

FORGING Justice, Livelihood, and Contested Environments ENVIRONMENTALISM

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Editor



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Evaluating Environmental Justice Claims

Robert Melchior Figueroa

The term *environmental justice* has come into popular use by environmental and social justice activists and scholars. In its most common usage it pertains to distributive justice—the equitable distribution of environmental risks, such as toxic waste and other forms of pollution. As the case studies in this volume demonstrate, environmental justice is also related to the distribution of environmental goods—in other words, how resources are used. Distributive justice is a critical form of environmental justice, but environmental justice also takes a second form, related to who gets to make environmental policy decisions and who does not. Environmental injustice occurs when a policy elite disrespects traditional environmental practices and excludes the least empowered and most economically vulnerable groups from environmental decision-making. These concerns have generated what I have come to call the “environmental justice paradigm,” a concept that emphasizes the interrelatedness of distributive justice and political recognition.¹ Besides representation and participation, political recognition also requires that individual and group identity is respected, which entails an appreciation for local experience and knowledge, traditional beliefs, and environmental heritage.

The environmental justice paradigm finds its political expression in the environmental justice movement (EJM): an amalgamation of many grassroots efforts to identify, remedy, or at least ameliorate, injustices by confronting government, social, and corporate power. Fusing civil rights, labor, women’s, and indigenous people’s movements, the EJM has exposed a global trend of environmental elitism that compounds the disenfranchisement of environmental victims from the policy decisions that most affect them. At the local level, an environmental justice movement is one in which the people who mobilize to tackle an environmental threat identify as a group communally and culturally—not simply as interest-maximizing individuals with common goals, but as people similarly situated in a particular geographical, cultural, and historical experience.

Most of the case studies in this volume involve local environmental justice movements that fight political inequality and social discrimination as reflected in environmental practices. They demonstrate clearly the ways in which these movements are able to transform power relationships both at the institutional level, as reflected in law

and policy, and at the cultural level, in terms of a shift of public values and attitudes. They also demonstrate the range of transformative responses available within the environmental justice paradigm: redistributing environmental benefits and burdens, reconfiguring the political arena for greater participation in decision-making, healing communities, obtaining political recognition for previously unrecognized groups, shifting environmental values, and respecting the environmental heritage of minority populations.

In this chapter I examine the case studies according to the dimensions of the environmental justice paradigm. Where there is no apparent environmental justice movement, as in the China cases and Civano, I explore why this is so and the ways in which the cases still fit the environmental justice paradigm. To ensure that we bear in mind the connection between social justice and environmental quality—the earmark of environmental justice as opposed to other forms of environmental analysis—we will need to pay attention to whether the environmental destruction in a given case resulted in the first place from existing forms of social injustice, such as discrimination, marginalization, and disenfranchisement.

Distributive Justice

The distributive justice dimension of environmental justice can be divided into two broad categories: distribution and compensation. In both, environmental justice is concerned with the equitable balance of benefits and burdens. Some social groups benefit from modern industrial development in terms of jobs, education, economic and natural resources, infrastructural improvements, and international respect. Environmental justice provides a critical lens through which to view the enjoyment of such benefits against the suffering of the associated burdens by other social groups.

Distributive Arena

In all our cases an action that harmed a particular community also benefits another group, and sometimes the benefits extend well beyond the locale of the environmental assault. For instance, the Chisso Corporation's Minamata plant, the source of Minamata disease, also contributed to Japan's national economic development. Locally, despite the recognition of the plant's catastrophic practices, the Minamata public still honors Chisso as the city's economic linchpin. Likewise, the Lake Biwa Comprehensive Development Plan (LBCDP), which harmed the lake's ecology, transformed the lake into the "water jug" for a burgeoning urban population in Osaka, the commercial center of Japan. Japanese bureaucrats promoting Japan's dam projects could boast benefits for industrial development even though the costs to the local population were evident. In China, starting with the period of Mao's Great Leap Forward, Benxi, a center of steel production, and a primary source of air pollution, produced vast economic benefits for China while its population suffered from respiratory ailments. The Sanjiang Nature Reserve provides environmental benefits (biodiversity,

protection against sandstorms and floods), enhances China's diplomatic and international prestige, and promotes national security (through forest cover that prevents spying from over the Russian border). In the American Southwest, the desert housing development of Civano was envisioned by planners and government supporters as a solution to the scarcity of resources, including water and energy, and an opportunity to test new technologies, creative forms of resident participation, and new forms of community interaction. Grand Bois, a quintessential American environmental justice case, illustrates the all-too-common claim that local residents, while harmed by oilfield waste, also benefited from jobs in the oil industry at a time when traditional occupations and practices were no longer remunerative. Furthermore, the benefits of the oil industry extended across the nation and well beyond its borders. In Kerala, mechanization reaped the benefit of a profitable export industry for India and the mechanized sector of the Indian fishing industry, while threatening traditional fishing practices and communities. The despair of displaced laborers in Delhi contrasts with the benefits of improved environmental quality for city residents.

