

Journal of Civil Rights and Economic Development

Volume 9
Issue 2 *Volume 9, Spring 1994, Issue 2*

Article 4

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ENVIRONMENTAL JUSTICE OR POLITICAL OPPORTUNISM?

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Some policy issues occupy a place at the top of the political agenda because of their intrinsic merits and moral urgency. Racial equality and environmental protection both fall into this category. Environmental racism, in contrast, owes its temporary prominence primarily to political hype and to the strategic concerns of politicians and interest groups.¹ To put it even more polemically, it is the Rainbow Coalition's attempt to add a green streak in order to leverage its agenda. Not only is this attempt implausible and misguided; if it were ultimately successful, it would do considerable harm to its intended beneficiaries.

In spite of its deficiencies, the environmental racism movement does make three valid and important points. First, it is undeniably true that the environmental movement is elitist.² It essentially represents the concerns of wealthy and overwhelmingly white suburbanites, who have no stake in production and can afford to place a very high premium on leisure and recreational values. This is especially so since the costs are not paid by them, but by those whose welfare does depend on the productive sectors of the economy. Inasmuch as government policy reflects the interest espoused by the environmental movement by tilting in favor of luxury consumption and against production, and inasmuch as racial

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¹ David Schoenbrod, *Environmental "Injustice" Is About Politics Not Racism*, WALL ST. J., February 23, 1994, at A21 (arguing disproportionate number of waste sites located in minority neighborhoods is a function of politics rather than racism on the part of government agencies). It is noteworthy that many interest groups have achieved notoriety as a result of their ability to summarize their entire message on a bumper sticker.

² Ted Shrecker, *Environmentalism and the Politics of Invisibility*, ALTERNATIVES, Mar.-Apr. 1994, at 32 (arguing the environmental movement's class-based elitism excludes minorities from policy formation).

minorities predictably suffer from this bias, the environmental movement is, in a sense, inherently racist.

Secondly, it is undeniably true that minorities and the poor live in less desirable environments than the wealthy. This may be labelled racism, but it is true by definition: to be poor means to have less of the desirable things in life, including expensive environmental amenities. To be poor also means to lack political power. Hence, to the considerable extent that we rely on the government to procure environmental benefits, a lack of political power translates into fewer environmental amenities.

Thirdly, members of some racial minorities, especially blacks and Native Americans, are less healthy and die earlier than the average white American, or for that matter, the average American.³ This is a public health problem of the utmost concern and urgency. It has, however, nothing to do with environmental degradation, a lack of environmental laws, enforcement of hazardous waste sites in minority communities, or any other item on the environmental racism agenda.

There are many things about public health that are not understood, but three facts are known. First, the reasons why minorities die earlier include crime, poverty, and causes that are charitably described as lifestyle choices, such as drug abuse, teenage pregnancy, and smoking.⁴ There is no serious dispute among public health experts that these factors—the microenvironment, as it were—are the principal causes of poor health and early death among minorities. Secondly, it is known with reasonable certainty that poor health and increased mortality rates among minorities are *not* due to conventional environmental factors such as waste dumps, air pollution, and the deteriorating ozone layer. The data on this point is somewhat sketchy, as even the EPA does not break down environmental risks by race or income. We do

³ Mary Grace Kovar, *Mortality Among Minority Populations in the United States*, AM. J. PUB. HEALTH, August 1992, at 1168 (detailing statistics revealing increased mortality among minorities and finding causes which did not relate to greater environmental quality); Teri Randall, *Centers for Disease Control Minority Health Office: "Social Epidemiology"*, JAMA, May 16, 1990, at 2565 (mortality rates for blacks exceed those for whites by 149% for 35 to 44 age range, and 97% for 45 to 54 age range, and 2/3 of difference is attributed to income, smoking, obesity, diabetes, excessive alcohol consumption, and high cholesterol).

⁴ See sources cited *supra* note 3 (discussing factors contributing to increased mortality rates among minorities).

know, however, that the health benefits of the Clean Air Act,⁵ Superfund,⁶ OSHA,⁷ and other environmental and health and safety laws are extremely modest. One of the principal reasons for this is that the risks the acts regulate are relatively insignificant. Thus, even though it is likely that minorities are disproportionately at risk and benefit less from environmental programs than any other group does, the benefits of additional and more equitable environmental regulations—which the environmental movement views as critical concerns—would likely be nil.

Lastly, we know environmental regulations impose huge social costs that accrue in the form of a highly regressive tax.⁸ Up to two thousand dollars-worth of clean air technology in the average car is manifestly not a good thing for poor people.⁹ We know, to put it more generally, that wealthier is healthier.¹⁰ The one surefire way to improve health and longevity is wealth and production, and the poorer you are, the larger the benefits of increased social wealth will tend to be. The environmental racism lobby's demands for more regulation and enforcement would only reduce social well-being, particularly among minorities, and the only remaining dispute is about the order of magnitude.

