

Toxic Wastes and Race at Twenty: 1987-2007¹

EXECUTIVE SUMMARY

Introduction

In 1987, the United Church of Christ Commission for Racial Justice released its groundbreaking study *Toxic Wastes and Race in the United States*. The report was significant because it found race to be the most potent variable in predicting where commercial hazardous waste facilities were located in the U.S., more powerful than household income, the value of homes and the estimated amount of hazardous waste generated by industry.

This year, the United Church of Christ Justice and Witness Ministries commissioned a new report as part of the twentieth anniversary of the release of the 1987 report. The 2007 *Toxic Wastes and Race at Twenty* report uses 2000 census data. The report also chronicles important environmental justice milestones since 1987 and includes a collection of “impact” essays from environmental justice leaders on a range of topics. This new report also examines the environmental justice implications in post-Katrina New Orleans and uses the Dickson County (Tennessee) Landfill case, the “poster child” for environmental racism, to illustrate the deadly mix of waste and race. *Toxic Wastes and Race at Twenty* is designed to facilitate renewed grassroots organizing and provide a catalyst for local, regional and national environmental justice public forums, discussion groups and policy changes in 2007 and beyond.

Approach

This new report includes the first national level study to employ 2000 Census data and distance-based methods to a current database of commercial hazardous waste facilities to assess the extent of racial and socioeconomic disparities in facility locations in the U.S. Disparities are examined by region and state, and separate analyses are conducted for metropolitan areas, where most hazardous waste facilities are located.

Key Findings

The application of these new methods, which better determine where people live in relation to where hazardous sites are located, reveals that racial disparities in the distribution of hazardous wastes are greater than previously reported. In fact, these methods show that people of color make up the majority of those living in host neighborhoods within 3 kilometers (1.8 miles) of the nation’s hazardous waste facilities. Racial and ethnic disparities are prevalent throughout the country.

National Disparities

More than nine million people (9,222,000) are estimated to live in circular host neighborhoods within 3 kilometers of the nation’s 413 commercial hazardous waste facilities. More than 5.1 million people of color, including 2.5 million Hispanics or Latinos, 1.8 million African Americans, 616,000 Asians/Pacific Islanders and 62,000 Native Americans live in neighborhoods with one or more commercial hazardous waste facilities. Host neighborhoods of commercial hazardous waste facilities are 56% people of color whereas non-host areas are 30% people of color. Percentages of African Americans, Hispanics/Latinos and Asians/Pacific Islanders in host neighborhoods are 1.7, 2.3 and 1.8 times greater (20% vs. 12%, 27% vs. 12%, and 6.7% vs. 3.6%), respectively. Poverty rates in the host neighborhoods are 1.5 times greater than non-host areas (18% vs. 12%)

¹ <http://www.ucc.org/assets/pdfs/toxic20.pdf>, retrieved on 7/27/09

Neighborhoods with Clustered Facilities

Neighborhoods with facilities clustered close together have higher percentages of people of color than those with non-clustered facilities (69% vs. 51%). Likewise, neighborhoods with clustered facilities have disproportionately high poverty rates. Because people of color and the poor are highly concentrated in neighborhoods with multiple facilities, they continue to be particularly vulnerable to the various negative impacts of hazardous waste facilities.

EPA Regional Disparities

Racial disparities for people of color as a whole exist in nine out of 10 U.S. EPA regions (all except Region 3). Disparities in people of color percentages between host neighborhoods and non-host areas are greatest in: Region 1, the Northeast (36% vs. 15%); Region 4, the southeast (54% vs. 30%); Region 5, the Midwest (53% vs. 19%); Region 6, the South, (63% vs. 42%); and Region 9, the southwest (80% vs. 49%). For Hispanics, African Americans and Asians/Pacific Islanders, statistically significant disparities exist in the majority or vast majority of EPA regions. The pattern of people of color being especially concentrated in areas where facilities are clustered is also geographically widespread throughout the country.

State Disparities

Forty of the 44 states (90%) with hazardous waste facilities have disproportionately high percentages of people of color in circular host neighborhoods within 3 kilometers of the facilities. States with the 10 largest differences in people of color percentages between host neighborhoods and non-host areas include (in descending order by the size of the differences): Michigan (66% vs. 19%), Nevada (79% vs. 33%), Kentucky (51% vs. 10%), Illinois (68% vs. 31%), Alabama (66% vs. 31%), Tennessee (54% vs. 20%), Washington (53% vs. 20%), Kansas (47% vs. 16%), Arkansas (52% vs. 21%) and California (81% vs. 51%). Thirty-five states have socioeconomic disparities, i.e., in poverty rates. In these states, the average poverty rate in host neighborhoods is 18% compared to 12% in non-host areas.

