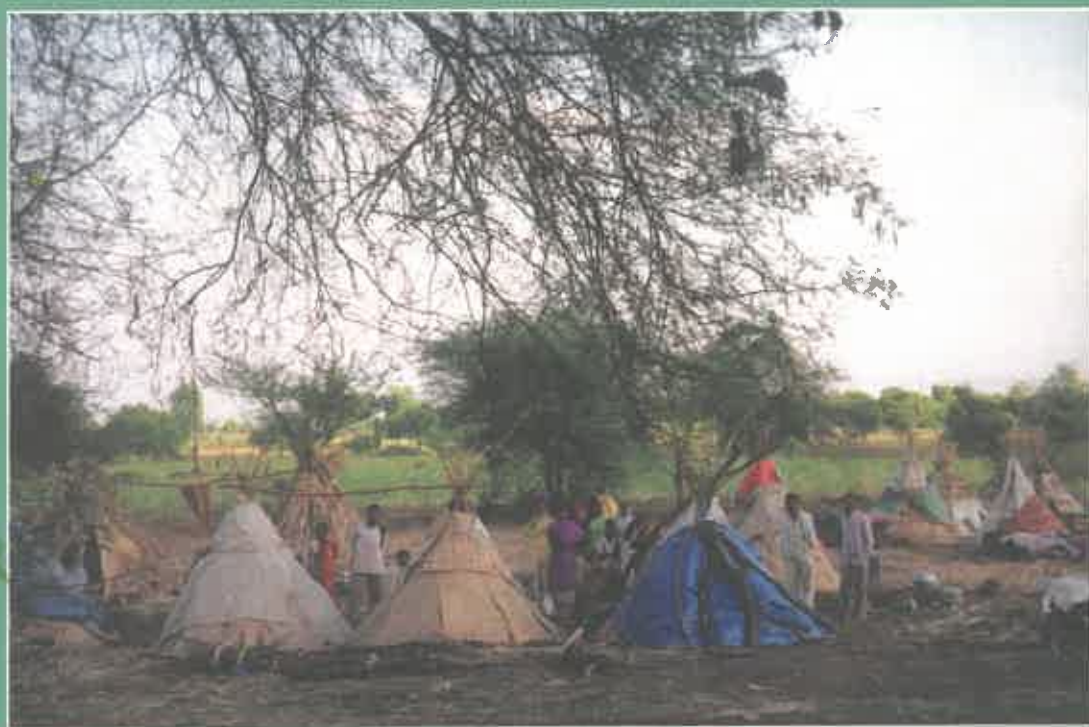


Building Bridges

North America / South Asia Conversation
on

ENVIRONMENTAL JUSTICE



Environmental Justice Initiative (Human Rights Law Network, India)

Center for International Environmental Law (CIEL)

The Ford Foundation

**NORTH AMERICA/SOUTH ASIA CONVERSATION
ON ENVIRONMENTAL JUSTICE**

**Sariska, Rajasthan
India**

**Environmental Justice Initiative (Human Rights Law Network)
Center for International Environmental Law
The Ford Foundation
June, 2004**

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This document is dedicated to all people around the world who are fighting for environmental and social justice. May their voices be heard, may their struggles be victorious, and may justice permeate their lives.

Environmental Justice Initiative
Center for International Environmental Law
June 2004

INTRODUCTION

The North America/South Asia Conversation on Environmental Justice was held from 2-5 December, 2002 in Sariska, Rajasthan, India. It represented a seminal effort to link human rights and environment/environmental justice institutions and movements from two large but very distinct regions of the world. The main objectives were to foster understanding, dispel prejudice, share skills and experience, build trust, and begin developing possible strategies for the more effective promotion of environmental justice regionally and globally.

The meeting was catalysed in large part by the creation in 2000 of an Environmental Justice Program within the Ford Foundation. The Foundation's first two Environmental Justice Program Officers were located in New York and New Delhi. The Environmental Justice Initiative (EJI), a part of the Human Rights Law Network—based in New Delhi—and the Center for International Environmental Law (CIEL)—based in Washington DC and Geneva—are Ford Foundation partners that work on issues of environmental justice, human rights and environment issues. All three institutions collaborated closely, along with other partners, in designing and organizing the North America/South Asia Conversation on Environmental Justice.

While environmental justice might sound like a self-explanatory term, it has different cultural and regional connotations. The term is laden with different histories, experiences, and emotions in North America and South Asia.

The “environmental justice” movement originated in the US and grew out of the civil rights movement. Led by African Americans and other peoples of colour, advocates for environmental justice, among other things, seek to balance and otherwise mitigate unfair environmental burdens that are often borne by low-income local communities. Common examples of these unfair burdens include the location of landfills and industries that generate toxic chemicals and hazardous wastes, and impair and threaten human health. The ubiquitous presence of lead paint, asbestos and other compounds especially hazardous to children in low-income, urban communities of colour is another focus of the North American environmental justice movement. The concerns of the movement continue to grow, and so does the understanding of what constitutes environmental justice.

The story is somewhat different in South Asia. Though the term “environmental



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justice” is not widely used, the phenomenon of environmental injustice is widespread and well understood in the context of local communities which directly experience the adverse effects of environmental degradation on human health and well-being. Environmental justice concerns in South Asia often encompass critical issues such as basic rights to food, potable water, material and survival. These issues include, but are not limited to, the loss of collective property rights, habitat and livelihood for tens of millions of forest, fishing, pastoral and mountain communities, and the adverse impacts of toxics and untreated industrial pollutants dumped without conscience in local rivers and estuaries, and belched out of smokestacks that rely on out-of-date and inefficient technology for supposed pollution control.

Many experiences in North America and South Asia are similar, but there are many differences. During the Conversation, terminology and concepts used to describe environmental injustice varied, as did visions of environmental justice. The differences that were highlighted included the nature and degrees of marginalization of particular communities, perceptions concerning major threats to human health and the leading causes of illness and death, the extent of natural resource degradation and dependency, and the magnitude and impacts of poverty and material deprivation.

Despite many important differences, the Conversation also highlighted much that is shared. First and foremost is the common humanity that binds South Asia and North America, and the widespread yearning for a world where environmental justice and sustainable development prevail.

Unfortunately, social and environmental injustice is all too evident in both regions. Large numbers of people are unable to enjoy basic human rights or equal access to natural resources. Too many populations remain excluded from official decision-making processes that directly impact their lives and livelihoods. Hunger, pollution, degradation and illness arising from environmental injustice continue to kill thousands of children and adults every day.

From a more positive perspective, both regions are also home to vibrant democratic and peoples’ movements that are striving to promote and achieve various types of justice. During the North America/South Asia conversation on environmental justice, opportunities for becoming more effective by building solidarity and linking regional struggles were explored, and new relationships were forged. Hopefully, the interaction was an important step towards building cross-regional bridges that would lead to a more just and sustainable world.

Environmental Justice Initiative (Human Rights Law Network), New Delhi, India
Center for International Environmental Law, Washington DC, USA
January 2004



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WELCOME REMARKS

1. VERNICE MILLER-TRAVIS (FORD FOUNDATION, NEW YORK)

Thank you for the work you have put in to organizing this workshop. I am honoured to be here. I work with the Ford Foundation, which is a US-based donor organization started in the 1930s by Henry Ford. We have no formal relationship with the Ford Motor Company now. I have great pleasure in mentioning that some of the grants we give out would probably make Henry Ford spin in his grave. Most of the Program Officers at the Ford Foundation come from a background of social activism.

I was born and raised in Harlem, and have worked on issues of social, economic and environmental justice for many years, including helping to enact policies on environmental justice during the Clinton administration.

Narayan Belbase and I are the only two Program Officers on Environmental Justice in the Ford Foundation. We wanted to bring together some of our grantees in order to develop common strategies and synergize our energies in working for global justice. I am deeply honoured to be here. Thank you for coming and for welcoming us. I look forward to a global conversation on environmental justice.

2. NARAYAN BELBASE (FORD FOUNDATION, NEW DELHI)

It is an honour and a privilege to welcome the United States and South Asian advocates to this North America/South Asia Environmental Justice Conversation. It is the first of its kind to be held in this region, and is yet another reflection of the series of innovative approaches being initiated and promoted by environment justice (EJ) advocates around the world. I hope the Conversation will be an important step in developing a common strategy to address some of the EJ issues in the region.

Some of the most spectacular natural sites of the world are found in South Asia. India houses two biodiversity hotspots – the Eastern Himalayas and the Western Ghats, the mangroves of Bangladesh and India, the virtually



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untouched forests of Bhutan, the coral reefs of Maldives, Mt. Everest in Nepal, the Hindu-Kush region of Pakistan and Sinharaja in Sri Lanka are a few examples. The history of conservation in South Asia goes back thousands of years, mainly as a result of people's dependence on natural resources for their livelihoods, as well as the influence of religious considerations.

At present, however, the region's environment suffers from excessive land degradation, desertification, habitat fragmentation and a resulting loss of globally significant biodiversity. Increasing habitat fragmentation has depleted the wide variety of forest products that used to be an important source of food, medicine and income, and hence, livelihood security for indigenous peoples and other forest-dependent communities. Water supply is a serious problem, and freshwater will be the major limiting factor to producing more food in the future, especially in populous and arid areas. Groundwater is being increasingly contaminated by human waste, pesticide residues, chemical leaching, and saline water intrusion, as a result of over-extraction. A survey of groundwater has shown the presence of salts, toxic organics, pesticides and heavy metals such as cadmium, arsenic and mercury, in large quantities.



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Air pollution—in particular, emissions of sulphur dioxide and nitrogen oxides—is an emerging environmental issue in Asia. The rapid growth of cities, together with the expansion of industry and transportation, has made the residents of Asia increasingly concerned about these emissions. Projections indicate that potentially large increases in emissions may occur during the next 20 - 50 years, if the current trend persists.

Economically and socially disadvantaged groups—especially women and backward caste groups—are most affected by these environmental problems, as they rarely have access to cleaner alternative sources.

It is not that South Asian countries do not have legal tools to curb this disproportionate distribution of environmental hazards. Many judiciaries in the region have recognized the right to a clean, healthy and safe environment as part of the fundamental right to life. Progressive judges have stated directly that the right to life includes the right to live in a healthy environment, a pollution-free environment, and an environment in which ecological balance is protected by the state.

However, the judicial pronouncements are yet to be fully operationalised by the respective governments. Unless this takes place, economically, socially and politically marginalized groups and communities will continue to suffer profound inequality with regard to exposure to environmental degradation and the sharing of environmental benefits.

These countries have also ratified global environmental conventions such as the Convention on Biological Diversity (CBD) and the International Framework Convention on Climate Change (IFCCC). Consequently, they are obliged to operationalize, for example, equitable sharing of benefits arising from use of biological resources, and to develop comprehensive country-level plans and strategies.

Another available tool is environmental legislation. Except for Bhutan, all the South Asian countries have enacted and enforced environmental laws. However, the implementation of environmental laws is very weak in most nations due to poor enforcement mechanisms and inadequate opportunities for victims to demand effective compliance and enforcement.

Much of the law-making process has been highly centralized in the capital cities since it is generally metropolitan residents who have economic and political clout and have access to the law-making process. The dominance of elites and other groups in the law-making process often results in the creation of laws and policies, including Acts of Parliament, which meet their interests and cater to the dominant economic value system. As long as the elite and other dominant groups influence law and other decision-making processes disadvantaged and marginalized groups and communities will not have access to the process, nor will the principles of environmental justice find a place in the statutory regime.

Another problem with the various pieces of environmental legislation is that they typically address some, but hardly all, environmental problems. Even with regard to problems that are explicitly addressed, there are usually discrepancies and gaps within the statutory regime. Which problems are confronted, and where the discrepancies and gaps occur, are quite naturally an expression of the priorities of the constituents and policy-makers who wield the greatest influence and resources in the political process. In the words of Professor "In deciding both from where and to whom environmental risks should be reallocated in the treatment and prevention of pollution, law-makers are necessarily more responsive to the demands of constituents who possess the greatest political influence." This equally applies to this region as well.

Environmental Impact Assessment (EIA) is mandatory in most jurisdictions in South Asia. However, in reality, it has been relegated to a mere administrative formality. For example, in India there are only 30 different identified industries and projects that require EIA whereas in Nepal, there are 85 different industries and projects which require EIA in order to obtain environmental clearance.



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Moreover, rather than facilitating meaningful public participation in the EIA process, proponents view public participation as an obstacle. If meaningful participation of the local people can be ensured in the EIA process and the public can be provided full access to all relevant cost-benefit information, it would prove to be an effective instrument to prevent some of the environmental injustices that are likely to occur during the life of industrial and development projects.

Luke Cole and Sheila Foster write that bureaucrats in state and local environmental agencies respond to pressure, and, when deciding between the desires of community and those of a company, they often favour the interest that puts the most pressure on them. This statement holds true for entire regions as well. Such a tendency has also discouraged the disadvantaged and marginalized community's participation in the environmental decision-making process.

Another equally important EJ issue for the region is the protection and promotion of farmers, and indigenous peoples' rights, knowledge and practices, and ensuring the sharing of benefits arising from the use of traditional knowledge systems and practices. Rights that allow farmers to own the varieties they develop, will create the equivalent of plant breeders' rights. Farmers developing a new distinct variety must own it; just as plant breeders own the varieties they have developed. Similarly, local communities and individuals who have special knowledge of some local wild biological resource (such as medicinal plants), including knowledge pertaining to conservation and sustainable use, which they have nurtured for centuries, need to be given due credit. Only then can this knowledge be conserved and these people claim an equitable share of benefits arising out of commercial use of such knowledge.

I would like to tell this august gathering how the Ford Foundation works to promote environmental justice.

An overarching objective of the Ford Foundation's worldwide grant-making operations is to alleviate poverty and reduce injustice. In pursuing this objective, the Foundation adheres to an assets framework, or an asset-building approach, where assets are very broadly defined as an array of resources—environmental, financial, human, natural, physical, social—that enable people and communities to exert control over their lives and participate meaningfully in societal processes. The linkages between EJ and asset-building are now being increasingly realized, and it is being internationally recognized that environmental injustices faced by poor, historically disadvantaged, marginalized and vulnerable groups severely constrain their processes of asset-building. The Foundation



currently supports programs that enable communities to organize themselves to fight such injustices and receive reparation and redress for damages suffered, with the ultimate objective of strengthening their asset base so that they can be effective participants in the processes and activities that determine their lives and essential community relationships.

It is said that while money moves upward, pollution moves downward—low-income groups get less than their fair share of money and more of their fair share of pollutants. The accumulation of wealth is thus created at the expense of someone else's health or quality of life or even death. It is crucial to control and eliminate this practice.

But this is unlikely to happen unless environmental justice advocates demand both procedural solutions and substantive solutions to disproportionate distribution of environmental hazards. Procedural rights should guarantee, among others, access to information, fair hearings and meaningful participation in environmental decision-making process. Similarly, substantive rights must guarantee reduction of toxic threats to all communities, improved health care, quality education, decent-paying and safe jobs, better housing, equitable access to natural resources and equitable sharing of benefits from their commercial use.

Let me end by once again welcoming you all to this conversation, and welcoming our visitors to the Republic of India. I hope you will have some time to enjoy this beautiful country, the warmth of its people, the vibrancy of its traditions and its scenic beauty.

3. COLIN GONSALVES (HUMAN RIGHTS LAW NETWORK, NEW DELHI)

Welcome to India! Most of you arrived at Delhi and travelled along a World Bank funded road to reach Sariska – a beautiful place. But this is not India – the reality is very different. About 400 million people in India are living below the poverty line, earning less than \$1 a day for a family of five. In most villages around this area there is rotation eating, which means that family members take turns and eat on alternate days as there isn't enough food for the whole family at one time. You've heard the principle of nonviolence, but there are countless forms of violence oppressing the poor. Rotation eating is just one.

In 1993 we organised the first national conference on Environment and Human Rights. We published an 'Environmental Activist Handbook.' Over the last 10 years there has been a quantum leap in the understanding of environmental law. Unfortunately many environmental lawyers and activists today side with the rich against the poor. This has led to a split between



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environmental activists and human rights groups. The poor are often viewed as predators and as the cause of environmental problems. This has led to the demolitions of slums in cities and the massive eviction of indigenous peoples from protected areas and national parks. People who live within and around forests are viewed as enemies of the forest. Over the last 10 years, brutality against people in the name of the environment protection has increased. During the last 50 years since independence about 50 million people have been displaced. Over the next 10 years, the globalisation agenda is expected to displace 50 million more.

In spite of all this India is a country of growing peoples' movements—of slum dwellers, agricultural labourers, trade unions, farmworkers, fishworkers and so on. A noticeable trend is the increased scientific and technical competence of the persons leading these movements. The National Alliance of Peoples' Movements (NAPM) has successfully raised awareness of the destructive nature of big dams. Likewise, the indigenous peoples' movement has highlighted the issue of tribal rights.

South Asia is an area of great turmoil. Hopefully we will discuss challenging issues and strategies over the next few days.



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4. OWEN J. LYNCH (CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW, WASHINGTON DC)

The Center for International Environmental Law (CIEL) based in Washington DC, is thrilled and honoured to be here in Sariska among experienced and distinguished promoters of environmental justice. The connection between human rights and the environment has always existed; it is only very recently, however, that many people are beginning to perceive this connection with clarity and conviction.

Our pending conversation represents an innovative effort to foster dialogue and possibly common endeavours to promote environmental justice between two major regions of the world. The 21st century will witness much progress in the design and use of global law and institutions of governance. It is crucial that environmental justice be included as a key objective. Our conversation will hopefully help clarify opportunities and strategies for effectively promoting this objective on international and local levels.

CIEL works on broadly defined environmental justice issues throughout the world, including South Asia and North America. Much of our work entails efforts to promote the development of in-country public interest human rights and environmental law in the Global South. We believe it is important

to give special attention to rural constituencies directly dependent on natural resources, including efforts to promote the legal recognition of community-based property rights (CBPRs). Throughout much of the world, including North America and South Asia, legal legacies inherited from a colonial past, legacies that are hostile to indigenous and other local communities, endure and impede efforts to promote environmental justice. These must be changed.

At CIEL we believe that human rights and not the market should be the common denominator for building global institutions and developing international law. Simply put, we are one species of human beings living on a small and fragile planet. There is an urgent need to move beyond ideas and prejudices that divide us.

With that in mind, please allow me to raise four concerns. First, please keep in mind as our discussions unfold that we are engaging in a North America/South Asia conversation, not a US/India conversation. Nationalism is one of the intellectual constructs that divide us, and hopefully we will approach this gathering in a post-nationalist frame of mind.

Second, please know that every person invited to this conversation is very special, with unique experience, knowledge and insights. That's why you're here! At the same time, having lived and worked in Asia for over two decades, I am well aware that Indians and US citizens are often exceptionally articulate and especially prone to dominate meetings attended by representatives from other Asian nations. I mention this as a way of requesting that we all try to ensure that participants who may not be talkative types, or who do not speak English as their mother tongue, have space and feel welcome to express themselves.

Third, we come from two very different cultural regions of the world. So we might want to consider taking a deep breath before expressing disagreement with something we may have just heard. Perhaps it would be wise to seek clarification before expressing disagreement. After all, we may not have understood correctly what our colleague has said.

Finally, I urge everyone to be as open minded as possible. Please leave any and all cultural stereotypes, prejudice, personal baggage and anger buttons in your rooms. Remember, this meeting is made up of kindred spirits. Let's listen carefully to and learn from one another. Let's enjoy being with each other.

Today is the eighteenth anniversary of the Bhopal disaster. A US-owned chemical factory located amidst a working-class neighbourhood in India was



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the cause of a toxic gas leak. One topic of conversation we might want to explore includes ways to collaborate regionally on environmental issues related to toxics and human health. Can we identify options for holding North American corporations more accountable for their actions and impacts in South Asia? Working together, can we help ensure that Dow Chemical/ Union Carbide assumes more responsibility for the still-unfolding tragedy in Bhopal?

More broadly, how can civil society institutions in different nations and regions of the world be more effective in their commitment to solving common problems and promoting environmental justice? How might inter-regional networking and coordination increase the positive impacts of our work?

I'm looking forward to our conversation over the next three days. Thank you for being here. And thank you for welcoming CIEL.

5. RITWICK DUTTA (HUMAN RIGHTS LAW NETWORK, NEW DELHI)

Welcome to Sariska! Welcome to the North America/South Asia Conversation on Environmental Justice. We have structured this as a conversation and not a meeting with mere presentations, so that we can talk, learn, explore and ask questions. It is important to explore the need for this conversation, and also analyse the varied and complex cultural definitions of environmental justice.



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KEYNOTE ADDRESS

JUSTICE KALYAN SHRESTHA (FORUM FOR JUSTICE, KATHMANDU)

While participating in a programme such as this on environmental justice, I am confronted with a host of challenges. I am reminded of a statement made by Andy Kerr of the Oregon Natural Resources Council, which states, "World War III is the war against the environment. The bad news is the humans are winning." The human weapon in this war is work. Human victory will mean the melting of glaciers and the dying of coral reefs at an accelerated rate; overpopulation of hungry human beings; degradation of lands; loss of productivity; loss of biological diversity; homogenisation of cultures; and above all, loss of self-respect, justice and equity. All these effects will be experienced as impacts of the human invasion and conquest of nature.

At this critical juncture, we need to identify these humans. Are they South Asians or North Americans? Being a South Asian or a North American makes a lot of difference. The difference can be measured in terms of energy consumption, sources of energy supply, emission of carbon and release of greenhouse gases, and production and consumption patterns. With regard to production and consumption patterns, North America is the world's primary contributor to global warming and has the second highest per capita income; home to only 4% of the world's people, it contributes 23% of the world's greenhouse gases, according to the Seirra Club. North Americans enjoy a good quality of life with high energy consumption, but their impact on the environment extends far beyond their territory. North Americans have access to our resources and knowledge systems, and have become omnipresent through globalisation, but as South Asians, we are shrinking more and more. They have globalised their interests, but we are no longer able to find ourselves.

However, this is not a bid to misinterpret your bona fide mission. In this conversation, and the struggle against environmental injustices, we are one community, conscious enough of the urgent need to keep Mother Nature safe. I welcome this spirit because I believe this is neither a process of westernisation, nor of alienation. All I want to emphasize is that environmental degradation has cross-border implications and we need to admit our part of the guilt, and should be ready to share the burden of responsibility to the extent we are liable.



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Before I address some of the issues related to environmental justice, I would like to remind this gathering of some of the allegations that are generally made against environmentalists.

It would be impractical for us to agree that nature seems safest only when shielded from the effects of human labour. Our efforts should be to make the relationship with nature sustainably useful. But ironically our actions (a war, in Kerr's term) have not been as rational and humane as they should have been. Our actions have resulted in a multitude of environmental problems posing threats to our well-being. Yet 1.2 billion people live in abject poverty, and this fact has myriad effects on the natural environment. The decline of the fertility of arable land due to desertification has not only added to poverty but also fuelled anguish and frustration to the extent of social conflict in the form of terrorism. Mountains, which are home to more than 600 million people and provide water to half of the world's population, are becoming depleted areas because of acute water shortage. Currently over 1.2 billion people have no access to safe drinking water, and more than 2.4 billion have no adequate sanitation. According to UN estimates, about 70% of the 5.2 billion hectares of dry land used for agriculture around the world has been already degraded. This has impacted 250 million people across the world.



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Fifteen percent of the world population, living in high-income countries, accounts for 56% of the world's total consumption, while the poorest 40% in low-income countries account for only 11% of consumption (UNU Report on Sustainable Development, Johannesburg, 2002).

This alarming statistic indicates that environmental injustice and inequities are rampant around the world. No single factor is responsible for the present state of affairs, and hence no single answer can be given to correct that. We need growth, we need to manage our resources equitably, and we need our people to have the right to access resources for community survival and well-being. We need coordination between issues such as development, environment and human rights.

The international community has recognized the global nature of environmental problems and established the link between environmental conditions and the enjoyment of basic human rights, by affirming that environmental conditions are essential to their well-being. To address environmental injustices being experienced by communities and indigenous peoples, legal instruments like the Convention on Biological Diversity uphold the mutual or collective rights of indigenous peoples and promote participation in decision making to ensure the equitable sharing of benefits.

At the regional level, commissions like the Inter-American Human Rights Commission and the European Human Rights Court have at times upheld principles of access to justice-in the case where the Nicaraguan government failed to consult a community (Awas Tingi Mayaon [Sumo] Indigenous Community) before granting concession rights for the exploitation of natural resources in their territory.

According to a recent study by Earth Justice, there are now 109 national constitutions that make references to the protection of the environment or natural resources. Of these, 53 constitutions provide explicitly the right to a clean and healthy environment, and 92 undertake responsibility for preventing environmental damage; 54 constitutions set up duties for citizens and residents to protect the environment; 14 prohibit the use of property in a manner that harms the environment, and 19 set out rules to make those who harm the environment liable to pay for compensation (United Nations Non-Governmental Liaison Service [NGLS], *Round Up*, May 2002).

Though the antecedents are encouraging, the environment has not yet improved. Environmental regulation has not been able to provide uniform benefits across all segments of society. Many questions concerning environmental justice still exist. Why is toxic waste only dumped in certain communities? Why are environmental regulations vigorously enforced in some communities and not in other communities? How can environmental justice be incorporated into environmental protection? What organizing strategies and public policies should be pursued to ensure fair environmental justice systems? These are some issues which the world community has not yet successfully confronted. So far, development has been understood as economic growth, and environment has been understood as the protection of resources, but justice has not been a coordinating factor.

In the light of this, now I would like to discuss some issues relating to environmental justice. Environmental justice as a movement stems from the historical disadvantages that African-Americans experienced in the United States. The EJ movement had its humble beginnings in 1982 when a PCB landfill ignited protests and provoked over 500 arrests. It made its initial formal appearance in 1991 when the United Church of Christian Commission for Racial Justice convened the first National People of Color Leadership Summit, which went beyond its focus on toxins to include issues such as public health, worker safety, community empowerment, etc., and adopted a seventeen-point declaration of the principles of environmental justice. (Jan Glazewski and Graham Bradfield, "Environmental Justice and the Legal Process", University of Cape Town, South Africa, 1999:3). In its two-decade-long journey the movement has grown, matured, and received a worldwide dimension.