The environmental justice paradigm forces us to notice costs as well as benefits, particularly in terms of their fair distribution. There are often disturbingly clear inequities in the distribution of the costs of toxic waste dumping, as in the Minamata and Grand Bois cases. At the same time, the environmental justice paradigm also calls attention to the need to evaluate the justice of resource use decisions. In fact, competing demands on limited resources make resource distribution a key issue in environmental justice. Civano provides a very good example. Civano's planners envisioned a housing development that would inspire sustainable community living and offset the environmental and social harms caused by urban sprawl and tract development. However, local social justice advocates denounced the city of Tucson's decision to back this project, charging that, instead of supporting the development, which fundamentally embraces the growth paradigm, the city should have directed its financial resources toward containing sprawl and reversing urban blight. Tucson councilwoman Molly McKasson, for example, criticized the social and environmental incongruities of Civano's goals and impacts—in particular, the environmental impact of commuting from Civano—and the city's failure to channel economic resources to populations with more immediate needs, such as Tucson's Mexican Americans and the burgeoning homeless population. Other distributive injustices apparent in the case, although not voiced by the critics cited there, relate to the complex system of water distribution needed to meet the demands of a growing metropolis and the city's energy system, which exploited the resources of the Navajo and Hopi Indian reservations upstream. These Indian nations alleged that their aquifer was being depleted in order to transport coal that is strip-mined from their lands.

Weighing the benefits accruing from Civano against these environmental burdens may seem unfair, since a single sustainable community cannot be expected to resolve all of a region's environmental contradictions. Yet, while Civano may be touted for attempting creative solutions to resource scarcity in the desert, the environmental justice paradigm moves us to question whether the Civano plan was also environmen-

tally just. It forces us to see that some forms of environmentalism—in particular, “mainstream environmentalism” typically taking the form of conservation movements by elites—often discriminate in their tendency to maintain the social status quo. In the case of Civano, the beneficiaries of the innovations in housing design, creative funding schemes, and further sprawl were primarily the Civano residents, who are overwhelmingly affluent.

Ironically, the benefits of environmental policies and other actions that lead to pollution and resource degradation can sometimes harm the beneficiaries as well as others. Wolfgang Sachs identifies this phenomenon as the “boomerang effect” of environmental injustices.² In Kerala, in an effort to curtail the incursion of foreign factory ships, the “fishery capitalists,” or local trawler owners, found themselves in the position of needing to join forces with the traditional fishing communities—the historical “losers” in the conflict with these same trawler owners. Yet the factory ships were part of the very mechanization revolution that had reaped inequitable benefits for trawler owners at the expense of traditional fishers as well as the fishery resource. Thus, the initial “winners”—the local trawler owners—saw their own mechanized methods boomerang against them, to the benefit of bigger corporate players. It is the boomerang effect of a harmful practice on its supposed beneficiaries that often leads them to halt the practice. In Grand Bois, for instance, the public benefiting from jobs in the oil and gas industry paid little attention to the risks connected with oilfield waste dumping, despite abundant scientific evidence, until they started getting sick. When more affluent citizens outside Grand Bois began to fear that they might also suffer the consequences of an unregulated oil industry practice, the people of Grand Bois had the opening they needed to argue for just compensation.

The emphasis on *who* is at risk, versus the nature of the harm, is a central feature of the environmental justice movement. Mainstream environmentalism, by contrast, generally receives funding and political support from the more affluent members of the society, who do not directly pay the costs of environmental degradation; thus it tends to be chiefly concerned with impacts of human activities on nature and only indirectly with their impacts on people. Mainstream environmentalism and the environmental justice approach represent two sets of environmental values, with environmental justice dealing with livelihood issues and power relations, and mainstream environmentalism speaking the language of conservation and preservation.³

The Delhi pollution case appears to defy this distinction. Here, the environmentalism of the middle class is expressed not in terms of nature preservation but in terms of concerns about human health and the preservation of national heritage sites, such as the famous Taj Mahal.⁴ Nonetheless, the Indian middle-class environmentalism exhibited in this case dovetails with the affluent mainstream versions around the world insofar as it dismisses the impact of environmentalist measures upon vulnerable workers and by its failure to notice that “environmentalist” responses do not protect all people equally. As chapter coauthor Amita Baviskar explains, the “organizing fiction” of “the idea of ‘public interest’ . . . *conceals the class-specific effects of the air pollution initiative*” (p. 214; italics added). This discriminatory environmentalism—

in which mainstream environmental agendas do not account for the interests of marginalized peoples—contrasts with the environmental justice movement, which insists upon equitable protection against environmental burdens. Of course, the polluting industries—which, by the way, fail to provide safe working conditions and job security for their workers—require closer scrutiny. Yet the environmental justice perspective requires that the social impact of environmental decision-making be accounted for alongside the assessment of environmental burdens.

As in Delhi, Benxi's environmental campaign, which was led by government, was embraced by the white collar class and resented by laid-off workers, who told interviewers that a greater priority should be placed on jobs and social welfare than on greening the city. While the Benxi case clearly involves social justice issues, I would argue that it also needs to be evaluated in terms of *environmental* justice since there are allegedly inequities in the distribution of costs of environmental improvement. For instance, some residents speculated that a greener city could attract more investment and therefore create jobs. To be just, however, such a scheme needs to be backed by evidence that the number of jobs created by the green campaign is greater than that created under an alternative allocation of resources. We also need to investigate whether funds that might have gone towards job creation and to support pension programs were diverted to the city's antipollution effort and who actually benefits from that effort.

