991 *First People of Color Environmental Leadership Summit*, held in Washington DC.¹⁵⁴ There were several Canada-based EJ leaders at the summit, including Indigenous activists from Canada (from Alberta and Ontario).¹⁵⁵ We were not, however, able to identify Canadian advocates from non-Indigenous circles participating in that summit, which might have led to more alignment with US activists in the more race-based advocacy circles.

Key events in the development and evolution of the EJ movement in Canada

Although it is challenging to define a specific timeline or singular seminal watershed Canadian EJ case, or specify with precision the key evolutionary moments of the EJ narrative in Canada, as has been done in numerous publications for EJ in the United States, certain occurrences and cases in Canada are often cited as landmark cases that have shaped understanding of EJ as it has evolved in the Canadian context.

¹⁵⁴ See: <https://www.ucc.org/30th-anniversary-the-first-national-people-of-color-environmental-leadership-summit/>

¹⁵⁵ Known attendees include: Rose Auger of the Buffalo Robe Medicine Lodge (Alberta); Celeste Strikes with a Gun of the Piikani Nation (Alberta) (affiliation unknown); Paul Rodarte of International Indigenous Environmental Network (Ontario). In the documentation regarding the summit, two additional but unnamed Canadian participants are mentioned. Source: Proceedings from the First People of Color Environmental Leadership Summit, 1991.

These cases, cited below, are not an exhaustive list, but rather show how particular communities (both Indigenous and non-Indigenous) have been confronted with environmental injustices that mirror the types of situations and abuse commonly confronted by the EJ movement across North America.

Several of these Canadian cases of environmental injustices cited in the literature have received attention specifically as “EJ” cases, and have taken place in the province of Nova Scotia. Perhaps their race-relevant dimensions as EJ cases are explicable at a time when the US-based EJ movement was emerging across the border and why Nova Scotia seems to have provided fertile ground for it to emerge in Canada. Following the end of the American Revolution in 1785, many Black Loyalists and escaped slaves fled in varying waves to Nova Scotia and New Brunswick. Subsequent immigration of African descendants to Nova Scotia created a stable population of Black Nova Scotians.¹⁵⁶ The EJ literature reviewed, as well as interviewees for this paper, suggest that since their arrival there, individuals of African descent have faced a long history of systematic discrimination, have been denied equal status as Nova Scotians, and have faced systemic environmental injustices, to which the emergence of EJ policy is in part focused.

Settler Colonialism as an EJ Lens in Canada

As described, colonialism underlies many mainstream discussions of environmental injustices in Canada, particularly as related to the consequences of eroding traditional and intimate Indigenous relationships with nature and in conflicts of Indigenous claims to ancestral land and natural resources.¹⁵⁷ Relations between the Canadian federal and/or provincial governments and Indigenous communities occupy much of documented historical and current references to Canadian EJ activism, generally highlighting the historical instances when the arrival and establishment of settlement European colonialism had impacts on Indigenous communities.

Settler colonialism has been described as “the complex social processes in which at least one society seeks to move permanently onto the terrestrial, aquatic, and aerial places lived in by one or more other societies who already derive economic vitality, cultural flourishing, and political self-determination from the relationships they have established with plants, animals, physical entities and ecosystems” (Kojola and Pellow, 2022, p.105).

Colonial activity in Canada, as in other parts of North America, impacted Indigenous communities through ecological destruction, forced relocation, and restricted mobilization, ultimately undermining the prosperity and self-sufficiency of Indigenous communities. These examples can be understood as forms of environmental injustice as they marginalized Indigenous Peoples and created a lasting legacy of injustice (including environmental injustices related to natural resource access and impacts) for Indigenous communities across Canada, though they are not necessarily referred to as EJ cases.

Persistent marginalization and inequitable burdens faced by Indigenous communities continue to result in varying health disparities related to environmental pollution and undermine community prosperity. It is the call to address and reverse these inequities that forms a key pillar of Canada’s EJ narrative and movement today.