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Environmental injustices take place at different levels and mean different things to different populations. But I think it should be more a matter of experience than an academic discussion. Environmental justice issues should be seen from the social context of the society concerned, and hence one uniform, standard cannot be suggested for all. Environmental justice is not just an idea of conservation of resources, nor it is only about raising the standard of living. It is about fairness and equitable distribution of benefits arising from the utilization of resources and minimization of harm, particularly for those who have been treated unequally and marginalized in terms of allocation of resources and access to them. Prof. R.J. Lazarus most succinctly says:

Environmental justice focuses on the distribution of environmental hazards across society and seeks a fair distribution of those hazards. Environmental justice includes within its purview the distribution implication of the environmental protection laws designed to redress those hazards, which have their distinct set of benefits and burdens.

This definition is very much based on the background of American environmental racism. The impacts of racism, according to a report, are felt by people of colour in terms of poverty, pollution, inadequate sanitation, toxic production, toxic waste, brown-fields, childhood lead poisoning, subsidized housing and schools near by the toxic sites, toxic foods, high pedestrian fatalities, etc. (National Black Environmental Justice Network [NBEJN], "Combating Environmental Racism with Sustainable Development", August 2002).

This makes it imperative that people have to be treated equally and fairly. Environmental justice is environmental equality, which recognizes peoples' rights to live in equal dignity and self-respect, which engenders a sense of equal worth. Because environmental justice presupposes the existence of human rights, the environmental justice movement should be construed as a process of social transformation directed towards meeting human needs and enhancing the quality of life, guaranteeing economic equality, health care, shelter, human rights, species preservation and democracy, and the sustainable use of resources. A central principle of environmental justice stresses equal access to natural resources. Environmental justice issues, therefore, cannot be separated from other social injustice issues such as poverty, racism, sexism, unemployment and urban deterioration (R. Hofrichter, "Toxic Struggle: The Theory and Practice of Environmental Justice", 1993:4). Environmental justice, however, requires a commitment to equity in the distribution of resources and in decision-making regarding the use and control of resources. Equity in decision-making implies that decisions should be made at the most local level possible, with the involvement of all people regardless of race, colour, national



origin or income, with respect to the development, implementation and enforcement of environmental laws, regulation and policies. Hence it is a rights-based approach, a mode of implementing the principles of sustainable development within the purview of the rule of law, and a process of empowering communities to exercise the right to self-determination concerning environmental issues. These principles though propounded in the US context, have strong echoes for South Asia. This region has already faced the Bhopal gas tragedy, the world's deadliest industrial accident that killed thousands of people living next to the Union Carbide chemical plant. I believe environmental justice as a movement is in an early stage in this region, though the effects of environmental degradation, and its impacts on the quality of life can be seen more clearly here than elsewhere. More than 20% of the world's population and more than 40% of those below the poverty line live in this region. Though the subcontinent is rich in biological, mineral and aquatic resources and has a history of environmental and religious practices which respect all forms of life and natural resources, it is at present under serious environmental threats. To feed an ever-increasing population, forests have been depleted and replaced by arable lands for agriculture; almost all rivers are polluted, no longer fit even for aquatic life. Agro-biodiversity is being replaced by monocultures under the influence of globalisation. Pollution, land degradation, loss of ecosystems and loss of biodiversity are now a fact of life. Developed countries dump their hazardous waste in this region.

After 50 years of modernisation, the living conditions of people at the grassroots remains much the same. The model of development for South Asia has revolved more around imitating the industrial style of life of Europe and North America. But unfortunately the model has not produced the desired results. It is a fact that the world's growing population cannot attain a Western standard of living by following the conventional path to development. Poor countries have to accelerate their growth, but they must not follow the road taken by the rich and rapidly growing economies in the past half century (United Nations Development Programme [UNDP], Human Development Report 1988). South Asia has to choose a path that is both pro-environment and pro-poor, that must necessarily be different from the models of the North. The North has already overexploited natural resources and created a dramatic dependency on fossil fuels, and is now arguing that the South should not do the same. This "don't do" model, however, is not acceptable to the South because these nations too have their own needs and visions of development. They too have expectations and necessities to meet their ends.

In any discourse on environment, poverty is identified out as a reason for environmental degradation, whereas the impacts of environmental degradation always affect the poor more formidably than the rich. Their employment, health, shelter, education and security are all, in some way or the other, associated with environmental hazards. About 200 million rich people are deciding the fate of 2 billion poor people (M.S. Swaminathan, "From Rio de Janeiro to



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Johannesburg", 2002). South Asia is a region where the majority of the world's poor resides, so these populations should decide their own fate. Global corporations have been of little use in this process. They have cared more for their shareholders rather than the stakeholders of the environment.

Poor people should acknowledge themselves as agents of emancipation and empowerment, who shape their lives successfully even under conditions of hardship and destitution. Poverty derives from a deficit of power rather than a lack of money. Here the rights-based approach is of relevance. A rights-based approach is recognised as one that describes a situation not simply in terms of human needs or of development requirements, but in terms of society's obligations to respond to the inalienable rights of individuals. It empowers people to demand justice as a right, not as charity. Human rights standards have to play their part in empowering poor peoples, communities and groups, and ensure that these are shifts in power patterns.

Experience has shown that inequity and injustice in relation to access to natural resources and sharing of their benefits are created largely by the lack of equality among people. An elite minority and a system of bureaucratic controls combine to deciding the fate of the poor. Women and marginalised groups are more adversely affected by these inequities. Unless the right of poor people to self-determination is coupled with a substantive right to equality, no restitution will be made for past injustices. This applies to international relations as well. In order to uphold substantive equality in terms of development among nations, the North has to reduce its production and consumption patterns, and with its surplus, it must help developing countries to increase their growth in a sustainable manner. If the North continues to emphasize its continued growth, and disregards the needs of developing countries, they cannot be equal partners in global development. The North must acknowledge that the conditions of developing countries' underdevelopment, inequality and environmental injustices cannot be turned to the North's profit. That will ultimately threaten international peace and security. Northern nations must help the South, if environmental justice is to be maintained at the national and global level.

The other weakness of our development model is that community rights are denied to those who form a sizable part of the world's citizenry. These are people who derive much of their subsistence from the soil, forests, grassland and waters around them. In the past, development programmes have often transformed these communities into victims of development by driving them out from their valleys, contaminating them with oil spills and displacing them from fertile land. We often tend to deny the local community rights over their resources, which they have protected for centuries. This has resulted in senseless environmental degradation. In Nepal, for instance, forest resources were²



considered as national property, and that undermined the local peoples' right to such resources. Consequently, deforestation took place on such a massive scale that the World Bank cautioned that if the present rate of deforestation continued, the resource would be depleted altogether in 15 to 20 years. But new hope has been generated with the introduction of community forestry that took control of forest management by establishing user groups. Currently, tens of thousands of user groups have been formed to look after forest resources within their territories, and that has offered people better access to the forest produce, maintaining sustainability of the forests at the same time. At present, one million hectares are under the control of twelve thousand user groups.

Many splits, such as the rural-urban divide, industrial-agricultural divide, gender divide, geographical divides, etc. characterize the complex societies of South Asia. The urban economy may have all the symptoms of a consumer economy but the majority of people live in rural areas. Their lives are characterized by a subsistence economy that is based largely around biomass products. They do not have the satisfactory infrastructure for development, and often migrate to cities for jobs, education, health and other facilities, but this in turn puts a great strain on limited urban infrastructure.

The gender divide has further impacts. Women have to spend most of their time fetching water, fuel/firewood and fodder. In an average semi-arid village, according to a report in the context of India, a woman walks as much as 1400 kilometres a year—the distance from Delhi to Calcutta—to collect firewood alone. For village populations, these natural resources are as precious as life itself (Armin Rosencranz, Shyam Diwan, and Martha L. Noble, "Environmental Law and Policy in India"). Ironically, women are not able to make decisions regarding their own health, reproduction, family matters, education and jobs because they lack property rights and are in a disempowered position. Yet, we often fail to see the relationship between environmental degradation and the trafficking of women, or the high dropout ratio of girl students and environmental injustice.

Thousands of ethnic minority groups and people belonging to lower castes have been denied equal partnership in the mainstream development process. In many cases they do not have easy access to national resources. As a result, they have become poorer.

The other important segment is farmers, who represent 70% or more of the total population in the region. They feed the rest of the population and cater to the needs of industries. Even so, farmers' rights are not well protected. Many of the traditional rights of landholders have been appropriated and violated by industries or development projects. Weak tenancy rights have been the reason for frequent evictions of those who have traditionally occupied particular territories, such as tribal areas. Land degradation has made agriculture



more expensive and yield less efficient. The import of improved seeds and genetically modified organisms (GMOs) has further marginalised farmers by taking away their seed-saving options and causing them to become more dependent on seeds, pesticides and fertilizers produced by transnational corporations (TNCs). Small farmers are reportedly disappearing, and vast new ranches are being created in favour of big agriculturists. However, we fail to see the relation between environmental injustice and the suicides of farmers crippled by debt.

The urban poor have their own problems. Industrial and vehicular pollution, water contamination, energy shortage, lack of proper accommodation and lack of occupational health and safety measures for workers are only a few of these. Millions of people have nowhere to live except the streets.

The environmental justice movement should demand strict adherence by respective governments and other state actors to international legal instruments relating to human rights and environment through the mechanisms set forth under those instruments. For this to become possible, the movement should act as a factfinder and lobbyist. At the national level, laws and policies have to be reviewed and made to adhere to international standards of environmental justice. In any bid to reform the law, more effective implementation of procedural rights, such as the right to participation in decision-making, right to information, and right of access to justice, should be emphasized.

Marginalised minorities are denied access to justice even from the courts of law. The majority of the population is ignorant about the law. Laws generally do not represent marginalised peoples' concerns, values and needs because of the lack of real representation of these groups in representative bodies. Rather, laws are advanced in a way that further prejudices the interest of already disadvantaged people. The services of the courts are not accessible to a majority of the poor because of a lack of legal aid and resources to meet the expenses. The difference in the languages spoken by the courts and those spoken by the people is a manifestation of the inaccessibility of court services to the people.

The humanization of the development process lies at the heart of environmental justice. Tough environmental legislation is equally important. Environmental laws are a new phenomenon in this part of the world. Even though there were some sporadic legal provisions, comprehensive environmental protection legislation could not be introduced until the 1980s. These laws provide for, among others, environmental impact assessments, standards for air, water and vehicular emission, environmental inspection, state power to close down offending industries, and the creation of bodies such as national environmental councils. Several other pieces of sectoral legislation such as the Water Act, Forest Act, National Parks and Wildlife Conservation Act also incorporate legal provisions. However, the executive is not effectively implementing these laws.



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The judiciary in the region has to some extent been active in rescuing the environment and the people. It has positively interpreted the constitutional right to life to include in it the right to a healthy environment, and obliged the government to carry out its duties as laid down in the Directive Principles. Courts have expanded the *locus standi* to environmental activists and voluntary organizations to give poor people increased access to justice. The South Asian judiciary has recognized many of the important principles such as the Precautionary Principle, the Polluter Pays Principle, the Public Trust Doctrine, the industry's onus of proving that actions are environmentally benign, and the absolute and strict liability of hazardous industries to pay compensation.

Over the years, many important judgements have been handed down across the region. For instance, in Nepal the Supreme Court has issued many orders relating to environmental issues such as controlling pollution, regulating the right to information relating to the environment, and setting standards under the Environmental Protection Act. Article 88 of the Nepalese constitution gives a clear mandate to the Supreme Court to receive public interest litigation and recognize the accepted judicial principles. The present Environment Protection Act itself was issued as per the directive of the Supreme Court.

In India, many important landmark judgements have been issued by the Supreme Court. Some of the important cases are those related to the Ganga Waters, vehicular pollution, environmental awareness, and the Taj Mahal. In the Ganga Case, the Supreme Court ordered the closure of 157 tanneries and 191 other industries in Uttar Pradesh, West Bengal and Bihar, and required around 5000 industries located in the Ganga Basin to install efficient treatment plants and air pollution control devices (*M.C. Mehta vs. Union of India* [1987] 4 Sec. 463). Concerning vehicular pollution, the Supreme Court directed the Union Government to provide lead-free petrol to four metropolitan cities, including Delhi. The court asked the Union Government to run all government and public transport on CNG fuel or lead-free petrol. The Court has rightly recognized the instrumental role of education in the protection of the environment and has given necessary orders to include environmental issues in school curricula, and display certain messages in public places. In Pakistan, the Supreme Court has prohibited power plants from being constructed in residential areas (*Shehla Zia Case*, PLD, 1994 Sec. 693 [Human Rights Case]). Many environment-friendly judgements have been made in other jurisdictions in the region. Though these judgements have, in one way or the other, contributed to the protection of environment, environmental justice and equity issues such as the restoration of the environment, compensation to victims and restitution of workers' rights are not discussed enough by the courts. Citizens were concerned when a big project like the Narmada Dam in India was approved by the Supreme Court even when extensive analysis had shown that construction would have devastating impacts on the environment and on 400,000 people in the Narmada valley. Such experiences are quite common across the region.



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This situation envisages a very dynamic and critical role for the courts. To my mind, the judiciary should be more restorative than retributive when dealing with environmental justice issues. Other mechanisms, such as the Human Rights Commission and the Environmental Protection Agency should also be encouraged to monitor the implementation of environmental legislation and human rights laws.

I strongly believe that environmental justice should be an applied form of the right to equality and fair treatment, and should be the religion and culture of all. It should be viewed as a movement to make people equal through empowerment and competent enough to make well-informed decisions. Civil society organizations have been important vehicles in this process. They consistently raised voices against injustice in defence of the public interest and environment. We value the North American movement for environmental justice because most of the standards that will be set there will have persuasive impacts on other regions as well. I hope the North American movement pursues justice in the American context as well as the global context. Though our environmental problems are of a different kind, related mostly to infrastructure and governance, we should pursue appropriate models and technologies that best suit our conditions. Since we are on a common human mission to save nature and serve humanity, we must work towards a common bond. The movement for environmental justice should be a real global movement with a functional network.

Before I conclude, I must especially thank the Ford Foundation for supporting this movement to empower people to take part in all environmental decisions. The Foundation's support for community-based development initiatives, among others, has helped in creating critical awareness among people as well as helped to create new opportunities in terms of livelihood.

I would also like to thank colleagues from the Center for International Environmental Law (USA) who have travelled a long distance to be here. Last but not least, I would like to thank the Environmental Justice Initiative (India), for initiating this conversation.



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Session I: DEFINING ENVIRONMENTAL JUSTICE

This session focused on attempting to explain and define the concept of environmental justice and its evolution. What does environmental justice really mean? What are its implications? What are the key similarities and differences with regard to North America and South Asia?

Chair: Syeda Rizwana Hasan (Bangladesh Environmental Law Association [BELA], Dhaka)

NORTH AMERICAN PERSPECTIVE

Peggy Shepard (West Harlem Environmental Action, New York)

People of colour, by the millions, are living and working in polluted environments because of their race, whether they are African-Americans, Latinos, Asians, Native Americans or Pacific Islanders. Residents of these communities are exposed to greater health and environmental risks than the general population. The government has done little to correct the environmental injustice that exists in our country. In fact, governmental action, as well as its inaction, has often exacerbated the problems. This inequitable environmental enforcement is especially so in the issue of "zoning" – the chief device for regulating land use.

Clearly, all Americans do not have the same opportunities to breathe clean air, drink clean water, attend environmentally safe schools, work in a clean, safe environment, and enjoy clean parks, open space and access to revitalized waterfronts.

According to a growing body of studies and reports, people of colour bear the brunt of the nation's pollution problem. The well-known instance in Warren County, North Carolina, in 1982, is illustrative of this point. More than 500 people were arrested for protesting a PCB landfill sited in their rural, poor, African-American community. They protested that the landfill had been situated in their locality not because it was the environmentally sound choice, but because that community seemed powerless to resist it. During the protests against the landfill, the term "environmental racism" was coined. It was called racism because, for the protestors involved, this new



action seemed just another extension of the racism they had encountered in housing, employment, education, municipal services and law enforcement. Environmental racism, as my colleague Norma Ramos says, is “a civil rights analysis of environmental decision-making.” It is discrimination in the realms of enforcement of regulations and laws, in the deliberate targeting of communities of colour for toxic waste disposal and waste transfer stations, permitting of polluting facilities in overburdened communities, and in the exclusion of people of colour from the staff and boards of mainstream environmental groups, decision-making boards, commissions and regulatory bodies. No one region has a monopoly on this problem. It is national and international in scope.

Since the first People of Colour Environmental Leadership Summit held in October 1991, in Washington DC—following which our task was to go home and organize locally and regionally—we have further developed six networks: the Southwest Network for Environmental and Economic Justice, the Southern Organizing Committee for Economic and Environmental Justice, the Indigenous Environmental Network, the Farmworker Network for Economic and Environmental Justice, the Asian Pacific Environmental Network, and the Northeast Environmental Network. Emerging networks include a National African-American Network for Environmental Justice, the African-American Environmental Justice Network, and a Northwest Environmental Justice Network. These networks are working in approximately 29 states, 4 countries, and have at least 42 staff members.



We have developed a political analysis that is based on the Principles of Environmental Justice, which includes having people of colour at the centre and bringing an environmental justice (EJ) framework and perspective to our communities. We believe that the Principles of EJ are more than just a racial analysis of environmental issues. They:

- Incorporate democratic processes and collective decision-making.
- Include a commitment to have accountability within the networks, and among networks, as a principle of movement building.
- Ensure that we are grounded in grassroots organizing and movement building.
- Help us to be spiritually centred.

We have forged collaborations with key allies such as researchers, academics and the government, resulting in new models of community-driven work and national visibility for the EJ movement. Our networks provide necessary and useful infrastructure at the local and national levels. We have committed

and diverse staff with tremendous expertise and ability to address our issues. We are supporting local work, developing local campaigns, connecting local organisations to the broader EJ movement, and building power to win key campaigns.

We have strong campaign and organizing skills, and strategies based on an analysis that recognizes the importance of international organizing. Campaigns are designed and implemented as a permanent vehicle for organizing at the grassroots. We have the ability to identify and build the capacity of local EJ organizations connected to the larger networks. Network growth and development raises many challenges as we develop new models and approaches to organizing and movement building. Key questions are raised about leadership development, representation of our base, self-sufficiency, strategic and effective mechanisms, the balance of grassroots and network organizing with movement building activities at the national level, and finally about strategies, approaches and alliances that we need to develop in order to build our networks and the movement.

A number of strategic initiatives and interactions by environmental justice leaders at the grassroots and federal levels have created change. These include:

- The mobilization that culminated in the 1991 National People of Colour Environmental Leadership Summit" in Washington DC drew 300 delegates and 1,000 participants from the grassroots, major environmental groups, foundations, and government. The delegates recognized a commonality that cut across geography, race, ethnicity, and culture. They left Washington with a draft of 17 Principles of Environmental Justice and a mandate to organize regional and national networks to democratize environmental decision-making and empower communities of colour to speak and act for themselves.
- In June 1992, the US Environmental Protection Agency (EPA) issued an Environmental Equity Report, which was an assessment of the concerns and demands of its new, untraditional constituency, including a controversial power analysis.
- In June 1992, Jean Sindab and Dana Alston led an EJ delegation to the Earth Summit in Rio de Janeiro.
- In June 1992, the EPA issued Farmworker Protection Regulations.
- In November 1992, two EJ advocates served on the Natural Resources Transition Team for the Clinton/Gore team.
- In September 1993, the EPA established the National Environmental Justice Advisory Council.
- In February 1994, President Clinton issued Executive Order 12898 on Environmental Justice, which directed 11 federal agencies to develop new



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policies and procedures to address the disproportionate impact of environmental hazards in communities of colour and low-income communities.

- In February 1994, the National Institute of Environmental Health Sciences (NIEHS) hosted an Interagency Symposium on Health Research and Needs to Ensure Environmental Justice in Arlington, Virginia. The symposium, attended by 1,100 people, included 400 environmental justice advocates, all there for a first-time dialogue. They expressed a majority appreciation for the importance of community involvement in setting and implementing a research agenda. The symposium also demonstrated that within the scientific community, there was an acknowledgement that it had not adequately addressed issues of disproportionate impact, vulnerable populations, health disparities and socio-economic status, cumulative impacts and synergistic effects. There was an expression that there was room for the scientific community to reshape and redirect its research agenda to include these critical concerns.
- In May 1994, a Federal Interagency Working Group on EJ was established.
- In January 1995, the First Interagency Public Meeting on EJ was held at Clark Atlanta University, Georgia.
- In 1995, the Department of Transportation held two national conferences on Transportation and Environmental Justice in the cities of Chicago and Atlanta.
- In 1995, the National Academy of Science's Institute of Medicine initiated an EJ study on Research, Education and Health.
- In 1995, six EJ networks came together in Oakland, California, to form the EJ Fund to diversify fundraising for the movement.
- In 1996, the EPA expanded the Resource Conservation and Recovery Act (RCRA) Public Participation Rule to empower communities to become involved in the RCRA permitting process, and the Council on Environmental Quality issued draft guidance on incorporating EJ into National Environmental Policy Act of 1969 (NEPA) requirements.
- Again in 1996, through advocacy by the National Environmental Justice Advisory Council (NEJAC), the EPA agreed to relocate 358 African-American households living next to the Escambia Wood Treatment Plant in Pensacola, Florida.
- In May 1996, the President issued Executive Order 13007 on Indian Sacred Sites to protect current and historical American Indian religious sites.
- In 1996, Chester residents filed a Title 6 complaint in District Court against the state of Pennsylvania for siting a disproportionate number of waste facilities in their community. But in November 1996, the District Court



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dismissed the claim.

- In September 1997, through advocacy of the NEJAC and others, the EPA partially granted the petition from the Tulane Law Center requesting the denial of Louisiana's Title 5 air permit to the company Shintech.
- In December 1997, the Third Circuit found that private individuals might sue in federal court to enforce the EPA regulations implementing Title 6.
- In 1997, the Just Transition Consortium was formed with six EJ networks and the Atomic and Chemical Workers Union.
- In 1997, the Chevron Incinerator was shut down and the Jemez Principles were developed.
- In September 1998, Shintech suspended its efforts to locate in Convent, Louisiana.
- In October 1998, the Sierra Blanca license for a low-level radioactive waste facility was denied by the Texas Natural Resources Conservation Commission.
- In 1998, the Indigenous Environmental Network (IEN) participated in the formation of an International POPs (Persistent Organic Pollutants) Elimination Network (IPEN).
- In February 1999, the Institute of Medicine, National Institute of Health (NIH), published a research study on Environmental Justice.
- In June 1999, the Congressional Black Caucus held a National EJ Conference at Hilton Head, South Carolina, and the following year began public hearings around the country.
- In December 1999, the Interim Black Environment and Economic Justice Coordinating Committee held its first organizing meeting.
- In October 2000, the Ford Foundation hired an EJ advocate to run its new EJ Program.
- In August 2001, a delegation of U.S. EJ advocates travelled to Durban, South Africa for the U.N. World Conference Against Racism (WCAR). They were successful in getting language on environmental racism included within the NGO and WCAR documents.
- In April 2001, a federal district court judge issued an injunction prohibiting the St. Lawrence Cement Co. from operating its cement grinding plant on behalf of the plaintiffs, the South Camden Citizens in Action vs. New Jersey Department of Environmental Protection. The case is now on appeal.

Over the last several years, the environmental justice community has played a critical role in stopping the rollback of the Superfund Program. We have



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helped to change the EPA's resolve to lower ambient air quality standards, which had enormous health implications. We have helped to create a national policy dialogue on cumulative and synergistic risk, and we have developed our voice in the environmental policy arena and on legal advocacy, as we continue to build a grassroots-led movement for environmental and social justice.

SOUTH ASIAN PERSPECTIVE

Dunu Roy (Hazards Centre, New Delhi)

Sisters and brothers, let me begin by disagreeing. I disagree that there is one South Asian perspective, I disagree that financial aid will bring relief, and I disagree that equity will bring emancipation.

First, what are the common factors in South Asia? Our history revolves around water – around sharing and using water resources. Environmental justice has a long history with water issues concerning India and Pakistan. In the late 1950s, the Damodar Valley Corporation was set up on the basis of the Tennessee Valley Authority. People were still protesting dams; not just issues of submergence but also workers' rights and issues of displacement. Conflicts around water also included those of East Pakistan/Bangladesh.

What has been advanced is an issue of environment that is not locale specific. The distinction between human rights and environmental rights is unfair and unnecessary.

Let me now come to the issue of justice. Most lawyers in India are called liars and not lawyers! The principle of natural justice implies that all affected parties must be heard and that the deciding party must be objective and unbiased.

In India, Article 21 of the Indian Constitution, which guarantees the Right to Life, has included the right to shelter and livelihood. Some recent judgements seem to imply that the right to environment is more important than the right to life, when in fact, it should be a part of the right to life. There is a need to rethink the hierarchy of rights at this conference.

In the famous Almitra case that was about garbage removal, a slum was demolished in order to make place for a landfill. This case demonstrated that mechanisms of garbage processing were more important than human lives. We have to be very careful when speaking about justice. In both the Bhopal and Narmada cases, justice is still to be delivered.



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There are three main options before us:

- 1) Try and reform judicial processes.
- 2) Withdraw from the judiciary.
- 3) Develop new forms of jurisprudence, which would imply developing new forms of equity and rights.

The belief that equality of access would lead to fairness is a misnomer. This challenges the concept of positive discrimination or affirmative action. We need to reverse the current practice of treating some people more equally than others. People of colour should be represented in decision-making.

Social pressures influence judges to take up judicial activism. The social roots of judicial activism are not just legal but also political. How are rights proclaimed and prioritised? We as intellectuals need to stop viewing people as objects, and stop claiming to deliver them justice.

KNITTER (a term coined for the person who provided a synthesis of the session): **Nelson Carrasquillo** (Farmworkers Network, Pennsylvania)

I am from Puerto Rico, a US colony located in the Caribbean. Fishworkers in Puerto Rico organised in the 1970s when their fishing grounds were contaminated. The struggle for the survival and rights of fishworkers is the core of my work.

We have been confronted with environmental imperialism and I am responding from that perspective. Power imbalances, and how they relate to the implementation of the law, is a problem everywhere.

I find both similarities and differences in perspectives from India and the US. We need to spend more time looking at what this all means. We don't really spend much time exploring differences. The issue of hierarchy is important in today's world. We are facing a new world order, where there is a tendency to try and make things "equal". We need to be careful in how we deal with this issue.

Survival is a critical issue for people; how do we address it? How do we overcome differences and explore similarities so that we can work towards justice?

CONVERSATION

Ravi Agarwal: What do you think is the best way to engage with power issues?



Hemantha Withanage: Environmental justice is not something that just belongs only to humans, but to all creatures. This perspective needs to be brought into our discussion, otherwise we will do a great injustice to other species.

