

Environmental Justice
University of California, Berkeley
School of Law (Berkeley Law)
Course Information
Fall, 2008

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Office Hours: My regular Fall 2008 office hours are Wednesdays 3-5, but I am always willing to see you at a different time if those hours don't work for you. The best way to arrange an appointment with me is by email at the address above.

Readings: The required book for the course is Luke W. Cole & Sheila Foster, FROM THE GROUND UP: ENVIRONMENTAL RACISM AND THE RISE OF THE ENVIRONMENTAL JUSTICE MOVEMENT. Other readings will be handed out in class or posted on the course website.

The last page of this course description provides a tentative syllabus for the entire semester.

Course Website: The course website is the place where you can find this syllabus, electronic versions of most of the supplemental readings, announcements, and random stuff. Please check it regularly.

Class Description:

The U.S. environmental justice movement emerged in the late 1980s as under-resourced communities of color organized to fight the disproportionate siting of locally-unwanted land uses (LULUs) in their neighborhoods. The movement distinguished itself from the mainstream environmental movement in both its methodology and its substantive concerns. With respect to method, the movement put political organizing at the center and law at the periphery, in contrast to mainstream environmentalism which has relied heavily on judicial and legislative action. With respect to its concerns, the EJ movement has focused on the social justice needs of humans in the built environment, rather than on the need to protect "the environment," conceptualized as wilderness, from humans.

In this seminar we will survey the history of the environmental justice movement and then examine current legal, policy, and political issues with which the movement is struggling, including land use planning and climate change.

Course Expectations: Each student will be expected to complete three projects over the course of the semester. First, each student, working with others in groups of two or three, will be responsible for leading class discussion once on the assigned readings. Second, each student will be expected to produce a PowerPoint presentation on some aspect or aspects of his or her neighborhood. Third,

each student will be expected to submit a final paper at least 30 pages long, due at the end of the semester, on a topic concerning environmental justice.

There are three options for the final project. First, students can write a traditional research paper. Second, students can write a “pathfinder” on some aspect of the environmental justice movement in the Bay Area, based on your independent field research in the community. Third, if students choose to link up with and do research for an environmental justice organization this semester, a short “reflection piece” describing and reflecting on that research will be required.

Grading: Your final grade will be based on (1) your grade on the final project (worth approximately 80%); (2) your grade on the PowerPoint presentation (approximately 10 %); and (3) your participation in class, including general discussion and discussion leadership (approximately 10%).

Reading Assignments

- I. August 18 Introduction: What is environmental justice?
 - A. No readings
 - B. Film excerpt: When the Levees Broke

- II. August 25: History and Principles of the EJ movement
 - A. Readings:
 1. History and framing of the environmental justice movement
 - a. Finis Dunaway, "Gas Masks, Pogo, and the Ecological Indian," American Studies Quarterly (hard copy)
 - b. Schellenberger & Nordhaus, "The Death of Environmentalism" (online)
 - c. David Pellow, book review of Schellenberger & Nordhaus (online)
 - d. Daniel Faber, Capitalizing on Environmental Justice 221-258 (hard copy)
 - e. Gauna & Rechtschaffen 20-26
 2. Systems theory: race, class, and causation
 - a. Cerrell Associates letter (1984)
 - b. Gauna & Rechtschaffen 55-85; 27-44
 - c. Laura Pulido, Rethinking Environmental Racism (online)

- III. September 8: Governance and the politics of power
 - A. Administrative Governance 101
 1. "Command and control" versus markets
 - a. Richard Stewart, Models for Environmental Regulation
 - b. Bradley Karkkainen, Bottlenecks and Baselines
 - c. Pew Center on Climate Change, Cap and Trade 101
 - d. Environmental Justice Coalition, Debunking the Myths of Cap and Trade
 - e. Los Angeles Times, "Time to Tax Carbon" (editorial)
 2. Risk management: CBA versus the PP
 - a. Sunstein versus Heinzerling, Georgetown Law Journal
 3. Agency decisionmaking and public participation
 - a. Gauna & Rechtschaffen 107-132
 4. Communities and lawyers
 - a. Readings:
 - (1) Gauna and Rechtschaffen 245-254
 - (2) Luke Cole, The Three Great Myths of White Americana