¹⁵⁶ See: <https://bccns.com/our-history/>

¹⁵⁷ See: <https://histindigenouspeoples.pressbooks.tru.ca/chapter/chapter-7-settler-colonialism-treaty-peoples/>

Africville, Halifax, 1960–1971

This widely cited Canadian EJ case largely resembles the sort of EJ conflicts and cases that are commonly documented in the EJ movement in the United States. Africville was a small community of Black refugees who settled on the shores of the Bedford Basin in Halifax, Nova Scotia, following the War of 1812. The area prospered there from the 1800s to 1970 in a “thriving, close-knit community” (“Story of Africville” 2017). However, discrimination by the City of Halifax challenged their affluence, mismanaged the community’s natural resources and denied basic services such as paved roads, running water, streetlamps, and sewage and water lines.

Already in the 19th century, the City of Halifax had begun to site undesirable, polluting industrial services such as a fertilizer plants, slaughterhouses, a rockhead prison, and a human waste disposal pit in Africville. Justifying their decision to locate these hazardous plants in proximity to Africville, the city noted that the community was destined to “always be an industrial district” (“Story of Africville” 2017). Eventually, the City began to consider a location to host an open-pit dump there. The city council recognized this as a ‘health menace’ but decided to locate the waste facility approximately 350 meters from the west end of Africville and refused to consider other locations, on the ground that other Halifax residents would find it unacceptable. The growing accumulation of dangerous environmental hazards placed in and around Africville ultimately led the City to decide to demolish the town. The Council voted in favor of urban renewal while promising to provide residents with superior housing in Halifax (“Africville” 2018). Mandated to leave, most Africville residents found it challenging to secure employment in other, predominantly white neighborhoods and towns, where they were largely unwelcome, and ultimately many relocated to Winnipeg, Toronto and Montreal.

Hogan’s Alley, Vancouver, 1966–1970

Hogan’s Alley was home to the first Black immigrants who settled in the early 1900s in Vancouver. Additionally, as it was adjacent to Vancouver’s Chinatown and the Strathcona neighborhood, Japanese, Chinese immigrants and other racialized communities made the area a home. Although Hogan’s Alley was a prosperous and self-sustaining neighborhood, characterized as a hub for music, food and entertainment, by the early 20th century it devalued and was often referred to as ‘dirt lane’ by urban planners and Vancouver locals, who considered it a place of poor moral and physical health; a decrypt neighborhood that could “spread like a disease throughout the city if not redeveloped.”^{158, 159} This view was used to justify redevelopment plans to construct a new freeway to run through Hogan’s Alley and Chinatown, which threatened to displace local residents and inspired local activists and community groups in Vancouver to oppose and ultimately prevent the project. However, in 1972, a new bridge, the Georgia Viaduct, was constructed, without consultation of the communities that were to be impacted, and displaced not only Black residents, but also Italians, Asians, and First Nations Peoples. Activist and scholar Wayne Compton described this urban renewal scheme as having been one of ‘slum clearance’.¹⁶⁰ As was the case of Africville, demolition of an established thriving Black community was justified by claims of the areas as having been an “underdeveloped area” of the city.

¹⁵⁸ Landau-Donnelly F. Ghostly murals: Tracing the politics of public art in Vancouver’s Hogan’s Alley

¹⁵⁹ Scott C (2013) *History The End of Hogan’s Alley – Part 1*. Toronto, ON: Spacing Magazine.

¹⁶⁰ Dimoff A (2017) *Vancouver to Revive Hogan’s Alley Community with Help of American Architect*. Ottawa, ON: CBC News

Hamilton, Ontario, 1971

A study in the mid-1990s exploring the evolution of EJ in Canada found that “the only known Canadian study that examined empirical relationships between the impacts of an environmental hazard and socioeconomic variables” dated back to (only) 1971. It is likely not a coincidence that the 1971 study had been carried out at the time a growing and very visible community activism was emerging across the border in the United States in the late 1960s and through the 1970s, when other such studies were surfacing there.¹⁶¹ The 1971 study focused on the relationship between the impacts of environmental hazards and socio-economic variables in the city of Hamilton, Ontario, dating back to the 1950s and concluded that it is “highly probable that a poor person in Hamilton is exposed to more pollution than a rich person.”¹⁶² A later study demonstrated that in 1970–1972, the poorer segment of the population, as a whole, was exposed to greater amounts of pollution.¹⁶³ The study confidently concluded that a correlation between socio-economic variables and higher levels of air pollution could be identified. With further investigation, the researchers investigated these results and found that low socio-economic neighborhoods were geographically located within greater proximity to major manufacturing plants and were thus subject to immense levels of toxic air pollution.