Leo Saldanah: The definition of EJ tends to focus more on the environmental component rather than on the “justice” component of it. In the US, for 300 years people have thrived on colonialism and by supporting unequal power structures. In India we have been faced with power issues revolving around caste and feudalism.

Rohit Prajapati: The term environmental justice seems to be generating much debate. Why debate the concept? Why not focus on our struggles instead? Experience with public interest litigation over the last thirty years in India has highlighted the contradictions between laws. How do we minimise conflicts between civil society groups, for instance the labour and environmental groups, as in the case of closure of industries in Gujarat?

Ruana Rajepakse: How does the issue of environmental justice relate to the issue of sustainable development? Should the balance between rights depend on the level of development of various nations?

Peggy Shepard: We are talking about a very people-centred concept. We are not focusing on wildlife but the 17 Principles of Environmental Justice do stress our affinity to Mother Earth. In the US, the traditional environmental movement did focus only on the physical environment, but environmental justice focuses more on peoples’ rights. Sustainable development has different meanings. Environmental justice implies that people in local communities are making decisions on sustainability, economic development and on how opportunities could benefit them. For example, the decision on siting of facilities is both an environmental justice and a sustainable development issue as it deals with clean production and minimisation of waste.

Dunu Roy: The fact that different issues are emerging is important. We also need to be careful by what we mean by “people-centred” and the people we are referring to. For instance, if you look around you can see several pictures of people standing on tiger skins – is this what we mean by “people-centred”? We need to define the types of people. Consequently, when we speak of the environment we need to talk of the web of linkages and the importance of protection for all. The issue of development is closely related to the issue of peoples’ rights. But development often occurs at the cost of depriving many people to benefit a few. The rights of one set of people often conflict with

the rights of another set of people; the right of the poor to scavenge from the environment, for their material survival, competes with the right of the rich who do not have to face this pressure. The rich often don't care about the poor, who are viewed as vermin and as predators who pillage and pollute the environment. When we talk of sustainable development, we must ask, sustainability of what kind of development?

Videh Upadhyay: New forms of jurisprudence are needed in order to deal with changing power relations. What is the way forward for lawyers like us, especially in redefining the hierarchy of rights and dealing with political issues in the law?

Parisa Norouzi: One way to approach the issue of remedy in EJ issues could be that of reparations.

Manoj Misra: Justice, as I understand it, is to resolve some conflict. It also includes giving voice to those who don't have one. It must include people who are without a voice, just like wildlife. Are we just thinking out loud about what environmental justice means, or are we attempting to come up with a Sariska definition of EJ?

Savi Horne: Environmental justice is the remedy as we react to environmental colonialism and environmental racism. Some people can break their heads over the concept. In the US it is an issue of slavery; in South Africa, one of oppression of blacks by Europeans; in India it is further complicated as it is an issue of caste. We need an honest dialogue regarding the type of remedy that we want and why, so that we can use it to forge ahead.

Biplove Choudhary: In terms of expanding our movement, it is easier to talk of "environmental injustice", as it might take some time for us to arrive at a common notion of environmental justice.

Vernice Miller-Travis: Our experience is derived from a legal perspective. Laws to protect the environment, for example, endangered species, historic preservation and soil protection, are stronger than laws protecting the rights of people. People in our country who look like us, still don't have rights. We have been defined as less than human. In segregated America, African-Americans were legally defined as being three-fifths human. Therefore the response of the EJ movement is to injustices against us. It's not that we don't value all life; it's just that we want to be treated on par with all other species.

Michael Mazgaonkar: Governance is done by people who do not have much idea of ground-level realities. We need to change governance structures



first so that peoples' voices can be adequately represented and heard.

Linda Chhackchuack: The hierarchy of rights might be important, but the earth cannot accept all rights of all people, especially because the rights of one group might come into conflict with rights of other groups. We must include the issue of responsibilities in the discourse on rights within environmental justice.

Krishna Prasad Oli: We need to examine the urban-rural divide and the relationship that exists between the two areas. Urban areas are contributing more and more waste and pollution, which leads to the degradation of rural areas. We must be committed towards ensuring safe livelihoods for all people. How do we manage the complex lifestyles that we are developing?

Eileen Gauna: The relationship between environmental justice and sustainability is a place to zero in on, in the discussion. The idea of removing people from the environment because they are perceived as pests and as a problem, is a view of sustainability that is promoted by multinational corporations (MNCs). In reality it is all about raping the resources of the world. This is a concept of sustainability that has been exploited in the name of corporate interests. It makes us believe in conflicts that don't really exist. We need to remove some of the layers of misperception that have been created.



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Dunu Roy: I would like to raise two points. The first is that of slavery. Race, caste, and class are the basis of this socio-economic discrimination. In the process of giving voice to the voiceless, people like us often legitimise courts, which in reality de-legitimise the people who are most affected and most vulnerable. The second is that of power. If 70% of humanity is considered to be three-fifths human in law, how do we work to restore the power equation? If we actually got the power, what would we do? Would we demand equal access to resources? Redefining rules and engaging with power implies questioning the principles of equity and sustainability at some level too.

Ritwick Dutta: We can decide towards the end of this conversation whether we want to come up with a long-term holistic definition of environmental justice or not.

Syeda Rizwana Hasan: Is the concept of environmental justice just one component of justice that includes cultural, social, economic, political, national, regional and global justice? Is it going to protect the hierarchy of rights? How does law contribute to the realization of justice; does it?



Session II: REGIONAL OVERVIEWS

This session was aimed at sharing experiences from the two regions. Overviews of environmental and social movements, campaigns, policies and laws were presented and analysed from environmental justice perspectives articulated in Session I.

Chair: Manoj Mishra (Peace Institute, New Delhi)

SOUTH ASIAN PERSPECTIVE

Ravi Agarwal (Toxics Link, New Delhi)

The use of the term "environmental" is extremely complex. In India, social movements have responded to the environment in different ways. The Chipko movement was the first environmental movement in the 1970s, but there has been resistance to the use of the term "environmental movement" for what was essentially a peasants' movement. Chipko was largely initiated by women, who felt that the issues of natural resources and equity were ignored by merely calling it an environmental movement. This has given rise to several conflicts regarding the appropriation and interpretation of different terms. For instance, the Narmada movement was not purely an environmental movement. The key focus was not loss of forest cover alone, but the displacement of tribals, and other components of injustice.

We need to stress "environmental justice" and need to operationalize it. New terminology has the potential to usurp and challenge existing power structures afresh. In India there have been multifaceted social movements, several of which have environmental dimensions.

Laws like the Forest Conservation Act, the Water Act, the Environmental Protection Act and international treaties such as the Stockholm Convention are overriding legal provisions to protect the environment in India. They set terms of engagement in the legal sense. However, they come with historical baggage and perspectives. For example, the forest laws in India have been mainly about revenue and ownership of forests, which are controlled by the Forest Department. However, the "environment" has also been the focus of judicial activism, which has raised the standards of examining issues of environmental justice.



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Generally the state's response depends on the state's view of itself, and the role it embodies within that view. For instance, the Nehruvian perspective was that of a kind of modernistic state in which big dams were seen as benchmarks of progress. However, this is not static in itself, and is not necessarily something that civil society may agree with.

There are many contested sites, especially in urban environments. In New Delhi, for example, 10,000 people were displaced in order to create a forest area; however, this is now slated to be a landfill. Landfills, slum evictions, clean air campaigns – these are some environmental issues that have had far-reaching impacts on human rights, including loss of livelihoods. The divisions raise the question across the spectrum of how livelihood issues are to be addressed. In addition several issues have been ignored in this debate of examining environment too narrowly, including those of gender and caste.

The role of institutions, especially in such mediations, should be evaluated. What is the role of the Panchayats, for example? How representative are they of the people? Simultaneously, there has also been an internationalisation of the environmental movement. At the forefront of this are organisations such as Greenpeace and Worldwide Fund for Nature, which have attempted to also look at local perspectives, but the degree to which they can or are successful is still an open question.

At the level of international treaties too, the state's view does not necessarily represent the people. In general, issues of equity are very poorly represented at such fora.

Some critical questions that emerge from this type of North-South interaction include:

- How do we understand and work better with each other?
- Is there a role of mediation, especially with respect to the voice of the poor?
- Can environmental justice be separate from social justice?
- What are the mechanisms to ensure that justice is realised?
- How can labour and environment groups talk to one another with more trust, and develop common solutions?
- How do we respond to growing globalisation and increased rates of global investments locally?



NORTH AMERICAN PERSPECTIVE

1) Vernice Miller-Travis (Ford Foundation, New York)

The founding of this nation (USA) has been on inequality, and though it claims to be a democracy, the ideals of democracy have still not been realised.

The US Constitution of 1776 explicitly referred to black people as three-fifths human. In the 1800s, Native Americans were legally forced to relocate from their lands. The Europeans created a system of reservations. Both the South African and Nazi governments used this model in the formation of Bantustans and concentration camps.

Latinos and Mexicans in the United States are marginalised by the US government. Asians were indentured to build the railways. White women could not vote in this country until 1924. The very foundation of the United States has been built on inequality. Racial, gender and social inequity is the basis of US society.

The concept of the environment as used by environmental justice advocates is very different from the conservation/preservation aspect that most mainstream environmentalists focus on. The environment, however, is everything that affects people – their workplace, play areas, homes.

Access to environmental health is a key problem in the field of environmental justice. Low-income neighbourhoods in the US are used as dumping grounds for toxics and harmful wastes. National asset building is an important element in the struggle for environmental justice.

The First National People of Colour Leadership Summit held in 1992 in Washington DC was a landmark for the EJ movement. This summit saw the formulation of 17 momentous Principles of Environmental Justice:

Preamble

We, the People of Colour, gathered together at this multinational People of Colour Environmental Leadership Summit, to begin to build a national and international movement of all peoples of colour 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 environmental justice; 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 over 500 years of colonisation and oppression, resulting in the poisoning of our communities and land and the genocide of our peoples, do affirm and adopt these Principles of Environmental Justice:

1. Environmental Justice affirms the sacredness of Mother Earth, ecological unity and the interdependence of all species, and the right to be free from ecological destruction.
2. Environmental Justice demands that public policy be based on mutual respect and justice for all people, free from any form of discrimination and bias.
3. Environmental Justice mandates the right to ethical, balanced and responsible uses of land and renewable resources in the interest of a sustainable planet for humans and other living things.
4. Environmental Justice calls for universal protection from nuclear testing, extraction, production and disposal of toxic/hazardous wastes and poisons and nuclear testing that threaten the fundamental right to clean air, land, water, and food.
5. Environmental Justice affirms the fundamental right to political, economic, cultural and environmental self-determination of all peoples.
6. Environmental Justice demands the cessation of production of all toxins, hazardous wastes and radioactive materials and that all past and current producers be held strictly accountable to the people for detoxification and containment at the point of production.
7. Environmental Justice demands the right to participate as equal partners at every level of decision-making including needs assessment, planning, implementation, enforcement and evaluation.
8. Environmental Justice affirms the right of all workers to a safe and healthy work environment, without being forced to choose between an unsafe livelihood and unemployment. It also affirms the right of those who work at home to be free from environmental hazards.



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9. Environmental Justice protects the right of victims of environmental injustices to receive full compensation and reparations for damages, as well as quality health care.
10. Environmental Justice considers government acts of environmental injustice a violation of international law, the Universal Declaration on Human Rights, and the UN Convention on Genocide.
11. Environmental Justice must recognize a special legal and natural relationship of Native Peoples to the US government through treaties, agreements, compacts and covenants affirming sovereignty and self-determination.
12. Environmental Justice affirms the need for urban and rural ecological policies to clean up and rebuild our cities and rural areas in balance with nature, honouring the cultural integrity of all our communities, and providing fair access for all to the full range of resources.
13. Environmental Justice calls for the strict enforcement of principles of informed consent, and a halt to the testing of experimental reproductive and medical procedures and vaccinations on people of colour.
14. Environmental Justice opposes the destructive operations of multinational corporations.
15. Environmental Justice opposes military occupation, repression and exploitation of lands, peoples and cultures, and other life forms.
16. Environmental Justice calls for the education of present and future generations which emphasizes social and environmental issues, based on our experience and an appreciation of our diverse cultural perspectives.
17. Environmental Justice requires that we, as individuals, make personal and consumer choices to consume as little of Mother Earth's resources and produce as little waste as possible; and make the conscious decisions to challenge and reprioritize our lifestyles to ensure the health of the natural world for present and future generations.

2) Deoohn Ferris (Global Resources Inc., Washington DC)

In the US, legal work focuses on two areas: the defence and the offence. Lawyers and activists are partners in defence. Political activism is part of the legal agenda.



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I would like to talk about the legal tools available for activists.

1) Environmental Laws:

These are not well integrated, and have been mainly responsive in nature. There are many gaps that exist between laws but they have still proven fruitful. The problem is in the way environmental standards are set. The methodology used is that of comparative risk assessment. It is more important for polluting industries to provide jobs rather than protect the health of people. Cost-benefit analyses do not look into the rights of people but are purely economic tools that are used in assessing projects.

2) US Constitution:

Use of the Constitution's "equal protection" clause has not been successful, mainly because courts require that a person has to prove intentional discrimination, which is very difficult.

3) Civil Rights Act:

Title VI of the 1964 Civil Rights Act was introduced to overcome the burden of proving intentional discrimination. It speaks about "disparate impact", for instance, the over-concentration of hazardous industries in certain communities as compared to others. Judicial activism in the US has been used to eliminate provisions of Title VI.

4) Anglo-Saxon Laws

Common law provides remedy against nuisance and trespass.

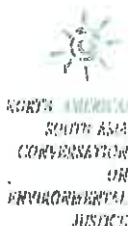
5) Tortious Conduct

It is illegal to cause bodily harm, personal injury or property damage. This provision however, calls for tremendous burden of proof on the injured.

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Hemantha Withanage: How should we deal with and address injustices at international, national and local levels? For instance, an issue that needs attention is the failure of the US to ratify the Kyoto Protocol, even though as a nation the US is one of the largest contributors to global warming.

Deoohn Ferris: The US is an international predator. People of colour within the US constitute a "South within the North". Our struggle is similar to what is going on in Asia and Africa. We all have to work hard to influence our government and consumers, and also support the struggles in South Asia.



Leo Saldanah: The certainty of global warming has been established by studying climate patterns over the last 300-600 years. This has, however, evoked different responses. What is the capacity of North America to mitigate the impacts of global warming? Most policies focus on the short term and address limited perspectives. How do we look at the continuum in the discourse on EJ?

Vernice Miller-Travis: The President of the United States is in denial about global warming. People are no longer bound in chains, but otherwise not a whole lot has changed in the US. Decision-making is dominated by power, wealth and privilege. The political system is wrought with difficulties for an average person. All people are not equal in the US. The country is about to go to war for oil for the second time. We have been struggling for 250 years, and will probably die fighting.

Ravi Agarwal: Instead of trying to map out similar discriminatory patterns between different societies, it might be better to analyse engagement with the term "environmental justice" in our movement. Since the concept of nation states is limiting, we should focus more on a North America/South Asia peoples' conversation.

Ruana Rajepakse: In Sri Lanka we are faced with an energy crisis. There is a push for developing coal-based power plants, as they are relatively inexpensive. Coal power generation, however, has several adverse effects on the environment and peoples' health. Recently, a community of around 125 people led by religious leaders organized to oppose such plants.

Syeda Rizwana Hasan: In South Asia we are struggling with colonial laws on the one hand and globalisation on the other. In both aspects, there is no space for people in the decision-making processes. How do we legalise the concept of EJ to make it effective? Public participation, the most internationally recognised principle is not part of political implementation in most countries.

Leslie Fields: I have been trained as a legal mediator but am reluctant to propose mediation between unequal parties, especially local communities and MNCs, because what the local community gives up is generally much greater and more profound.

Vernice Miller-Travis: The US EJ movement is trying to shift the climate change debate to one of climate justice.

Leo Saldanah: It is interesting to note that the chief of Tata Energy in India



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is the Intergovernmental Panel of Climate Change (IPCC) Chairman as well

Manoj Misra: This appointment was facilitated because of George Bush. Since we all constitute the "South", we have to discuss terms of engagement with what constitutes the "North", in order to move ahead.



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Session III: ENVIRONMENTAL JUSTICE AND CULTURE

The session analysed impacts of "development" activities on lifestyles, cultures and natural environments, especially with regard to indigenous and tribal peoples who often tend to bear the brunt of such externally initiated "development" and normally do not receive any of its benefits.

Chair: Ruana Rajepakse (Attorney, Colombo)

NORTH AMERICAN PERSPECTIVE

Carlos Marentes (Farmworkers' Network, Texas)

It is unfortunate that there are no Native Americans here to present their own struggles and stories. Christopher Columbus made a big mistake and will never be forgotten for the atrocities that he committed in North America.

The US Environmental Protection Agency (EPA) claims to work towards environmental justice. In the US, however, there are more than 300,000 farmworkers who suffer pesticide exposure in the field. Approximately 7 out of 10 farmworkers are immigrants from Mexico and are therefore excluded from all forms of protection. This is sheer racism. Because these people are brown, they are not considered human. The situation is getting more severe.

The most important element is the stealing of land from the hands of indigenous peoples, and colonial acts which attempt to destroy the cultural wealth of local communities. Environmental destruction is tied to environmental landlessness. EJ does not mean anything if indigenous peoples are unable to survive in their own lands. EJ implies that one can live in one's homeland and that one's basic needs are fulfilled.

SOUTH ASIAN PERSPECTIVE

Colin Gonsalves (Human Rights Law Network, New Delhi)

In colonial India, certain nomadic tribes were called "ex-criminal tribes" by the British. The Criminal Tribes Act was repealed after Independence, but



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these tribes are still strongly discriminated against. Tribal people in India are called "adivasis" and are considered "half people" by some. There are around 50 million tribal people in India. Around 20 million of them have been displaced by the Land Acquisition Act, and rendered homeless and jobless. Around 30 million live in and around forest areas that are covered under the Indian Forest Act. The Wildlife Protection Act of India has also contributed to the displacement of tribals by facilitating the creation of national parks that do not allow people to live within them.

In Australia and New Zealand, common law is changing and recognising the rights of indigenous peoples to reside in traditional areas. In India, however, there is no recognition of the right of indigenous peoples. Over 200,000 people evicted from forests over the last couple of years have been condemned to lives of intense struggle. Tribals live in areas of high mineral wealth, which are being targeted by multinational corporations, especially Canadian companies, involved in resource extraction and exploitation of the inhabitants of those lands.



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The dispossessed, i.e., the homeless and tribals, have realised that they have to speak for the whole of society, not just for their own rights. Similarly, indigenous peoples in India do not only speak of themselves but of forest protection. They should be given the right to manage forests, as they are much better at it than the Forest Department, which on the contrary is the main cause for forest destruction. But the government is using repressive measures to deny the rights of the tribals. The only way to protect forests is to put the indigenous peoples in charge of their resources.

One can no longer deal with issues in isolation. We have to address tribal rights, livelihood issues and environmental protection together by developing holistic approaches.

Sometimes people here think that all North Americans are very rich but there are surprisingly very similar conditions facing our peoples, especially workers old people, homeless people and street dwellers. We have many more similarities than differences, and we need to focus on these.

KNITTER: Linda Chhakchhuak (Grassroots Options, Shillong)

"Indigenous" peoples face similar problems and similar struggles related to landlessness and deprivation. In North America, indigenous peoples are trying to gain access to their land through the system, which is not very favourable to their cause as North America is the powerhouse of globalisation and the capital of the multinational companies. In South Asia, indigenous peoples are

fighting globalisation. At another level, people are struggling against a national legal framework which does not recognize the traditional rights of indigenous peoples (meaning the micro-communities) over their natural resources. Nation states take decisions but do not recognize that the legal system they are living by does not recognize the rights of the smaller communities.

However, the northeast region of India where the population is made up of a majority of tribal communities in some states, is covered by Schedule VI of the Indian Constitution and other provisions of autonomous rule such as Article 371 (A). Under this framework, the customary and cultural rights of the communities are recognized by the law, though there are some aberrations where individual land rights are not accepted because the individual does not have so-called documents to prove inheritance claims. There is a clash between the modern legal system and the traditional rights of the people, which urgently needs to be addressed.

It would, however, be wrong to blame the government for all the ills, and impute righteousness to all indigenous and tribal communities as being communities which live in harmony with nature. Meghalaya is an example where the land rights of the tribal peoples are totally recognized by the law of the land. People are well within their right to dig up their land for coal as is being done in the Jaintia hills of the state, and those who do so need no environment clearance as is required in other parts of the country. Jaintia hills is today a zone where uncontrolled unscientific mining by the landowning tribal clans or individuals has almost totally degraded vast areas of the land. This raises several questions about the nature and democracy of these councils, especially with regard to the unlimited rights of a community or individual to do as they like on "their land" without considering the fallout on the environment and adverse health effects on local residents.

In the Northeast itself, there are over 300 tribes and communities. Vast differences exist across India with regard to indigenous peoples. There are also some indigenous peoples who do not care as much about nature, so it is better not to make generalisations about tribal customs.

We also need to take into consideration the cross-border nature of environmental issues, as well as personal and social lifestyles and their environmental effects. The great scope for developing a common meeting ground and a comprehensive definition of environment justice should be explored in more detail and should not be based on generalisations.



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Nelson Carrasquillo: Farmworkers are often forced to move from their homelands to the US because they can't make a decent living in their native lands. They have two choices: either to follow the dominant paradigm in order to advance economically, or to develop relationships amongst themselves that are consensus driven, as this helps them to deal in solidarity with various issues. Their relationship with land is not based on exploitation of the land but on a culture of solidarity and harmony. It is important to highlight this special relationship of indigenous peoples with nature.

Biplove Choudhary: There is a lot of confusion and conflict regarding the term "adivasi" in India. Adivasi was meant to refer to the original inhabitants of India. Schedule VI of the Indian Constitution recognizes the customary relationships of tribals with their land, and to a large extent, protects the rights of tribals. What is the shared framework of environmental justice, and how can it contribute to a redistribution of power and promote equity? Is the indigenous framework the shared framework of engagement?

Krishna Prashad Oli: The redistribution process depends on the relationship with the government to a large extent. Cross-border and international issues related to EJ have to be considered as well.

Ram Mina, from the nearby village of Mallana, also attended this session along with other villagers, and complained that marble mining in the area was creating health problems from the marble dust, while the blasting in the mines was causing cracks in "check" dams. Rivers were also being diverted to accommodate mining. The villagers had recently been threatened by mining companies due to the strong local opposition to the mines in the vicinity. These threats were alarming the villagers, and Ram Mina wanted to know what they could do in order to safely carry on with their daily lives.

Ruana Rajepakse: In Sri Lanka there is a case where organizations went to court to protest against rock blasting, which consequently was regulated to balance the health interests of the people and the needs of mining companies.

Vernice Miller-Travis: Can you provide us with a legal definition of caste so we can understand it better, especially the socio-cultural implications of it, as it seems to be an important issue in India?

Colin Gonsalves: The Constitution of India defined "scheduled caste" and "scheduled tribes" in an attempt to provide special protection to members of these listed groups. Later on, these terms became the basis for a reservation policy or an affirmative action policy for the listed groups.

Manoj Sharma: I have been a forester for 22 years and respected the creation of national parks. The Indian Forest Act of 1927, the Wildlife Protection Act



of 1972 and the Forest Conservation Act of 1980 cover issues related to forestry in India. In terms of local communities, there is very little difference between the Indian Forest Act and the Wildlife Protection Act. The process of creating a national park, according to me, is in compliance with the law. The idea of a national park is not to create a fort. There are national parks that have been created without people being displaced, for instance, the Shivpuri national park.

Ritwick Dutta: There is a difference between the Forest Conservation Act and the Wildlife Protection Act. It should be kept in mind that the term "community" is not a homogenous one. In Nagaland, India's smallest state, for instance, there are over 25 languages. National parks occupy less than 1% of the total land area in India, and 70-75% of these parks have people living within them. Protected areas, on the other hand, have people residing within them legally; these people have certain rights within the protected area. Sometimes a "hands-off approach" to conservation is needed.

Hemantha Withanage: The concept of culture is constantly evolving, and means different things to different people.

Leo Saldanah: While dealing with cases, the specific cultural environment needs to be addressed. I don't think the EJ movement is nuanced enough to deal with these problems yet. How do we resolve issues of warring tribes and competing property claims?

Parisa Norouzi: In the US, cattle ranchers have the right to use land in national parks. They also have rights to grazing, even though it's not necessarily environmentally friendly. The principle of eminent domain is still followed.

Carlos Marentes: Monopoly food corporations are taking over and controlling the food production of local communities in Chiapas, Mexico. Multinational patents on traditional food and plants are a primary tool used to appropriate the culture of these communities. The indigenous communities have done more to protect the environment than environmentalists. The Biosphere Reserve being proposed by environmentalists in Chiapas demonstrates their hypocrisy. They blame the indigenous peoples for the destruction of natural resources, but the reality is very different. Land is under indigenous control under collective forms of ownership. The region is being exploited by MNCs for various purposes. Approximately 65% of Mexico's electricity supply comes from the Chiapas. The environmental movement has much to learn from the indigenous peoples' movement.





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Session IV: ENVIRONMENTAL JUSTICE AND GENDER

Gender dimensions of environmental justice issues are critical but often ignored. In this meeting, attention focused on identifying the adverse impacts of many environmental policies and management decisions on women, and opportunities to promote more appropriate and just responses. The session also discussed the role of gender in the evolution of the environmental justice movement.

Chair: Suma Peesapati (Communities for a Better Environment, Oakland)

NORTH AMERICAN PERSPECTIVE

1) Eileen Gauna (Southwestern School of Law, Los Angeles)

The issue of women relates closely to the issue of power. There are three dimensions to power:

- The power to decide.
- The power to define rules of the game.
- The power that comes from making the first two seem natural.

Women of colour in the US have had to deal with all three of these power issues within the EJ movement and within their societies and families.

The grassroots EJ movement has been engineered by poor women of colour. These women have been subjected to exclusion and ridicule, and often stereotyped as "hysterical housewives". Women of colour are probably the only ones who have actually put "white feminist theory" into practice in a very pragmatic way.

Who has this benefited and why? The flip side of the struggle is the struggle within – women with more resources versus women with less. There are different layers of power that are constantly being dealt with. For example, activist women who are at odds with their husbands and families due to different power dynamics in that realm.



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Critical questions that need to be addressed include the interconnections between economic and patriarchal systems, and the issue of who gets to frame issues within the movement.

