

Environmental Justice and Development in Africa

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Presentation Outline

- ❖ Introduction: Environmental Justice (EJ), causes of environmental injustices, the global and African context
- ❖ Origin, context and key concepts/ principles of EJ and Development
- ❖ Legal , policy and institutional approaches for EJ and Development
- ❖ How does the current framework facilitate EJ in Africa?
- ❖ Challenges, Conclusion and way forward

INTRODUCTION

- This paper focuses on the interface between EJ and SD, specifically in Africa, with a view to establishing how the EJ discourse informs the SD agenda.
- EJ was historically premised on ensuring that minorities and people of color do not face disproportionate environmental burdens.
- EJM was occasioned by the widespread distributive inequalities like discrimination based on race and economic status in environmental matters e.g climate change, NR degradation and pollution.
- Broadly defined, EJ entails:
 - The right to have access to natural resources;
 - Not to suffer disproportionately from environmental policies, laws and regulations;
 - The participation and involvement of people and communities in decision making.
- EJ serves to rein in corporates and market processes to democratic scrutiny and accountability.

INTRODUCTION Cont'd

- EJ shifts focus from the environment to people, and especially communities.
- One of the crucial components of EJ is that it seeks to tackle environmental problems:
 - Through an integrated framework of policies, laws and regulations;
 - Examines issues of procedural equity;
 - And is inextricably related to SD and social justice
- It has been argued that it is possible to have a situation of perfect equality which is destructive of the environment and also a situation of perfect environmental sustainability which is inequitable (Tood, 2005).
- With emphasis on commitment to communities who suffer environmental damage, it is an alternative discourse to SD (dev't that meets the needs of the present generation without compromising the capacity of future generations to meet their needs)

INTRODUCTION Cont'd...EJ

- EJ, is a growing principle of IEL concerning issues of aligning governance for SD.
- EJ is the ***fair treatment*** and ***meaningful involvement of all people*** regardless of race, color, sex, national origin, culture, education, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.
- In Africa, EJ entails the right to have access to, use and control over natural resources(NRs) by communities.
- EJ is an emerging development issue that can contribute to fighting legal discrimination, eliminating poverty and reducing inequality in accessing environmental goods.
- UNDP's Strategic Plan (2014-2017) lays out a vision for assisting developing countries (Africa) with reform of legal and regulatory frameworks so that the poor, indigenous groups and communities have secure access to NRs.
- It requires that the exploitation of NRs should be done with regard to social exigencies, which act as a constraint to exploitation.

COMPONENTS OF EJ

- The components of EJ are captured in the 1992 Rio Declaration (Principle 10) which provides as follows:

*“Environmental issues are best handled with **the participation of all concerned citizens**, at the relevant level. At the national level, **each individual shall have appropriate access to information concerning the environment that is held by public authorities**, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. **Effective access to judicial and administrative proceedings**, including redress and remedy, shall be provided”.*

LEGAL, POLICY AND INSTITUTIONAL APPROACHES ... AFRICAN TOOLS

- In Africa, the NR sector is arguably the largest driver of EJ claims and actions, with a surge of extractive sector activity leading to a dramatic transformation of landscapes, pressures on arable land, and destruction of ecosystems critical to rural livelihoods.
- The African Charter on Human and Peoples Rights was the world's first regional human rights treaty to explicitly recognize a right to live in a healthy environment, with **Article 24** calling Member States to ensure that, *“all peoples shall have the right to a general satisfactory environment favorable to their development.”*
- In 2011 a set of regional guidelines were issued by the African Commission on Economic, Social and Cultural Rights requiring that States ensure *“strict controls of the use and pollution of water resources for industrial purposes, and especially of extractive industries in rural areas.”*

LEGAL, POLICY AND INSTITUTIONAL APPROACHES ... AFRICAN TOOLS

- In 2012, the African Commission on Human and Peoples' Rights issued **Resolution 224** on a Human Rights-Based Approach to Natural Resources Governance stating that "the State has the main responsibility for ensuring natural resources stewardship with, and for the interest of, the population.
- This is also reflected in a **Mineral Resources Development Policy** by the Economic and Social Commission for West Africa the same year to promote prior, free and informed consent (**PIC**) and protection of customary resource rights, community access to information and participation, and access to systems of justice.