A follow-up study using 1975 air pollution data was subsequently undertaken, using the same socioeconomic indicators as the previous study. It was found that there was significant deterioration in air quality and the impact on this change was felt more severely in low-income areas.¹⁶⁴ Like similar studies in the United States at the time, the 1971 study provided a platform on which to build a nascent EJ movement in Canada, the first institutionally recognized study reflecting the disproportionality in distribution of environmental hazards and the effects this has on physical health.

East Lake Landfill Decision, 1992

The East Lake Landfill Decision of Preston, Halifax, occurred in 1992 and marks a significant moment in Canadian EJ evolution. The provincial government of Nova Scotia, which oversaw waste disposal decisions in metropolitan Halifax, sought a new landfill site in the city, and the Metropolitan Authority compiled a list of 11 potential locations. Of the 11 sites, four were located near predominantly Black communities. Communities grew concerned when the city shortened the list to three, with all three in established Black communities. Later in 1992, the Metropolitan Authority announced that East Lake had been selected as the site for the new landfill. In response, a formal challenge was launched by the community, claiming the lack of attention placed on “social, cultural, and historical factors” in the decisions.¹⁶⁵ It was argued that the East Lake area was of great historical significance for the African Canadian community within Nova Scotia. Eventually, two complaints to the Nova Scotia Human Rights Commission were officially launched

¹⁶¹ Including opposition to a dump location citing decision in Houston and residents in West Harlem New York City opposition to a sewage treatment facility.

See: <https://www.nrdc.org/stories/environmental-justice-movement>, and CEQ 1971; Freeman 1972; Harrison 1975, Zupan 1975, Burch 1976, Berry et al. 1977, Handy 1977 and Asch and Seneca 1978. Quoted in: http://www.eebweb.arizona.edu/courses/Ecol206/Mohai_and_Bryant1992.pdf

¹⁶² source: L. Fryzuk Environmental justice in Canada: An Empirical Study and Analysis of the Demographics of Dumping in Nova Scotia

¹⁶³ source: F. Handy Income and Air Quality in Hamilton, Ontario, Femida Handy

¹⁶⁴ source: F. Handy Income and Air Quality in Hamilton, Ontario, Femida Handy

¹⁶⁵ See: <https://www.collectionscanada.gc.ca/obj/s4/f2/dsk3/ftp04/mq24966.pdf>

against the Metropolitan Authority, Nova Scotia Department of the Environment, as well as the Provincial Government. The community alleged that systemic environmental discrimination was at the root of this unjust decision. Both social and environmental groups were amongst those most publicly enraged by the chosen landfill site.

The East Lake Landfill Decision was one of the first events to occur in Canada in which environmental and social groups collaborated, demanding a unified outcome in addressing the discriminatory decision to locate the landfill in East Lake. The outrage was initiated by environmental groups, as had been the case with the emerging EJ movement in the United States, with protests by civil rights activists and Black communities across Halifax. The Ecology Action Center (environmental), African United Baptist Association (African Canadian), and the Lawrence Town Citizens Committee (Civil) claimed the decision showed racial bias and that the site choice would significantly impact the prosperity of the community.

The collaboration between these social and environmental groups in this landmark case are an important early example in Canada of emerging EJ activism that manifests roots in both environmental standards and civil rights. As a result of the political and public pressure mounting throughout Halifax because of the siting decision, the site choice became untenable, and the Metropolitan Authority voted to reverse their decision and eliminate East Lake as the chosen site for the landfill. This case is an example of how strategic community EJ alliances in Canada, like those in the EJ movement in the United States, formed powerful and effective EJ voices in society, responding to environmental discrimination, and created a firm platform for EJ in Canada to shift as a mere concept to a robust and influential EJ movement.