2) Veronica Eady (Tufts University, Department of Urban Environmental Policy, Massachusetts)

I remember doing an interview with a women's magazine, *Sojourner*, where I was asked what it felt like to be a woman in the EJ movement, and why there were more women leaders in the EJ movement than men. I had not ever considered this fact before being asked this question. But after giving it some thought, I responded that women tend to involve themselves in issues revolving around the home, family, children, and health.

Women have founded and lead many, many environmental justice groups in the United States. Mothers of East LA, West Harlem Environmental Action, and Concerned Citizens of South Central in Los Angeles, are all EJ groups created and spearheaded by women. I think there is a valid argument that women are disproportionately affected by environmental toxins, particularly where issues like endocrine disruptors and linkages to breast cancer are concerned. Women have a very strong survival instinct that has contributed to our presence in EJ leadership.

The mainstream environmental movement, on the other hand, has been led mainly by white Christian males, and is almost an exclusive club; at least this was the model in the 1960s, and while it is changing, the mainstream environmental movement remains predominantly male and white.

Women in the EJ movement face classism and racism and have to function in a world of funders, lawyers, and other professionals who, again, are largely white males. Young women face a special challenge for credibility and a right to be heard in larger society. There is an ongoing struggle to discredit us, but women have been fighting this struggle for years and have emerged as powerful leaders.

SOUTH ASIAN PERSPECTIVE

Syeda Rizwana Hasan (Bangladesh Environmental Law Association, Dhaka)

Women are differently affected by environmental injustice; that is the reality in my part of the world. Bangladesh, India, Sri Lanka and Pakistan – have all had women Prime Ministers. In spite of this, the role of women in the



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environmental movement, as in most spheres of public life and activism, is not emphasized enough.

The concept of equality has different connotations for women. In South Asia, women are viewed as having four distinctive roles: a productive role, a reproductive role, a social role, and a political role. In all four roles, women are discriminated against. In Bangladesh, only 2% of women participate in elections. There are efforts towards positive discrimination, but this hasn't changed much in terms of attitude and practice.

Women are generally the prime caretakers of the family and of nature, and are responsible for food and water collection, agriculture, crop production, looking after drought animals and rearing cattle, amongst a host of other daily tasks. Their contribution to society and to national life, however, mainly remains invisible. Agenda 21 calls for the need to take into account the unrecognised role of women in production.

There is discrimination against women at every level, but the poor woman faces the worst consequences, as she has to deal with the worst problems.

Women also have to deal with environmental degradation to a larger extent. They have to walk longer distances to get water and collect fuel. Decreased fuel availability implies less food for women. They manage the land and homesteads but do not have ownership over the land. Intergenerational equity is greatly affected due to the low nutritional intake of mothers who do not have equal access to healthcare.

Another question that needs to be addressed is how development activities affect women. This includes loss of traditional livelihoods, and encroachment of tribal lands. There has been international concern over flood management in Bangladesh, especially with regards to dams and embankments. The largest protests have been by women, but they constitute only 3% of the claimants.

At the international level, there has been an increased tendency to acknowledge the contribution of women. For example, Agenda 21 looks at women and sustainable development. The Plan of Implementation has 30 references to gender but the paragraphs on globalisation and trade have no mention of women. Poverty eradication, energy management, mountain ecosystems and health, are all areas where women play an integral role but do get adequate importance or recognition.



KNITTER: Hemantha Withanage (Environmental Foundation Limited, Colombo)

One of the problems related to discussions on gender is that they do not have enough men participating; it is necessary to include more men in these discussions.

While women are playing more of a role in decision-making in North America, in South Asia, the entrenched focus is still on the basic role of women as homemakers and mothers. In Sri Lanka, for instance, the role of women as mothers is greatly respected. Men and women are both victims of the development agenda but suffer the effects differently. Indoor air pollution, for instance, tends to affect women more as they spend more time inside the house.

CONVERSATION

Rohit Prajapati: Why is it that women alone have to be in charge of water collection, food production and child rearing? Why have these roles become gender-stereotyped? Part of the debate on the role of women has to do with redefining traditional roles and involving men in these tasks as well.

Ravi Agarwal: We need to start at home and include gender perspectives within the environmental movement first. Women are worshipped as manifestations of the "goddess" in India but are not treated as equal partners. Data collection too is not gender sensitive, as several technological biases exist. As income rises, ironically the role of women declines. Fundamental changes are needed, not just changes in perspective to include feminist perspectives, but structural changes as well.

Dunu Roy: It is not only an issue of "dehumanisation" of women, but also of men as well.

Ranjan Rao Yedoor and Sanjay Upadhyay engaged in a discussion that revolved around the difference between matrilineal and matriarchal systems in India. There are two tribes – the Khasis in Northeast India and the Nairs in South India—who follow matrilineal lineage patterns, but are not really matriarchal societies any more, as the decision-making power of the women has been eroded and is now centred around the men: not the husbands, but the brother of the matriarch.

Sarmishta Bose: Ecofeminism—the theory that women are closer to nature, even though they tend to bear the brunt of environmental degradation more—



has come under a lot of criticism from within the feminist movement as well. Most of the criticism focuses on challenging this assumption.

Eileen Gauna: Women often know more about certain issues, for instance childcare, because they tend to spend more time with children. Therefore, rather than merely debunk the theory that women are closer to nature, we should look at the reality and the experiences of women that are often very closely related with nature.

Shivani Chaudhry: Despite the strong patriarchal nature of society in South Asia, women at the grassroots have played a tremendous role in the EJ movement here. The Chipko movement and the Narmada Bachao Andolon, for instance, have largely been led by women. A lot of similar movements, because they exist at the grassroots, are not well known or documented. The assumption often prevalent in this field is that women are still in the background and silent, when instead they are leaders of revolutionary movements, fighting against many odds to make their voices heard.

Leslie Fields: The wealth of knowledge that women at the grassroots possess is not recognized or understood by the mainstream. It's time to take this into account, because the stakes involved are very high.

Ruana Rajepakse: Problems facing women exist in urban areas as well as rural areas. Only 2.5% of students in Sri Lanka attend university. Of these students, the ratio of women to men is more or less proportionate. A large number of women work in free trade zones because labour laws are not considered to apply to women. The semblance of equality often creates more inequalities.

Vernice Miller-Travis: The role of women in leadership is significant not necessarily because they are mothers or closer to nature. The work that Peggy Shepard and I started in 1986 was because of the abnormal levels of asthma and death from respiratory diseases in our neighbourhoods. Today, 17 years later, we are still fighting. This is an issue of human rights and a sense of justice that women relate with, especially in the US EJ movement.



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Day Two: 3, December 2002

Session V: WATER, TOXICS AND HEALTH

This expanded session focused on environmental rights issues related to water and to toxics. The availability of water and access to adequate quantity and quality of water, privatisation of water, conflicts over water and related issues are indicators of environmental justice. Health issues arising out of environmental degradation, such as toxic pollution, water contamination and landfills, were also discussed, with special attention given to the vulnerabilities of lower-income populations and their lack of access to just remedies.

I. WATER

NORTH AMERICAN PERSPECTIVE

Leslie Fields (Friends of the Earth, Washington DC)

The process of globalisation is failing to mobilise the resources that poor countries desperately need to invest in clean water and sanitation. The situation is growing worse at an unparalleled rate and scale. Today, approximately 1 billion people lack access to clean water and over 2 billion people lack access to proper sanitation services. The scarcity of clean water leads to millions of avoidable deaths, public health emergencies and widespread environmental contamination. It is estimated that water-related diseases kill 30,000 children every day, all over the world.

It cannot be overstated that access to clean water and sanitation is vital for public health and environmental quality, and ultimately for the realization of the goal of sustainable development.

The privatisation policies of the International Monetary Fund's (IMF) and the World Bank's "structural adjustment programmes" are handing out water concessions to private investors – usually large multinationals – without adequate oversight and management. Cost recovery policies enable these multinational corporations to increase prices, including for the poor.

Global and regional trade agreements are liberalising trade in sanitation and water services and granting multinational investors far-reaching legal protections. These trade agreements will hamper the ability of governments



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to limit or reverse harmful privatization policies or to insist on key environmental and public health provisions in multinational firms' operations.

The negative impacts of water privatisation policies are not unique to developing countries. Poor people and people of colour in the developed world are also very often hit the hardest by increased water and sewer rates. The world's poor – whether in the developing or the developed world – are the least capable of bearing the burden of cost recovery schemes and market pricing.

Funding for Clean Water and Sanitation

The international community has pledged to halve the number of people without access to safe drinking water by 2015. Yet it is estimated that meeting water supply and sanitation for basic human needs would require an additional investment of \$10 billion annually, a doubling of current amounts.

Rich countries have so far failed to mobilise these resources, and instead are turning to the private sector to make these investments. To lure private water corporations, governments and international financial institutions are advocating a list of market incentives to encourage this private sector participation, incentives that could undermine poor people's access to clean water and sanitation.

Water Privatization and International Finance Institutions

The World Bank and IMF's structural adjustment programmes have long advocated an increased role for the private sector. This is often achieved through a host of privatisation requirements. Increasingly, public utilities including water are coming under the push for privatisation.

A 2000 review of IMF loans, conducted by Globalisation Challenge Initiative, found water sector policy conditions in 12 out of 40 countries included increased cost recovery and water privatisation. Cost recovery and automatic tariff adjustment are also included to increase the return for private investors and to entice investment.

The Bank's private sector arms, the International Finance Corporation and the Multilateral Investment Guarantee Agency, are financing the entry and expansion of the private sector in water and sanitation services. This is often done without a transparent analysis of other options, including rehabilitation of the public sector.



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Trade in Services

Global trade negotiations at the World Trade Organisation (WTO) could lock in the World Bank and IMF privatisation model for water and sanitation services, while also making it increasingly difficult to regulate these sectors. In the negotiations of the General Agreement on Trade in Services (GATS), major countries in the developed world, particularly those belonging to the European Union, have proposed that water and sanitation services be fully liberalised.

Once these liberalisation commitments are made, governments that attempt to reverse or make changes in water privatisation policies could be forced to liberalise other sectors as "compensation." This results in a set of obstacles that limit governments' ability to control the harmful impacts of water services controlled by private and multinational firms.

Effective regulation of the water sector, once privatisation occurs, will also be hampered by GATS provisions. For example, restrictions on the volume of water resources used could be prohibited and regulations would be required to be "no more burdensome than necessary".

The GATS rules are reinforced by provisions under international investment agreements that require compensation for government measures which affect a multinational investor's business interests. Under such an investment agreement, a consortium led by Bechtel is suing Bolivia for the government's decision to end a concession arrangement for the water supply system in the city of Cochabamba, after widespread public opposition in response to substantial price increases.

Corporate Accountability to Whom?

When large multinational corporations invest in public utilities like water and water resources, they do not assume the social and environmental responsibilities that historically rested on governments. In addition, water privatisation policies allow multinational firms to not only take ownership of water and sanitation services, but water itself.

However, the privatisation policies of international finance institutions like the World Bank and IMF have failed to address critical questions concerning corporate accountability in the water and sanitation sectors. There is currently no international mechanism in place to hold corporations accountable for irresponsible behavior such as unfair price increases and failure to provide universal access to water resources.



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Key Recommendations (adopted from the Global People's Forum, Johannesburg, 29 August 2002) :

- All nations should recognize water and sanitation as basic human rights.
- We must all respect the integrity of ecosystems as the basis for all life and adequate clean water must be ensured to maintain healthy ecosystems.
- Water and sanitation must remain in the public sector and all governments must commit to public sector delivery of water services. This includes ensuring adequate available financial resources and creating adequate local capacity.
- Cost recovery should not be a barrier to poor people's access to water, and mechanisms such as cross-subsidisation, free lifeline services and the rising block tariff should be used to ensure water access.
- Governments should prioritise water for rural and sustainable livelihoods.
- The New Partnership for African Development (NEPAD) should be rejected.

Water and water services must be kept out of GATS and the WTO.

Governments must guarantee public participation in all aspects of water management and decision-making, particularly the participation of women, indigenous peoples and youth.



SOUTH ASIAN PERSPECTIVE

Hemantha Withanage (Environment Foundation Limited, Colombo)

Water Justice - An Asian Perspective

What is Environmental Justice?

Environmental Justice is the fair treatment and meaningful involvement of all people, regardless of race, colour, national origin or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Generally, justice is done when people get what they deserve or what is due to them.

Environmental Justice and Natural Resources

Air, water, biodiversity, forests and the aesthetic of the landscape are basic resources, necessary for the survival of both human species and the entire

biosphere of which human beings are a part. The rules of access to environmental services, and benefits of the natural environment, should guarantee the public nature of goods as well as the equity of their distribution.

What does the Private Appropriation of Natural Resources do?

The traditional individualistic nature of rights in the West has prompted the private appropriation of public goods to satisfy private interests, often to the detriment of the public or collective good. This is a total violation of justice and equity.

Water as a Human Right

Water is a symbol of life throughout the world. There will be no life on earth unless water is available. Water is the blood of the earth and is a basic need of any life form. The position that access to water is a human right needs no reassertion. It is significant that during the Johannesburg Summit all states reiterated that access to water is a human right. But we should not forget that water is not only a human right but also a right for all living beings. In many Asian societies water is considered to be the common property of human beings, animals and plants. It should be accessible to all to satisfy their basic needs.

Water can also be explained as a strategic resource for ensuring the integration of economic, social and environmental concerns. It is a key resource for social and economic development. All the ancient civilizations were based on rivers the Indus, the Euphrates, the Tigris, the Nile, etc. In countries like Bangladesh and India, matters of life and death are often determined by water.

Injustices Related to Water

Most of South Asia's poor have been denied access to water for basic minimum necessities. While the poor in our societies do not have adequate water for fulfilling their necessities, some people use chlorinated water for flushing toilets, washing cars and for swimming pools. While poor farmers do not have adequate water for growing food to sustain their families, industries use water for manufacturing goods to pander to luxurious lifestyles, mostly in the North. When the poor are not provided adequate clean water, they depend on water with fluoride and cyanide, or water polluted with industrial effluents.



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Why is there Scarcity of Water?

While governments claim that there is a scarcity of water, and hence deny the poor basic access to safe water, the state also allows industries to indiscriminately draw water and pollute ground and surface water sources. A realisation that there is a difference between water needed to fulfil basic necessities and the market requirements of the industry, is central to governmental claims of scarcity. The argument for demand management through pricing needs to be looked at from this perspective.

The general claim is that pricing will bring private capital into water services. But the truth is that pricing makes fresh water unaffordable for the poor and marginalised communities. Water is a critical resource for the sustainable development of communities. Due to this "scarcity", competition and unfair sharing has already created tension between communities and has also led to water wars in some parts of the world.

Clean fresh water has become a scarce resource in Sri Lanka and elsewhere in South Asia because of natural causes as well as human mismanagement. Mismanagement and destruction of catchment areas, water pollution, climate change and the construction of dams are some basic reasons for this scarcity. Poor irrigation practices, forest destruction and non-maintenance of watersheds, lack of fresh water storage capacity due to the destruction of ancient water tanks, large-scale development projects, including dams, shrimp culture, cultivation of other cash crops, conversion of rain-fed cultivable lands to irrigated lands, change of the rainfall pattern due to global climatic change, large-scale drawing of ground water, unjust decision-making, and lack of governance are also factors that have severely affected water security.

Dry areas in the world are increasing and rainfall is declining for various reasons, including global warming, which is a result of the luxurious lifestyles of developed nations. Unfortunately some countries don't pay much attention to or commit to policies that would reduce global warming, but provide money to developing countries to support private appropriation of water through water and sanitation projects.

A rise in sea levels has increased the salinity of fresh water, while desertification has reduced fresh water availability. Dam construction has also contributed to the increase of salinity. Ground water extraction has contributed to a rapid decline in the water table and the drying up of surface soils. The presence of fluoride (e.g. in Sri Lanka), and arsenic (e.g. in Bangladesh) in fresh water is also a serious problem, affecting its availability and use.



Industrial pollution has greatly affected the availability of fresh water. Most rivers in the world have now become very polluted. Rivers are the dumping sites for liquid effluents, sewage and domestic waste.

The Poor are the Most Vulnerable

Experts in the field agree that the quality of water is even more important than quantity, in terms of its impact on human health. Water scarcity, however, leads to declining water quality and pollution, which has an especially adverse impact on the poor. Many (perhaps most) of the poorest people in developing countries are forced to drink water that is unfit for consumption. They suffer from a range of skin and other related health problems.

Globally, water-related diseases are the single most important cause of sickness and death. A major contributor to this dirty water is the lack of adequate sanitation. Greater attention must be given to water needs for domestic and health purposes, and to other consequences such as impacts on the environment.

How to Bring About Water Justice

In many countries, the struggle of local communities for access to water is a struggle for sustainable livelihood. I believe that nations should have sovereignty to manage their own water resources and should guarantee the fundamental human right to water in a quantity and quality sufficient to life and basic needs. Further, water is a natural resource common to all; everyone has an equal right to water for environmental and basic human needs, irrespective of their ability to pay for it as a commodity. Hence governments should manage water resources in trust, in a fair and equitable manner on behalf of the people. Water is essential for the existence of the human species as well as other life forms. Water for drinking, cooking, washing and other personal needs is estimated at 25-50 litres per person, per day. Children are the worst affected due to lack of accessibility to clean water. More than the availability, accessibility is the crucial problem for most poor and marginalised people. As the right to water is a human right, it should be available at least to meet the basic requirement per day for free, or at a very minimal price.

Decisions about allocation and distribution should be democratic and based on the realisation of the universal and fundamental right to a clean, healthy water supply. To effectuate this right, water development and management should be based on a participatory approach, involving users, planners, and policy-makers at all levels. Women play a central part in the provision, management and safeguarding of water, and should be recognised as key in water decision-making. Such a participatory approach should also involve



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civil society organizations and communities with regard to sustainable water management. We should also stress the use of local and traditional knowledge bases on water management and the transfer of such technology.

Water sovereignty is a key factor of economic sovereignty. Water is the basis for sustainable societies, and has a direct link to food security. It is the duty of all governments to ensure national food security by ensuring adequate water supplies to agriculture. Hence water for traditional agriculture and ecosystems ought to take priority over water for cash crops and industries.

Water pollution is a serious threat. The corporate sector, industries, and even the domestic sector are responsible for this water pollution. The control of pollution is a must for the sustainability of fresh water. Further, as watersheds play such a key role in the freshwater cycle, protection of watersheds ought to be an important component in such planning.

The agenda of commoditisation of water by the WTO and other multilateral financial institutions is inherently dangerous for water justice. Moreover, natural water, which does not involve any capital and maintenance cost, cannot be considered as a commodity. Hence we should oppose the World Bank and Asian Development Bank machinations, which provide the financial and strategic leverage for private appropriation of water services on a mass scale, and have been promoting the commoditisation of water by imposing conditionalities of private sector participation for aid.

The global water industry, has gone well beyond the mere privatisation of municipal and regional water, and has been actively acquiring control of water through the ownership of dams and waterways, control over bottled water, and export of water. This is total violation of water justice.

Privatisation means that management of water resources is based on principles of scarcity and profit maximization rather than long-term sustainability. This private appropriation has not only failed to deliver high environmental standards, but has also brought a substantial increase in the price for the consumer, often making access to clean and healthy water out of reach for the majority of people. Hence the privatisation of natural resources such as water, is a great threat to sustainable societies. We recognise pricing and privatisation as two issues, and strongly believe that pricing of water services can be done without privatisation.

Conclusion

Ecosystems, the poor, and vulnerable groups should not have to suffer any negative impacts of water injustices. There is no other alternative to fighting for water rights for all people, and for justice for all living beings. We believe



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that the entire public should be made aware of water injustices, including the approach of local governments, water corporations, and other international financial institutions (IFIs) involved in this dirty business.

We demand the effective implementation of the Rio Principle, which states that, "Effectively integrated management of water resources is important to all socio-economic sectors relying on water. Rational allocation prevents conflict and enhances the social development of local communities, as well as economic planning and productivity. Efficient demand management allows water-using sectors to achieve long-term savings on water costs and stimulates resource-conscious production technologies. Health conditions and environmental quality should also improve, either as a result of integrated development planning or as a beneficial consequence of improved environmental or social conditions. Further, we should monitor the implementation of the Johannesburg commitment, "...To halve by 2015 the proportion of people who do not have access to basic sanitation."

Environmental justice is the goal to be achieved for all communities and persons across the world. The US Environmental Protection Agency (EPA) states that environmental justice can be said to have been achieved "when everyone, regardless of race, culture, or income, enjoys the same degree of protection from environmental and health hazards and has an equal access to the decision-making process to have a healthy environment in which to live, learn, and work." Yet the fact is that 13 million people in Africa alone have no basic access to water. Let their dire need be treated under the same principles of justice.

II. HEALTH AND TOXICS

Chair: Ravi Aggarwal (Toxics Link, New Delhi)

There are four large areas of concern, which together embody the wide vista of environmental justice. These are:

- Health of communities
- Information, access and rights
- Corporate responsibility, production systems and waste
- Consumers' choices and alternatives to toxics

We have four panellists today: two from South Asia – Michael from Gujarat and Usha from Kerala, as well as two from North America - Peggy and Nelson.



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SOUTH ASIAN PERSPECTIVE

1) Usha (Thanal, Thiruvananthapuram)

This is the right day to converse about health and toxics since it is the 18th anniversary of the Bhopal disaster. Today I will briefly talk about pesticides and health issues in India. The use of pesticides is not a recent phenomenon in India. It started during the colonial period when the British brought pesticides like DDT to the tea and coffee plantations they owned in vast areas of South India and the Northeast. Needless to add, there was no regulation on the import and use of such deadly chemicals.

The first World Health Organisation (WHO) gift to post-independent India was a DDT factory in 1954. The use of pesticides increased multifold in the 1950s, with the manufacturing of BHC and other organo-chlorine pesticides in India. A conspicuous absence of laws regulating the import of hazardous pesticides resulted in a scenario where manufacturers did not need to submit toxicity data in order to get a license to sell pesticides. In 1958, a major pesticide accident in Kerala forced the governments, both state and central, to look into the issue. The accident occurred when pesticide packets were kept over food material, while en route from Bombay to Kerala by ship. The packet that contained pesticides leaked and contaminated the foodstuff. This leak resulted in the death of more than 100 people, including a child, and poisoned more than a 1000 others. In the aftermath of such a large-scale accident, the governments were forced to appoint two committees. The mandate of the committees expected to develop a suitable law for India to ensure safety to the people and the environment. It still took 10 years to enact the Indian Insecticides Act, which came into law in 1968.

The Act aims to ensure safety during the manufacture, transport and sales of pesticides. The focus of the Act has been to ensure safety only in the production stage, and does not articulate any concerns regarding the protection of farm-workers handling the pesticides and consumers who are the indirect victims of pesticide poisoning. There is nothing in the Act to protect women and children even while they work on farms. The Act while purporting to protect human health and ecology, in reality does very little for either. The Bhopal tragedy showed us how this act failed to protect neighbouring communities from a pesticide manufacturing facility.

The Act proposed to set up an authority to look into the registration and other regulations of pesticides in the country. The Central Insecticides Board was thus constituted under the Ministry of Agriculture. The Board appointed a committee in 1984 to look into the re-registration and continuation of the



use of certain pesticides in India. The 1984 committee, which came out with its recommendations in 1991, allowed the continued use of most pesticides, albeit with specified restrictions.

The endosulfan tragedy, which took place in Kasaragod, Kerala, again proved the ineffectiveness of all these regulations and committees. Endosulfan, a deadly but highly preferred pesticide, has been used in Kerala and in the rest of India for decades without any impact assessment. The use of the pesticide endosulfan was temporarily banned by a court order. But the reality is that hundreds of such pesticides, which are highly harmful for human health and ecology, are still widely used. This again shows that regulations on paper do not restrict the use of pesticides at the ground level in India. It also shows that the implementing agencies are either ignorant of or indifferent to the use of pesticides at the ground level. Farmers and consumers are also ignorant about the negative effects of pesticides, due to a conspicuous absence of awareness programmes. Also, though there are a lot of pesticide poisoning cases in India, these are poorly reported.

One of the well-studied cases in India is that of the Handigodu syndrome, which was brought to light by another very visible pesticide tragedy in the state of Karnataka. The syndrome was brought to light in the 1970s, when a peculiar disease started to show up in the village Handigodu among a community whose regular diet in the rainy season includes fish and crabs from the paddy fields. These paddy fields used to be sprayed with the pesticide Endrin. This caused physical infirmity and at times, death in those who consumed the crop. But despite considerable energy spent on campaigning, the remedial measures required for the affected communities have not even been envisaged until now.

Suicides among farmers are increasing all over India. Easy accessibility to pesticides, economic pressures, crop failures and decreasing health conditions are said to be the reasons for this. Despite high incidence of such deaths, proper documentation has not even been attempted. Agricultural policy still favours the indiscriminate use of pesticides, without any attempt to reflect on the costs and benefits to society.

India lags far behind most other Asian countries in terms of the resources employed to reduce dependence on pesticides. Health policies also do not take into account the impacts of toxics, especially pesticides. India is second to China in the manufacture of pesticides in Asia. India exports a lot of pesticides, including the banned DDT, to other countries. It is very apparent that the interests of the pesticide industry drive pesticide policy in India, and the larger public interest is not a priority. Further, health effects due to continued



exposure during household use, and among vulnerable groups like plantation and cashew factory workers, consumers, women, public health workers and farmers, are completely bypassed. We need to work hard to change this tilt in agriculture and health policy, so that we can win back the health of our people and our soil.

2) Michael Mazgaonkar (Paryavaran Suraksha Samiti, Gujarat)

I work in the state of Gujarat. The state houses some of the biggest manufactures of pesticides in India. Beside three large industrial estates in Vapi, Ankleshwar and Nandesari, it houses thousands of small-scale industries manufacturing pesticides that are harmful to human health and ecology.

Here are some slides that provide ample evidence of the indiscriminate and extremely harmful pollution caused by pesticides and chemical manufacturing processes. There is an alarming amount of dumping of hazardous waste in the rivers. Dumping is preferred as it is a no-cost option, compared to the creation of landfills, which are "expensive". Neighbouring communities also use these rivers for fishing, and thus face grave threats to their health.



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These industries also dump their hazardous wastes on public land. Other harmful effluents are also recklessly and consciously directed into rivers. Due to the indiscriminate dumping of solid and oil waste, the ground and surface water in the area has been heavily polluted. The colour of water in both neighbouring rivers and wells has become red. The whole water belt has also been contaminated with mercury. School children have had no choice but to consume the contaminated water. A study found 80 times the permissible level of mercury in the water.

