

(Re) Defining Environmental Justice: Perspectives and Challenges

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Abstract

The concept of Environmental Justice (EJ) is still one that conjures many images of what EJ may actually mean. Environmental Justice seems to mean different things for different people. In spite of a commonly recognized definition, defining it in that sense only may not resonate with many as plainly as it sounds.

Many factors may add to or diminish the commonly known definitions. The Paper attempts to look at the definition of Environmental Justice from various angles to bring out the different perceptions around EJ.

Part A highlights the beginning of modern or contemporary EJ movement as we know it and the reasons EJ came into prominence. Part B will show the growth of the concept of EJ as a movement and the perceptions challenging the common definition of EJ. Part C adds EJ from an African perspective, as there is little mention of EJ from an African community's concerns about the environment in general. Part D points out the emerging challenges the indulgence of EJ may encounter in the face of rapid globalization, climate change and currently, during the global pandemic. The article concludes by suggesting that circumstances can best be the determinant of what EJ would entail in a particular situation.

A. The Definition And Background of Environmental Justice

According to the US Environmental Protection Agency, Environmental Justice is *'the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the*

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development, implementation, and enforcement of environmental laws, policies and regulations².

Environmental Justice (EJ) still has various definitions depending on what would be the demands of justice at the time. Such definitions include: the equitable distribution of environmental risks and benefits³; fair and meaningful participation in environmental decision making⁴; the recognition of a community's ways of life, local knowledge and cultural difference; and the capability of the communities and individuals to function and flourish in society;⁵ the distribution of social goods;⁶ and the right to environment information access, participation and access to justice⁷.

In the social sciences, EJ is a collection of theories on environmental law, environmental policy and planning on sustainable development and political ecology.⁸

B. The Growth of Environmental Justice: Concept, Perceptions and Definition Challenges

a. Growth

Environmental protection has been with mankind in various forms at community level. For instance, in Africa each community had a set of rules, customs and proverbs regarding environmental conservation and inequalities were somehow addressed through family and clan land privilege allocations⁹. Earlier forms of Environmental Justice manifested through

² <https://www.epa.gov/environmentaljustice#:~:text=Environmental%20justice%20is%20the%20fair,laws%2C%20regulations%2C%20and%20policies.>

³ Schlosberg, David, *Defining Environmental Justice: Theories, Movements, and Nature*, (2007) Oxford University Press

⁴ *ibid*

⁵ *ibid*

⁶ *ibid*

⁷ R. Ako, 'Resource Exploitation and Environmental Justice: the Nigerian Experience,' in F.N. Botchway (ed), *Natural Resource Investment and Africa's Development*, (2011), Cheltenham, UK: Edward Elgar Publishing, pp. 74-76.

⁸ Miller, G. Tyler, Jr. *Environmental Science: Working With the Earth*, (2003), (9th ed.), Pacific Grove, California: Brooks/Cole. p. G5. [ISBN 0-534-42039-7](https://www.amazon.com/Working-With-the-Earth-9th-edition-G-Tyler-Jr/dp/0534420397).

⁹ Gathogo, Julius. (2013). Environmental management and African indigenous resources: echoes from Mutira Mission, Kenya (1912-2012). *Studia Historiae Ecclesiasticae*, 39(2), 33-56. Retrieved August 01, 2021, from

community or national environmental protection initiatives where restrictions were made against unlawful utilization of land resources by persons within or without those communities and offenders were punished¹⁰. In Asia, local ecological knowledge and management of indigenous species ensured food security, cure for illnesses and conservation of biodiversity and local habitats¹¹.

Contemporary Environmental Justice (EJ) movement is thought to have been sparked during the Civil Rights Movement between the 1960s and 1980s by people of colour in the United States protesting the exposure to public health dangers within their neighbourhoods.¹²

Major complaints included the planning of and location of landfills, industrial and waste disposal facilities around neighbourhoods of coloured people in the US. This was considered environmental racism.