EJ Policy and Institutionalization of EJ in Canada

The concept of EJ in Canada has only recently made its way into official government policy and documents. Unlike in the United States, where the evolution of strong and vocal community advocacy around EJ issues was paralleled by numerous state and federal governmental actions to develop EJ-specific policy, laws, departments of agencies, officials, etc., the Canadian EJ evolution has mostly been upheld by select nongovernmental organizations and a limited number of grassroots actors at an individual and community level. This has recently begun to change, as we see governmental agencies such as Environment and Climate Change Canada (ECCC) and the Canadian legislature making efforts to advance and institutionalize EJ at the federal level.

Below are a suite of Canadian legislative and recent policy efforts to legally incorporate EJ within government policy, institutions, and federal legislation.

*Bill C-202: Canadian Environmental Bill of Rights*¹⁶⁶

In 2015, Bill C-202, the *Canadian Environmental Bill of Rights* was introduced to parliament by MP Linda Duncan. The bill intended to enact a right of “present and future generations of Canadians to a healthy and ecologically balanced environment” and notably, “ensure all Canadians have access to adequate environmental information, justice in an environmental context and effective

¹⁶⁶ See: <https://www.parl.ca/DocumentViewer/en/42-1/bill/C-202/first-reading>

mechanisms for participating in environmental decision-making.” This was a strong attempt to recognize EJ institutionally (from a procedural perspective), however Bill C-202 did not survive its First Hearing.

Bill C-230; National Strategy Respecting Environmental Racism and Environmental Justice

Canada’s first specifically EJ-focused federal bill appeared after a similar bill in the Nova Scotia House of Assembly in 2017 failed. Bill C-230, short-titled *National Strategy Respecting Environmental Racism and Environmental Justice Act*, was introduced as a private member’s bill by Lenore Zann in February of 2020. The bill proposed to advance with the development of a national strategy in assessing, preventing and addressing *environmental racism* and to advance *environmental justice*.¹⁶⁷ The bill affirms that a “disproportionate number of people who live in environmentally hazardous areas are members of an Indigenous, racialized or other marginalized community” and pushes to consider that establishing environmentally hazardous sites in areas inhabited primarily by these communities can be a form of racial discrimination. The bill also proposes inclusion of all Canadians, particularly marginalized communities, in the development of environmental policy. Bill C-230 was an explicit attempt to consolidate EJ legislation and bring attention to EJ and connecting environmental challenges and minority discrimination at the institutional level. The Parliament of Canada entertained the bill and it made it to Consideration in the committee stage in 2021, passing its second reading but it later died when Parliament dissolved for elections. In February of 2022, the essence of the bill was reintroduced by Elizabeth May as Bill C-226 (see below for more information on Bill C-226).¹⁶⁸

*Bill no. 57: Environmental Goals and Climate Change Reduction Act*¹⁶⁹

The Environmental Goals and Climate Change Reduction Act was introduced as a government bill in Nova Scotia. The Act was premised on the principles (i) Netukulimk (meaning the use of natural bounty provided by the Creator for the self-support and well-being of the individual and community by achieving adequate standards of community nutrition and economic well-being without jeopardizing the integrity, diversity or productivity of the environment), (ii) sustainable development, (iii) a circular economy, and (iv) equity. The bill also outlines that in environmental assessments conducted by the provincial government, “diversity, equity and inclusion” are key considerations. The bill was successful and has official Statute as of 2021.

