



Environmental Justice and Human Rights

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ABSTRACT

Environmental justice and human rights have more in common than a cursory look at either reveals. Central to both is the intra and inter generation distribution of costs and benefits of development. Their primary concern is the improvement of the quality of life of people and enhanced access to resources. Over the past couple of years a concern has grown both at the national as well as the international level: this concern is about protecting/preserving environment. The environment is not merely seen as protecting the surrounding areas, rather protecting the globe. The issues of environment are now expanded to include such issues as livelihood, surrounding, air, water, green house effect, nuclear free world, etc. More than that it is now linked to the larger issues of identity, culture, development including social categories. The environmental justice movement in the India challenges a process of development does not ensure the sharing of environmental costs and benefits equitably among all citizens. It Singles out the siting of waste treatment facilities in certain communities as inordinately burdens them. Like sustainable development proponents, advocates of environmental justice are concern about the changes that development occasions in access to environmental goods. Both seek to have integrated into the development process mechanisms for ensuring access for all. However, sustainable development is not limited to quality of life concerns but also includes concerns about unequal access to natural resources, especially for rural people.

KEYWORDS : Emphasize, sustainable, mechanism, livelihood, categories, distribution

Introduction

One major strength of the environmental justice movement is that it focuses on communities the goes beyond the ambit of most international instruments pertaining to sustainable developments which emphasize mainly the role of states and individuals. It would however benefit from tackle the root causes of injustices that it has indentified.

While the imbalances discerned in environmentalism may seem to coalesce into racial concerns the India, the same imbalances occur at the international level in relationships between states and at the national level in communities that would appear to be monolithic on the surface. In the latter case, the imbalances are discernible between people in different socio-economic categories. The political clout of a social categories group, a country or an individual determines to a great extent the flow of burdens vis-à-vis benefits. This paper aims at broadening the purview of environmental justice to include not only issues of caste and waste but issues of sustainable development, international environmental law and human rights.

Some commentators have based their analysis of environmental justice problems on intent arguing that the main problem that has be dealt with is the issue of internal discrimination, in particular in the rehabilitation and resettlement facilities. Others have highlighted the results of current environmental policies in terms of the unequal distribution of benefits and burdens among the population at large.

Environmental Justice in India Background

The term environmental justice has featured prominently in the environmental debate for the last two decades but only surfaced in legal parlance in the 1990s. It focuses on the disproportionate sharing of environmental benefits and burdens between different categories of persons. In India, environmental justice focuses broadly on the equity and fairness dimension of environmental policies. It is based upon the recognition that environmental costs and benefits are not distributed in a fair and equitable manner and that tradition of environmentalism has not been sufficiently concerned with very divergent local situations and the plight of minorities. Indeed, the term environmental justice is almost synonymous with environmental racism and has been used to describe the distribution of environmental benefits and burdens across society along the lines of class and community.

Basic Principles

The major thrust of the environmental justice movement is to shift the focus of attention from the environment to people, specifically communities. It seeks to show that environmental protection should not be planned in a vacuum and that environmental goals should take into account social, political and economic realities. In a broad sense, environmental justice is about positive discrimination: it seeks to achieve a

redistribution of the costs of environmental justice so as to lower the disproportionately high burden borne by some segments of society.

Environmental justice brings a new dimension to India main strain environmentalism by shifting the central focus of environmental from the predominantly middle-class concerns with aesthetic values and environmental improvements to social concerns and relations between different communities. Environmental protection thus becomes part of a larger social justice movement that does not aim at protecting nations as such but strives to achieve a more reasonable balancing of the costs and benefits of environmental protection across human societies. In other words, it is shifting the goals of environmental protection towards taking into account the needs of the poorer sections of the community that have suffered the environmental consequences of industrialization more than others.

Ecological sensibility

One of the most important elements of the work of early environmentalists was the decision, like that of greenpeace's members to deliberately focus on raising public consciousness en route to making change. How did such change in public consciousness take place? Wapner traces the frame change of environmental consciousness o he work of organizations like Greenpeace: 'greenpeace's most significant from of political activity is disseminating an ecological sensibility. It works to spread an appreciation for he dangers of ecological destruction to communities throughout the world and to inspire as many people as possible to adopt practices that are 'kind' to the planet.(wapner 1996: 156). Such 'ecological sensibility' required significant frame changes among a wide public before real change could follow. Among social movements long predating environmental activism has been the international peace movement.