In Europe, the same concerns affected people of a lower income group, thus, economic class racism. In the industrial and post industrialization ages, developing countries have had to grapple with effects of pollution and other occupational health hazards due to the location of industries near residential neighbourhoods, and populations migrating from safer and distant

http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1017-04992013000200004&lng=en&tlng=en.

¹⁰ Yoseph Maru, Aster Gebrekirstos & Getahun Haile | Fatih Yildiz (Reviewing editor) (2020) Indigenous ways of environmental protection in Gedeo community, Southern Ethiopia: A socio-ecological perspective, *Cogent Food & Agriculture*, 6:1, DOI: [10.1080/23311932.2020.1766732](https://doi.org/10.1080/23311932.2020.1766732)

¹¹ Ellen, Roy. (2007). Traditional environmental knowledge in island Southeast Asia: some consequences of its demise and re-discovery for local coping strategies. Modern crises and traditional strategies: local ecological knowledge in island southeast Asia

¹²EPA, How did environmental justice arise?; <https://www.epa.gov/environmentaljustice/environmental-justice-timeline#:~:text=The%20environmental%20justice%20movement%20was,familie s%2C%20their%20communities%20and%20themselves;> accessed 20/03/2021

neighbourhoods to find work in the industrial estates¹³. The persuasion that the economic benefit derived from the jobs offered could take care of their personal and family health needs left victims in a difficult position as they needed the jobs for their livelihood.

It should be noted that the need for EJ has been perceived and expressed through different nuances; i.e., violations against people of colour or racism (US), economic class rights (Europe), and anti-colonial property rights and natural resources conflicts or resource justice (Developing Countries and Africa where monopoly of management of natural resources is vested in a few politically connected people)¹⁴. Modern EJ is changing face to accommodate growing challenges such as climate change factors bringing about climate migrants, pandemic impacts, and increasing trans-boundary pollution. Protection of cultural rights¹⁵ is also a latter inclusion.

Generally, reasons for the rise of EJ include environmental discrimination, environmental racism, environmental colonization, and environmental xenophobia by groups of people who feel superior over their victims as far as sharing of environmental burdens is concerned.¹⁶

Some of the modern developments in the growth of EJ include the articulation of 17 Principles of Environmental Justice during the 1990 multinational People of Colour Environmental Summit (US)¹⁷. The document captured the essence of non-discrimination, inclusivity and public

¹³ Raffaelli Virginia, Environmental Racism in Europe: Protecting The Roma People's Right To A Healthy Environment, Geneva Centre for Security Policy; https://www.linkedin.com/pulse/environmental-racism-europe-protecting-roma-peoples-right-raffaelli?trk=public_profile_article_view

¹⁴ Muigua Kariuki & Kariuki Francis, Towards Environmental Justice in Kenya, (2017) Journalofcmsd Volume 1(1): <https://journalofcmsd.net/wp-content/uploads/2017/09/Towards-Environmental-Justice-in-Kenya-28th.pdf>

¹⁵Endorois case at the African Court of Human and People's Rights

¹⁶Schlosberg, David. (2007) *Defining Environmental Justice: Theories, Movements, and Nature*. Oxford University Press.

¹⁷ Drafted and adopted in 1991 at the National People of Color Environmental Leadership Summit, Environmental Working Group (EWG); <https://www.ewg.org/news-insights/news/17-principles-environmental-justice>

participation, respect for minority rights, rule of law and fairness in distribution of social goods and responsibilities.

In Europe, there was growing dissent about the manifestation of environmental injustice within masses of lower income groups. This was an economic class issue; it was felt that neighbourhoods of people who earned a higher income had better access to clean and adequate amounts of clean water, had more green spaces, had better food choices and had a say in how by-laws would control waste location and management.¹⁸ In recent global climate change occurrences, high income groups are least adversely affected compared with people in low income neighbourhoods who become victims of the unjust choices earlier made by their affluent counterparts, as the more affluent neighbourhoods would have invested in stronger and more resilient infrastructural development¹⁹.