Compensatory Arena

Ever since Aristotle's *Nichomachean Ethics*, just compensation—the act of redistributing benefits and burdens to achieve equity among citizens—has been recognized as a key to social justice.⁵ When a government, a business, or a private citizen harms a person's livelihood, compensation, usually in the form of money, is commonly accepted as a remedy. However, by no means does compensation fully redress environmental injustices. Our cases indicate four ways in which compensation may actually further exacerbate environmental injustices:

1. compensation typically does not necessitate a redistribution of the burden to advantaged communities or the responsible parties, nor does it require a cessation of burden-producing practices;
2. compensation, whether agreed upon by the parties or ordered by a court, can generate antagonisms within communities;
3. victims of environmental injustices can suffer social stigma as a result of compensation programs;
4. compensation may be used to limit future claims against responsible parties.

In particular, inequity can be perpetuated when for cultural or other reasons society relies upon the "good faith" of the responsible party to compensate the injured parties. In the Minamata disease and Lake Biwa cases, informal and traditional *mimai kin* (sympathy money), was paid to victims. But as the cases show, *mimai kin* and

out-of-court settlements can reinforce the marginalization and disempowerment of victims of environmental injustices in two ways that may be entirely acceptable under the law: by allowing the responsible party to continue environmentally destructive practices and by preventing victims from bringing future claims against the polluters.

In Minamata, the initial settlements of *mimai kin* stipulated that disease victims could seek no further compensation from Chisso. In Grand Bois (and throughout the United States), out-of-court settlements apply to the property damages suffered by residents—usually according to the fair market value of the affected property. Yet the compensation amounts were paltry and could not cover the medical costs associated with unusual strains or clusters of cancer. And in both cultural contexts, Grand Bois and Minamata, a cessation of the destructive practices does not accompany the initial compensation schemes—not by current or former polluters, not by Exxon, Campbell Wells, or U.S. Liquids, and not by Chisso or Showa Denko (the offending corporation in the Niigata instance of the disease outbreak).

In Kerala, by contrast, the zoning for traditional vessels and modern trawlers is compensation in the form of policy change. If the best form of compensation from an environmental justice perspective is one that allows people to sustain their forms of livelihood, the zoning policy was on the right track, since it aimed to restrict the harm done to traditional fishers by mechanized fishing practices and offered a chance of increased catches in the traditional fishing zones. Nevertheless, Kerala's zoning policies still permitted the continuation of practices that result in overfishing. In fact, efforts to prevent overfishing have had limited effect because even the rigid policy restricting fishing during the monsoon seasons, when fish spawn, exempted the Neendakara trawler base, the center of mechanized fishing in the state. In other words, even the most proactive compensatory measure may fail to cease the practices that generate environmental injustices. In this case, the unsustainable fishing practices are a concern for environmental justice advocates because the least well-off were hit the hardest.

The second drawback of compensation is that it can dissolve community cohesion. Compensation is sometimes given to only a few members of a community, either through official compensation packages that require the registration and certification of victims or by out-of-court settlements or court-ordered payments in legal cases brought by the victims of the worst property damage or health consequences, or by the more vocal residents of the affected area. The unity among residents who organize against the responsible party in environmental justice cases is often rather precarious, and thus the buying out of individual residents is an effective and common divide-and-conquer strategy for polluters. As I have argued elsewhere, compensatory victories—especially out-of-court settlements for poor communities—are typically Pyrrhic at best. Community members may benefit but at too great a cost to the traditions and cohesion of the community as a whole.⁶

In Grand Bois, this was so even though all 301 residents were granted some compensation and even though residents did continue to pursue legal action against Exxon after reaching out-of-court settlements with Campbell Wells and U.S. Liquids. The

disempowering effect of the settlements was still felt in a wide range of experiences: court records were sealed; infighting broke out between community members because of unequal and inadequate compensation; and new feuds resulted from the tensions between community values and self-interest. As a community leader commented in an interview, the legal battle was “costly in both social and psychological costs. . . . It split families to the extent that family members don’t talk to each other because of it” (p. 289).

The Delhi air pollution case presents another divisive policy. The Supreme Court ordered the affected industries to compensate only their permanent workers, while the vast number of “informal,” or temporary, workers—the city’s most vulnerable—received no compensation. The environmental justice paradigm would have required a different approach to enforcing Delhi’s pollution policies, one that included offers of alternative employment for discharged workers and compensation for informal workers.

Yet another divisive effect of compensation involves disagreement over who are the *true* victims. In Kerala, the top-down means by which the Indo-Norwegian Project brought mechanization divided the fishing community into haves and have-nots. Because of asymmetries in the distribution of the tools of mechanization and in the distribution of costs, each group maintained different perceptions of who are the actual victims. The artisanal fishers believed themselves to be victims of the inequities posed by trawlers’ mechanized overfishing; while, following the adoption of the 1991 New Deep Sea Fishing Policy, the trawlers perceived themselves the victims of invading transnational fishers employing supermechanized methods.

