

11.368: Response Paper 6

The readings this week add another layer of complexity to the question of environmental justice as we examine the gap that exists between what is espoused as federal policy and how that rhetoric gets implemented. The Gaylord and Bell article noted that prior to the early 1990s, EPA (and other federal agencies) considered EJ issues local problems beyond its purview. Diverse, activist-driven movements crystallized at the national level, raising EJ's profile, leading to the 1991 Summit, and setting the stage for President Clinton's Executive Order 12,898 in 1994. In terms of action steps, the Order created the Interagency Task Force and set the goals, timelines, and reporting mechanisms for development of agency EJ strategies. The Order also articulates EJ as a priority issue, calls for more extensive, EJ-relevant baseline health and SES data, and notes the importance of public participation and access to information. This order was a necessary but not sufficient condition for advancing EJ aims, as Gaylord and Bell note, "a major glaring problem in implementing an effective national program has been the absence of any specific legislation on environmental justice" (34).

With an increase in awareness of EJ issues and a flourishing of EJ groups occurring despite this legislative void, groups turned to the use of older legislation, including Title VI of the Civil Rights Act of 1964. It is consistent with other strains of civil rights movements that EJ activists have used the courts to seek redress of injustices and attention to their plights. The U.S. Commission on Civil Rights (UCCR) report on environmental justice analyzes in detail the EPA's slow and ineffective attempts to create final guidelines for investigating Title VI complaints, as well as the Supreme Court and District Courts' decisions that undermined the use of Section 602 and Section 1983 in bringing private actions against the state. EJ groups have used these sections more successfully than Section 601, which requires the establishment of "intentional discrimination" rather than just "disparate impacts." Given our previous discussion of defining racism as structured inequality rather than solely intentional acts, the significance of these sections of the law is clear and the loss of the ability to bring suits under them is potentially devastating to EJ activists.

Further endangering the EJ movement is the Bush administration's use of pro-environment rhetoric (e.g. the "Clear Skies Act"), while taking actions that actually undermine progress. The UCCR Bush report noted his EPA administrator's memo affirming the agency's "commitment" to Executive Order 12,898, which actually weakened the connection of EJ to racial minorities and low-income groups! As the agency struggles to move from draft to formal Title VI guidelines and fails to create a strategic plan for implementing Order 12, 898, it seems that the agency is regressing rather than progressing. The only minor "success" that the EPA has achieved is in cutting its rolls of backlogged Title VI complaints. The danger in celebrating the reduction of the backlog, though, is that it may lead the agency to try to reduce the rolls by whatever means possible, rather than by fully investigating and taking action on the complaint.

A notably more optimistic document of the several I read was the NEJAC's "Environmental Justice and Community-Based Health Model Discussion and Recommendations Report", which summarizes the results of roundtables and public comment periods on this matter. Perhaps because the field is still so new and the principles quite general, the document is able to express a number of fronts along which community-based research can/should be advanced. The real challenge, I suppose, will lie when it comes time to decide budgets and move beyond conversation and into implementation.