Modern EJ is demonstrated in three strands as follows:

Distributive Justice – this concerns the distribution of social goods and responsibilities among a group of environmental goods consumers; *Procedural Justice* – it concerns fairness in the process of the decision outcomes in the dispensing of goods, services and justice actions; and *Interactional Justice* – the way decisions and processes are communicated to recipients of these decisions.

b. Perception

Looking at the few environmental management styles available, it may help to inform the perceptions EJ will endure.

For starters, the general political view is that the concept of Environmental Justice is a social movement driven by a small group of people whose social concerns need not warrant special attention beyond the generic justice solutions²⁰. Nothing can be further from the truth, as the environment is the

¹⁸Bullard R, *Confronting Environmental Racism in 21st Century (2001)*, A Paper Prepared for the United Nations Research Institute on Racism and Social Development (UNRISD) Conference on Racism and Public Policy, September 2001, Durban, South Africa

¹⁹ ibid

²⁰ Benedicte Bull and Mariel Aguilar-Støen, Changing Elites, Institutions and Environmental Governance; <https://core.ac.uk/download/pdf/81074722.pdf>

base for which all living occurs and its place cannot be downplayed. Environmental concerns can therefore not be relegated to planning's afterthought.

Eco-centric management style

Many governments prefer to use the 'Command and Control' Management (CCM) approach to strictly protect the environment. Laws, rules and regulations are made without the full participation of other users of the environment, and come with heavy penalties for breach of the law. Whereas the penalization of environmental damage is a worthy idea, in this case the decisions on fines and penalties are made without proper public participation and are politically influenced²¹. Opponents of the eco-centric approach would view the CCM as a tool for favouring certain groups, e.g. higher income groups whose socio-economic needs are already met and propose a strong protectionist agenda²². To the opponents EJ therefore means an authoritarian protection of flora and fauna and other environmental sectors without regard to the diverse environmental utilization dynamics such as political, economic and social and cultural sensitivities²³. Supporters of the anthropogenic management approach may tend to see Eco-centric management as a reserve of a few and an elitist venture done for their social amusement.²⁴

²¹ Rice University, Principles of Economics, Environmental Protection and Negative Externalities, Chapter 12, Open Stax;

<https://opentextbc.ca/principlesofeconomics/chapter/12-2-command-and-control-regulation/>

²² Robert A. Huber (2020) The role of populist attitudes in explaining climate change skepticism and support for environmental protection, *Environmental Politics*, 29:6, 959-

982, DOI: [10.1080/09644016.2019.1708186](https://doi.org/10.1080/09644016.2019.1708186)

²³ James McCarthy (2019) Authoritarianism, Populism, and the Environment: Comparative Experiences, Insights, and Perspectives, *Annals of the American Association of Geographers*, 109:2, 301-

313, DOI: [10.1080/24694452.2018.1554393](https://doi.org/10.1080/24694452.2018.1554393)

²⁴ Robert A. Huber (2020) The role of populist attitudes in explaining climate change skepticism and support for environmental protection, *Environmental Politics*, 29:6, 959-982, DOI: [10.1080/09644016.2019.1708186](https://doi.org/10.1080/09644016.2019.1708186)

The eco-centric apologists will on the other hand argue that it is important to protect the environment solely for the environment's sake and tenaciously counter novel exploitation projects. *. The initial proposal in the 1972 United Nations Human and Development Conference ("*Stockholm Declaration*") for pure environmental protection was seen by developing countries as too protectionist to meet their economic developments when vast minerals resources existed in their nations which would help to meet their needs as well as regard environmental protection concerns*. To the ecocentric believer, EJ should be purely protectionist.

Anthropogenic management style

Secondly, to the anthropogenic who favours the exploitation of the environment exploitation, man and his needs are placed at the centre of the environment^{25*}. If man is affected by the negative actions of man or natural catastrophes, then there is need to protect the environment more. Man works the environment for his benefit. This group attracts both low income earners who seek economic development from environmental goods, and pure capitalists who feel the environment is to be fully exploited; the economic benefits would over-ride the effects of degradation, and even help to remedy them. To this group of people EJ should foster economic development.