The third way in which compensation can aggravate injustice involves the social stigma recipients suffer when they get marked as traitors to the community or as fakers trying to abuse the system. The Minamata fishers suffered from marginalized social status even before falling victim to the debilitating disease. Resisting the token sympathy money meant stepping far outside the cultural norm and behaving in a way inappropriate for a person of such low social status. Even worse was to request fair compensation and thereby threaten to undermine Chisso, the city’s economic powerhouse. There was little public sympathy for the idea that Chisso had a duty to remedy the offense. As the chapter authors explain, “To this day, Minamata victims are referred to in Japanese as ‘patients,’ reflecting a persistent cultural predilection to avoid attributing the cause to a particular perpetrator” (p. 128). Therefore, perhaps the worst stigma was that attached to certified victims who actually accepted compensation.

Can legislation reduce the social stigma attached to compensation? As the Japan chapter’s comparison between the outbreak of Minamata disease in Minamata and the subsequent outbreak in Niigata demonstrates, the passage of the Relief Law, which legislated a right to be compensated by state procedure and aid (as opposed to *mimai kin*) did not by itself ensure protection against the social stigma attached to compensation. This was because of the sociocultural context in which the law was applied. Chisso was (and is) so deeply interwoven into the social fabric of Minamata that filing a suit against the company was considered an unacceptable act against another

member of the community. But in Niigata, residents did not consider Showa Denko, which was located upstream from the affected community, as a member of that community. Thus, for Niigata residents, taking up a lawsuit against Showa Denko, no matter the firm's economic importance, did not subject them to further social discrimination in their community.

As these cases demonstrate, the very process of compensation sometimes subjects the least well-off to further discrimination. They are left without a voice in future decision-making over the distribution of environmental burdens; they are denigrated for their attempts to seek compensatory justice, which they deserve by custom and law; and they are alienated from their own self-empowerment because compensation may weaken the spirit of a grassroots resistance movement.

Recognition Justice

Compensation alone, as we have just seen, cannot alter a pattern of injustices; communities must also have a voice in environmental policy. In its political recognition dimension, environmental justice calls for the institutions of mainstream environmentalism to be transformed to include the voices of those most affected by the environmental burdens. Otherwise, harmful environmental practices are likely to continue. Thus, while compensatory justice is an important dimension of environmental justice, political recognition is central to the project of ending environmental injustice.

Any discussion of political recognition, or *recognition justice*, requires us to consider the question of political representation within a given social structure. Are all groups with vital interests in environmental decision-making represented in their own voice? Are local knowledge systems accounted for in the analysis of the problems and the formulation of solutions? Are the environmental identities and environmental heritage of the affected community represented and respected in the process?

The concept of recognition justice developed some thousands of years after distributive justice had been philosophically and politically established. Defenders of recognition justice argue that persistent cultural discrimination cannot be addressed by material redistribution alone. Distributive justice cannot adequately address fundamental questions about who has the power to redistribute. Communities that face environmental discrimination *and* discriminatory environmentalism, as in the Delhi pollution case, need a political voice before they can overcome the prejudices that undermine political equality and environmental equity.

In the Civano case, the Urban Lands Management Act, passed in 1981 by the Arizona legislature, not only allowed the city of Tucson to establish building codes before developers stepped in but also required public involvement in planning and zoning decisions and in decisions to sell trust lands. Such requirements are commonly part of contemporary environmental and zoning regulations across the United States, and are stipulated in many state environmental laws; while they are not always

complied with, they have proven to be a formidable tool for grassroots movements in their response to environmental injustices. Perhaps the best-known example of the efficacy of public-input requirements involves a 1991 Kettleman City, California, case where a state judge ruled against the siting of a toxic waste incinerator because the environmental impact assessment, filed in English, violated the right to participate of predominantly monolingual Spanish-speaking residents.⁷

For Civano, public participation was mandated at nearly every step of the approval process. Like the 1981 legislation, the city's 1992 master development plan also mandated public participation, as did the Metropolitan Energy Commission, a key actor pushing the process. On the other hand, once the Civano planners encountered financial difficulties and Fannie Mae became the project's sole owner, initial visions of deliberative and inclusive participation degenerated into conflicts between competing interest groups.⁸ Initially heralded for its grand vision of sustainability and public participation, Civano sacrificed its innovative hydrological plans by conforming to the city's problematic standards of water resource management, and its solar energy specifications were watered down.

Eventually the residents moved in and developed their own voice to counter Fannie Mae through the Civano Neighbors Neighborhood Association and other mechanisms. But the values and interests of Tucson's lower income residents, who were affected by the diversion of city resources to the mammoth development from which they stood to gain little (most of Civano's residents were upper middle class), remained unrecognized as stakeholders and left out of decisions surrounding Civano's development. Ultimately, the vision of a sustainable community became limited to those who could afford the cost of buying a Civano home. This outcome raises the environmental justice question of just who is the "public" whose participation is required by so many laws and regulations. The environmental justice paradigm would require the participation of the inner city Mexican immigrants in Tucson as well as the Hopis and Navajos who were affected upstream.⁹ The inner city residents, in particular, also contributed to the city tax-base, had a vested interest in the new developments and urban sprawl, and were the most vulnerable of the city's population.