*Bill S-5: Strengthening Environmental Protection for a Healthier Canada Act*¹⁷⁰

¹⁶⁷ See: <https://www.ourcommons.ca/Committees/en/ENVI/StudyActivity?studyActivityId=11205736>

¹⁶⁸ For a brief history of the bill C-230 and C-226 see:

<https://environmentaldefence.ca/2022/11/14/high-time-to-pass-environmental-racism-bill-advocates-say/>

¹⁶⁹ See: https://nslegislature.ca/legc/bills/64th_1st/3rd_read/b057.htm

¹⁷⁰ See: <https://www.canada.ca/en/environment-climate-change/news/2023/06/bill-s-5-strengthening-environmental-protection-for-a-healthier-canada-act.html>

In February 2022, *Bill S-5, Strengthening Environmental Protection for a Healthier Canada Act*, was introduced as an effort to modernize the *Canadian Environmental Protection Act, 1999* (CEPA).¹⁷¹ The bill establishes the need for considering environmental justice when interpreting and applying the right to “a healthy environment,” as established by CEPA. According to this bill, Canadian law should “uphold principles such as environmental justice—including the avoidance of adverse effects that disproportionately affect vulnerable populations—the principle of non-regression and the principle of intergenerational equity.” Specifically, in subsection 3(1) of the Act, the amendments define vulnerable populations as “a group of individuals within the Canadian population who, due to greater susceptibility or greater exposure, may be at an increased risk of experiencing adverse health effects from exposure to substances.” Importantly, this definition is expansive and inclusive, meaning that populations of those who may be subject to environmental injustices include children, individuals with poor health, and those in highly polluted areas. The bill is regarded by professionals¹⁷² as an important milestone for greater protection against dangerous pollution that can bring environmental justice to marginalized and vulnerable communities across Canada.

*Department of Justice Canada 2023 to 2027 Sustainable Development Strategy*¹⁷³

The Canadian federal government outlines four-year goals to ensure Canada meets its development targets required by the Federal Sustainable Development Act. The department recognizes social, economic and environmental sustainability as priorities in achieving Canadian development goals and specifically affirms the importance of advancing EJ. Specifically, Section 4 outlines “Goal 10: Advance Reconciliation with Indigenous Peoples and Take Action to Reduce Inequality” which establishes the need to “promote diversity, equity and inclusion for groups facing discrimination and marginalization and advancing environmental justice.”¹⁷⁴ This is the first time the Sustainable Development Strategy in Canada has used the term “environmental justice” and outlines the need for its advancement, making it a significant marker of progress of EJ in Canadian policy. It is also noteworthy to recognize that the goal acknowledges that environmental justice implies the inclusion of marginalized groups, specifically acknowledging the importance of working collaboratively with First Nations, Inuit and Métis communities.

Bill C-226

In continuation of the earlier attempt to adopt an “environmental racism” bill (C-230), which died with the dissolution of Parliament in 2021, in March of 2022, Bill C-226 was introduced in the House of Commons of Canada.¹⁷⁵ The bill, copying the narrative of Bill C-230, is dubbed an “Act respecting the development of a national strategy to assess, prevent and address environmental racism and to advance

¹⁷¹ See:

1) <https://www.parl.ca/legisinfo/en/bill/44-1/s-5>

2) <https://www.parl.ca/DocumentViewer/en/44-1/bill/S-5/royal-assent>

¹⁷² Dr. Elaine MacDonald, Health Communities Program Director, Ecojustice
Lisa Gue, National Policy Manager, David Suzuki Foundation

¹⁷³ See: <https://open.canada.ca/data/en/dataset/cd8b03c1-725f-4dc8-8dfa-9789e7814f5a>

¹⁷⁴ See: <https://www.justice.gc.ca/eng/abt-apd/sd-dd/timeline.html>

¹⁷⁵ See:

1st reading: <https://www.parl.ca/LegisInfo/en/bill/44-1/C-226>

3rd reading: <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-226/third-reading>

environmental justice.” The bill identifies several EJ concerns, particularly that:

“the Government of Canada recognizes the need to advance environmental justice across Canada and the importance of continuing to work towards eliminating racism and racial discrimination in all their forms and manifestations. ... [recognizing also that] environmentally hazardous sites, including landfills and polluting industries, [are primarily inhabited by] members of an Indigenous, racialized or other marginalized community. [and that] the Government of Canada is committed to assessing and preventing environmental racism and to providing affected communities with the opportunity to participate in, among other things, finding solutions to address harm caused by environmental racism. [and it calls for] an examination of the link between race, socio-economic status and environmental risk, ... [for] information and statistics relating to the location of environmental hazards, ... [for] amendments to laws and policies, ... for the involvement of community groups ... [and for] compensation.”