Emphasis on People

Environmental problems have traditionally been addressed through command and control legislation. The disillusionment with this approach has led to the search for alternatives. The quest for efficiency in dealing with environmental problems has resulted in the use of market instrumental which tends to emphasize individual behavior. Neither of the two approaches has focused on communities.

Mainstream environmentalism has thus failed to consider the operation of environmental legislation vis-à-vis people by assuming that uniform laws will affect everybody uniformly. However, the assumption that everybody benefits from environmental regulation has been severely tested by the proliferation of grass-root movements challenging the effects of those programs on the poor and minority communities.

Environmental justice seeks to draw the necessary link between conservation and economically disadvantaged communities which was

missing in environmental laws whose basic concern was nature conservation. Further, it brings out the connection between civil rights and environmental law. In this way, the movement is taking on some of the principles of international sustainable development which emphasize the centrality of human beings in the development process.

Economic Disparities

Environmental discrimination has also been linked to the economic status of minority communities. Host communities of have, for instance been found to be disproportionately poor in many cases. Communities with higher than average unemployment rates are more likely to accept the siting of a waste facility if it offers employment opportunities to local residents may thus procure their silent approval and seems to act as an informal compensatory mechanism. Other benefits include increased tax revenues and improved infrastructure.

Developments in Human Rights

International human rights constitute claims by individuals against states and include civil, political, economic and social rights whose purview is wide enough to encompass tenets of sustainable development and human rights. Thus the realization of the rights to life and health depends to a large extent upon the quality of the environment in which individuals live.

More specifically, the proposed human right to environment is premised on the link between the realization of human rights and environmental protection. It focuses on the people environment relationship which is not always taken into account in environmental conservation. Further, economic and social rights have been linked to development concerns. The existence and content of a human right to development however remain very controversial despite its codification in a UN General Assembly Resolution. The basic substance of both the rights to environment and development is covered in existing human rights treaties. In this sense, human rights already include the basic tenets of a right to sustainable development and human rights.

Enforcing rights means distributing resources

Rights are sometimes described as morally charged and almost irrefutable claims, to be sharply distinguished from everyday assertions of interest. Whereas interests are always a matter of more or less, thereby implying trade-offs and compromises, rights are a matter of principle, demanding a kind of clinched, unblinking intransigence. At least that is the way many legal theorists and human rights advocates tend to speak. A similar viewpoint has been memorably articulated by Ronald Dworkin – a leading American theorist of rights – who, in an evocative phrase, portrays rights as “trumps” that can be played in court against government officials.

The cost of remedies

“Where there is a right, there is a remedy” is a classical legal maxim. Rights are costly because remedies are costly. Enforcement is expensive, especially uniform and fair enforcement; and legal rights are hollow to the extent that they remain unenforced. Formulated differently, almost every right implies a correlative duty, and duties are taken seriously only when dereliction is punished by the public power drawing

on the public purse. There are no legally enforceable rights in the absence of legally enforceable duties. Which is why law can be permissive only by being simultaneously obligatory? That is to say, personal liberty cannot be secured merely by limiting government interference with freedom of action and association. No right is simply a right to be left alone by public officials. All rights are claims of an affirmative governmental response. All rights, descriptively speaking, amount to entitlements defined and safeguarded by law. Indeed, the notion of rights is basically “walls against the state”

Political Clout

It has been argued that as a result of discriminatory laws and attitudes over a long of time, caste wise minorities find themselves with less power in political forums. This seems to increase the livelihood of minority communities bearing a disproportionate share of the burden of environmental protection. The capacity to refuse the siting of any given facility is directly linked to the political clout of the community at stake and its traditional involvement in environmental affairs. The failure of traditional environmental law to address issues relevant to the impoverished communities and communities of subaltern has alienated these groups from the development of environmental law.

Conclusion

The discussion of environmental justice concerns at both the international and domestic levels elicits a multiplicity of dimensions from which the issues it raises can be tackled. Over-emphasizing race and waste at the domestic level masks other potent elements that must be incorporated into any comprehensive analysis. Only after considering such elements can one conclusively assign responsibilities for environmental inequities.

The overview of a few of the possible dimensions of an environmental justice debate on the international level has demonstrated that there are varied and multifaceted aspects of relevance to the problems environmental justice. The racial aspect is by no means a predominant factor of all the links that can be found. In environmental law, the international community has in some ways gone beyond the US in experimenting with way to accommodate legal regimes with the realization that countries do not all have the same capacity to implement treaties and do not all have the necessary resources to include implementation of environmental treaties among their own priorities.

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