However, groups from lower economic classes would prefer a mixture of anthropogenic and an eco-centric approach for the utilization of the environment for economic development to meet their socio-economic needs, but also place environmental protection as a priority since they understand that the environment is crucial for survival. The debate between the anthropogenic and eco-centric approaches was brought to the fore during the 1972 United Nations Human and Development Conference ("*Stockholm Declaration*") discussions²⁶.

Anthropocentric management style

²⁵ Principle 1 of the Rio Declaration (UN Conference on Environment and Development/ "Earth Summit")

²⁶ Shastri, Satish C. "Environmental Ethics Anthropocentric To Eco-Centric Approach: A Paradigm Shift." *Journal of the Indian Law Institute* 55, no. 4 (2013): 522-30. Accessed August 1, 2021.

<http://www.jstor.org/stable/43953654>.<https://www.jstor.org/stable/43953654>

Seeing the degradation of the environment in the post-industrial age which focused on satisfying the capitalist's development appetite, a third category of people proposed a more integrated and participatory approach combining environmental protection, cultural significance and economic interests to arrive at an anthropocentric approach. This would be a balance between economic development and social development. The 1992 United Nations Conference on Environment and Development ("*Rio Declaration*") settled on this anthropocentric approach where developing countries pledged to protect the environment alongside economic development²⁷. Subsequent developments in this area culminated in the 2002 World Summit of Sustainable Development (WSSD) in Johannesburg which called for sustainability in every aspect of development. This is the concept behind Sustainable Development Goals which is now a global phenomenon. EJ in this context would imply sustainable economic development.

Environmental Elitism

Another common perception is that environmentalism is elitist²⁸. Either its supporters are from upper and middle income classes or the decisions made thereof favour elitist groups and disenfranchise lower income groups or marginalized groups of people around the world.²⁹

Sustainable Development (SD)

Sustainable Development has been embraced in recent years as the social aspect of EJ at the international level³⁰ and as a contemporary EJ movement. Sustainable Development inculcates other components of justice such as rights-based justice; inter and intra generational equity, access to environmental information, access to justice, fair administrative action, and public participation to include interested persons and institutions in the public and the private realms. The notion of environmental rights as human

²⁷ Principles 1 and 6 of the Rio Declaration ('Earth Summit', 1992)

²⁸ Robert A. Huber (2020) The role of populist attitudes in explaining climate change skepticism and support for environmental protection, *Environmental Politics*, 29:6, 959-982, DOI: [10.1080/09644016.2019.1708186](https://doi.org/10.1080/09644016.2019.1708186)

²⁹ Morrison, Denton, *Environmentalism and elitism: a conceptual and empirical analysis*, (September 1986), *Environmental Management*. New York. 10 (5): 581–589.

³⁰ The United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention)

rights, a recent paradigm shift, is also premised on the socio-economic ideals of Sustainable Development³¹.

Interestingly, even Sustainable Development as a contemporary EJ movement faces challenges of interpretation, context and practicability³². Under Sustainable Development every region is allowed to provide its own solutions, yet the reality remains that the definitions, concepts and structures therein are still dictated from a global plane. Does this attempt to suggest that sustainability is a new concept for existing communities?

In the 2012 World Summit on Sustainable Development (WSSD) in Johannesburg, EJ was impliedly linked to Sustainable Development's three-pronged action points as a) environmental and natural resource conservation, b) economic growth and equity, and c) social development.³³ The complexities in understanding sustainability in the context of development and ensuring fairness for all is a major paradox, and SD may well be considered as discriminatory; 'social and environmental conservation rules are created to favour a few while the rest bear the ecological burdens.'³⁴

Based on the foregoing, it is plain to see that EJ is subjected to various perceptions depending on the circumstances. This affects how it is responded to.