Metropolitan Disparities

In metropolitan areas, where four of every five hazardous waste facilities are located, people of color percentages in hazardous waste host neighborhoods are significantly greater than those in non-host areas (57% vs. 33%). Likewise, the nation's metropolitan areas show disparities in percentages of African Americans, Hispanics/Latinos and Asians/Pacific Islanders, 20% vs. 13%, 27% vs. 14% and 6.8% vs. 4.4%, respectively. Socioeconomic disparities exist between host neighborhoods and non-host areas, with poverty rates of 18% vs. 12%, respectively. One hundred and five of the 149 metropolitan areas with facilities (70%) have host neighborhoods with disproportionately high percentages of people of color, and 46 of these metro areas (31%) have majority people of color host neighborhoods.

Continuing Significance of Race

In 1987, *Toxic Wastes and Race in the United States* found race to be more important than socioeconomic status in predicting the location of the nation's commercial hazardous waste facilities. In 2007, our current study results show that race continues to be a significant and robust predictor of commercial hazardous waste facility locations when socioeconomic factors are taken into account.

Conclusions

Twenty years after the release of *Toxic Wastes and Race*, significant racial and socioeconomic disparities persist in the distribution of the nation's commercial hazardous waste facilities. Although the current assessment uses newer methods that better match where people and hazardous waste facilities are located, the conclusions are very much the same as they were in 1987.

Race matters. People of color and persons of low socioeconomic status are still disproportionately impacted and are particularly concentrated in neighborhoods and communities with the greatest number of facilities. Race continues to be an independent predictor of where hazardous wastes are located, and it is a stronger predictor than income, education and other socioeconomic indicators. People of color now comprise a majority in neighborhoods with commercial hazardous waste facilities, and much larger (more than two-thirds) majorities can be found in neighborhoods with clustered facilities. African Americans, Hispanics/Latinos and Asian Americans/Pacific Islanders alike are disproportionately burdened by hazardous wastes in the U.S.

Place matters. People of color are particularly concentrated in neighborhoods and communities with the greatest number of hazardous waste facilities, a finding that directly parallels that of the original UCC report. This current appraisal also reveals that racial disparities are widespread throughout the country, whether one examines EPA regions, states or metropolitan areas, where the lion's share of facilities is located. Significant racial and socioeconomic disparities exist today despite the considerable societal attention to the problem noted in this report. These findings raise serious questions about the ability of current policies and institutions to adequately protect people of color and the poor from toxic threats.

Unequal protection places communities of color at special risk. Not only are people of color differentially impacted by toxic wastes and contamination, they can expect different responses from the government when it comes to remediation—as clearly seen in the two case studies in Post-Katrina New Orleans and in Dickson County, Tennessee. Thus, it does not appear that existing environmental, health and civil rights laws and local land use controls have been adequately applied or adapted to reducing health risks or mitigating various adverse impacts to families living in or near toxic “hot spots.”

Polluting industries still follow the path of least resistance. For many industries it is a “race to the bottom,” where land, labor and lives are cheap. It's about profits and the “bottom line.” Environmental “sacrifice zones” are seen as the price of doing business. Vulnerable communities, populations and individuals often fall between the regulatory cracks. They are in many ways “invisible” communities. The environmental justice movement served to make these disenfranchised communities visible and vocal.

The current environmental protection apparatus is “broken” and needs to be “fixed.” The current environmental protection system fails to provide equal protection to people of color and low income communities. Various levels of government have been slow to respond to environmental health threats from toxic waste in communities of color. The mission of the United States Environmental Protection Agency (EPA) was never to address environmental policies and practices that result in unfair, unjust and inequitable outcomes. The impetus for change came from grassroots mobilization that views environmental protection as a basic right, not a privilege reserved for a few who can “vote with their feet” and escape from or fend off locally undesirable land uses—such as landfills, incinerators, chemical plants, refineries and other polluting facilities.

Slow government response to environmental contamination and toxic threats unnecessarily endangers the health of the most vulnerable populations in our society. Government officials have knowingly allowed people of color families near Superfund sites, other contaminated waste sites and polluting industrial facilities to be poisoned with lead, arsenic, dioxin, TCE, DDT, PCBs and a host of other deadly chemicals. Having the facts and failing to respond is explicitly discriminatory and tantamount to an immoral “human experiment.” Clearly, the environmental justice movement over the last two decades has made a difference in the lives of people of color and low income communities that are overburdened with environmental pollution. After years of intense study, targeted research, public hearings, grassroots organizing, networking and movement building, environmental justice struggles have taken center stage. However, community leaders who have been on the front line for justice for

decades know that the lethargic, and too often antagonistic, government response to environmental emergencies in their communities is not the exception but the general rule. They have come to understand that waiting for the government to respond can be hazardous to their health and the health of their communities.