We have constructively engaged with other NGOs in lobbying with the Pollution Control Board and the local administration, and also to do more sampling. Engagements with the media have given positive results. These engagements also included organising local people and helping them to become aware about their health and livelihood issues. Through this work, we have achieved 5 industry closures during the last 5 years, and 7 closures in all.

However, 2 factory owners are trying to use these closures against us by saying that we were responsible for workers losing their jobs. But since we have been working with trade unions and labour unions for the last 13-14 years we have been able to educate many workers as to the real picture, and have been successful in building bridges. We are looking forward to suggestions from all of you on how we can take our fight forward more successfully.

NORTH AMERICAN PERSPECTIVE

1) Nelson Carrasquillo (Farmworker Support Committee, Pennsylvania)

I represent El Comité de Apoyo a los Trabajadores Agrícolas (CATA) or, in English, the Farmworkers Support Committee, which is located in the United States. CATA is a grassroots organization comprised of and guided by immigrant and migrant farmworkers, most of who are from Mexico and Puerto Rico. Workers migrate from their home countries to the northeastern region of the US to work in the fields. CATA engages workers from a diverse agricultural industry, and a significant part of our work focuses on mushroom workers in Kennett Square and surrounding areas where more than 40% of the mushrooms in the US are produced.

The direct day-to-day exposure of farmworkers to pesticides has a serious and adverse impact on their health. Many of our members—after a period of 10-15 years of working in the fields—have begun to show symptoms that affect their capacity to sustain the intense level of physical effort required in agricultural labour. We believe it is influenced by their daily contact with and cumulative effect of the diverse pesticides used, as well as the lack of protection from exposure. Many of our members have told us about these circumstances, which force them to return to their home countries since the health problems they face limit their capacity to work. Needless to say, farmworkers do not have social security to support them. The best protection for workers is to limit or cease their exposure to pesticides, which can only happen by stopping the use of pesticides and utilizing safer, less toxic alternatives.

Increasingly, as research comes forth, it is not only farmworkers but also consumers who are affected by pesticide use, as pesticides have adverse effects on the entire food system. For us, the interest of farmworkers is also the interest of the consumers, and we make a direct link between the two. The food system in the US relies on large-scale agricultural production, which is reliant on pesticides. Most farmers believe that they have to use chemicals in order to compete in this large-scale production model. As a consequence, they feel that they have to depend on pesticides, which eventually leads to potential health problems not only for themselves, but for workers and consumers as well. Furthermore, the dependence and increased use of pesticides and fertilizers ensures that the cost of production is set by the market, and not by the farmers. Hence we have as an outcome in the US, the loss of control by farmers over their own livelihood.

CATA along with other farmworker organizations—the Farmworkers Association of Florida and the Border Agricultural Workers Project—has



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formed the Farmworker Health and Safety Institute. The purpose of the Institute is to help build the capacity of farmworkers so that they are better able to address the health problems they face. The Popular Education Methodology utilized is based on the belief that workers have to take control of their own lives. Our work is to monitor workers' health problems, and keep track of pesticide poisonings while documenting the agricultural pesticide practices of farmers. We create training models to facilitate the capacity of workers to develop their own ways of looking at their workplace and community situation. The increased understanding of their reality enables workers to be proactive in protecting their health while working on the farms. As a policy, the organization has identified via farmworkers' comments that the best protection from pesticides is no exposure. Consequently, we believe that traditional forms of production (i.e., organic and sustainable) will be the best protection against the adverse effects of pesticides for consumers, farmworkers, farmers and the environment.

We advocate for the need to highlight the dangers in the current methods of agricultural production. We also document the operations of farms in specified regions, and analyse patterns of pesticide use in these identified areas. Through such documentation, we have noted and examined the compliance and enforcement of agricultural and environmental laws related to farmers and farmworkers. This documentation is used to challenge policies and regulations at the local, state and national levels of government. This component of our work is critical because it enables farmworkers to advocate for the protection of their own health and to communicate their concerns with the larger community of consumers and law-makers.

2) Peggy M. Shephard (West Harlem Environmental Action, New York)

Environmental burdens, particularly with regard to effects on health, disproportionately affect people based on their race, class and income. Communities of colour face additional health threats due to the intentional and disproportionate siting of hazardous and polluting facilities in their neighbourhoods. The occurrence of breast cancer is much higher among women of colour while the death rate from asthma is 3 times higher among African-Americans. Indoor exposure to nitrogen dioxide and carbon monoxide is much higher among low-income communities. Societies are based on inequality. The lack of social capital impacts a community's capacity to mitigate environmental damage.

Partnerships are being forged between public health schools, such as Columbia



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University, and toxics-affected local communities in order to develop studies for monitoring exposure levels. Pregnant mothers exposed to pesticides and chemicals give birth to babies with smaller head circumference, which could result in reduced IQ levels. It has been found that people living close to highways have decreased lung function and biomarkers for diesel in their urine. Exposure to diesel fumes from buses and trucks increases the occurrence of asthma in black and Latino neighbourhoods in New York City. WEACTION is working with the state and the US Environmental Protection Agency (EPA) to increase air monitoring. We educate policy-makers and promote the conversion of diesel to cleaner fuels like compressed natural gas (CNG). Some of our efforts have resulted in New York State adopting its first environmental justice policy that requires an additional review if an applicant intends to develop a facility in a predominantly community of colour.

Egregious health disparities amongst people of colour continue to escalate. A significant amount of work remains to be done if we are to improve environmental health and achieve environmental justice.

CONVERSATION

Ravi Agarwal: I see the EJ issue at two levels – one at the global level, and the other at the national or regional level. The dynamics between the two could be different. An illustration of this differentiation would be the international waste trade, where one can see that waste is transferred across the boundaries of one country into another. While elite regions of the world, viz. North America and Western Europe, are thus cleaned of extremely hazardous toxics like mercury, this clean-up is done at the cost of dumping in parts of Asia and Africa. As environmental standards become increasingly strict in North America and Western Europe, one will find that there is an increased flow of this hazardous waste to the poorer communities in the Global South. One is only transferring the risk to the poorer communities and not regulating or preventing it.

Ranjan Rao Yedoor: There is a stark rural-urban divide in water use and policies. The way the state prioritises water supply and distribution to big cities is unconstitutional. Almost 70% of the rural population doesn't seem to have the right to water. Only urban people have the right to water. What is the legal basis of this practice? Second, under the water policy, drinking water ought to be the first priority, followed by agriculture and then industry. In actuality this has not been so. For instance, one single company has been allowed to draw 10 million gallons of water per day from the river Netrawati. In the same period, farmers have been told that they can have access to



irrigated water only during the period January to June. That also happens to be the period when there is 100 inches of rainfall in the region, when farmers do not need water. The bias for dominant interests is very apparent in the planning process when looking at the state preference for constructing big dams.

Leslie Fields: The World Water Forum will be held in Kyoto in March 2003. This is not a UN-sponsored forum, but a forum where major water hustlers of the world are coming together to discuss local, urban, rural and international issues related to water. It would be good to send representatives, who are fully prepared to make an impact during the forum proceedings, so that there can be continuity on the issues from the Johannesburg Summit.

Rohit Prajapati: I have five related points. 1) Both at the global and national/regional levels, there are serious implications for people who use groundwater for survival. 2) There are no restrictions for commodification of groundwater, which is already leading to a major crisis situation. 3) When there is a case of water contamination, the state and judiciary in India have not made the polluters pay in the real sense. 4) The judiciary has in some cases interfered, but the main focus of these interventions has been merely compensatory in nature. These compensations have been grossly inadequate for the affected communities. 5) The apparent conflicts between workers of polluting industries and neighbouring communities need to be effectively addressed. This would involve communicating the linkages, and integrating health issues to water vis-à-vis labour and community. In Gujarat we have a chromium sulphate factory where 30% of the workers are facing severe occupational health problems, including dermatitis, high levels of chromium in their blood, and even death.

Ranjan Rao Yedoor: There are laws regarding groundwater use in the state of Karnataka, though there aren't adequate provisions to implement them.

O.V. Nandimath: Access to groundwater has become an issue of survival for many communities, and is increasingly being determined by one's economic capacity. The judiciary is not very effective in such matters, due to the absence of adequate laws in the area. A comprehensive river policy is needed to regulate problems such as encroachments, sand mining and cultivation along riverbeds that result in floods and damage to riverbeds.

Daniel Magraw: In the US, we have an unfortunate situation as there are no good laws to tackle problems related to groundwater. We in the US feel that the Indian Supreme Court is doing very well with its judicial activism. In



Johannesburg a judicial forum was conducted right before the World Summit on Sustainable Development (WSSD), where 160 judges from all over the world met to discuss issues on environment and health. An ad hoc working group was also set up. It may be possible for activists from different countries to see what this judges' group is doing to implement the lessons borne out of the forum.

Videh Upadhyay: The reality that Michael presented with regard to Gujarat is really startling. It is very apparent that the fundamental right to clean drinking water is enforced far more in urban areas than in rural areas. The early formulation of this right emanated from the articulation of the need for pollution-free water. This was wrongly construed by the judiciary as a restriction of this right, viz. prevention of pollution. The judiciary has thus neglected the fundamental question of access to drinking water. The High Court of Uttar Pradesh, in a judgement in 2000, articulated the right to drinking water for every person effectively. This was probably the first judgement to articulate this right. The effect of this recognition of the fundamental right of access to drinking water has to be reflected in relevant laws through amendments. Despite support from the Union Ministry, the realization of this right has not been carried out, making it of little value. This has contributed to the continuation of an uncoordinated legal framework comprising of fuzzy water rights.

Peggy Shepard: Our conversation has started revolving around the judiciary. I think what is also needed is a culture of organising coalitions, where people fighting similar problems organise themselves into a coalition and lobby to change policies. When we were working on the issue of contamination sites, we developed a coalition of about 40 people who began to develop a new policy and lobbied for changes in policy. When you have these water issues, do people in your state also similarly organize themselves and lobby officials to try to get changes in the policy, which is easier than bringing about new legislation?

Vernice Miller-Travis: A lot has been achieved in the US by long term-sustained efforts of social and political activism. The US Government has ignored several fundamental issues, and is complicit in the death and decimation of communities. As activists, we have to ensure that community linkages are made stronger.

Krishna Prasad Oli: The presentation on Gujarat was excellent. It is important to question why, despite the existence of legal provisions, environmental injustice still exists. In the absence of enforcement by the state machinery, how do we



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ensure environmental justice? The other issue of concern is that of privatisation of water. Water is being privatised for drinking, agricultural and industrial purposes because it is in the interests of people in dominant positions. My opinion is that water should be owned by the community, and used for the betterment of the community.

Syeda Rizwana Hasan: When states adopt environmentally unjust positions in the name of national interest, it is very important that civil society does not do the same. For instance, in the issue of water distribution between an upper and lower riparian state, civil society in both countries ought to take a position that would enhance environmental security and equity in the region. In today's discussion, issues related to coastal water have been neglected. Two-thirds of Bangladesh is classified as wetland under the RAMSAR Convention. There is a serious situation of water contamination with chemicals like arsenic, leading to a situation where there is no potable water available for rural communities in traditionally water-rich areas. Also, the perspective of water as a necessary element to sustain biodiversity needs to be highlighted.

Deohn Ferris: In the US there has been a very fragmented government approach to water management. This is largely due to the existence of a host of statutes on different aspects of water.

Leo Saldanah: In India, especially in recent times, the tendency to run to the court at the drop of a hat has increased. This is a negative trend, where public interest petitions are filed just for the heck of it, without any process of wider consultation in civil society. Once the court takes cognizance of the petition, it shuts out participation from the rest of society. The complexities of a case, especially related to power interests, have seldom been addressed by courts.

Hemantha Withanage: The water policy of the Asian Development Bank (ADB), that treats water as a commodity, is being widely used as a blueprint for Asia. Sri Lanka already has plans for water privatisation in 10 cities. Is the privatisation of water bad, or are the water privatising companies bad? I feel that privatisation of water is bad because water is a common resource that must be available for all to use. Toxics standards in the South are much lower than those in the North. We need the same standards here as well because all human lives are equally valuable.

Vernice Miller-Travis: The US is not a signatory to the Basel Convention, but we have Japanese companies like Shinitsu that produce PCBs in the US. Since Japan is a signatory to the Basel Convention it provides some leverage for us against these companies. While toxics standards in the North might be



officially higher than those in the South, in practice there is a lot of discrepancy within the North as well. For instance, the life expectancy of a male in Harlem is less than that of a male in Bangladesh.

T. Mohan: I think it is high time that we focus on building strong networks of communities and activists. Such networks in India are weak, and fraught with fractures and divisions due to personal and other minor differences.

Sanjay Upadhyay: Surface water in India is regulated by the state while groundwater belongs to the owner of the land. Regulation depends on how much water one can draw. There are 42 marine laws in India, 10 organisations that affect coastal area management, and 17 international conventions that operate in India.

Linda Chhakchhuak: We have to address the fundamental problem of lifestyle issues. Water flows out of the earth and not out of the Supreme Court. The issue hence is one of addressing equity and resource-intensive lifestyles in order to tackle the so-called scarcity.

Savi Horne: One of the conclusions of this conference should be a mechanism to continue dialogues, use available legal resources and pool our energy towards common goals.

KNITTERS:

1) Water: Biplove Choudhary (Society for Conflict Analysis and Resolution, New Delhi)

The presentations on water highlighted two perspectives: water in the world and the world in water. Water is a socio-economic resource. Less than 1% of the world's water is available for drinking/agricultural purposes. The current population of the world is 6 billion, and this is expected to rise to 9 billion in 2050. Some primary issues of concern are those related to the quantity of water, the quality of water, and rights to access and use of water. Questions of riparian rights affecting downstream communities, depletion of groundwater tables, and water budgeting are also important ones that need to be addressed. A distinction must be made between privatisation and private appropriation as these play out in different ways with regard to water control. What is the best approach to water management, and what should be the philosophy behind it? Water policies regarding protection, distribution, use and access need to be framed keeping in mind certain principles of participation and equity, including the special interests of vulnerable groups.



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The final issue is that of coalition building. This has been approached with fractured vision. The problem is that there are groups with different politics and priorities and varied levels of organization; thus bringing together diverse interests can prove challenging, though it is often a much needed catalyst in the fight for a common cause.

2) Toxics: Parisa Norouzi (Organizer, Washington DC)

The presentation from North America focused on the problem of siting of toxics facilities in low-income communities and communities of colour. South Asia also experiences such siting in poor localities but race is not a factor. It was agreed that instead of merely focusing on the problem of siting, we should work towards abolishing these toxics. We should seek global environmental justice: in absolute terms, we do not want the presence of these toxics anywhere in the world. The importance of the strategy used by the farm workers to link producers with consumers and train producers to identify threats to workers, community and the environment was recognised. The importance of holding transnational and other corporations accountable, and the necessity of a strategy based on partnership, was underlined. The possible strategy of challenging corporate charters has had limited exposure. Finally the need to combat the lack of enforcement of environmental and safety standards was reiterated. There was a suggestion from many that avenues for community-based enforcement be explored.

3) Toxics: Sunita Dubey (Environmental Justice Initiative, New Delhi)

Ravi brought up four broad categories that are important to the discussion on environmental justice and toxics. We also need to look at the issue of information related to toxics. Technical information must be simplified and made relevant for community dissemination, taking into account the needs and literacy levels of communities. Apart from regulating international companies, local companies must also be made to comply with national standards. While regulation of toxic chemicals is an important component, alternatives need to be developed so that these toxics can be completely phased out.



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Day Three: 4, December 2002

**Session VI: CORPORATE
ACCOUNTABILITY**

The session reviewed adverse corporate impacts on the environment and the strategies employed by them in dealing with environmental justice issues. The aim was to examine the extent of big corporations taking deliberate advantage of weak governments and irresolute development policies when it comes to environmental justice and risk mitigation. The session looked at the discriminatory behaviour of corporations when it comes to compensating poor people in developing countries.

NORTH AMERICAN PERSPECTIVE

Leslie Fields (Friends of the Earth, Washington DC)

Introduction

Good afternoon. I realized I was remiss yesterday for not publicly acknowledging and thanking the organizers of this conference, especially my dear friend Vernice Miller-Travis. Thank you for this opportunity.

We all know all too well the misdeeds of corporations, so I'm not going to elaborate on examples. What I am going to do is propose examples of work that can be done to counter corporate criminality (which is what we should start calling many of these problems) and monitor corporate accountability. As we move forward in this discussion, I hope we can start thinking and verbalising on how those of us from two different regions of the world can start collaborating together. Issues of environmental racism and injustice flow directly from corporate criminality that is aided and abetted by state action (or state inaction).

Binding Corporate Convention

Friends of the Earth International (FOEI) has launched a world-wide campaign to lobby governments to collaborate for a binding framework to secure the accountability of corporations to citizens and communities. FOEI is urging governments to collaborate on establishing effective international and national law on corporate accountability, liability, and reporting, backed by greater enforcement and sanctions.



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There has been movement on this issue, mostly in Europe. The Germans have produced a legally binding corporate governance code, to be reviewed once a year. In Britain, a committee under Derek Higgs, an investment banker, is expected to recommend that boards be more open about how they appoint non-executive directors. The EU published its own proposals in November, putting the responsibility for company accounts firmly on the shoulders of their boards. Regarding the issue of just corporate governance, in a recent survey in *The Economist* magazine, among the top 10 companies in the most industrialised nations, Germany came first, followed by France and Britain. The US was next to last, beating only Japan.

The campaign for a corporate accountability convention is going to be a long haul. Frankly, it is not going to get much play in the US, under the current administration. FOE-US, CIEL, Natural Resources Defense Council (NRDC), and other Washington-based environmental groups met with Assistant Secretary of State Turner a few times before the World Summit on Sustainable Development (WSSD). At the first meeting with him after we wrote to him about the possibility of his backing our insistence on corporate accountability, he simply said, "Oh hell no."



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This took place earlier this year when we actually had some traction on corporate accountability. Enron, Worldcom, Tyco, and Adelphia were all in the headlines everyday. The Sarbanes-Oxley Act only had one aim: to clean up the auditing process. This bill's main provision sets up a public company accounting oversight board to oversee auditors. That traction has dissipated right before the US midterm elections of early November. The "Bushies" pulled a "wag-the-dog" strategy for the Republican challengers. The Democrats had no counter message and in fact joined in the chorus. The Democrats did not distinguish their candidates with any message and lost control of the Senate. Now both houses of Congress and the White House are controlled by Republicans. Thus I believe that the momentum for a corporate convention will have to come from our allies outside the US. The actual text of the convention on corporate accountability is on our website (www.foei.org). Please download it and review it when you get a chance. In addition, the environmental community can take a lot of lessons from AIDS activists such as ACT UP who have been leading a worldwide campaign to get pharmaceuticals to lower drug prices for the countries worst hit by the epidemic.

International Right to Know

Into this breach we ride, with the International Right to Know (IRTK). We already have draft legislation and a democratic sponsor – Rep. Hilda Solis of

California, and Rep. Chris Shays, a Republican from Connecticut (the author of the Shay-Meehan Campaign Finance Bill) who have shown interest. Again, I am very pessimistic about this legislation but I do believe it will be useful as a good coalition tool.

In the US, we have to face the reality that the Bush Administration is closed off to us. Our strategy must shift to the local level to buttress international conventions. We are doing that when it comes to climate change: municipalities are putting limits on their emissions on greenhouse gases. Earlier this year, 17 Attorney Generals signed a letter to the Bush Administration stating that the Federal government was not doing enough to enforce the relevant environmental statutes that would help curb greenhouse gases. As I mentioned yesterday, FOE and Greenpeace filed a climate lawsuit against the Overseas Private Investment Corporation (OPIC) and the Export-Import Bank (EXIM) for their non-compliance of the National Environment Protection Act (NEPA).

Other Ideas

I believe the EJ movement within the US needs to revisit the successful strategies that led to divestment in South Africa. Many of us cut our teeth in this fight as students and young adults. The EJ movement needs to collaborate more with investor shareholder campaigns and highlight the environmental abuses of corporations. We need to become shareholders, ourselves and vote our proxies at shareholders' meetings. There is a burgeoning corporate democracy movement and some EJ folks attended that first meeting earlier this year in New York.

Other tools include strategic lawsuits, hit-and-run media campaigns patterned after the "blood diamond campaign" led by Global Exchange. At FOE-US we have a campaign on reforming the Security and Exchange Commission (SEC), such that SEC filings must include all relevant information; for example, Dell computers, while showing a profit for the past few quarters, does not say anything about Taiwan. Yet almost all of the semiconductors are made by subcontractors in one earthquake-prone region in a politically sensitive country. A triple bottom line of environment, labour and social indicators should be reported in the portfolios so that investors will receive a true picture of the company. We maintain that it is an abdication of responsibility on the part of companies, if investors are not given full information.

Other examples are charters, and initiatives like the Global Reporting Initiative (GRI) that are being utilized by companies but, they're all voluntary.



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As some of you might remember, within the UN there used to be a commission on transnational corporations (TNC). That commission has been abolished. Corporations emerged from the Rio Summit with no binding rules or regulations to hinder their environmentally and socially damaging activities. The only reference to transnational corporations in Agenda 21 was an acknowledgment of the role of industry in sustainable development. This was accomplished largely thanks to the strategic lobbying by the Business Council for Sustainable Development (BCSD). The BCSD at that time (it has since grown) was a group of 48 business leaders from major corporations around the world. As many of us who attended the Johannesburg Summit can attest, corporations have really perfected their "greenwashing" abilities to a high art. The BCSD was very active in Johannesburg and promoted the partnerships. Now about 400 are online on the official website and those need to be monitored. This may be one way to influence corporate behaviour.

SOUTH ASIAN PERSPECTIVE

T. Mohan (Lawyer, Chennai)



Today I would like to focus on the necessity of building a strong corporate regulatory structure in India. South Asia is one of the oldest victims of corporate crime in the world. The British East India Company committed significant atrocities of various kinds, including economic, on the people of the region, the effects of which are still being experienced. Over the last two years in India we have had a lot of discussion on corporate governance. One can identify three issues, which need to be addressed in India. These are: the need for stringent disclosure requirements for corporations; environmental remediation; and fixing liability for environmental damages and health impacts. The last two issues are much more complex in the Indian context. It has been extremely difficult in India to even attempt to assess environmental damage and demand remediation. The Indian legal system has not learned many lessons from the Bhopal gas tragedy, especially in the realm of legislation.

What is striking is the lack of a systematic legal procedure with regard to corporate liability and compensation. Compensatory litigation to hold corporations accountable has actually revolved not around civil courts, but constitutional courts. This scenario has its obvious limitations. Further, in regular civil courts we don't recognise punitive damage. It has not even reached our legal system as yet. Instead, most of the time we depend on the court granting compensation for actual proof and harm. Where one needs to prove actual harm, one needs to present evidence of actual damage in order to receive compensation. This raises the issue of admissibility. How do you prove actual harm? How do you carry out a full-scale health survey?

There is a substantial dearth of mechanisms to prove harm in the country. In one case I was dealing with, a coalition of people got together and formed a community health project. The objective of the project was to go to the communities directly affected by industrial pollution, assess the health of the affected people, and try to bring out a vigorous scientific and empirical report which could strengthen our efforts.

Overreliance on the higher judiciary for compensation is one of the reasons why suitable mechanisms for proving harm do not exist. The higher judiciary is expected to determine constitutional questions, while the civil court takes action for civil damages. We have a scenario where most compensation is acquired by going to constitutional courts. The constitutional court usually sets up a committee and sets out a mechanism, which deals with the compensation issue. This overreliance on the higher judiciary, which is necessarily an adhoc mechanism, has conversely resulted in a legal structure that is not systematic.

The liability of corporations to compensate the loss of livelihood and property under the Public Liability Insurance Act, which deals with mass disaster in India, is nominal. The Act, which emerged from judge-made law, has not been transformed into a systematic and effective ruling. The implementation of this Act has also remained very difficult.

The trend in the attitude of the Indian state, of being soft on the affluent and powerful and being harsh on the weaker sections, is very apparent in the area of environmental damage and corporate accountability. While certain stringent environmental requirements have hit the poor in an extremely adverse manner, these same sections of society are also forced to deal with the formidable task of proving the complex and technical environmental liability of corporations. This discrimination is also seen in how the courts have diluted charges against Warren Anderson—the prime accused in the Bhopal gas disaster—and the comparatively meagre compensation granted to the victims.

To address this tilt, it is important to increase collaboration between the state and civil society in order to check criminal actions of corporations. In the Bhopal case, the Union of India took over the right of the victims to sue the Union Carbide Corporation (UCC). This resulted in the lack of collaboration with the environmental community. If this collaboration had existed, the effects of extraneous pressures on the Indian state, including from the US trade department and industry, would have been less.



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Hence it is the need of the hour that affected and concerned components of civil society work together and pressure governments to enforce corporate responsibility.

CONVERSATION

Vernice Miller-Travis: As there is so much investment flowing into the G-77 countries, is there a sense of the urgent need to promulgate legislation to check corporate crimes at the G-77 level? At home, whenever the issue of corporate crime and the need for legislation is raised, the standard defence has been that it is for the interest of poor communities that such investments comes in, and such a law would hence be detrimental to the interest of poor communities who need the jobs provided by corporations.

T. Mohan: This claim of poor communities benefiting from foreign direct investment itself is false. Even if investment is required, corporate accountability cannot be dismissed.

Michael Mazgaonkar: There are plenty of local ways to generate jobs and investment.

Deeohn Ferris: In the US, the political system also encourages the huge influx of corporate money for political campaigns. This makes the nexus between corporations and politicians very strong.

Ruana Rajepakse: A significant change in the corporate skyline in South Asian countries has been foreign direct investment (FDI) in public utilities such as water, electricity and other services like health. We have to examine the question whether privatisation per se can be beneficial if properly regulated. India is the only country where privatisation of water has not resulted in a steep price rise. In Sri Lanka we have not yet privatised our water, but the government is moving in that direction. Until recently there were state arrangements for people who had no access to water, including provision for pipe-borne water at a nominal fee. Certain essential articles like food and water were exempted from the general taxation for goods and services. In a recent switch to the VAT (value-added tax) system of taxation, the tax exception on water was removed. When water is privatised, companies get the revenue. However, the state still needs revenue, so consumers are made to pay even more. This would be the general pattern in most of the privatisation measures of public utilities.