Additional varying expectations of what EJ also include:

To the climate refugee, EJ means an environmentally safe place to live. To the populations deprived of food due to effects of discrimination in environmental ecosystem privileges such as clean water, stable water towers, organic food choices and non polluted neighbourhood (food discrimination), EJ means safe food choices.³⁵

³¹ Emily Fisher, Sustainable Development and Environmental Justice: Same Planet, Different Worlds?, available at <https://environs.law.ucdavis.edu/volumes/26/2/fisher.pdf>

³² *ibid*

³³ Emily Fisher, Sustainable Development and Environmental Justice: Same Planet, Different Worlds?, available at <https://environs.law.ucdavis.edu/volumes/26/2/fisher.pdf>;

³⁴ *ibid*

³⁵ Oxfam America. Food Justice: Fixing Our Broken Food System, <https://www.youtube.com/watch?v=xA6p0w2Xoqg>, accessed 12/04/20121; Malik Yankini, Food, Race and Justice, TEDXMuskegon,

To the ‘elite’ ecocentric protectionist, EJ is an equal sharing of environmental burdens and responsibilities. To indigenous communities, EJ means the recognition of their cultural and economic rights. To communities seeking resource justice, resource injustice is environmental damage and degradation from drilling or mining activities, poor labour practices and hazardous working conditions around extraction points, elite capture of mined resources and profits thereof through corrupt means, even patenting local genetic resources for commercialization under their terms while ignoring the communities at source. EJ would mean fair labour practices, equitable benefit sharing of genetic and extracted mineral resources, reasonable compensation for displacement from land, and conferring the management, financial capital and technologies in the hands of the local communities as equal partners with the investors in the sector concerned.³⁶

C. Environmental Justice: The African Situation and Perspectives

EJ was not a new concept in Africa. ‘Fairness and meaningful’ participation of environmental goods and services was interpreted according to the dictates of the religion and culture of that particular community³⁷.

In Africa, the environment was the basis of a society’s identity, livelihood, religious and cultural expression. Every aspect of life revolved around the environment; worship of deities, rites of passage, geographical location, livelihood - whether agricultural, animal husbandry, fishing, hunting and gathering, among other activities. Therefore, environmental safeguards were expressed through strict religious rules and taboos, demonstrating the central place of the environment to life.

<https://www.youtube.com/watch?v=miukaKDL-Cs>; accessed 12/04/2021; also on University of California Television, Food Justice: Economics, Ethics and Access; available on <https://www.youtube.com/watch?v=fIPGWnlHgqU>, accessed 12/04/2021

³⁶Heinrich Böll Foundation, *Resource Politics for a Fair Future*, Berlin 2014; also Wolfgang Sachs, Tilman Santarius, *Fair Future: Limited Resources and Global Justice*, Zed Books, London & New York, 2007

³⁷Merle Sowman & Rachel Wynberg (eds). Governance for Justice and Environmental Sustainability Lessons across Natural Resource Sectors in Sub-Saharan Africa (2014)^{1st} ed. <https://www.routledge.com/Governance-for-Justice-and-Environmental-Sustainability-Lessons-across/Sowman-Wynberg/p/book/9781138680067#:~:text=ISBN%209781138680067,2016%20by%20Routledge>

EJ custodians were the community's gatekeepers who designed and enforced the rules of law, morality, social order and cohesion³⁸. Ecological responsibilities were allocated and assigned according to the community's social strata. This ensured that every member of the society participated in environmental protection with the knowledge that environmental goods were to be protected for the good of all.

However, African communities viewed and perceived climate change differently^{39*}. Climate change bore both natural and man-made factors. They seemed to be aware of natural, periodic events in history which could not be attributed to anything in particular, and took precaution in appeasing the deities in order to avert environmental crises such as drought, floods and landslides in future. Where man made activities such as over-use of natural resources contributed to the degradation of the environment the gatekeepers applied rules to minimize the impact of such activities. They prescribed rules for grazing, re-stocking and replenishing of animal and plant species. Thus, EJ in ancient times was the fair distribution of ecological goods and burdens with the involvement of the whole community.