In contrast to the Tucson case, where public participation is mandated by law, the China cases demonstrate the workings of a political order that systematically restricts public participation. As the authors of the China chapter suggest, the Chinese public's political impotency translates easily into dependency on the government, whereby collective problems are seen as the responsibility of the government and "not a matter of individual concern" (p. 90). There is also a reluctance among many Chinese citizens to get involved in politics, a lingering effect of strict government control under the Maoist regime, as Judith Shapiro notes in her foreword to the chapter. A result of government policies in the Sanjiang Plain, Sanjiang farmers and fishers receive no compensation or even recognition for their lost lifestyles and resources, which would likely not have happened (at least without a fight) had there not been severe restrictions on local organizing. Adding insult to injury, common fishing, herding, and logging practices have been outlawed for the sake of environmental preservation.

The need for recognition justice in Grand Bois is equally acute. After the hazards of siting oilfield waste facilities near residential communities became known, and during a brief window of progressive government, state officials made some progress in regulating the oilfield waste disposal. There was also an unprecedented spate of public meetings and opportunities for public participation, but the state and national policy debates over produced water and other oilfield waste bypassed such geographically remote and politically and socially marginalized communities as Grand Bois, and the election of a pro-business governor left the community undefended against Big Oil's dumping practices. Grand Bois is a testimony to the fact that even with the best intentions professional environmental agencies will overlook the interests of marginalized local communities unless those communities have full participation in environmental decision-making.

A major obstacle to participatory parity, and all other aspects of environmental justice, is corruption, which all too often accompanies environmentally irresponsible business practices. Corruption in some form is an element in all our cases. In the Sanjiang Nature Reserve case, the researchers saw evidence of illegal hunting by the very officials charged with enforcing the wildlife protection laws. Yet if the hunters and herders who once depended upon these activities for their livelihoods did the same, they would be arrested. Similarly, officials of the industrial giant Benxi Iron and Steel Company were charged with corruption, which was widely publicized in the local press. The association of the company with the environmental campaign—it had received preferential loans and other benefits from the state to help it meet the demands of the campaign—made the swelling population of economically vulnerable Benxi residents increasingly distrustful of the campaign itself. In Delhi, amid the loss of over a quarter of a million jobs as a result of the Supreme Court-ordered factory closures, credible yet unproved allegations circulated that certain factories that had paid the appropriate bribe stayed off the list of nonconforming industries. Kerala's exemption of Neendarkara from trawling bans could be traced back to Baby John's political and economic power. And finally, as the major taxpayers and provider of jobs, the industrial powers of Chisso (Minamata) and Exxon and Campbell Wells (Grand Bois), were granted many privileges, most notably in the form of relaxed regulations of their harmful activities, and in the case of the early years of Minamata Disease, government cover from accepting responsibility. Corruption in these cases is seen in the ways in which economically and politically privileged groups are able to circumvent the regulations and attendant costs by virtue of their insider status—a form of participation that would be contained if recognition justice were upheld. Again we see that distributive justice alone fails to mandate a role for the otherwise disenfranchised communities in a fair bottom-up process.

Grassroots Mobilization

Essential to participatory parity, in addition to rules and institutions that enable it, is the capacity and political space for grassroots mobilization. The Grand Bois,

Minamata, and Kerala cases offer prime examples of the transformative character of grassroots activism in which local residents organize to address environmental inequities, challenging and ultimately changing the political institutions behind the injustices. In all three places activists mobilized to address not only the question of who receives the benefits, but also importantly who *determines* the benefits and their distribution.

The China cases, by contrast, where there was no grassroots mobilization, challenge the environmental justice paradigm since the top-down environmental campaigns resulted in undisputed environmental improvements despite the absence of environmental justice movements. The national policy of shutting down dirty and inefficient coal mines in Benxi and the People's Liberation Army's enforcement of the government's nature protection policies are environmental actions that mainstream environmentalists around the world can only applaud. The latter in particular is a highly unusual engagement of the military; typically military operations have adverse environmental impacts—in fact they are responsible for some of the worst environmental destruction in the modern world. Cleaner air for all of Benxi's residents and the enjoyment of the wetlands by the human residents and the wildlife of the Sanjiang Plain widens the distribution of environmental benefits, at least in principle. Can we then say that environmental justice has been achieved in the China cases from a distributive point of view? We cannot fully answer that question without also assessing the recognition aspects of the case, since the two dimensions of justice operate hand in hand. Our cases demonstrate that the two dimensions of justice are interdependent, and they merge at the critical juncture of participatory parity.

The top-down, nonparticipatory environmental projects of Benxi and the Sanjiang Nature Reserve are typical of China's historically repressive government. In the government's view, local residents need to be reeducated as environmentally conscious citizens, particularly when it comes to environmental projects that are perceived to have long-term economic benefits. Yet, environmental education cannot be accomplished through officially sanctioned programs such as those in China. What is needed is a shift in consciousness whereby stakeholders envision their lives as a part of their natural surroundings; in Benxi and Sanjiang the government's policies did little to achieve that. Beyond the question of the effectiveness of China's policy approach, environmental justice demands procedural justice where citizens can find their own voice in the campaign. The establishment of mechanisms for public input in Benxi, such as the environmental hotline, while a step in the right direction, has had limited effect. This is so not only because of the inherent limits of this form of participation but also because of historical conditioning that leaves residents feeling an obligation to learn and follow rather than to make their voices heard in environmental decision-making.