As for the question of corporate accountability, we have to think in terms of remedies other than litigation. While litigation is necessary in many big cases, other strategies of group action have to be employed. It is not feasible to



employ a litigation strategy in every individual case, as the comparative resources of companies for legalese far outstrip those of concerned communities and individuals. One of the methods tried in the United States by consumer groups is to buy shares in these companies so that they can have access to annual reports, and can also attend company shareholder meetings and raise pertinent issues.

Leo Saldanah: In India we have employed the strategy of going to the higher judiciary, often with disastrous results. One other strategy that we have employed successfully is to effectively utilise the office of the magistrate. The British tradition of the magistrate being a superior power centres has some scope to be used well in environmental decision-making in India. This is when the magistrate happens to be part of the decision-making process in public hearings. An international firm had a contract for building a dam in Karnataka. The question before us was to challenge construction before the high court or to organize an effective public hearing. We decided not to go to the high court and tried to make sure that the magistrate effectively exercised his/her powers in the public hearing process. Through this we were able to stop the dam, but at the same time we could also push for compensation.

Ravi Rebapragada: At the World Summit on Sustainable Development in Johannesburg, the launch of private-public partnerships reflects a dangerous trend with regard to corporate accountability. This buzzword of "tripartite partnership" has been rejected by indigenous and other rural peoples in many countries, including Indonesia, India and Papua New Guinea. People have been resisting and have emphatically rejected industry moves labelled as "dialogue" or "engagement" as a sham. An example in India is the Utkal project in Orissa. The land has been acquired, permission has been given, and all the clearances are in place. All that is left now is for the company to come and start construction and mining operations. This is a real blow to the communities who had been successful in fighting this Rs 5000 crore project for the last ten years.

Voluntary initiatives like the Global Compact and Business Partners for Development skirt the issue of legal liability. The Mining, Minerals, and Sustainable Development (MMSD) report released by the International Institute for Environment and Development (IIED) claims that mining is the most sustainable form of development for the whole of society for this century. Funded by 30 MNCs and civil society groups, this report is extremely damaging. It is a wellknown fact that mining is an extractive industry, and one with severe harmful effects to the environment and peoples' health. The mining industry has consistently skirted responsibility and used "greenwash" and



extensive resources in order to strengthen its foothold. The only way to regulate the mining industry is to mandate it to give bank guarantees prior to the initiation of the project, so that in the eventuality of an accident or disaster, the community or the government has something to fall back on.

Syeda Rizwana Hasan: In Bangladesh, a recent phenomenon has been to take guilty corporations to criminal courts. Otherwise we have very strong constitutional courts. The relief against corporate crimes has been mostly declaratory rather than compensatory. Further, the track record of such litigation in the high court has not been very productive.

Another important aspect in corporate responsibility is the issue of liability of seed companies that are destroying indigenous varieties of seeds by promoting high-yielding varieties. As farming communities are traditionally seed preservers, this has led to the destruction of indigenous systems of agriculture. In many cases seed companies have claimed that their seeds would be more productive than the indigenous species, whereas in actuality they have failed. Resulting claims for compensation in the civil courts are yet to be decided. Though there are legal remedies available for corporate accountability, ignorance of the law and lack of access to relevant information for the communities, unique socio-economic conditions, and lack of awareness and experience among the judiciary, aggravates matters.

Justice Kalyan Shreshta: Often the problem is also within the legal system as even the judiciary is not familiar with the fundamentals. In Nepal we don't have a separate tort law and the Supreme Court has not been able to give compensation in real terms. We have recommended the enactment of a law similar to India's Environmental Protection Act. Developing countries need to create effective legal regional mechanisms through which global corporations can be held accountable within domestic jurisdictions. Without such moves an international convention will not be of much relevance.

O.V. Nandimath: I would like to confine my comments to litigation concerning the Bhopal case. The Bhopal case was fought only on the basis of technicalities. When the case was introduced in Judge Keenan's court in New York, the whole point discussed there was whether Union Carbide Corporation (UCC)—the parent company—could be held responsible or not. So the question was whether Union Carbide India Limited (UCIL) or UCC should be held responsible. They wanted to show, on the basis of jurisprudence, that there is no nexus between UCC and UCIL. One was a parent company and the other was a subsidiary company. The argument was that if UCC were held responsible, then in effect, the shareholder would be held responsible



for the tort/wrong committed by the corporation. The judge was also convinced that if a decision were passed saying that the parent company could be held responsible for the wrong committed by the subsidiary company, the matter would reach the US Supreme Court. Additionally, there was the worry of this becoming a precedent marking the decline of the US economy. Arguments were used to influence the decision and this could be why the judge used the doctrine of *forum non-conveniens*, which has been rarely used in the history of the US legal regime.

Vernice Miller-Travis: In the US, we have the same situation. There are people who have lost their land, animals, livelihood and family due to similar corporate crimes. But there are mechanisms in the US that hold such corporations liable. We can align together on such issues as we are also facing the same issues that you are facing. There should be no reason why you should not have any allies in the US.

Eileen Gauna: There is no mechanism of international corporate accountability. That is the stark reality. So we have to deal with domestic laws, which means we are going to get into these procedural and technical issues. They are unavoidable.

T. Mohan: The Union of India took over the right to sue on behalf of all the victims of the UCC, and therefore there was no collaboration possible in the environmental community here at that point. What needs to be addressed is the reluctance of the American legal system to deal with the acts of its corporations outside its borders. Judge Keenan's first sentence was that the taxpaying public of New York had a remote interest in the tragedy; no doubt that their interest in the issue was at best remote. That is what needs to be changed. The legal system asserts confidently that its officials can get away with it.

Ravi Agarwal: In a seminar in London last year where 40-50 activists working on the issue of mining came together, we had a lot of discussion on how to hold international corporations accountable. The groups coming from developing countries were opposed to any international setup. For communities in the South, going to the local court to file a case is in itself an uphill task. So approaching forums in places like the Hague or wherever, is almost next to impossible. We decided that corporations should be made accountable within the countries of their operation.

Hari Babu: The mention of Bhopal may be a good way to raise emotions, but we have to move beyond that now, especially since the World Trade Organisation (WTO) processes are making sure that national laws facilitate



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foreign direct investment. As elsewhere, various laws in India, including labour laws and coastal environmental regulation laws, are being diluted. We need to take into account such factors so that we can move forward.

Deeohn Ferris: Several organisations in the US have focused specifically on bringing shareholder actions to put pressure on the corporations for accountability. Through this means communities have achieved limited success. This is one component of such latent strategies. Another area is the establishment of global reporting and uniform environmental management systems, which shed light on the global activities of corporations. This would, in some measure, bring in some accountability with respect to company operations, and enable communities to access such information. There are several codes of conduct that the companies have signed. I am not certain how vigorously these mechanisms are applied, but this is another avenue on which collective work can be done.

In the US we have also focused on other ways of tackling corporate crimes, apart from engaging with the civil and criminal courts. We have tried to ensure that companies pay apportioned environmental fines to the community. These apportioned amounts can be used for beneficial activities for the community. So instead of delivering those fines into the general treasury, we can push for those fines to find way to the communities, as compensation. The other mechanism that we use in the US is a provision in law which disables a company from obtaining an environmental contract if they have a history of non-compliance with environmental laws and regulations.

KNITTER: Daniel B. Magraw (CIEL, Washington DC)

There are several points of consensus for us. First, everyone agrees there is an important problem because the operations of corporations have an extreme impact on workers, on the surrounding communities, on the environment, on customers, and on governments by way of the influence they have over governmental policies. Second, consensus may exist on the problem of public utilities being privatised, particularly to multinational corporations because of the issues this raises for corporate accountability. It seems clear that the problem is both domestic and international in nature because of the presence of multinational enterprises. The developing countries are particularly affected by the misconduct of corporations, although other countries are also subject to it. Third, it also seems clear to everyone here that the corporations are not likely to correct themselves.

We also agree that the choice between no jobs and bad investment is really a false choice, and hence we can insist on more than that. Information needs to be timely and accurate, and needs to be made use of in various strategies.



Another universally held view here is that this problem is so difficult that all avenues in applying pressure for change have to be utilized. We can't rely on any single approach.

Among lawyers there is a consensus that there is a need to push for laws with a sound base in justice and which are enforceable. Necessary ingredients include tort and other private remedies, well-crafted contracts and debarment. For laws to be enforceable, human and financial resources have to be adequate. The idea of imposing fines and plowing the fines back to the affected community to mitigate the problems is very important. Ravi's ideas of good contracts and consumer boycotts were very interesting.

One thing that was not mentioned here is the usefulness of educating companies. My own experience is that if we can help them to gain an understanding that other corporations are doing a good job and that they too can do a good job, it is more likely that they will do a good job. I worked on the Bhopal case, both as an environmentalist and in a law firm that represented India. While people were mostly concerned about compensating the affected communities, there were also many other agendas at play. As a result, victims still have not been compensated. This is something that is probably not unique to Bhopal, as we see the same pattern in similar tragedies. So this factor makes the situation even more complicated.

There was a discussion on voluntary codes where there was an assumption that multinationals are behaving well at home. I am not sure that is true. Maybe they are behaving better at home. But at the same time there were quite a few similarities between the situation in the US and other countries, from where precious lessons about addressing corporate accountability can be acquired.

Finally, the points involving international financial institutions like the World Bank and others should be kept in mind, as they also have internal mechanisms to ensure accountability. The need to change the paradigm was raised, so that corporations think not just about economics but also about social and environmental issues. This can help achieve a situation where rights and responsibilities are balanced. To conclude, what came out most strongly from this session was the feeling that there is a need for everyone to work together on the critical issues of corporate accountability.





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Session VII: CONSERVATION AND PEOPLES' RIGHTS AND MINING, DAMS, DISPLACEMENT AND ENERGY

This session entailed a discussion of conservation and development initiatives and their impacts on local livelihoods. Protected areas and "hands off" approaches to conservation were discussed in the context of the rights of indigenous and other local communities directly dependent on natural resources.

The session also focused on mega projects such as dams, thermal and nuclear power plants, and their social and environmental impacts. Injustices resulting from energy generation as well as the environmental, social, and cultural effects of mega projects were discussed. Social movements against mega projects were examined from the framework of environmental justice, which includes movements for local peoples' rights to participate and gain legal recognition of their community-based property rights to natural resources.

Chair: Leo Saldanah (Environment Support Group, Bangalore)

I. CONSERVATION AND PEOPLES' RIGHTS

NORTH AMERICAN PERSPECTIVE

Savi Horne (Land Loss Prevention Project, Durham, North Carolina)

We people of colour in the West have a debt of gratitude to India. It was India as a nation shortly after independence that took up the cause of political liberation in southern Africa, viz., South West Africa (now Namibia), and boycotted the apartheid regime in South Africa. India was a pioneer in the creation of the Non-Aligned Movement. India's freedom struggle against the British empire paved the way for national movements all over the world.

Yesterday's visit to the indigenous tribal areas within the Sariska Nature Preserve brings to mind the need to recognize the forest, wilderness and protected areas as cultural constructs. The rights of indigenous people to use these "preserved areas" must be protected from industrial and government encroachments.



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The notion of land and property as a cultural construct is also important to the African-American people. In fact, the loss of our property/land in the US has a direct correlation to the movement of noxious facilities into our communities. We in the environmental justice movement see a direct relationship between landlessness and environmental injustice, because at the root is a system of economic and racial oppression.

Today there are only 18,000 black farmers in the USA, a decline of 98% since 1920. In 1920, we had well over 925,710 farmers, who owned 20 million acres of land. The sheer magnitude of a people owning 20 million acres of land, only 56 years after the end of slavery, has given us African-Americans pride in our foremothers and forefathers in making this possible. The decline in our land ownership is due largely to public policy, economic pressures and racial oppression.

The loss of land for most farming populations in the US was due to the twin engines of mechanization and the dismantling of the sharecropping system; the latter due to federal policy. The enforcement of federal policy, laws and regulations by the United States Environmental Protection Agency has directly led to an increase in the industrialization of farm animals, producing an abundance of pork, chicken, and beef.

The video that we are about to watch—*People, Pigs and Power in North Carolina*—chronicles the abusive practices of this new style of agriculture on the environment, people of colour, and low-income communities. The documentary was produced by the Southern Environmental Law Center in conjunction with members of the North Carolina Hog Roundtable (this group no longer exists).

SOUTH ASIAN PERSPECTIVE

Sanjay Upadhyay (Enviro-Legal Defence Firm, New Delhi)

Today I would like to share my understanding of natural resource law, conservation, and peoples' rights in India.

There are many Norths within the South and many Souths within the North, and India even has a Northeast within it! My limited understanding tells me that the situation is very complex. I would like to look at environmental justice and natural resources from three basic principles:



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- Equal opportunity for natural resources
- Equal access to natural resources
- Equitable distribution of natural resources

If you look at the sheer number of laws that govern natural resources in India, it is an enormous figure. Natural resource laws may be divided into four broad categories: use laws, acquisition laws, conservation laws and regeneration laws. In terms of their numbers alone, 55% of the laws could be termed as "use laws", while 33% of the natural resources laws are intended for acquisition of natural resources; 11% of laws only talk about conservation, and less than one percent of laws aim at regeneration of natural resources. The sheer imbalance in terms of the focus of the law between use and acquisition of natural resources, and that of conservation and regeneration of natural resources, reveals the skewed priorities of the state.

The legal basis of the natural resource laws can be traced to two essential legal principles, viz., the principle of eminent domain, and the principle of criminal liability. The principle of eminent domain enunciates that the sovereign may acquire all the rights of private individuals in the interest of the public. The concept of public purpose, which is so inextricably linked with eminent domain, is well illustrated by the way the Land Acquisition Act has been implemented in India. The state has the final say in terms of acquiring natural resources, as it has the prerogative of defining "public interest" and "public purpose". In one of our studies we tried to examine what this public purpose exactly is. Supreme Court decisions from 1894 to 1998 revealed that the courts were unable to define public purpose, even after 104 years. All the land acquisition, and the enactment of laws on natural resources in the name of the public interest, is thus questionable as it seems to be largely based on state convenience and interest.

The principle of criminal liability bases itself on a command and control regime. This is in essence a policing structure, where the judge is expected to adjudicate conflict in an adversarial manner. In cases where there are competing claims, say of peoples' rights and conservation objectives, the judges face a dilemma. Both sides are sometimes equally well placed and judges have to decide which side they prefer. They decide on favouring a party based on the quality of argument on that particular day, or the kind of material that one places before the court on that particular day or in those series of hearings. There are many times when such factors can tilt the judgement one way or the other.



Going back to the “3Es”, i.e. equal access, equal opportunity and equitable distribution, when one looks at the different sectoral laws that exist today, it is interesting that peoples’ rights are recognised only as per government records.

This has resulted in non-recognition and neglect of traditional rights in the legal system. Despite provisions that have the potential of enabling recognition of traditional rights through constructive interpretation, they have not been used very much. For instance, during the rights settlement process in national parks and wildlife sanctuaries, there are provisions for enquiry into people’s rights, which are not necessarily in government records. But more often than not, the settlement officer who looks into the settlement of rights ignores that process and merely relies on government records.

Further, what are normally perceived as rights are sometimes treated as privileges. Strict interpretation of terms can provide for a substantial and material difference between rights, privileges, concessions and favours. Action without understanding these nuances often strips valid rights into mere doled out privileges, and thereby effectuates alienation of the rights of communities. There have been umpteen ways through which common lands of communities have been alienated.



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When we look at environmental protection laws in the country, we can see that they have been more reactive than proactive. Most of the laws like the Environment Protection Act, 1986, and the National Environmental Tribunal Act, 1995, were enacted only after the Bhopal disaster. Further, there has been a very systematic design to centralise ownership and control resources through the legislative framework. The Forest Acts from 1865 through 1927 to 1980 have been designed in a particular manner to acquire more forest land in the “public interest”. It is the same with land acquisition laws of the country. This systematic attempt has accelerated since the 1970s.

The legal structure and the bulk of the laws have been primarily exploitative, with very little regard for peoples’ traditional rights and their subsistence needs. On the other hand, there are around 19–20 laudable principles of sustainable development enunciated by the higher courts of the country. The trend however is one where ownership and control over the natural resources lies with the state, but the burden and cost of management is being gradually shifted to the local communities, especially through decentralised governance mechanisms such as the Panchayati Raj Institutions or institutions of local self-government.

In the last decade, the discourse of decentralisation has found favour in most South Asian countries. Complex politics at this level are further complicated

by large amounts of external aid for joint management structures initiated by the executive. This poses strong challenges for people working in this area. These parallel structures often have overlapping jurisdictions, and thereby contribute to the creation of conflicts, namely between the external executive committees and the Panchayati Raj Institutions (PRI) or local self-government institutions, which have jurisdiction over natural resource management including forests, water and land. There have been isolated attempts to link a sarpanch (head) of the PRI at the field level with these externally aided committees. But when one looks across the country there has hardly been any significant attempt to link the local self-government unit with the specialised committees that exist. The complexity is increasing with the externally aided committees initiated by the executive now also finding footings in law. This is another challenge facing those of us who are working in this area.

Finally, there is an urgent need to lay emphasis on emerging legal issues in the context of the modern trends both in terms of law-making and institution building, as well as the level of investments in the natural resource management sector. For it is my belief that law has a more potent role in pre-empting and preventing conflicts rather than providing solutions to already manifest conflicts.

II. MINING, DAMS, DISPLACEMENT AND ENERGY

SOUTH ASIAN PERSPECTIVES

Shekhar Singh (Centre for Equity Studies, New Delhi)

Big dams in India are effectively indicative of the thrust and nature of national industrial development. A recent study conducted by us for the World Commission on Dams revealed that 47% of the people displaced by big dams in India are tribals, while only eight percent of India's population is tribal. An assessment of past projects indicated that, at an optimistic best, the cost-benefit ratio on an average was 1:1, and that too without taking into consideration many of the social and environmental costs which the projects would incur. As the benefits were mostly for the rich and costs paid mostly by the poor, such large projects only redistributed resources from the poor to the rich. These facts demand a shift from a cost-benefit analysis to a class-benefit analysis. Recent criticism by Stiglitz of this neo-liberal model of development, created and vehemently pushed by the World Bank and IMF, only reinforces its unsustainability and highlights the need for alternatives. Case studies of different big dams throw open a variety of relevant issues in the area. The Sardar Sarovar Project on the Narmada river has effectively highlighted three burning issues: ineffective rehabilitation, substantial negative



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impacts to the environment, and bad economics. These issues of rehabilitation, environment and economics are also relevant to the Tehri Project as to most other big dams in the country. In addition, in the Tehri project, in the eventuality of the dam breaking—which is not an unlikely event with the current design and the risks of high seismicity—an estimated 1.6 million people will be directly affected by the rushing water from the steep mountains to the nearby plains. The dam is being built in a high-risk seismic zone, where an earthquake of above a magnitude of eight on the Richter scale is anticipated during the life of the dam. This merely highlights the minimal planning involved and a total lack of a genuine cost-benefit analysis before the construction of big projects in the country. Similarly, the Maheshwar project in Madhya Pradesh—which is the first dam to be owned and operated by the public sector in India—has raised issues about the nature of public funding and the privatisation drive in the country.

For the displaced, it has been an experience worse than capital punishment. There have been cases where families have been displaced more than twice by the same or related project in less than a decade. Also, it is very necessary that every project have an in-built retrospective assessment so that lessons learnt from each project are not lost. At the same time, issues of vested interest and corruption within the assessment mechanism itself also need to be looked into.

We require a comprehensive rehabilitation policy in India, which effectively addresses the legitimate concerns of the displaced. Various social movements have emerged due to the plight of displaced. Despite pressure from various sides, including agitation by these movements and decades of lobbying by support groups, the Indian state has resisted these efforts. We need to renew our efforts on this front.

CONVERSATION

Parisa Norouzi: In the activist relationship between human rights and environment, contained within the EJ movement, the human rights component has been very strong. What do you think is the case here, and why?

Shekhar Singh: If I were working in Europe or North America I would also be faced with this distinction. In India, as is elsewhere in the South, conditions of the poor are far more heartrending. You may be an environmentalist or a social activist but you can't be a human being if you don't feel the visible misery. Here it is not a question of a tribe who has got lot of money and also claims rights over forests, it is a genuine issue of



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survival. In the West, where the basic needs of the people are fulfilled, the difference between the human rights and the environmental movement emerges. In the West the relationship is not an issue directly related to material survival. I am an environmentalist but I am also a human being and I can't disregard the right of someone to survive. These are circumstances which have helped to merge human rights and environmental rights discourses together. Hence, to my mind, in social movements in the South there are not many such conflicts.

When we started the movement against the Narmada dam in 1985-86, along with Medha and other people, I was warned by my environmentalist friends not to get associated with social activists. This is actually the clash that has been brought from the West but has little relevance in the South. I find that people who fight against dams here are as worried about preserving forests; because forests also have social functions, people still live in and rely on them for subsistence. Though this has been the general pattern, recently this problem has surfaced around the issue of Protected Areas as some environmentalists feel that there should be no people staying anywhere near forests, while some social activists feel that there should be no national parks and conservation of areas. This has been aggravated by the recent Supreme Court order, which has given a blanket ban against all "encroachment" in forests. But these are two extreme groups. On the whole, a large number of environmentalists and social activists have been working together.

Veronica Eady: In the US we have special relationships with indigenous people and we have a special body of law. There is also an incredible value for forests in the US. Each time there is a dam constructed or a mine established, we are impeding the indigenous people from hunting and fishing in the way that they have been doing for centuries, and the state is disturbing their culture. Australia has come up with something more constructive through the body of law and treaties and case law around the rights of the Aborigines.

Savi Horne: How does the community deal with indigenous rights at the Supreme Court level?

Shekhar Singh: In South Asia the legal system does not make the clear distinction in terms of indigenous people, though there are fair principles of law, including control of tribal areas and tribal resources by tribal people. The tension between tribal laws and natural resource use and management laws has not been finally sorted out. The debate on whether the Wildlife Protection Act—under which national parks and sanctuaries are set up—is superior to laws which recognise the control of tribals over their forests or



not, is an issue that has not been finally resolved. The legal position at the moment seems to be that laws concerning natural resources are going to be prioritised when there is a clash. Discussions with government have clarified that such rights of tribals, if shown to have been established pre-1980, would be honoured. But the question of whether a tribal has such a right on principle, if he/she lives in the forest but cannot prove that she did so before 1980, seems to get an answer in the negative. That is the situation on the ground as of now.

Michael Mazgaonkar: Over the years the Environmental Impact Assessment (EIA) mechanism in India has had a history of systematic weakening and dilution by the state and the market forces. EIA has now become a mere alibi for the government to push through environmentally destructive projects with the excuse of a pliant EIA verdict. The EIA process started in a very progressive manner in the 1970s, when its legal basis was a government order. It was originally chaired and mostly comprised of personnel outside the government. As projects important to politicians got turned down, political pressure was brought upon the process to make it pliant. Gradually more and more non-technical civil servants were brought aboard the panels. Simultaneously, the manipulation and concealment of vital information made sure the process was considerably weakened. Contributing to this gradual weakening and dilution were other factors like increasing influence by the market and the industry, and various significant legal changes such as delegating key powers to the states and individual ministries that had a vested interest in pushing projects through.

Linda Chhackchhuak: How does one look at conservation within the environmental justice framework?

Shekhar Singh: We have to differentiate between conservation and protection. Most of our opposition is against old-fashioned protection. Any conservation effort also necessarily has to be sustainable in terms of equity and the environment. What we also have to address is the lifestyle consumption of the affluent. India has a middle-class population larger than the total population of the United States. With a purchasing power parity of roughly Rs. 9 to one dollar, middle-class India is aspiring towards a lifestyle of the North. This is difficult to stop. A good step is to target elite children in schools, who are the trendsetters. When we reached out to schools like Springdales we got wonderful responses. Students were asked how they could solve the problem of traffic jams caused by every student coming to school in a car. They came up with a car pool system, which was effective in its compliance.





Session VIII: TRADE, GLOBALISATION, LOSS OF LOCAL LIVELIHOODS, AND GLOBAL NEGOTIATIONS

I. TRADE, GLOBALISATION, AND LOSS OF LOCAL LIVELIHOODS

The first part of the session explored the impacts of international trade on environmental justice. It focused on the impacts that the opening up of domestic markets to less regulated "free" trade is having on the livelihoods of farmers, workers and traditional artisans. It also examined the links between trade oligopolies and environmental justice.

Chair: R.K. Singh (Indian Institute of Forest Management, Bhopal)

NORTH AMERICAN PERSPECTIVE

Nelson Carrasquillo (Farmer Support Committee, New Jersey)

Current events tend to give the impression that globalisation is the result of economic policies developed in the twentieth century. This overshadows prior historical events that underline the intention of controlling "local livelihoods"—an intention used by colonising countries throughout history, all over the world. The Columbus voyage opened new commercial routes to India, and the outcome was the "discovery" of the New World; Commodore Perry bombed the Chinese ports, forcing them to open their markets to American trade; the US declared war against Spain, using as an excuse the sinking of the USS Maine, in order to affirm America as a global power. All these events mark different stages of globalisation. The first events signaled Spain's domination, while the second and third signaled US domination. These steps were taken by dominant powers, be it Spain or the United States, to gain global hegemony over international trade to further their national interests. This had a direct and adverse impact on people's lives. Currently such globalisation processes are being continued through the WTO and international financial institutions that often treat people as mere commodities.



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Resistance to such globalisation has continued, but due to a lack resources among the most-affected populations, it is becoming very difficult to communicate and to access information about globalisation policies. If one asks farmworkers why they left their country where they had their own land, and came to the United States, you will sense a note of desperation in their reply. For instance, when we talk to workers from Tamaulipas, Mexico, this is the story we hear. In the 1950s, the price of cotton fell and residents were forced to leave their country and move to the US to find work. They describe a sense of hopelessness when making the decision to leave their community and country. They hope for a better life, not for themselves but for their children. Events outside the scope of their control caused them to leave their homes. The US provided economic incentives to cotton farmers, bringing the price of cotton below the cost of production for Mexican cotton farmers. This resulted in a massive loss of livelihood for thousands of farmers and workers in the region, that they have still not recovered from. Understanding the historical context of how globalization affects people's lives is essential for enabling a response from those most affected. This understanding allows them to be better prepared to take action and promote alternatives that serve their interests.



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This model of resistance is based on solidarity, which is fuelled by a want to achieve a better quality of life, and a desire to not live in poverty. Thus the need to have adequate income, housing, a safe working environment, and to be treated with dignity and respect, will become very important in these struggles. This struggle can build on a common understanding whose rationale can link the local mode of resistance to international resistance movements against a common oppressor.