For instance under article 40 of the Constitution of Kenya, Intellectual Property rights to Traditional Knowledge has not been significantly embraced to benefit local communities much⁴⁰. On Natural Resource Management, there is a rich resource of traditional knowledge of indigenous species of plants and animals. Local communities were aware of these resources and had norms which endorsed a communal system of conservation of not only these species, but conservation of the environment as well. They were hands-on on the preservation of many unique plant and animal species. An EJ concern today would be the skewed appropriation provisions in the UN Convention on Biodiversity which emphasizes the sharing of the indigenous information with international partners freely yet

³⁸ EJ was not a new concept in Africa. 'Fairness and meaningful' participation of environmental goods and services was interpreted according to the dictates of the religion and culture of that particular

³⁹ Many African communities have folklores on periodic erratic weather patterns such as drought, attributed to supernatural occurrences needing appeasing of deities

⁴⁰ Muigua Kariuki & Kariuki Francis, Towards Environmental Justice in Kenya, (2017) Journalofcmsd Volume 1(1): <https://journalofcmsd.net/wp-content/uploads/2017/09/Towards-Environmental-Justice-in-Kenya-28th.pdf>

the partners still hold the monopoly to technological transfer regarding value addition and subsequently, intellectual property rights to the same. The developing world needs an equitable benefit sharing formula for EJ under traditional knowledge.

Currently, Africa is recognized as being the lowest contributor of green house gas emissions to the total global emissions (at 0.6%).⁴¹ It follows then that modern EJ is viewed with some skepticism as African communities are forced to bear some environmental burdens for which they are not responsible.⁴² Market interventions such as carbon trading do not seem to help to alleviate poverty much in Africa and help Africa to stop the emissions overseas.

In modern times, it is a balancing act between exploitation of natural resources and environmental protection in developing nations in Africa, who are catching up with emerging technologies for economic development and at the same time grappling with climate change. The realities of man-made effects of climate change come closer yet economic development must happen with limited technological and economical capacity.

In spite of the establishment of Extractive Industry Transparency Initiative (EITI) in 2003 with the goal of strengthening governance by increasing transparency over revenues from the oil, gas, and mining sectors, encouraging international best practices in the different levels of implementation, and also encouraging players to disclose information about their earnings from natural resources⁴³, a lot of this is yet to be realized in Africa⁴⁴. The Movement of the Survival of *Ogoni* People (MOSO) in 1990 in Nigeria against the Nigerian government and Shell Company, seeking

⁴¹UN

⁴²Emelie Charity, Environmental Justice Reality or Myth in Africa? 12 June 2019, SSRN; available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3394150, accessed 12/3/2021

⁴³ <http://www.osisa.org/other/global/existing-legal-and-institutional-framework> accessed 17/03/2021

⁴⁴ Mugenyi, O., et.al. (2010). Equitable Sharing of the Treasures of Oil and Gas in a Transparent and Environmentally Sustainable Manner: A Synthesis Report of the Proceedings of the Parliamentary Symposium on Oil and Gas Development in Uganda. A CODE Policy Dialogue Series, No. 15, 2010. Kampala.

autonomy of oil resources refers. In Kenya, protests by the local Turkana community in the northern region, against exclusion by the government and Tullow Oil Company in jobs allocation and infrastructural development also demonstrate this laxity for pure transparency⁴⁵.

Industrialization standards, information and technology sharing are also dictated by foreign entities from developed countries. Arbitration for environmental disputes with foreign entities are perceived as better done in international tribunals and courts*. EJ for the continent would in this regard entail climate justice from a victim's position and the international regard for domestic arbitration.

Notwithstanding the external environmental influences that put Africa in a tough situation, the economically evolving Africa is also beginning to suffer the shocks of degradation and cultural differences in development similar to those of developed countries, such as gender, social and economic disparities in the allocation of environmental goods and privileges.⁴⁶ In the area of natural resource management, Governance is a key mechanism of enforcing environmental justice. On *Climate Change*, change in climatic patterns has exposed ill-preparedness in mitigating the same; floods, landslides, famine, pollution of wetlands, deforestation and injuries or damages from open cast mining are common place. In spite of the numerous EIA requirements, Investors in economic activities like mining are not held responsible for the social and environmental degradation resulting. Poor labour practices are also common.