Evaluating the environmental justice of government policies and citizen actions is

also a complicated matter in the Lake Biwa case. As the authors point out, a shift in the terms of public debate from *kogai* (“public nuisance” issues) to *kankyo mondai* (environmental problems) occurs in all of the Japan cases, and at Lake Biwa these two sets of values drive two very different grassroots movements. Local fishers, who not only saw the degradation of the fishery resource but also lost their fishing rights to certain areas, mounted the earliest challenges to the water resource development plan. Because they had few allies besides “biologists, ecologists, and some residents in the smaller villages where dam construction was planned” (p. 151), their opposition received little publicity and was ultimately dealt with through *mimai kin*, the *kogai* form of compensation.

The later, much more effective challenge to the government’s comprehensive water resources development plan emerges from the soap movement engineered by the “environmentalist” (*kankyo mondai*) administration of the prefectural government and then taken up by a grassroots movement comprising new lakeshore residents. Through new tactics, including legal battles, the soap movement successfully agitated for new policies that grew out of *kankyo mondai* values—an appreciation of the lake itself. The old-style Japanese environmentalism, marked by adherence to traditional forms of compensation and respect for the prefectural officials and directed at the livelihood and constitutional rights of fishers, was eclipsed by new-style environmentalism, which pushed the agenda of more urban, younger, and affluent lakeshore residents.

How should we evaluate these grassroots efforts from an environmental justice perspective? Although older residents share an interest in water quality, the soap movement did not incorporate these residents and their broader concerns into their movement. Thus, in the evolution of environmental values from *kogai* to *kankyo mondai*, as described by the authors, we see the discrimination that is so problematic in mainstream environmentalism. But a return to *kogai*, with its compensatory response of *mimai kin*, will not bring environmental justice either. An environmental justice perspective encourages a new phase of environmental transformation that involves “compassion values,” which could motivate soap movement activists to include the original fisher opposition.

Respect for Environmental Identity and Environmental Heritage

Recognition justice demands that we fully account for the situational aspects of group mobilization for environmental justice by understanding the individual and community environmental identities and environmental heritages at stake. An environmental identity is the amalgamation of cultural identities, ways of life, and self-perceptions that are connected to a given group’s physical environment. In Minamata, for example, we find that fishers were reluctant to accept the fact that the fish were contaminated because it would mean abandoning their traditional way of life and

sustenance. Environmental identity is closely related to environmental heritage, where the meanings and symbols of the past frame values, practices, and places we wish to preserve for ourselves *as members of a community*. In other words, our environmental heritage is our environmental identity in relation to the community viewed over time.

The fact that vulnerable groups are so often victims of the unfair distribution of environmental burdens reflects discrimination against the groups' environmental identity. If the maritime identity of the fishers of Minamata, Lake Biwa, the Nagara River, and Kerala, for example, is socially devalued, so too will be the groups' interest in clean water and sustainable practices. More generally, the distribution of environmental burdens is closely related to the ways in which groups' environmental identities and environmental heritages are respected within a society. Yet environmental identity and heritage are the most commonly overlooked aspects of environmental justice. Even if distributive justice and political recognition are achieved as a result of an environmental justice struggle, the affected groups may still experience harm to their environmental heritage as a result of which they are forced to rethink their self-identity.

For the Houma and Cajuns of Grand Bois an environmental heritage of sharing resources among family and community members predates the oil industry and the legacy of dependence it created. This heritage, passed on in stories from one generation to the next, guides them on the path to personal and cultural security. But the Grand Bois people's narratives are threatened by the local presence of the oil industry. The oil-related ecological destruction that forced Grand Bois residents to abandon long-time fishing and shrimping practices, signatures of local identity, will not be easily mitigated as long as the oil industry remains dominant in the region. This kind of impact on environmental identity and heritage means that remedies to the injustice will involve a more conscientious solution: compensation alone is unacceptable to many residents, who see ecological cleanup and the removal of the offending waste site as necessary to restoring health as well as environmental heritage.

The case of Benxi provides an ironic twist on environmental identity. For an industrial, steel-producing city like Benxi, a toxic identity signifies industrial productivity. It is the turn to a market economy and the downsizing of the state-owned steel enterprises that enables the creation of a model environmental city and the turn to a green identity, thereby transforming Benxi into a national symbol for lightening the environmental burdens of a modern industrial society. The many residents who were left jobless and without a social safety net in the new economy regard this new identity with disdain, however, once again raising the question "environmentalism for whom"? The interviews with Benxi residents in the China chapter indicate that green values have yet to trickle down from the middle classes. Furthermore, we need to consider an older environmental identity that was lost with the advent of the steel industry. To judge from the region's mountainous landscape and abundant verdant beauty, the toxic identity no doubt masks a loss of environmental heritage. Whether

it can be recovered through the new efforts to promote tourism is doubtful unless the people of Benxi are brought in as full participants to the policy decisions.

Typical remedies to injustice, such as compensation or other forms of redistribution, cannot repair damage to environmental identity and the rupture of a way of life. If we are stripped of our livelihood, marginalized by virtue of environmental hazards, and ultimately face the loss of our own self-respect, what is the remedy? Recognition justice involves not only giving victims a voice in environmental decision-making, but also cultivating an authentic respect for the ways in which local groups experience the policy process, and for their traditional ways of knowing and responding to environmental concerns.