As of the completion of this discussion paper, the House passed Bill C-226 in March of 2023, and had its second reading in the Senate in October of the same year. It is awaiting final reading in the Senate before it can become law.

National Strategy to Advance Environmental Justice, and to assess, prevent and address environmental racism.

In February of 2024, as this discussion paper was in its final stages, the Government of Canada, in tandem with Bill C-226 currently under review in Parliament, through ECCC, announced that it would develop an implementation framework for Bill S-5 (Strengthening Environmental Protection for a Healthier Canada), with a view to securing the “right to a healthy environment” for Canadians. In this effort, the government also announced it would be considering how its actions uphold principles such as: “environmental justice” in order to avoid adverse effects that disproportionately affect certain populations and promoting “inter-generational equity.”¹⁷⁶ The government also announced it was launching consultation and engagement with Canadians on the right to a healthy environment, and that it is developing a *national strategy to advance environmental justice, and to assess, prevent and address environmental racism.*

¹⁷⁶ See: <https://www.canada.ca/en/environment-climate-change/news/2024/02/canada-taking-next-steps-on-the-right-to-a-healthy-environment-and-environmental-justice-and-racism.html>

Conclusion

The goal of this discussion paper is to review the history, evolution and current status of environmental justice in North America and to stimulate discussions to promote further EJ action across the region. It identifies commonalities and nuances of EJ across Canada, Mexico and the United States, three very different countries with different histories, cultures and languages. It examined how communities and public agencies have engaged on EJ, on issues as diverse as access to information, public participation and specific EJ laws, policies and programs designed to help tackle environmental inequities suffered by historically disadvantaged and marginalized communities facing polluted air, contaminated water, extreme heat, drought, severe weather events, flooding, food scarcity, and other intersectional vulnerabilities related to pollution and to climate change.

This discussion is critical to have at this urgent juncture as we face a triple planetary crisis of climate change, pollution, and biodiversity loss. An EJ discussion and an effective framework to promote EJ action in this context is especially important, as we attempt to devise actions and policies that can help alleviate environmental and climate impacts, build climate resilience, restore biodiversity and attempt to revert historical inequalities.

We see from the analysis that it is impossible to speak of a single definition of *environmental justice*. Whether an aspirational goal of ending racism, reversing discrimination, upholding Indigenous rights, repairing past harms, providing access to critical information about pollution, or fostering meaningful participation in decision-making, providing effective judicial remedies in cases of environmental harm, offering equitable access to nature and resources, or ensuring that disadvantaged or the most vulnerable communities and individuals enjoy equitable access and solutions to environmental problems, *environmental justice* is and must be at the heart of any effort to ensure a healthy, vibrant, and resilient environment.

Throughout history, the communities that have faced the largest environmental inequities have fought for environmental justice, though they may not have used this terminology or called themselves EJ advocates. Nevertheless, their work has influenced the construction of what we now know as EJ and the EJ movement, and it has also influenced the institutionalization of EJ across countries. North America, as a region, has been especially important for EJ and to the EJ movement.

The concept of environmental justice continues to evolve from its inception as a term in the 20th Century, and it is in constant flux, as social and environmental challenges emerge, deepen and oftentimes overlap. The diversity and multi-layered human and socio-cultural dimensions of our climate and biodiversity crisis drive vibrant EJ agendas. And as EJ morphs according to heightening vulnerabilities of certain individuals or groups, ethnicities, or communities, so does the intersectional nature of EJ along with calls from these sectors of our society for more effective actions to address environmental degradation. EJ is a lens through which to understand issues of environment, pollution, discrimination, equity and fairness.

The decisions we make today can and must be inspired by a profound understanding of environmental justice, as the decisions of today will invariably condition the health, stability and quality of life of future generations.

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