- IV. September 15: Knowledge and Power (Continued); Permitting
 - A. Readings:
 1. Knowledge and Power (Continued)

- a. Devon Peña, “Autonomy, Equity, and Environmental Justice,” in David Pellow and Robert Brulle, *Power, Justice, and the Environment* 131 (2005)
 - b. Cable, Shriver, and Mix, “Risk Society and Contested Illness: The Case of Nuclear Weapons Workers,” *73 Am. Sociol. Rev.* 380 (2008)
 - 2. Permitting
 - a. Gauna and Rechtschaffen 187-215
 - b. Remand order, *In re Russell City Energy Center*
 - B. Guest speaker: Helen Kang, GGU EJ clinic
- V. September 22: Air Regulation in the Central Valley
- A. Readings:
 - 1. The Political Economy of the Central Valley
 - a. Rose Braz and Craig Gilmore, “Joining Forces: Prisons and Environmental Justice in Recent Prison Organizing,” *96 Radical History Rev.* 95 (2006)
 - b. Fred Krissman, “Cycles of Poverty in Rural Californian Towns” (1995)
 - c. Fred Krissman, “Them or Us?”: Assessing Responsibility for Undocumented Migration from Mexico, Center for Comparative Immigration Studies Working Paper, University of California - San Diego (2001)
 - 2. Regulating Air Pollution in the Central Valley
 - a. “Agriculture in the Pacific Northwest Region: Region 9 Agriculture Strategic Plan,” US EPA (updated January 2006)
 - b. *Bayview-Hunters Point et al v. MTC*, 366 F3d. 692 (9th Cir. 2003)
 - c. *Safe Air for Everyone et al v. EPA*, 488 F3d 1088 (9th Cir. 2007)
 - d. *El Comite para Bienestar de Earlimart et al. v. Warmerdam* (9th Cir. 2008)
 - B. Guest speaker: Brent Newell, CRPE
- VI. October 6: Climate Justice
- A. Introduction to Climate Justice
 - 1. Bali Principles of Climate Justice (2002)
 - 2. Serena Lin, “Understanding Climate Change: An Equitable Framework,” Policylink (2008)
 - 3. Rebecca Tsosie, *The Climate of Environmental Justice*, 78 *U.Colo. L.Rev.* 1625 (2007)
 - B. Global Climate Justice
 - 1. Frank Biermann and Ingrid Boas, “Preparing for a Warmer World,” glogov.org (2007)
 - 2. Jane McAdam and Ben Saul, “An Insecure Climate for Human Security?” (Forthcoming 2008)
 - C. Local and Regional Climate Justice

1. Case Study, Climate Change, Environmental Justice, and Human Rights in California's Central Valley
 2. Western Climate Initiative - overview and map
 3. AB 32 - bill, overview
- VII. October 13: Participatory Action Research
- A. Kenneth M. Reardon, Participatory Action Research as Service Learning, *73 New Directions for Teaching and Learning* 57 (Spring 1998)
 - B. Articles from *Burden of Proof: Using Research for Environmental Justice*, Special Issue, Race, Poverty, and the Environment (Winter 2004/05):
 1. Azibuike Akaba, "Science as a Double-Edged Sword"
 2. Meena Palaniappan, "Ditching Diesel"
 3. Swati Prakash, "Power, Privilege and Participation"
 4. Connie Tucker with Douglas Taylor, "Good Science: Principles of Community-Based Participatory Research"
 - C. Guest speakers: Catalina Garzon and Mary Louise Frampton
- VIII. October 20: Unincorporated Communities and Environmental Justice
- A. Michelle Wilde Anderson, *Cities Inside Out: Race, Poverty, and Exclusion at the Urban Fringe*, *55 UCLA L.Rev.* 1095 (2008)
 - B. Victor Rubin et al., "Unincorporated Communities in the San Joaquin Valley: New Responses to Poverty, Inequity, and a System of Unresponsive Governance," Policylink Framing Paper (Nov. 27, 2007)
 - C. *CCCI v. Modesto*, Third Amended Complaint, Case No. CIV-F-02-6121 (E.D. Cal. 2007)
 - D. Guest speaker: Phoebe Seaton
- IX. October 27: Transportation, Land Use Planning, and Environmental Justice
- A. Nancy Perkins, *Livability, Regional Equity, and Capability: Closing in on Sustainable Land Use*, *37 U.Balt. L.Rev.* 157 (2008)
 - B. Graham Houghton, *Environmental Justice and the Sustainable City*, *18 J. Planning Education and Research* 233 (1999)
 - C. Scott Campbell, *Green Cities, Growing Cities, Just Cities: Urban Planning and the Contradictions of Sustainable Development*, *62 J. Am. Planning Assn* 296 (1996)
 - D. "'MTC, Where Are Our Buses?' Challenging the Bay Area's Separate and Unequal Transit System," *Communities for a Better Environment, Urban Habitat, and Public Advocates* (December 2006)
 - E. Guest speakers: Connie Malloy, Lindsay Imai, and Cheryl Lane
- X. November 3: Economic Development, Environmental Justice, and Green Jobs
- A. Scott Campbell, *Green Cities, Growing Cities, Just Cities: Urban Planning and the Contradictions of Sustainable Development*, *62 J. Am. Planning Assn* 296 (1996) (from last week; please review)
 - B. Paul G. Lewis, *Retail Politics: Local Sales Tax and the Fiscalization of Land Use*,