We must find creative remedies to injustices against environmental identity. One possible remedy is *restorative justice*, wherein mediators bring victims and offenders into a dialogue in order to establish the parameters of apology that will be acceptable to the victims. Recognition justice requires more than compensation and redistribution. As Australian environmentalist Val Plumwood points out: "One has to concede injustice in order to effect a sufficient change to provide any guarantee that the same approach will not immediately be repeated somewhere else where it may be equally damaging—that is, evidence of dispositional change. That's why it's so important to be able to say 'Sorry'."¹⁰ To make the offender more responsible and conscientious, and suture the wounds of the affected people, families, and communities, the harm to environmental identity and heritage needs to be addressed. Restorative justice requires that the victims confront the offenders (although in actual cases this rarely happens face to face) so as to discourage repeat offenses. Through restorative justice, in short, apologies and mediation are added to the recognition and distributive remedies of greater participation and compensation. Restorative justice also involves reforming laws and institutions to ensure the victims a voice in the decisions surrounding environmental practices of the wrongdoers and to prevent future victimization, abuse of science, and irresponsible policy-making. Thus, once a polluting operation is shut down, victims need to be assured that the culpable parties do not simply move on and repeat the offense elsewhere. Public apologies keep the spotlight of guilt on the culpable parties, instead of casting doubt on the good faith of the victims, as happened in Minamata, Grand Bois, and Delhi, where the victims were seen as having violated social custom, harmed productivity, hindered green policy advances, or burdened state tax systems.

Restorative justice is not without its flaws, as the leading legal practitioners in New Zealand and Australia have learned.¹¹ Victims are often placed under great stress when dialoguing with their offenders. And offenders may in fact get too much credit for agreeing to take part in the restorative justice process, while victims are put in a position where they must take responsibility for rehabilitating the offender.

Nevertheless, restorative justice has been shown to produce good results in one of our cases. The recent history of Minamata represents a fairly successful effort at restorative justice. After decades of conflict over toxic waste and its health effects,

the people of Minamata remained divided, with victims and offspring of victims still suffering from the disease, from social stigmatization, from the economic hardships of downsizing at the Chisso plant, and from the environmental destruction of the local landscape. Finally, in the 1990s, the prefectural government took action to reunite the community with its *Moyainaoshi* Campaign. According to the Japan chapter, this reconciliation effort emphasized “activities that bring the residents face-to-face to discuss environmental issues and to cooperate together on resolving community environmental problems” (p. 114). The community-wide process of healing between residents across generations, which included a public apology from the mayor, memorials, concerts, and sculptures, helped give Minamata a new identity. The process of healing the environment, through the city’s recycling system and other *moyainaoshi* projects, was developed expressly to redefine the identity of victims and the city itself. Victims became participating citizens, whose voices counted because they had traditional knowledge that could help forge Minamata’s new identity—the very knowledge that for decades legal experts, corporate giants, prefectural and national government officials, medical professionals, and other residents had long dismissed.

The project of *moyainaoshi* remains unfinished. As a movement led by the prefectural government, its credibility is circumscribed. It makes top-down mistakes—for example, inviting victims to the memorial’s coffee house but preventing them from working there because of their disabilities. And despite the campaign’s efforts to create awareness and social sensitivity, some Minamata people continue to look down on the victim and fisher communities. Many victims and activists disagree with the decision to site the campaign’s festivities and memorials on a fifty-eight hectare green that is also the site of the reclamation landfill where the mercury dredged from the sea is buried. The victims themselves remain exhausted from decades of illness and social prejudice, and the healing process depends upon their reliving this painful experience.

Transformations and the Environmental Justice Movement

The China chapter authors summarize the attitude of the people of both Benxi and the Sanjiang Plain toward environmental projects in their regions as follows: “What is the point of a nice environment if people have nothing to eat?” (p. 91). The choice of eating or preserving the environment is a false dichotomy imposed upon marginalized people around the world. The environmental justice paradigm calls us to recognize that environmental practices, values, and politics have serious social repercussions; in order to anticipate, understand, and ameliorate these repercussions, environmental consciousness must be transformed so that we promote justice for both ecologies *and* communities instead of framing the two goals as irreconcilable. The promise of the environmental justice movement lies in its potential to achieve this transformation by empowering individuals and groups,

reforming political institutions, and changing our approach to environmentalism itself.

As we have seen in the studies in this book, community mobilization can transform marginalized individuals, living day to day with a sense of resignation, into the powers that be: citizens with a voice in decision-making. In Grand Bois, Kerala, and Minamata, citizens and communities took on major corporations and government bureaucracies. Their demands for recognition, including respect for identity, were articulated in a way that over time gave their environmental values entry and some degree of legitimacy in the domain of policy-making. In encouraging the victims of environmental injustice to confront business-as-usual politics, an environmental justice movement can alter the political arena. The Minamata Disease Victims Certification Association and the fishworkers' movement of Kerala were environmental justice movements to be reckoned with at the highest levels of local *and* national politics, while the Grand Bois Citizen's Committee won revisions in state environmental policy, even though some key demands remained unmet.