By and large, the environmental racism movement ignores the real causes of deprivation among its purported constituencies. The movement has limited its concerns to such narrow issues as waste siting, and sustains itself by peddling such marginal and possibly nonexistent problems as principal concerns and by proffering solutions which would likely cause real harm. There are good reasons to believe that this is a consequence of an effort to forge a coalition with the environmental establishment—a constituency with which poor minorities have virtually nothing in common, and whose concerns are antithetical to their actual interests.

⁵ Air Pollution Prevention and Control Act, 42 U.S.C.A. §§ 7401-7671q (West 1983 & Supp. 1994).

⁶ Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C.A. §§ 9601-9675 (West 1983 & Supp. 1994).

⁷ Occupational Safety and Health Act, 29 U.S.C.A. §§ 651-678 (1988 & Supp. 1993).

⁸ Richard J. Lazarus, *Pursuing "Environmental Justice": The Distributional Effects of Environmental Protection*, 87 Nw. U. L. Rev. 787, 796-806 (1993) (citing and summarizing various studies).

⁹ David Woodruff, *Here Comes the Greenmobiles*, Bus. Wk., November 11, 1991, at 47. Antismog regulation of automobiles first imposed by California and now adopted by several states could add up to \$550 to the cost of each new car. *Id.*

¹⁰ See AARON WILDESTVSKY, *SEARCHING FOR SAFETY* 61-66 (1988).

No coalition can function without at least some common interest. The one and only common interest between civil rights leaders and the environmental establishment is to increase governmental power and the respectability of the political sector by shoring up the idea that state action may actually be a force for good. Both movements have made most of their gains through the political process and the public sector; both are committed to expanding government intervention.

In pursuit of their statist agenda, both movements have been sailing into some strong headwinds, as the American public's faith in government solutions has been in a tailspin for at least a decade and a half. People distrust government and do not want excessive government meddling. Civil rights and environmentalism are the only remaining exceptions to this general trend. Their moral force has been sufficient to overcome the general presumption against comprehensive social schemes. That being said, even they have lost a great deal of their moral legitimacy. The civil rights movement has clearly been hurt by its focus on quotas as a remedy, which have been rejected by many minorities, not to mention America at large. Even more importantly, the civil rights movement has been sharply criticized across the political spectrum for having nearly nothing to say about problems such as crime and lagging educational standards, which do not lend themselves to traditional legal remedies. For most people, these issues appear much more real than alleged discrimination in hiring or promotion—or, for that matter, waste siting. The environmental movement, for its part, is reeling from a string of public relations disasters from Alar¹¹ to the spotted owl.¹² There is now a broad consensus among experts and even among politicians that the command-and-control approach that has been the environmental movement's bread and butter simply is no longer working. Wildly inefficient, ineffective, and expensive policies have lost substantial political support as the costs have become more visible.

In this political environment, both the environmental and the civil rights movement stand to gain from forging a coalition. Environmental racism expands the environmental movement's

¹¹ See Howard Kurtz, *Stories on Cancer's Causes Are Said to Be Misfocused: Media Overplay Minor Environmental Threats to Health, Experts Contend*, WASH. POST, July 27, 1993, at A6; *Pesticide Politics*, WASH. POST, July 5, 1993, at A18.

¹² See *Northern Spotted Owl v. Hodel*, 716 F. Supp. 479 (W.D. Wash. 1988).

agenda; it imparts a sense of mission and legitimacy to an otherwise moribund movement. Civil rights issues provide the environmental movement with a new cause that, unlike the old ones, cannot be denounced as elitist, anti-growth or anti-people. An American public that is no longer willing to sacrifice billions of dollars for an owl or a caribou may still be persuaded to spend tax dollars for disadvantaged people. Conversely, by piggybacking on the environmental agenda, civil rights leaders can latch on to an agenda that the politically dominant upper middle class, otherwise largely indifferent to minority concerns, can recognize as its own.

However, one may well doubt whether this unlikely coalition is viable. The battle cry for environmental justice is powerful at a rhetorical level, but it loses luster for both environmentalists and civil rights leaders once practical matters are considered. The environmental movement has built an entire empire upon denying the inconvenient fact that what may be good for penguins is often very bad for people, especially poor people. Ultimately, it will be unable to confront that basic truth. Similarly, the civil rights movement will not be willing to expend its political firepower in a battle to lock up federal lands or to protect marginal species.

It is precisely because of this fundamental divergence of interests that the environmental racism movement has been forced to concentrate on very narrow issues such as waste siting. Waste dump siting may mobilize terrific support on a local level due to the "Not In My Backyard" argument, but on a national level it is too marginal to stir significant support. Because the environmental racism movement must find common ground, it will always be based on these specific, marginal issues, and it will fail to serve the interests of minority communities in this country.