In fact, the U.S. EPA, the governmental agency millions of Americans look to for protection, has mounted an all-out attack on environmental justice and environmental justice principles established in the early 1990s. Moreover, the agency has failed to implement the Environmental Justice Executive Order 12898 signed by President Bill Clinton in 1994 or adequately apply Title VI of the Civil Rights Act.

Recommendations

Many of the environmental injustice problems that disproportionately and adversely affect low-income and people of color communities could be eliminated if current environmental, health, housing, land use and civil rights laws were vigorously enforced in a nondiscriminatory way—without regard to race, color or national origin. Many of the environmental problems facing low income persons and people of color are systemic and will require institutional change, including new legislation. We also recognize that government alone cannot solve these problems, but need the assistance of concerned individuals, groups and organizations from various walks of life. With these considerations in mind, the following recommendations are offered:

Congressional Actions

Codify Environmental Justice Executive Order 12898. Executive Order 12898 “Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations” provides significant impetus to advance environmental justice at the federal level and in the states. Congress should codify Executive Order 12898 into law. Congress will thereby establish an unequivocal legal mandate and impose federal responsibility in ways that advance equal protection under law in communities of color and low income communities.

Provide Legislative “Fix” for Title VI of the Civil Rights Act of 1964.

Work toward a legislative “fix” of Title VI of the Civil Rights Act of 1964 that was gutted by the 2001 *Alexander v. Sandoval* U.S. Supreme Court decision that requires intent, rather than disparate impact, to prove discrimination. Congress should act to reestablish that there is a private right of action for disparate impact discrimination under Title VI.

Reinstate the Superfund Tax. Congress should act immediately to reinstate the Superfund Tax, reexamine the National Priorities List (NPL) hazardous site ranking system and reinvigorate Federal Relocation Policy in communities of color to move those communities that are directly in harms way.

Hold Congressional Hearings on EPA Response to Contamination in EJ Communities. We urge the U.S. Congress to hold hearings on the U.S. Environmental Protection Agency’s (EPA’s) response to toxic contamination in EJ communities, including post-Katrina New Orleans, the Dickson County (Tennessee) Landfill water contamination problem and similar problems throughout the United States.

Enact Legislation Promoting Clean Production and Waste Reduction. Require industry to use clean production technologies and support necessary R&D for toxic use reduction and closed loop production systems. Create incentives and buyback programs to achieve full recovery, reuse and recycling of waste and product design that enhances waste material recovery and reduction.

Require Comprehensive Safety Data for All Chemicals. Chemical manufacturing companies must provide publicly available safety information about a chemical for it to remain on or be

added to the market. The information must allow for reasonable evaluation of the safety of the chemical for human health and the environment and must include hazard, use and exposure information.

Executive Branch Actions

Implement EPA Office of Inspector General's Recommendations. The EPA Inspector General (IG) reports that the agency has not developed a clear vision or a comprehensive strategic plan to achieve environmental justice. The EPA should implement the EJ recommendations of the IG's 2004 and 2006 reports for addressing Executive Order 12898.

Fully Implement Environmental Justice Executive Order 12898. The U.S. EPA, FEMA, Army Corps of Engineers, Department of Labor, HUD and other federal agencies need to fully implement Executive Order 12898 in the cleanup and rebuilding in the hurricane-ravaged Gulf Coast region.

Protect Community Right-to-Know.

Reinstate the reporting of emissions and lower reporting thresholds to the Toxic Release Inventory (TRI) database on an annual basis to protect communities' right to know.

End EPA Rollback of Environmental Justice Initiatives. EPA must end its attempts to roll back environmental justice and it must take aggressive steps to implement EJ Executive Order 12898 and provide targeted enforcement where the needs are the greatest, and where unequal protection places low income and people of color populations at special risk.

Require Cumulative Risk Assessments in Facility Permitting. EPA should require assessments of multiple, cumulative and synergistic exposures, unique exposure pathways, and impacts to sensitive populations in issuing environmental permits and regulations.

Require Safety Buffers in Facility Permitting and Fenceline Community Performance Bonds for Variances. The EPA (states and local governments too) should adopt site location standards requiring a safe distance between a residential population and an industrial facility. It should also require locally administered Fenceline Community Performance Bonds to provide for the recovery of residents impacted by chemical accidents.