Nevertheless, there has been a suggestion for eco-collective responsibility theory –an EJ model which is customized to the African community set up where privileges and responsibilities are shared in mutual co-operation and dependence to promote the common good of the people and the environment

⁴⁵ Hesboun Etyang, *No oil will leave Turkana without security and jobs, protesters say*, *The Star*, 27 June 2018 - 18:00; <https://www.the-star.co.ke/news/2018-06-27-no-oil-will-leave-turkana-without-security-and-jobs-protesters-say/>

⁴⁶ Friedrich-Ebert-Stiftung, *Regional Disparities and Marginalisation in Kenya* (2012); Elite PrePress Ltd: Nairobi, ISBN No: 9966-957-68-5; available at <https://library.fes.de/pdf-files/bueros/kenia/09859.pdf>

for present and future generations.⁴⁷ Nature and human living were one centralized by the existence of a deity who oversaw the aspects of the living as well as the dead. Communalism within African groups recognized all players in an inter-related way, binding members towards care, reciprocity and responsibility towards one another and nature came with penalties and heavy fines for offenses to deter ill behavior.⁴⁸

D. Emerging Environmental Challenges and Some Critiques Within The Concept of Environmental Justice

As seen earlier, Environmental Justice means different things to different communities. Questions abound as to what EJ really constitutes. The list of emerging challenges to the concept of EJ is not exhaustive, but this section will highlight some of the major concerns mentioned in EJ discussions at the domestic and international levels.

a) Environmental Justice as a Social Movement

As mentioned earlier, EJ is considered in some circles a social movement that does not require too much input from pure economic growth enthusiasts who argue that if the economy is strong enough, all other social and political needs will be met. This argument is used to persuade communities living around industrial facilities and related utilities to accept the attendant pollution and waste emission from these facilities as a lower price for their economic development which could cater for any related health consequences.

Further and over time, some EJ movements are perceived as too radical and isolated from the living realities of the other sectors of the society such as:

Other social perceptions of EJ include:

⁴⁷Ssebunya, Margaret & Morgan, Stephen & Okyere-Manu, Beatrice. (2019). chapter 12. 10.1007/978-3-030-18807-8; https://www.researchgate.net/publication/334635326_chapter_12, accessed 12/3/2021

⁴⁸Ibid; also Okoth-Ogendo HWO, The Nature of Land Rights Under Indigenous Land Law in Africa: In Power, Land and Custom; controversies generated by South African Communal Land Act (2008), eds., A Claassens, B. Cousins, 95-108, Cape Town: UCT Press

Eco-fascism; Eco-nationalism; Eco-terrorism; Eco-authoritarianism; Radical Environmentalism; Red-Green-Brown Alliance;

b) Property Rights

The concept of property rights may determine the shape EJ could take in a particular situation. There are arguments about whether having pure private property rights is detrimental or not to environmental protection. If detrimental due to strict rules against trespass and unfettered land abuse rights and the 'zenith' and 'nadir' ownership in the land and the atmosphere, the quest for EJ will demand open access to the private property to regulate and demand for a more profitable (environmental friendly) use of the land.

The perception around public land is viewed through the 'Tragedy of the Commons'⁴⁹ lenses where it is thought property rights given access to all may most not likely belong to anyone in particular, and therefore, nobody takes responsibility for its proper upkeep. The opposite view in "The Tragedy of Uncommons"⁵⁰ also attracts government land use regulation, including compulsory acquisition for the public interest. Without proper constitutional and regulatory safeguards, victims of the government's actions may suffer and further environmental degradation may occur. Both sides if not well managed call for EJ.