SOUTH ASIAN PERSPECTIVE

1) Hari Babu (Kozhikode, Calicut)

I would like to focus on the impact of the globalising process on coastal communities in India.

Mechanisation in the country was introduced in the fishery sector nearly five decades ago. This has directly contributed to the impoverishment of fishing communities. Mechanisation processes, including highly destructive trawling, have resulted in the heavy depletion of fishing resources, often disrupting the inter-dependency of resource availability, renewability, and sustenance of communities directly dependent on fisheries. Currently, there is considerable displacement of fishing communities due to the demand for coastal land for industrial, tourism and trade activities.

The promotion and entry of finance capital from non-fishery sectors into the fishery sector has contributed to the further marginalisation of the traditional fishing community. Though India is currently ranked sixth in the export of fishery products in the world, the benefits of such export have hardly reached the communities.

India has more than 7100 kilometres of coastline, spread out over ten coastal states and two island groups. About 10 million fisherpeople depend on fishing in the marine sector, and there are five million engaged in post-harvest activities. Estimates show that 90 per cent of these people spend most of their lives at subsistence level, dependent on fishing. Despite considerable revenue from the sector, the traditional fishing community has by and large remained poor, with very low real access to education and health. Since the trade liberalisation regime, drastic changes are taking place in the coastal ecology and economy. The New Economic Policy envisages captive ports, land for roads and chemical industries, and development of service sectors like tourism, which has a major presence in coastal areas. Some of the new developments under the New Economic Policy include:

- Major infrastructure development in the coastal areas, such as super highways and expressways; a good example is the East Coast Road (ECR) from Kanyakumari to Calcutta.
- Captive ports as part of industries; most of them for chemical and petrochemicals industries.
- Special Economic Zones (SEZs) for exclusive export-import promotion; five out of seven SEZs planned in the country are in coastal states, and have a minimum land requirement of 1000 acres.
- Large-scale tourism projects, including beaches and golf courses, which have had a devastating effect. Further, they have not involved the local communities in tourism development. In Maharashtra, an entire district called Sindhudurg, which has a sixty-kilometre coastline, has been earmarked as a Special Tourism Area (STA). A similar project called the Bakel Special Tourism Area project in Kasaragod District in Kerala is spread out over four fishing villages.

The only legal tool that provides for the protection of coastal ecology and community rights is the Coastal Regulation Zone (CRZ) Notification 1991, under the Environment Protection Act of 1986. The notification bans and regulates any construction within 500 metres from the coast, with an exception that communities can have traditional structures from 200 metres away from the coastline. This mandatory requirement has been time and again



manipulated to accommodate the interests of the tourism industry, for infrastructure development, and lately for setting up of Special Economic Zones (SEZs). The setting up of the SEZs flagrantly violates the CRZ, as five out of seven SEZs are in the coastal areas.

In the fishery sector, economic liberalisation changes are taking place at a very rapid rate. Under the Export-Import Policy of 1991-2002, up to 21 items of fish can be imported without any license. Another 62 items can be imported against Special Import License (SIL). Many of these items are available in the Indian waters. This has a direct and negative impact on local prices and markets, which ultimately would end up further marginalising the fishing community. The 1991 modification to the Deep Sea Fishing Policy allows foreign collaboration, including foreign equity up to 51%, which includes equity in fishing vessels also. The fishery sector and the community have witnessed dramatic and disturbing changes over the past five decades. Unlike forest communities, fishing communities have been exposed to modern technology both in fishing and fish processing, and to very sophisticated marketing systems. Any intervention into this sector needs to consider these aspects.



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At the same time there is urgent need to bring in measures to arrest the changes in land use and ownership that directly affects the living space of communities, as well as the destruction of coastal ecosystems like mangroves, estuaries and wetlands that causes depletion of marine fishery resources.

2) Michael Mazgaonkar (PSS, Gujarat)

I want to concentrate on two effects of trade liberalisation and globalisation, and how we are responding to it. Firstly there is a direct loss of livelihood through the import of capital goods and import of machinery, a loss for which liberalisation policies are directly responsible. This has led to displacement of a huge segment of the workforce, nationally.

The second aspect is the effect of the export industrial units established to cater to international trade. Through flagrant violation as well as manipulation of pollution laws, these units have affected the lives and livelihoods of neighbouring communities. For instance, there are a considerable number of industrial units in our area, which manufacture intermediate chemicals for dyes, pesticides and other petrochemical industries. The manufacturing processes in these units are extremely polluting; this is also because laws are not implemented properly. Pollution has effectively denied neighbouring communities any access to clean and healthy water, as the sources—

underground or surface—have been polluted beyond use. Additionally, industrial waste is dumped into the surface water and estuaries, affecting aquatic life in these water bodies. This has directly affected livelihood sources of fishing communities in the neighbouring and downstream areas. We have seen a loss of livelihood for 3000-10,000 fishing families.

A related problem is the displacement of people due to ports and other infrastructural facilities being constructed to cater to the forces of international trade. For instance, the government proposed to develop a huge port at Dahanu, which is the southernmost point of the state of Gujarat and is about 200 kilometres north of Bombay. Since the area had been notified as a Special Ecological Zone, and there was stiff resistance from local communities, the proposal had to be shelved. As an alternative, the state proposed another site for the port in Omargaon, which is about 25 kilometres north of Dahanu. The port was tipped to be constructed with an investment close to a billion dollars. It was mainly designed to cater to industrial units exporting chemicals from central and south Gujarat. Widespread protest by affected communities, including an incident in which an activist was killed during protests, forced the government to back out.

The liberalisation of international trade has also pushed the labourers in the Small Scale Industries (SSIs) into unemployment. Withdrawals of subsidies and duty relaxations for the SSIs have led to the closure of many units. Further, the relaxation of import duties for machinery has adversely affected the domestic labour force. For instance, a company that we worked with made plate-winding machines using alternative energy. Since 1991, the customs duty for import of capital goods, even of old machinery, has been withdrawn. Due to this liberalisation driven by forces of international trade, this industrial unit has practically closed down. It is now able to sell only 4-5 machines a year, as compared to the 50-55 machines it formerly sold. We believe that organisation and collectivisation of the affected populations is an important step towards reversing these regressive policies. One of the organisations we are part of is the Kinara Bachao Sangharsh Samiti (which literally means Save the Coast Movement). This is a collective of more than 10,000 fisherfolk families of the area. We are also part of larger alliances such as the National Fishworkers' Forum, which works with fishing communities from all over India, as well as the National Alliance of Peoples' Movements, which is an alliance of approximately 150 movements from all over India. Through these forums we organise protests and other programmes to oppose international trade negotiations as well as state policies and practices which have a direct and adverse impact on the people.



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3) Jagannath Adhikari (Martin Chautari, Kathmandu)

I aim to examine the effects of international trade in agriculture and natural resource management. Nepal is far less industrialised than its neighbours, and has an agriculture-based economy. The main source of livelihood for 80% of the population is farming. Two other significant economic sectors are the export of natural resources and tourism.

Nepal started trade liberalisation in the mid-1980s under the "Structural Adjustment Programme" (SAP), which was forced on us by the International Monetary Fund (IMF) and the World Bank. The emphasis of this programme is to reduce government expenditure on social services on one side, and to facilitate increase in export earnings on the other. The government also felt that the existing system of agriculture was not conducive for trade. Hence, in a bid to increase export earnings, the government brought in new policies, which emphasised the introduction of commercial agriculture.

In 1995, the Asian Development Bank (ADB) developed a programme for Nepal called the Agricultural Prospective Plan, which is a 20-year plan. The main emphasis of this programme is to increase international trade. Farmers must export produce and thereby earn income from foreign countries. The programme also emphasises a shift from subsistence crops to cash crops. The fact that in the case of cash crop farming, farmers will be fully dependent on markets for selling their produce, has not been factored into the programme. The giant fluctuations in prices, and thereby in profits, also make the life of the small farmer completely uncertain and directly dependent on the vagaries of the market. This dependence on the market further increases dependence on external inputs like chemical fertilisers, pesticides and high-yielding seed varieties, which are not produced within the country. This is especially so with cash crops like coffee, tea and vegetables. When these crops are grown in large quantities, the price falls in the international markets. This has devastating consequences for rural families. Tea producers in Nepal have experienced a reduction of about 50% in price in the last five years. These products cannot be consumed at the household level, and food security degrades when there is difficulty in marketing of cash crops. Environmental problems have also increased with the increased use of chemical fertilizers and pesticides. Second, with trade liberalisation, Nepal is importing a considerable amount of cheap food from India. Food production in India is cheaper due to water and other agricultural subsidies. Compared to this, subsidies in Nepal have been removed because of structural adjustment programmes. As local farmers have to invest more, cheaper imports adversely affect them.



Another area indicative of the unfairness in international trade is that of herbs. Nepal is home to a number of herbs important for their medicinal value. Herbs and other raw materials are sold very cheaply while the prices of the medicines made from them are extremely expensive. Another impact of the rampant exploitation and export of this resource for the market has been the near-extinction of these herbs. High mountain areas, where practice of agriculture is difficult, depend mainly on these herbs. Because of the lack of fairness and equity in the international trade of these herbs, the livelihood security of these communities is in crisis.

Interested in learning about the World Bank, I agreed to be a consultant for them to examine ways to promote Nepal's international trade. I was deeply disappointed because they only looked at internal constraints within Nepal, such as labour laws and other policies, which restrict trade. They did not agree to an examination and study of factors within international market forces that impede fair trade.

II. GLOBAL NEGOTIATIONS

This part of the session looked at the role played by the majority world (developing countries) in global negotiations. Do governments reflect the views of the poor, and are environmental justice concerns taken into account? Special attention was given to injustices and gaps in international human rights and environmental conventions and treaties. The question that was persistently asked was whether democracy is working in international negotiations.

NORTH AMERICAN PERSPECTIVE

Daniel B. Magraw (Center for International Environmental Law, Washington DC)

For me, Environmental Justice (EJ) is constituted of five principles:

- No disadvantaged group ought to bear a disproportionate burden of environmental harm
- Equal access to natural resources and environmental amenities, such as clear drinking water
- Equal participation in a transparent decision-making process
- Equal access to remedies for all, and sanctions applied regardless of political power and
- An environment capable of sustaining human health and well-being

There have been several efforts at the international level to promote EJ.



a) Women's Conference, Beijing. The term "environmental justice" caused almost allergic reactions in some sections of the population, and hence had to be viewed in terms of its various components. In Beijing, all we could reach agreement on was that women should not have to bear a disproportionate environmental burden.

b) Habitat Conference, Istanbul: There was strong resistance to the acceptance of EJ in the negotiations leading up to Istanbul. A combination of human rights and health issues and the differing positions of countries, are to blame. The attempt to deconstruct EJ into various components and argue for its various trajectories continued. Ultimately there was substantial recognition and acceptance of EJ in the form of those components. However, there has been very little follow-up since the summit; this is not a very positive scenario as we have crossed the tenth anniversary of the Istanbul conference. We need to make suggestions on how to proceed on this aspect. In the attempt to get a stronger commitment on EJ, one may have to drop the term itself, and push for its constituent components. Hence it is imperative to discuss and decide what those components are. We have to do a considerable amount of homework with civil society and various governments. This would include identifying specific outcomes, strategising and building coalitions, as well as ensuring various follow-up processes right from the very beginning.



International negotiation processes are hardly open and there are few opportunities for public participation. On a comparative scale, trade negotiations are the worst while environment negotiations are probably the best. Developing countries are ill equipped to negotiate with an equal footing, and it is becoming increasingly hard for most of them to hold steady in this game – be it financially, technically or in terms of skilled negotiators. There is a real and serious problem with the process. There have been small attempts to ameliorate these imbalances. This includes Canada's move to pay for negotiators representing developing countries. CIEL's office in Geneva has started a partnership with the South Centre, which helps various developing countries in several research and policy matters.

There are considerable gaps in the current law; especially in the realm of implementing existing agreements. This is very apparent with regard to the Convention on International Trade in Endangered Species (CITES), the Persistent Organic Pollutants (POPS) convention as well as the convention on biodiversity and biosafety.

International trade agreements are based on a flawed paradigm, i.e., a combination of comparative advantage and the free market. This has resulted in the increase in poverty and disparity of wealth everywhere in the world. It

is very clear that these processes will not help in improving the standard of living of underprivileged populations. At a recent World Bank conference, a World Bank economist stated the most optimistic projections of how much most countries will gain from trade and investment liberalisation is far outweighed by the money they have to pay under the WTO Agreement on Trade Related Aspects of Intellectual Property (TRIPS). Hence even on the economic side, most countries were net losers. And on the social and environmental sides, these agreements will not make things better in any way. We need to get these stories together and put them in a conceptual framework in order to resolve the problems in these agreements.

SOUTH ASIAN PERSPECTIVE

T. Mohan (Advocate, Chennai)

Many of our policies are set by the global agenda. These agendas are often forced down our throats through many means, global trade negotiations being one of them. Having been associated with the World Summit on Sustainable Development (WSSD) process for the past six months, I have come to realise that these influences have a very strong impact on the policies and legislative processes that exist in one's country. If one can't understand and cope with the ball game of the major players, then we had better give up now. One's community struggles will not amount to much if one cannot intervene at the right time during global trade negotiations; which is when individual countries commit to adopt certain policies at international forums.

One of the main issues that concerned me in the WSSD process was the primacy of trade agreements over all other legal instruments and obligations. Irrespective of the pious mouthing poured out in the draft plan, the dominant factor in the process has been the acceptance of the free market paradigm. The process completely overlooked the fact that it is the free trade paradigm itself which is the biggest threat to environmental equity.

I don't agree with Dan when he said that we are moving towards a non-transparent model of negotiations. I would rather say that we are already there. These environmental trade negotiations are closed to much of civil society. At the WSSD, even US civil society groups found themselves fairly cut off from the process, which the governments claim have an inbuilt culture of public participation. This non-transparency and exclusion is not a surprise to most of the civil society groups in the South.

There are two Indian groups which are part of the official international negotiation team – Centre for Environmental Education (CEE) Ahmedabad, and Centre for Science and Environment (CSE), Delhi. The CEE claims to have done a national level consultation on the core issues of the WSSD process.



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They produced a report at Johannesburg, which spoke about civil society participation and response in the internal process preceding the WSSD. But none of us from India present here have been either involved or informed. This is indicative of the level of genuine participation and transparency in the approach to such negotiation processes.

Second, we have also been very unsuccessful in engaging with groups like the G-77, which has the potential of furthering causes of environmental justice. The G-77 is a very important forum as this is the platform on which important countries from the South come together and talk about forging a very strong position against the dominance of the North. But many of the stances of the group are problematic and fraught with contradictions. For instance, the group will fight EIA requirements with respect to decision-making in environmental matters, or will side with Japanese, American and Canadian positions on private-public participation. While we attempt to engage and use groups like the G-77 in global negotiations, it is also very important to understand the real reasons behind such groups taking such regressive positions in many issues.

Third, the approach and attitude of individual governments, even from the South, are antithetical to the interest of environmental justice. At the WSSD, the Indian ministry had a presentation where statistics of increased exports were touted as indicators of India's progress and development. At the same time when quizzed about India's position on ecological equity in the negotiations, the officials refused to give any coherent answers. The ministry took the shameful and regressive position that overpopulation is directly responsible for environmental degradation. There was an arrogant refusal to recognise the fact that consumption is an extremely significant cause of environmental degradation.

Further, the strategies employed by the European Union and individual countries like India need to be examined closely to understand the ways through which they use progressive stances for individual gains. India is the only country in South Asia which said that it doesn't believe in private-public partnerships. It will appear to be very strange that a state which is neo-liberal in character, which obtains foreign direct investment in various sectors, which has gone ahead in privatising even core areas like water, and which actually promotes deregulation in a number of sectors, is also making such statements in international fora. What is the reason behind this? I think India takes tough and often apparently progressive positions in order to gain an upper hand in negotiating treaties. This hypocrisy has to be exposed.

One can see similar strategies employed by Europe. Examining the various positions that Europe takes in different negotiations could perplex the



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uninitiated, as some of these positions are seemingly progressive while others are very regressive. Many governments don't see linkages between international trade and ecological equity, and state that free trade and open markets are the best mode of development, while claiming to be genuinely concerned about furthering human rights. Why is this so? To my mind this is done so that the negotiations fail. They talk about Catholic ethics and indigenous peoples' rights in the context of corporate criminality because they are very sure that nobody will accept these positions, thereby causing certain negotiations to fail.

These kind of strategies laced with hypocrisy and double talk are as dangerous as the extremely organised and economically and politically backed strategies of the US, which are also aimed at disrupting negotiations. One also needs to identify strategies to counter these kinds of measures used by many parties in international negotiations. There is also a great need for capacity-building within civil society groups in the South. It is important that our side is adequately represented in global negotiations. While the US has a great model to break down negotiations, this model can also be used as a good rallying point for progressive forces. We need to exert pressure at national levels to open up these negotiations so that they become more transparent. Third World Network has been successful in opening up such processes in Malaysia. The challenge lies in helping communities empower themselves to get a foothold in global negotiations, in order to promote a new paradigm of a just and sustainable world.

KNITTER: Leslie Fields (Friends of the Earth, Washington DC)

a) International Trade and Loss of Livelihoods

Nelson explained that globalisation has been going on since 1492, starting with Spain. The US started to get involved in this quest for global control in the nineteenth century. Nelson described his work with farmworkers – how they must address the issues of helplessness and despair in order to create resistance to their problems and create solutions.

Hari and Michael discussed how fishing villages are impacted by globalisation. The tourism sector (including a large new port) is growing due to liberalisation policies, and displacing the fisherfolk. There are however, fisherfolk groups and a national alliance that have organised to address these issues. Jagannath synthesized the issues of globalisation and effects on subsistence agriculture in Nepal. He recounted how the people from the World Bank only cared about market liberalisation and not Nepal's internal constraints.



b) Global Negotiations

Daniel Magraw described the five principles he ascribed to EJ, and then went through examples of different international conferences (Beijing and Istanbul) where the language of EJ was not accepted. He spoke about how he had tried to include the components of EJ in the negotiations. International negotiations are notoriously lacking in public participation. There are problems of getting access to groups to get them into the process. In addition, gaps in current law must be addressed (CITES, POPS).

When it comes to trade agreements, there is a flawed comparative advantage/free market paradigm that is promoted. Currently, community agreements won't make a difference if communities are not involved at the international level. Civil society must be present and engage in global negotiations, and we must organize and pressure our governments nationally to get a foothold in the global negotiation process.

Ultimately, those most affected by globalisation are those developing the alternative vision of a just and sustainable world. The challenge is to elevate these constituencies and their vision to where the global negotiations and the relevant entities determine their fate in order to inform and change the dominant paradigm for the future.



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Session IX: STRATEGIES FOR PROMOTING ENVIRONMENTAL JUSTICE

This session reviewed and discussed existing mechanisms for promoting environmental justice. The aim was to better understand where we have had some success and where we are failing, and also to consider the strategic usefulness of linking and perhaps, in some instances, coordinating South-North environmental justice movements.

Facilitator: Manoj Misra (PEACE Institute, New Delhi)

This session was more of a conversation and consisted of informal interventions rather than any formal presentations.

NORTH AMERICAN PERSPECTIVE

1) Parisa Norouzi (Organizer, Washington DC)

Possible strategies for achieving environmental justice :

Legislative:

- Lobbying elected officials for policy changes
- Writing policy and working to get sponsorship from officials
- Examples: International Right to Know legislation in the US

Electoral:

- Voter education, voter registration and get out the vote efforts – working to elect good people to office
- Creating an initiative/referendum and collecting signatures to put the issue on the ballot
- Pressuring elected officials through the campaign process (example: bird-dogging candidates about global warming in the presidential primary)

Corporate:

- Targeting corporations responsible for environmental injustice through various means
- Shareholder activism



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- Consumer boycotts
- Divestment campaigns
- Challenge to corporate charter
- Branding sabotage
- Direct action/civil disobedience (example: pulling out of genetically engineered crops)

Building Alternative Institutions:

- Working to abolish outdated institutions that do not serve environmental justice, and creating grassroots institutions that do.
- Free schools for peoples' empowerment
- Cooperative housing, businesses and services such as child care
- Community autonomy mechanisms (town hall meetings, community master plan, shadow government)
- Independent media

Advocacy and Community Organizing:

- Leadership development
- Coalition building
- Movement building
- Public education and outreach
- Public participation and comment in administrative processes
- Creation of unions for workers and consumers (example: bus/transit riders unions)

Generational/Youth:

- Developing the next generation as a source of social change
- Campus organizing and organizer training
- Information about career choices including organizing/social action careers
- Education: changing curriculum to ensure more empowered aware students

Creative/Artistic:

- Teaching/communicating about peoples' struggles through the arts. (Examples: Brazil's Theater of the Oppressed, the farmworker's Teatro Campesino, Vermont's Bread and Puppet Theater, the Rhythm Workers Union)



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Academic/Scientific:

- Conducting studies, generating reports, clinics
- Issuing warnings and recommendations
- Documenting struggles
- Teaching issues
- Creating institutions for the study and education of environmental justice issues (example: the Farmworkers' Health and Safety Institute)

Media:

- Establishing relationships with journalists and reporters to follow the local struggle
- Developing opinion pieces and letters to the editor to be placed in local papers
- Organizing press conferences and media events
- Creating your own media and participating in the independent media network

2) Veronica Eady (Tufts University, Department of Urban Environmental Policy, Massachusetts)

Policy development is an important strategy for environmental justice. The National Environmental Justice Action Committee (NEJAC) was created to promote environmental justice across the US.

The Executive Order passed by the Clinton Administration mandated around 16 agencies to comply with environmental justice standards. It also promoted research on environmental agency and facilitated the creation of an inter-agency working group. Environmental justice issues vary geographically, and are perceived differently by local communities, the media and governments. Environmental benefits such as parks need to be distributed to all. Education and funding are crucial to building a stronger movement for environmental justice, as are attempts to address the jobs-versus-environment debate, and enhancing the substance of laws.

While policies might be effective tools, they are not enforceable, have several shortcomings, and are not necessarily the panacea that local communities are looking for.

3) Eileen Gauna (Southwestern School of Law, Los Angeles)

When one examines the litigation aspects of legal strategies for the future, there are broadly three categories of lawsuits which have been tried in the



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US. These include lawsuits pertaining to anti-discriminatory laws – constitutional claims and civil rights claims; traditional common law theories; and litigation under existing environmental laws. I would like to share some general observations pertaining to these three categories.

The cases under the anti-discrimination laws have been uniformly unsuccessful from the litigant standpoint because of the high evidentiary burden needed to prove discriminatory intent. The common law claims have not been brought in great numbers to the courts. There are various problems with this type of claim, including an absence of a healthy mass of lawyers in any specific movement that pursues this type of claim. Second, as money is often the remedy, this gives rise to a big risk of dividing the community. Also, this kind of a claim does little to enhance the overall legal strategy.

The claims under environmental law, by themselves, have been successful. These kinds of claims, like citizen interventions or challenging regulations under the environmental laws, are good from the substantive perspective. Further, they are highly technical lawsuits that can often be very hard to mould within the overall strategy. That is a challenge that EJ lawyers face when they pursue these kinds of claims. This strategy can also be used to buy time for community mobilisation. For instance, there are claims under procedural laws like the National Environmental Policy Act that stipulates impact statements or substantive disclosure norms, which have been found to be remarkably successful both from the substantive standpoint as well as in holding the momentum of the project, and giving time for the community to mobilise and organise.

The second point is that EJ lawyering is different from regular lawyering in the United States. Typically, EJ lawyers emphasise community mobilisation and organisation as the central tool of the EJ strategy. EJ lawyers use organising efforts within legal strategies and use legal strategies within organising. A paradox about EJ litigation is that the more successful you are at the lower levels of litigation, like the district court level or trial court level, the greater are the risks of bad precedents being set by the higher judiciary. In almost all such highly successful instances, these lower level decisions are going to be appealed; and the pattern has been a plethora of very bad precedents at the higher levels of appeal. This leads to choices and trade-offs one has to make while working within these paradoxes in the movement.

The strategy to change laws is an important issue, especially as there are no federal laws that explicitly address EJ. I personally prefer a “double track” approach towards legal reform. A high profile push for tabling laws that



meaningfully incorporate environmental justice principles attracts organised resistance from various quarters. Due to such movements to weaken suggested legislation, legislative reform at the federal level has been markedly unsuccessful. Also, attempts at the state level to legislate such laws have only been partially successful, as they are often diluted from their original form. On the other hand, there is a small number of existing laws which while having powerful provisions, do not call attention to themselves. One could term them as "stealth legislations". One such legislation was passed in California under the business code; the provisions of this legislation allow a private citizen to bring a lawsuit to enforce the anti-discrimination laws against private business conduct in certain areas. Both have their limitations. And the advantages each route offers are very different. Wherein the introduction of an EJ legislation by itself further legitimises the fundamentals of the EJ discourse and its attempt to transform the legal regulatory structure, the stealth legislation helps the lawyers on the ground. Between these two routes, the best approach is to double track.

It makes sense, as a strategy for the next five years in the regulatory arena in the US at least, to hold our ground as one can't expect much progress with this administration. There are at least four major areas where we have to hold our ground: risk assessment, cost benefit, the market's right to pollute, and secrecy measures. Risk assessment and cost-benefit analysis are extremely technical tools used by regulatory agencies, often with disastrous consequences for EJ. The task of the EJ community would be to create capacities at the federal and national level that can effectively attack the methodology behind these regulatory tools. New tools for monitoring environmental quality and accountability would also be useful in promoting environmental justice.

Another area where attention is needed is in the way regulators are contributing to an emerging market's right to pollute. The last major area of concern where the EJ movement has to hold its ground is that regarding secrecy measures. The Ashcroft administration has broadened the exceptions for exemptions to disclosure of key information, which is a very regressive move. The new Homeland Security legislation that was recently passed took this strategy to a completely different level, and has the serious potential of substantially conflicting with the Right to Information provisions.

We need to think about and develop strategic alliances.



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SOUTH ASIAN PERSPECTIVE

1) Jagannath Adhikari (Martin Chautari, Kathmandu)

I would like to talk about best practices and suggest that we try and evolve and implement them rather than merely talk about strategies.

One of the important strategies to further EJ issues in Nepal has been a constructive engagement with the mainstream media. The media can be used creatively to bring issues of justice to light. One important step was to sensitise journalists about EJ and what was involved in EJ reporting. Since the introduction of parliamentary democracy in 1990, Nepal has had a free press. The press has done exemplary work in this area since then. For instance, around three years ago a combination of a very powerful grassroots movement in some remote areas and the effective reporting of it by the mainstream media on the front pages helped build public opinion, forcing the government to act. Learning from this experience, there have been similar attempts in the realm of film. A number of documentary films on EJ issues have been made and broadcast on national television; this has helped raise awareness on EJ issues in wider circles.