LEGAL, POLICY AND INSTITUTIONAL APPROACHES ... AFRICAN TOOLS

- AU's Agenda 2063 is the latest developmental initiative geared towards actualizing the regional vision for a **sustainable** continent. It recognizes the need to preserve the environment and ecosystems.
- The issue however is not that of inventing or reinventing environmental sustainability programs in Africa. Rather, the AU putting in place pragmatic intergovernmental infrastructure that ensures EJ and SD.

LEGAL, POLICY AND INSTITUTIONAL APPROACHES ... AFRICAN TOOLS

- In measuring progress on EJ at the **local level**, a key trend has been the rise of national frameworks that express peoples' environmental rights.
- By the time of the Rio+20 Summit in 2012, **32** countries in Africa had Constitutions incorporating environmental principles.
- An equally important and interrelated trend has been the role of judicial mechanisms in increasing access to remedy in environmental matters, seen in many countries as a check and balance against other branches of government.
- Public interest litigation, class action lawsuits and the ability to represent future generations are a few judicial innovations.
- Another type of response has been to establish specialized tribunals, as undertaken in other areas such as trade or labour disputes.

ENVIRONMENTAL ACTIVISTS/CIVIL SOCIETY

- Environmental justice leaders have emerged across the global South, such as:
 - the GROOTS movement for women and community empowerment over natural resources in Kenya;
 - Wangari Maathai's Green Belt Movement focused on women's environmental rights;
 - Saro-Wiwa's environmental justice campaigns in Nigeria;
 - Accion Ecologia and related movements in South America;
 - local uprisings in Egypt's Nile Delta against toxic impacts on the poor,
 - movements to integrate environmental rights and new sustainable development oriented institutions in post-revolutionary Tunisia etc.

ENVIRONMENTAL ACTIVISTS/CIVIL SOCIETY...Cont'd

- Civil society and grass roots community groups are using and developing critical legal empowerment tools to promote environmental justice, such as:
 - enhancing legal knowledge and literacy within affected groups;
 - developing paralegal support mechanisms to inform communities
 - monitor decision-making and norm-setting, as well as organizing to promote constitutional and legal reform;
 - pursue precedent-setting public interest litigation at national and local levels.

CONCLUSION

- Moving towards SD requires economic and social systems that encourage environmental stewardship of resources for the long term, acknowledging the interdependency of social justice, economic well-being, and environmental stewardship (Haughton (1999: 234).
- It is evident that there is still a long way to go in Africa in ensuring equity and equality in the access to and use of NRs, and access to justice, among other requisite indicators for meaningful and SD.
- Some of the persisting challenges include continued inequitable distribution of environmental amenities, the retribution of environmental abuses, restoration of nature, and the fair exchange of resources.
- The separation in time and location between those who are causing the problem and those who are most vulnerable to the ill-health and environmental impacts of unsustainable development requires urgent consideration.
- To improve EJ, there is need for enhanced implementation, enforcement, and monitoring of sustainability laws using a human rights lens especially at national levels that will help reduce environmental injustice in Africa which is ongoing.

WAY FORWARD

- ✓ Regulations ,enforcement and compliance-domestically
- ✓ Proper incentives, multi-stakeholder dialogue.
- ✓ Reconceptualization by business ,governance & society.
- ✓ Transfer of technology to the South for environmental protection.
- ✓ Powerful public commitment to multi-disciplinary approaches.
- ✓ Strong environmental consciousness.
- ✓ Need to recognise heterogeneity of societies- some already have local solutions in place.
- ✓ Develop guidance for all agency permitting programs on procedures and tools for addressing disproportionate impacts and ensuring meaningful involvement.

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