- 15 Econ. Dev. Quarterly 21 (2001)
 - C. Steven Greenhouse, "Millions of Jobs of a Different Collar," *New York Times*, March 26, 2008
 - D. Kee Warner, *Linking Local Sustainability Initiatives with Environmental Justice*, 7 *Local Environ.* 35 (2002)
 - E. "Green-Collar Jobs in America's Cities: Building Pathways out of Poverty and Careers in the Clean Energy Economy," Apollo Alliance and Green for All (2008)
 - F. Guest speaker: Alex Schafran
- XI. November 10: Environmental Justice and Public Health
- A. Anthony Iton, "Tackling the Root Causes of Health Disparities through Community Capacity Building," from *Tackling Health Inequities Through Public Health Practice: A Handbook for Action* (2008?)
 - B. Jason Corburn, *Confronting the Challenges in Reconnecting Urban Planning and Public Health*, 94 *Am. J. Pub. Health* 541 (2004)
 - C. Jacob Lubarsky, *Highway to Health: Exploring Legal Avenues to Connecting General Plans and Public Health Standards in California*, 1 *Golden Gate U. Envtl. L.J.* 405 (2007)
 - D. Lawrence O. Gostin, "Global Health Law: Health in a Global Community," in *Public Health Law: Power, Duty, Restraint* (Georgetown Law School Working Paper Series No. 15, September 2008)
 - E. Guest speaker: Anthony Iton
- XII. November 17: Environmental Justice and Food Systems
- A. Andrea Freeman, *Fast Food: Oppression Through Poor Nutrition*, 95 *Cal. L.Rev.* 2221 (2007)
 - B. Kameshwari Pothukuchi and Jerome Kaufman, *Placing the Food System on the Urban Agenda: The Role of Municipal Institutions in Food Systems Planning*, 16 *Agriculture & Hum. Values* 213 (1999)
 - C. California Center for Public Health Advocacy, "Searching for Healthy Food: The Food Landscape in California Cities and Counties," PolicyBrief no. 5 (Jan. 2007)
 - D. Anne Short, Julie Guthman, and Samuel Raskin, *Food Deserts, Oases, or Mirages? Small Markets and Community Food Security in the San Francisco Bay Area*, 26 *J. Planning Educ. & Res.* 352 (2007)
 - E. Kameshwari Pothukuchi, *Community Food Assessment: A First Step in Planning for Food Security*, 23 *J. Planning Educ. & Res.* 356 (2004)
 - F. Guest speaker: Lisa Feldstein
- XIII. November 24: Environmental Justice and Indigenous Peoples
- A. *Rechtschaffen and Gauna*, pp. 421-460
 - B. *Navajo Nation v. United States Forest Service* (9th Cir. 2008)
 - C. Guest speaker: Caitlin Sislin