c) Climate Change

Rapid tectonic and atmospheric changes in the earth's stratosphere from pollution and industrial activities, over-exploitation of some natural resources, human wildlife conflict due to population migration changes, etc., are thought to have depleted the ozone layer⁵¹, rising surface temperatures causing negative changes in ecological patterns in the oceans and other wetlands,

Whereas the whole earth is affected by these dynamic weather change patterns, the issue of climate action is not devoid of criticism from some quarters. There is increasing dissenting voices against climate justice, as

⁴⁹Garett Hardin (1968)

⁵⁰ Jonathan B. Wiener, *The Tragedy of the Uncommons: On the Politics of Apocalypse*; <https://doi.org/10.1111/1758-5899.12319>

⁵¹ International Science Agency

being climate and racial injustice. It is commonly felt by developing countries that the biggest polluters of the environment, largely developed countries of the north are either not doing enough to combat climate change or have cleverly calculated mitigation measures which allow them to pollute the environment as developing countries become helpless victims of that pollution, yet hold all countries to equal responsibility in reducing climate change effects. The Principle of Common But Differentiated Responsibilities and Capabilities has not made much to ease these tensions since under International Environmental Law agreements task developed countries to transfer information on scientific research, technology transfer and skills capacity to less developed nations. Information and technology monopoly still vests in developed countries.

As stated earlier, the gains on the United Nations Convention on Biological Diversity (CBD) regarding shared benefits and Intellectual Property (IP) rights still are skewed to favour the stronger economies of the north who possess huge financial and technical capacity and seem more competent during trade and other environmental protection agreements*. Effectively, climate action becomes climate injustice for the less able nations.

d) Globalization and Cultural Dimensions

Under globalization, it is anticipated that the world will share common communication and transactional facilities. However, and naturally, each culture is geo-positioned to nurture the environment surrounding it and utilize its goods in a specific way. Contextualization of environmental actions has helped to perform environmental responsibilities in ways that benefit the common good. Regional MEAs seem effective in capturing pertinent environmental issues relevant to that particular constituency and well demonstrates this point⁵².

Demands have arisen from indigenous communities and cultural groups for the recognition of their environmental and socio-economic rights while other groups expropriate environmental goods. These groups have felt that the

⁵² Sand, Peter. (2016). *The Effectiveness of Multilateral Environmental Agreements: Theory and Practice*; https://www.researchgate.net/publication/311717128_The_Effectiveness_of_Multilateral_Environmental_Agreements_Theory_and_Practice

geopolitics of the north or the domestic political dynamics have failed to capture their economic and cultural interests when international⁵³ negotiations happen. For instance, uranium nuclear, and oil and gas drilling activities in North Alaska was likely to adversely affect Native Americans more than any other people group in Alaska.⁵⁴

e) Catastrophes such as global Pandemics

Hurricanes, typhoons, tornadoes, tsunamis, volcanic eruptions, floods, landslides, earthquakes, drought to name a few, are occurrences that place a huge burden on the administrative agencies dealing with any of these disasters. Currently, the world is struggling with containing the impact of Covid-19 virus on the global and domestic economies and politics. In these instances, matters of EJ are left on the periphery as countries are set on seeking economic recovery. Whereas climate litigation is increasing, there are complex questions regarding who would be held responsible for the environmental violations, and how would compensation be worked out? There exists an opportunity here to grow pandemic-related environmental justice jurisprudence to answer the many questions raised in the climate and environmental degradation claims.

E. Conclusion.

The concept of Environmental Justice is a noble one, worth expanding and utilizing it to the fullest. Notwithstanding its good intentions, it has been argued in many quarters that Environmental Justice is still injustice in some quarters, and can only be justice if coupled with equity, better governance and consistent public participation and information sharing with all the parties concerned for acceptable solutions.

It seems a challenge for now to get a unanimous agreement on what EJ really means for the different groups of people seeking EJ, but whatever portends as justice for the environmental cause and respects the rights of people and the environment equitably, let it stand.

⁵³University of Michigan News, *Targeting minority, low-income neighborhoods for hazardous waste sites*, 2016-01-19, accessed 10/5/2021

⁵⁴ibid

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