State and Local Actions

Require State-by-State Assessments (Report Cards) on Environmental Justice. Require states to evaluate and report their progress made on environmental justice. From 1993 to present, nearly three dozen states have expressly addressed environmental justice. However, little is known about the efficacy of these laws and if in fact they are being enforced.

Require Brownfields Community Revitalization Analysis. Parties seeking to benefit from governmental subsidies should be required to conduct a Community Revitalization Analysis and take steps to address the most serious impacts identified in the analysis.

Establish Tax Increment Finance Funds to Promote Environmental Justice Driven Community Development. Environmental justice organizations should become involved in redevelopment processes in their neighborhoods to integrate brownfields priorities into long range neighborhood redevelopment plans. This will allow for the use of Tax Increment Finance funds for cleanup and redevelopment of brownfields sites expressly for community determined uses.

Establish Community Land Trusts. Establish Community Land Trusts (CLTs), i.e., community governed nonprofits, to allow communities to purchase or use brownfields sites at below market rates and redevelop them to meet a variety of community needs, for example, to provide limited

equity housing.

Adopt Green Procurement Policies and Clean Production Tax Policies. State and local governments can show leadership in reducing the demand for products produced using unsustainable technologies that harm human health and the environment. Government must use its buying power and tax dollars ethically by supporting clean production systems.

Nongovernmental Organization (NGO) Actions

Increase Private Foundations' General Support Funding for Environmental, Economic and Climate Justice, and Healthy Communities. Increase private foundation support for efforts of environmental justice groups and their allies to craft and implement legislative, public policy and legal advocacy campaigns to address environmental and public health inequities. Environmental grant makers give a tremendous amount of attention to issues of climate change. However, more philanthropic support must be given to campaigns addressing economic and climate justice issues.

Fund Support for Training New Generations of Leaders. Environmental justice organizations, campaigns and collaborative partnerships, including environmental justice centers and academic programs at universities, remain the stepchild of philanthropic giving. Foundation support is sorely needed to increase the pool of young people of color in environmental fields.

Target the "Dirty Dozen" Environmental Justice Test Cases. We urge the national environmental, civil rights, human rights, faith-based and political organizations to "adopt" environmental justice test cases for targeted action by identifying a list of the twelve worst cases, the "Dirty Dozen," of private industry and government installations that have polluted African American, Native American, Latino American, Asian American and poor White American communities and their residents.

Step up Efforts to Diversify Mainstream Environmental Organizations. There must be a serious and sustained effort to redress the utter lack of diversity within the mainstream environmental movement. While a few environmental organizations took seriously the challenges put forward at the First National People of Color Environmental Leadership Summit in 1991, the overall lack of diversity at the staff, board and program levels remains staggering.

Continue to Strengthen Racial, Ethnic, Cross-Class Collaborations Among Environmental Justice Organizations. Some strides have been made by the environmental justice movement in building multiracial, multiethnic coalitions and in developing strategic alliances with mainstream environmental groups, organized labor, faith-based groups and the scientific community. We encourage further efforts to build and nurture multiracial, multiethnic, cross-sector working relationships.

Industry Actions

Adopt Clean Production Principles and Methods. Clean production is rooted in the Precautionary Principle and requires clean manufacturing processes that produce clean and safe products. Industry is urged to adopt toxic use reduction, waste reduction, zero waste and closed loop production systems that promote use of renewable energy, nontoxic materials, safer chemical practices and sustainable product design. Industry can begin by adopting the Louisville Charter for safe chemicals developed in 2004 by a broad set of environmental justice and health organizations and professionals.

Phase Out Persistent, Bioaccumulative or Highly Toxic Chemicals. Prioritize for elimination

chemicals that are slow to degrade, accumulate in our bodies or living organisms, or are highly hazardous to humans or the environment, including those that disrupt hormones and the immune system and are particularly dangerous to children and other vulnerable populations.

Support Community and Worker Right-to-Know.

An informed public, workers, and communities must have access to information about industries' use and release of toxic chemicals and industries' product chains. Disclose chemicals and materials, list quantities of chemicals produced, used, released and exported, and provide access to information.

Adopt and Uphold Legally Binding Good Neighborhood Agreements. Uphold performance standards negotiated with fence line communities that may include community access to information, environmental and health monitoring, right to inspect the facilities, accident preparedness, pollution prevention and support of good local jobs, union jobs, local economic needs and means for dispute resolution.