In the face of the environmental justice paradigm, not only politics but also environmentalism itself, dominated as it is by affluent classes worldwide, must confront the need for transformation. In several of our cases, mainstream environmentalists inside and outside government were complicit in the social injustices suffered by the most disenfranchised groups. Most notably in Delhi, environmental policies supported by the environmentalism of the new and growing middle class cost desperate workers more than a quarter of a million factory jobs. In the Sanjiang Nature Reserve and in Benxi, it is state-sanctioned mainstream environmentalism that residents suffer from (or in the case of Benxi, perceive they suffer from, as a consequence of misplaced priorities and corruption). Clearly, then, environmentalism is a political movement that must be scrutinized for its social consequences. In addition to showing the shortcomings of mainstream environmentalism, our case studies have also shown the ways in which mainstream environmentalism has faced up to its social responsibility to assist communities in their struggle for environmental justice, as in Grand Bois, where alliances with mainstream environmental groups helped the community gain a political platform and find a voice with which to challenge Big Oil.

The most important transformation that needs to take place, in my view, is with respect to the environmentalism of the dominant class. Driven by a consumerist culture, this class shapes the way in which politics, morality, economics, science, and technology are used to generate the injustices. This is the environmental identity that most of us share in and which we are morally obligated to transform everywhere, particularly in this age of economic globalization. Only by deconstructing and reconstituting our environmental identity to respect the environmental rights of all people can the environmental identity of the victims of environmental injustices be affirmed by the victims themselves and respected by those who once perpetuated the injustices.

Notes

The case studies in this book present so many rare and new avenues for environmental justice studies that the task of conforming my analysis to the goals of the text felt, at times, overwhelming. I therefore especially thank Joanne Bauer for the many times she went beyond the normal duties of editor to assist me with direction and feedback. Many insights and contours of this chapter are owing to the long discussions and countless hours that she generously gave to this chapter. For those moments of guidance and virtual coauthorship I must express my gratitude.

1. There is a great deal of debate among justice theorists over the exact nature of and relationship between the two dimensions. Here and elsewhere I follow the distinctions of Nancy Fraser's "redistribution-recognition problem," which argues that these dimensions are identifiable, distinct, and interrelated. See Nancy Fraser, *Justice Interruptus: Critical Reflections on the "Postsocialist Condition"* (New York: Routledge, 1997). For a lengthier account of the role of these dimensions in environmental justice, see Robert Melchior Figueroa, *Debating the Paradigms of Justice: The Bivalence of Environmental Justice* (Ann Arbor: University Microfilms International, 1999).

2. Wolfgang Sachs, *Ecology and Equity: From Rio to Johannesburg 2002*, video recording (Hamilton, NY: Colgate University), March 23, 2002.

3. "Mainstream environmentalists" characterize the distinction as "shallow ecology," which deals with pollution and human environmental health, versus "deep ecology," which places ecological interests on par with strictly human interests.

4. Although it is not mentioned in the case study in this volume, the Supreme Court, in addition to shutting down polluting factories in Delhi, also shut down factories and commercial enterprises that were soiling the Taj Mahal in nearby Agra. See the 1999–2000 annual report of the Central Pollution Control Board, available at www.cpcb.delhi.nic.in/annual_report1999-2000-26.htm, accessed 29 September 2004. See also T.K. Rajalakshmi, "Toxins and the Taj," *UNESCO Courier*, July/August 2000, available at www.unesco.org/courier/2000_07/uk/signer.htm, accessed 10 January 2006.

5. Aristotle, *Nicomachean Ethics*, ed. R. McKeon (New York: Random House, 1941), 1132a: 10.

6. Robert Melchior Figueroa, "Teaching for Transformation: Lessons from Environmental Justice," in *The Environmental Justice Reader: Politics, Poetics, and Pedagogy*, ed. J. Adamson, M. Evans, and R. Stein (Tucson: University of Arizona Press, 2002), 311–30.

7. Robert Melchior Figueroa, "Other Faces: Latinos and Environmental Justice," in *Faces of Environmental Racism: Confronting Issues of Global Justice*, 2d ed., ed. L. Westra and B.E. Lawson (Lanham, MD: Rowman and Littlefield, 2001), 167–86.

8. For a more detailed discussion of pluralistic public involvement versus deliberative participatory processes in environmental justice; wherein the former poses stakeholders as self-interested parties pressuring the others into a concession and the latter involves stakeholders as equal partners in a problem solving venture that is not intended to end in the favor of an individual player or regime of players, but as a collective solution by all present players. See Luke W. Cole and Sheila R. Foster, *From the Ground Up: Environmental Racism and the Rise of the Environmental Justice Movement* (New York: New York University Press, 2001), especially chapter 5.

9. The extent to which upstream parties (Native American Nations) and downstream parties (inner-city Mexican Americans) played a role in the process is not entirely clear from the case study.

10. Val Plumwood, *Environmental Culture: The Ecological Crisis of Reason* (New York: Routledge, 2002), 116.

11. Heather Strang, "Restoring Victims: An International View" (lecture delivered at the Restoration for Victims of Crime Conference, Melbourne, Australia, September, 1999).