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Effective networking is another strategy one has to employ to substantially achieve EJ. For instance, the way FECOFUN—the Federation of Community Forestry Users Nepal—has networked to protect rights of forest communities is instructive for us. Community forestry has been successfully practiced for a long time in Nepal. The earlier acts genuinely empowered local communities to maintain and sustainably use forests. When a new act attempted to raise the mandatory revenue contribution to the government from 25% to 40%, FECOFUN used grassroots mobilisation and effective networking, to influence the government to repeal the decision. One needs to attempt to widen this kind of effective networking so that we can build peoples' alliances across national boundaries.

Reaching out to youth in schools and colleges is another effective way of further promoting EJ concerns. Changing consumption patterns is key to addressing certain environmental injustices. For such education and transformation, sensitising the youth is vital. This has also helped us in various other ways. Apart from helping to raise awareness among people, it has also helped to educate us and identify other EJ issues hitherto unknown to us.

2) Shivani Chaudhry (Center for International Environmental Law) and Sunita Dubey (Environmental Justice Initiative)

These strategies were presented to the group as suggestions and have since been revised to include feedback and comments made by participants in the ensuing discussion.

Possible Inter-regional Strategies for Promoting Environmental Justice

- Developing international corporate accountability mechanisms/processes, and strengthening and building South-North coalitions to fight growing expansion of corporate crime, especially by transnational corporations.
- Facilitating/supporting rights to:
 - a. Information – appropriate, timely, relevant and accurate working on domestic and international Right to Know and Right to Information campaigns (and conventions).
 - b. Effective and meaningful participation by local communities in environmental decision-making processes; for example, in environmental impact assessments, and learning from the US experience.
- Networking and strengthening inter-regional linkages in civil society through skill-sharing among environmental justice campaigners.
- Facilitating exchange of information across regions on environmental justice issues, and building solidarity by developing and maintaining a South Asia/North America list-serve on environmental justice.
- Promoting environmental justice-based judicial activism, skill-sharing and capacity-building by creating opportunities for learning/education, and striving towards judicial and legal reform.
- Reaffirming international principles, including intra- and inter-generational equity, common but differentiated responsibility, public trust doctrine, precautionary principle, polluter pays principle, etc.
- Developing and monitoring just, realistic, and enforceable standards for environmental quality through capacity-building and technical assistance.



- Supporting efforts to protect and promote the knowledge, skills and practices of indigenous and other local communities.
- Promoting the legal recognition of the rights of indigenous and other local communities to their natural resources.

KNITTER: Sanjay Upadhyay (Enviro-Legal Defence Firm, New Delhi)

Parisa presented various strategies to realise environmental justice, including several non-legal ones. She emphasised that the most powerful tool for a meaningful achievement of EJ is often the voice of the affected people themselves. She underlined the differences between the verbal positioning of states and their actions. She also included her personal experiences, which pointed towards the limitations of policy advocacy as a tool. In the background of my experiences in India, I personally share her opinion on this, more so in a country where policy documents are easily changed, revised and revoked. At the same time, this option has its own value in terms of the space it can offer to organise and mobilise communities. Youth organizers, think-tanks and grassroots organisations are constantly striving to create new tactics, and developing new language and creative alternatives.



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Veronica elaborated on the use of policy as strategy. Environmental justice lawyering as a tool needs to be honed and used effectively, while maintaining close contact with affected communities.

Eileen discussed the three litigation strategies employed by EJ advocates in the United States, viz. jurisdictions pertaining to anti-discriminatory laws, traditional common law, and environmental law. Her observation on the second strategy also holds true for South Asia. Further, the relative success of environmental law citizen suits holds good for the Indian context and to the South Asian context to some extent. She emphasised the distinctive nature of EJ lawyering with respect to its reliance on community organising and mobilising as an important tool.

Jagannath talked about best practices in Nepal, and emphasised the importance of media in promoting issues on EJ. He underlined the importance of mobilisation and networking to promote EJ issues. To re-emphasise this point, he shared with us the success of the Federation of Community Forest Users in revoking a regressive provision in the community forestry law in Nepal. He also emphasised the role of education through students, and the need to reach out to the youth to achieve EJ.



Session X: NEXT STEPS

The focus of this session was to discuss how to take forward the conversations over the last three days and convert ideas into strategies; how to push for a concrete environmental justice agenda; and how to build solidarity and a truly global movement for environmental justice.

Facilitators:

Deeohn Ferris (Global Environmental Resources, Washington DC)

Shekhar Singh (Centre for Equity Studies, New Delhi)

Some of the session highlights are presented below.

Deeohn Ferris:

The main issues on the floor are:

How do we bring about genuine representation of local communities, and how should we go forward? Some possible courses of action are:

- Collective organising
- Identifying common threads of work
- Grassroots information exchange and awareness raising campaign

Shekhar Singh:

We need ideas to move ahead, and need to identify issues of special relevance to South Asia. Only then can we mark a forward direction.

Some issues that need to be addressed include:

- Discrimination – race/colour/caste/forest dwellers vs. non-forest dwellers
- Do we support social justice activism when it goes against national interests?
- Equitable access to resources



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- Equitable sharing of resources
- Issues of displacement — physical and economic
- Cross-boundary issues related to water. For example, the Farakka Dam conflict between Bangladesh and India. How do we balance particular national needs with overall human needs/needs of neighbours?
- Participation
- Secrecy and transparency
- Safety from pollution and hazards
- Corruption
- Government accountability and responsibility

EJ is a dynamic goal that needs to be incorporated into policies and practices.

Deohn Ferris: How do we organically lock in theories at the grassroots level? At the practical level we need to identify ways to operationalise strategies rather than waste time wordsmithing.

Shekhar Singh: We need to reflect on grassroots elements of education.

Vernice Miller-Travis: We need mechanisms, and we need ideas for US environmental justice activists to support movements in South Asia.

Shekhar Singh: A good example of cross-regional activism is the Tehri dam case. A German NGO took up the case to lobby its government, as a German company—Siemens—was a large player. The lobbying was effective and ultimately resulted in the company pulling out of the project. We need processes, which in turn create mechanisms that can be widely used.

T. Mohan: The first step is to identify a goal, only then can we work towards achieving it.

Deohn Ferris: What kind of process would be mutually agreeable in order to move forward? What do we glean from one another that would build on a principle of collaboration?

Shekhar Singh: Issues of representation need to be addressed, as we have a very small membership here. In South Asia people tend to network and work towards building movements, especially at the grassroots. We can't finalize strategies without connecting to people from the movements. If an



issue is felt to be significant, we interface it with other issues in similar forums, for instance the National Fishworkers' Forum, and the National Alliance for Peoples' Movements, which have broad membership.

Leo Saldanah: A specific action item could be to develop a discussion list on environmental justice and collate several lists into this.

Leo Saldanah presented an attempt to conceptualise Environmental Justice based on the issues that emerged during the conversations. Some participants felt that there were still differing perceptions as to what environmental justice actually entailed. While this definition is organic and suggestive, rather than definitive, it still was not formally adopted or sanctioned by the group. This is also because the definition of environmental justice in North America is different and based on a unique racial and historical experience.

The definition is presented merely to reflect the thoughts of a select few participants.

An Attempt to Conceptualise Environmental Justice

A collective endeavour to peacefully secure equity and justice for all peoples, by actively engaging and addressing

- **Gender Inequality**
- **Special Roles and Rights of Natural Resource Dependent Communities**
- **Depressed Communities**

and engaging in a living process based on a low entropy lifestyle that has the deepest respect for all life forms and a naturally evolving planet

Deeohn Ferris and Shekhar Singh finally presented a four-part strategy plan that evolved over the discussion.

Sariska Process to Develop Strategies and Action Plans:

- To ensure representational input in grassroots involvement
- To identify common points of collective organizing
- To identify common threads of work
- To continue building relationships, education and information exchange



CONCLUSION

The participants decided to develop a cross-regional listserv that would facilitate information exchange and promote strategy building and solidarity for environmental justice struggles in North America/South Asia. They expressed a commitment to environmental justice and to working together to build a global movement. Some participants expressed a desire to organise a similar event again.

Vernice Miller-Travis and Narayan Belbase of the Ford Foundation delivered a note of thanks to all participants, and wished everyone well. They concluded that the Conversation had been successful, especially since it was the first of its kind. Much work remained to be done, but at least the dialogue had been initiated.

The workshop helped improve understanding, increase awareness, and develop a solidarity of perspective.



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- 10:30 – 10:35 Knitter: Nelson Carrasquillo, Farmworker Support Committee, New Jersey
- 10:35 – 11:30 Reaction / Conversation
- 11:30 – 11:45 Break
- 11:45 – 1:15 **Session II: Regional Overviews of Environmental Justice**
Chair: Manoj Misra, PEACE Institute, New Delhi
- 11:45 – 12:00 **Overview of Environmental Justice in North America**
Vernice Miller-Travis, Ford Foundation, New York,
Deohn Ferris, Global Environmental Resources,
Washington DC
- 12:00 – 12:15 **Overview of Environmental Justice in South Asia**
Ravi Agarwal, Toxics Link, New Delhi
- 12:15 – 12:20 Knitter: Biplove Choudhary, Society for Conflict Analysis and Resolution, New Delhi
- 12:20 – 1:15 Reaction / Conversation
- 1:15 – 2:30 Lunch
- 2:30 – 4:00 **Session III: Environmental Justice and Culture (including indigenous and tribal peoples)**
Chair: Ruana Rajepakse, Sri Lanka
- 2:30 – 2:45 **Presentation from North America**
Carlos Marentes, Farmworkers' Network, Texas
- 2:45 – 3:00 **Presentation from South Asia**
Colin Gonsalves, Human Rights Law Network,
New Delhi
- 3:00 – 3:05 Knitter: Linda Chhakchhuak, Grassroots Options,
Shillong, India



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APPENDIX I

AGENDA

DAY ONE

Monday, 2 December

- 9:00 – 10:00** **Introduction**
- 9:00 – 9:30** **Welcome**
 Narayan Belbase, Ford Foundation, New Delhi
 Vernice Miller-Travis, Ford Foundation, New York
 Colin Gonsalves, Human Rights Law Network,
 New Delhi
 Owen J. Lynch, Center for International
 Environmental Law, Washington DC
- Self-Introductions by Participants**
- Logistical Matters**
 Environmental Justice Initiative (EJI)
 Center for International Environmental Law (CIEL)
- 9:30 – 10:00** **Keynote Address**
 Justice Kalyan Shrestha, Forum for Justice,
 Kathmandu
- 10:00 – 11:30** **Session I: Defining Environmental Justice**
- Chair:** Syeda Rizwana Hasan, Bangladesh
 Environmental Law Association (BELA), Dhaka
- 10:00 – 10:15** **Defining Environmental Justice: North
 American Perspective**
 Peggy Shepard, West Harlem Environmental
 Action, New York
- 10:15 – 10:30** **Defining Environmental Justice: South Asian
 Perspective**
 Dunu Roy, Hazard Centre, New Delhi



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- 3:05 – 4:00 Reaction / Conversation
- 4:00 – 4:15 Break
- 4:15 – 5:45 **Session IV: Environmental Justice and Gender**
- Chair: Suma Peesapati, Communities for a Better Environment, USA
- 4:15 – 4:30 **Presentation from North America**
Eileen Gauna, Southwestern School of Law, Los Angeles
Veronica Eady, Tufts University, Massachusetts
- 4:30 – 4:45 **Presentation from South Asia**
Syeda Rizwana Hasan, BELA, Dhaka
- 4:45 – 4:50 Knitter: Hemantha Withanage, Environmental Foundation Limited (EFL), Colombo
- 4:50 – 5:45 Reaction / Conversation
- 7:00 pm **Presentation on Indian Birds and Illegal Trafficking**
Rajat Bhargava, Bombay Natural History Society, Mumbai

DAY TWO

Tuesday, 3 December

- 9:00 – 9:45 Review of Day One and the Agenda
- 9:45 – 12:45 **Session V: Water, Toxics and Health**
- Co-Chairs: Carlos Marentes, Farmworkers' Network, Texas
Ravi Agarwal, Srishti/Toxics Link, New Delhi

Water

- 9:45 – 10:45 **Presentation from North America**
Leslie Fields, Friends of the Earth Washington DC



Presentation from South Asia

Hemantha Withanage, Environmental Foundation Limited, Colombo

Toxics and Health

10:15 – 10:45

Presentations from North America

Peggy Shepard, West Harlem Environmental Action, New York

Nelson Carrasquillo, Farmworker Support Committee, New Jersey

Presentations from South Asia

Usha, Thanal, Thiruvananthapuram

Michael Mazgaonkar, Paryavaran Suraksha Samiti (PSS), Gujarat

10:45 – 11:00

Break

11:00 – 12:35

Reaction / Conversation

12:35 – 12:45

Knitters:

Biplove Choudhary, Society for Conflict Analysis and Resolution (SOFCAR), New Delhi

Sunita Dubey, EJI, New Delhi

Parisa Norouzi, Washington DC

12:15 – 1:00

Lunch

1:00 p.m.

Depart for Field Trip – marble mining sites in Alwar District

A visit to learn first hand about the impacts of mining on local communities and their natural environments. The communities' struggle against mining has led to the cessation of operations in some areas.

DAY THREE**Wednesday, 4 December**

6:45 – 7:30am

Early Coffee/Tea

7:30 – 10:30 am

Field Trip – Water Harvesting Structures in and around Sariska



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APPENDIX II

LIST OF PARTICIPANTS

South Asia

Name	Organization	Phone/Email	Address
Bangladesh Halima Nayamat	IUCN – Bangladesh	880-2-9890395 / 9890423 Ext 117 halima@iucnbd.org	House 11, Road 138 Gulshan 1, Dhaka 1212 Bangladesh
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Sri Lanka Ruana Rajapakse	Attorney	94-74-403337 249112@cellnet.lk	56, 6th Lane, Newala Road, Rajagiriya, Sri Lanka.

A visit to water harvesting structures constructed with community effort and supported by an NGO, Tarun Bharat Sangh, and to a Protected Area created by local villagers. Interaction with forest-dependent communities living within the Sariska Tiger Reserve will also be part of the field visit.

- 11.00-12.30 Session VI: Corporate Accountability**
- 11:00 – 11:15 **Presentation from North America**
Leslie Fields, Friends of the Earth, Washington DC
- 11:15 – 11:30 **Presentation from South Asia**
T. Mohan, Chennai
- 11:30 – 12:25 **Reaction / Conversation**
- 12:25 – 12:30 Knitter: Daniel Magraw, CIEL, Washington, DC, USA
- 1:00 – 2:00 **Lunch**
- 2:00 – 5:30 **Session VII: Conservation and Peoples' Rights and Mining, Dams, Displacement and Energy**
- Chair: Leo Saldanah, Environment Support Group, Bangalore

Natural Resources, Conservation and Mining

- 2:00 – 2:15 **Presentation from North America**
Savi Horne, Landless Prevention Project, Durham
- 2:15 – 2:30 **Presentation from South Asia**
Sanjay Upadhyay, Enviro-Legal Defence Firm (ELDF), New Delhi

Dams, Displacement and Energy

- 2:30 – 2:45 **Presentation from South Asia**
Shekhar Singh, Centre for Equity Studies, New Delhi
- 3:00 – 3:15 **Break**



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- 3:15 – 5:15 Reaction / Conversation
- 5:15 – 5:30 Knitter: Krishna Prasad Oli, IUCN, Kathmandu
- 6:00 – 7:00 Movie presentation: *Homecoming*, sponsored by Savi Horne,
Landloss Prevention Project, Durham
- 7:30 pm Solidarity dinner and cultural evening

DAY FOUR

Thursday, 5 December

9:00 – 12 Noon **Session VIII: Trade, Globalisation, Global
Negotiations and Loss of Local Livelihoods**

Chair: R.K. Singh, Indian Institute of Forest
Management, Bhopal

International Trade and Loss of Livelihoods

9:00 – 9:15 **Presentation from North America**
Nelson Carrasquillo, Farmworker Support
Committee, New Jersey

9:15 – 9:30 **Presentation from South Asia**
Hari Babu, Calicut
Michael Mazgaonkar, PSS, Gujarat
Jagannath Adhikari and Martin Chautari, Kathmandu

Global Negotiations

9:30 – 9:45 **Presentation from North America**
Dan Magraw, CIEL, Washington DC, USA

9:45 – 10:00 **Presentation from South Asia**
T. Mohan, Chennai, India

10:00 – 10:15 **Break**

10:15 – 11:45 Reaction / Conversation



- 11:45 – 12 00 **Knitters:** Leslie Fields, Friends of the Earth,
Washington DC
Hari Babu, Calicut
- 12 – 1:15 **Lunch**
- 1:30 – 3:00 **Session IX: Strategies for Promoting
Environmental Justice**
- Facilitator: Manoj Misra, PEACE Institute, New
Delhi
- North America: Eileen Gauna, Veronica Eady,
Parisa Norouzi
South Asia: Shivani Chaudhry, Sunita Dubey
- Knitters: Sanjay Upadhyay, ELDF, New Delhi
Veronica Eady, Tufts University, Massachusetts
- 3:00 – 3:15 **Break**
- 3:15 – 5:30 **Session X: Next Steps**
- North America: Deohn Ferris, Global
Environmental Resources, Washington DC
- South Asia: Shekhar Singh, Centre for Equity
Studies, New Delhi, India
- Discussion
- 5:30 – 5:45 **Closing Remarks**
- Vernice Miller-Travis, Ford Foundation, New York
Owen Lynch, CIEL, New York

Friday, 6, December 2002



10:30 am Final departure by bus for New Delhi



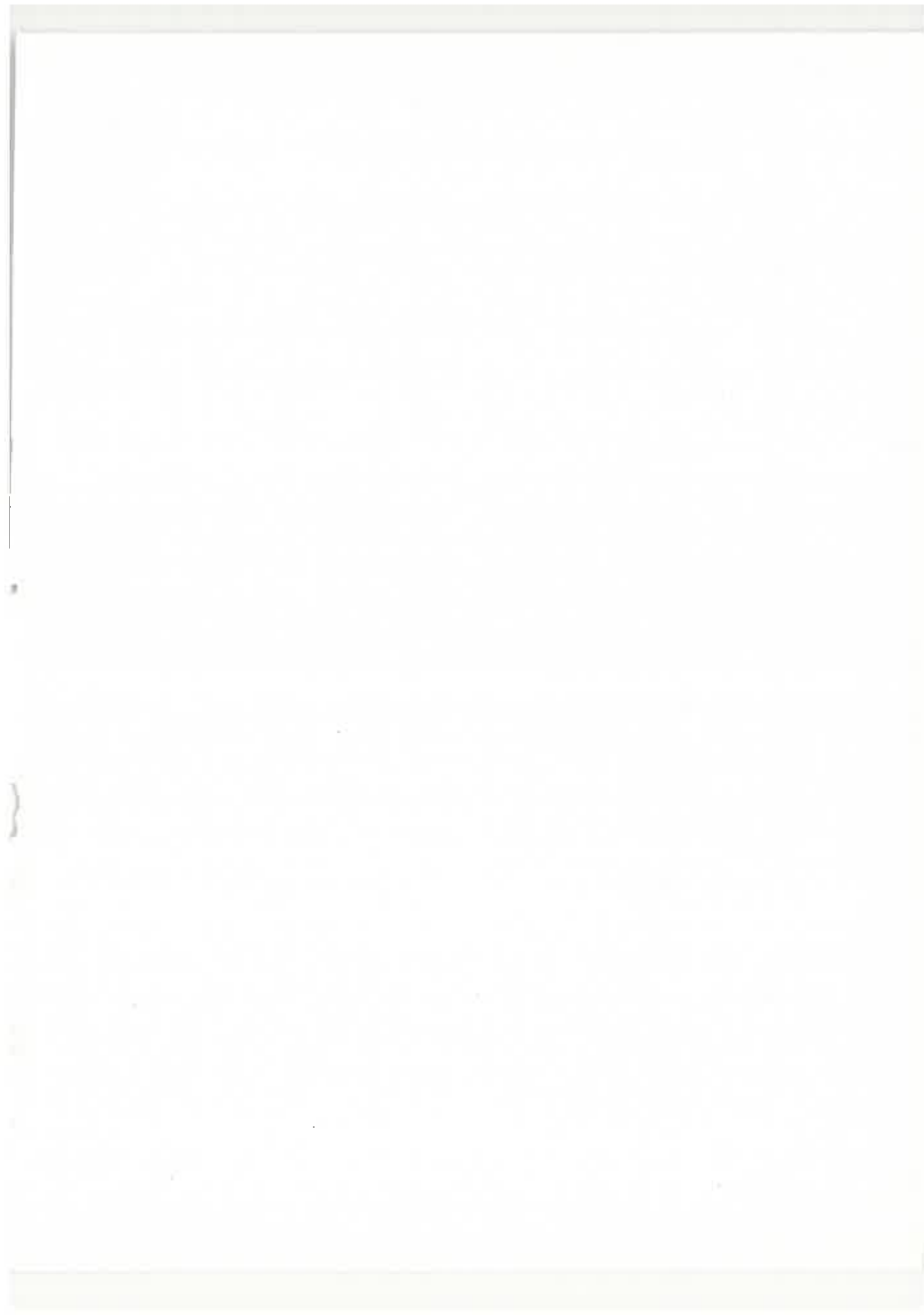


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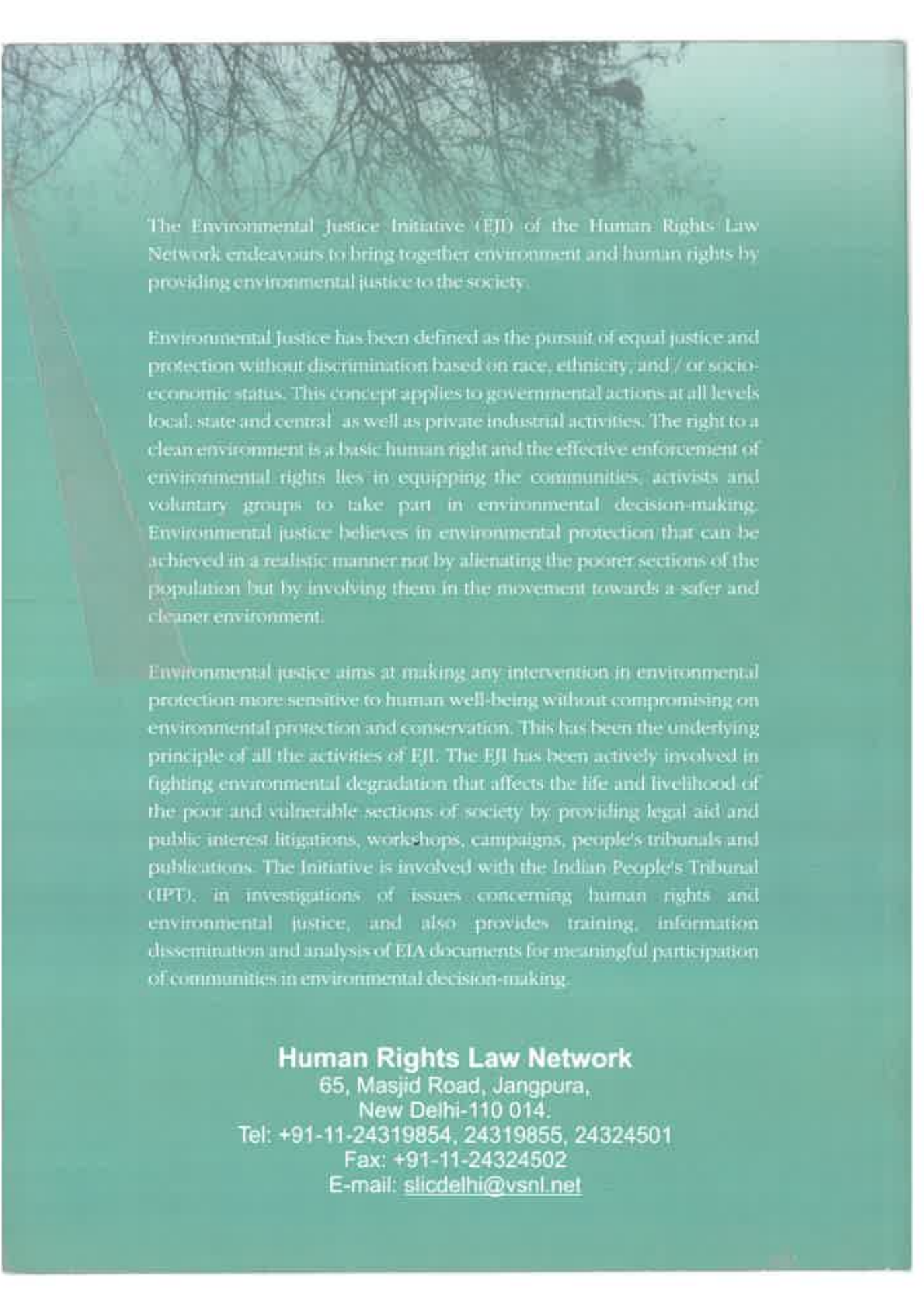
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The Environmental Justice Initiative (EJI) of the Human Rights Law Network endeavours to bring together environment and human rights by providing environmental justice to the society.

Environmental justice has been defined as the pursuit of equal justice and protection without discrimination based on race, ethnicity, and/or socio-economic status. This concept applies to governmental actions at all levels local, state and central as well as private industrial activities. The right to a clean environment is a basic human right and the effective enforcement of environmental rights lies in equipping the communities, activists and voluntary groups to take part in environmental decision-making. Environmental justice believes in environmental protection that can be achieved in a realistic manner not by alienating the poorer sections of the population but by involving them in the movement towards a safer and cleaner environment.

Environmental justice aims at making any intervention in environmental protection more sensitive to human well-being without compromising on environmental protection and conservation. This has been the underlying principle of all the activities of EJI. The EJI has been actively involved in fighting environmental degradation that affects the life and livelihood of the poor and vulnerable sections of society by providing legal aid and public interest litigations, workshops, campaigns, people's tribunals and publications. The Initiative is involved with the Indian People's Tribunal (IPT), in investigations of issues concerning human rights and environmental justice, and also provides training, information dissemination and analysis of EIA documents for meaningful participation of communities in environmental decision-making.

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