

# ENVIRONMENTAL LAW

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## ENVIRONMENTAL JUSTICE: MAKING IT A REALITY

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*Morgan J. Wyenn, Julie Falender, and Brook M. Brisson*

## ARTICLES

Toxic Wastes and Race at Twenty: Why Race Still Matters After All  
of These Years..... 371

*Robert D. Bullard, Paul Mohai, Robin Saha, and Beverly Wright*

In 1987 the United Church of Christ (UCC) published its landmark report *Toxic Wastes and Race* in the United States, which documented the disproportionate environmental burdens shouldered by communities of color. In 2007, the UCC commissioned leading environmental justice scholars for a new report that updates the original report and takes stock of the last twenty years of grassroots, academic, and governmental attention to the problem. This Article discusses the key findings and recommendations of *Toxic Wastes and Race at Twenty* and the initial responses of our nation's lawmakers.

Environmental Justice in Oregon: It's the Law..... 413

*Robert W. Collin*

The emerging role of states in the formation and implementation of environmental justice policy is discussed with emphasis on Oregon and New Jersey. The relationship of environmental justice to developing sustainability initiatives at the state level is discussed in the conclusion, and examines Maryland's combined Environmental Justice and Sustainability program.

El Dia De Los Muertos: The Death and Rebirth of the Environmental  
Movement..... 457

*Eileen Gauna*

In the wake of the 2004 *Death of Environmentalism* article—a controversial piece that questioned the capacity of the environmental movement to adequately respond to climate change—environmental justice actors raised several important questions in the wake of what came to be called the “death of

environmentalism debates.” This Article examines the issues raised by environmental justice actors and how the larger environmental community can learn valuable lessons from the experience of the environmental justice movement.

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*Daria E. Neal*

America’s history of environmental injustice in minority and low-income communities extends to schools located in those communities. Numerous students are forced to attend schools located near polluting facilities or in buildings that threaten their health. Environmental justice advocacy must incorporate creative litigation and policy strategies for protecting the most vulnerable members of our communities: our children.

Environmental Justice in the Tribal Context: A Madness to EPA’s Method .....	495
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*Catherine A. O’Neill*

This Article considers EPA’s controversial rule governing mercury emissions from coal-fired utilities. Because the harms of mercury contamination are visited disproportionately upon American Indian tribes and their members, EPA should have proceeded differently. While EPA purported to consider environmental justice, it failed to account for the tribal context in which it worked.

## COMMENTS

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*Rebecca K. Smith*

In order to silence political dissent and protect the profit margins of those who benefit from environmental destruction, government and private industry have repeatedly applied the terrorist label to radical environmental activists. This Comment explores the history of this “ecoterrorist” brand and explains why it is inappropriate.

In My Backyard: How <i>Enabling</i> Hazardous Waste Trade to Developing Nations Can Improve the Basel Convention’s Ability to Achieve Environmental Justice .....	577
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*Lisa Widawsky*

When it was drafted in 1989, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal embodied an agreement with the potential to propel the principles of environmental justice into the international decision-making arena. However, as a recent disaster in Côte d’Ivoire makes clear, it has failed to shield developing nations from bearing a disproportionately large share of environmental

burdens. This Comment analyzes the primary obstacles preventing the Basel Convention from achieving environmental justice. It then proposes that making a few key changes to strengthen the Convention's weakest provisions, rather than simply imposing a total ban on trade to developing nations, would not only protect developing nations but also economically empower them, resulting in more environmentally just international negotiations.

## BOOK REVIEW

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