ENVIRONMENTAL RACISM

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Definition and Overview

Environmental racism refers to the disproportionate impact of environmental hazards on minority and low-income communities. It involves the placement of harmful facilities, like toxic waste dumps, in these areas, leading to health problems and lower quality of life for residents.

Factors include economic, historical, and social dynamics, as well as systemic racism influencing public policy and industrial practices.
Environmental racism results in higher rates of illness, lower property values, and reduced community cohesion in affected areas.

Combating it involves activism, policy reform, and stronger environmental protections to ensure fair treatment and environmental justice for all communities.
Brief history and key legal frameworks addressing environmental racism in the United States

The history of addressing environmental racism in the United States is intertwined with the broader environmental justice movement, which gained momentum in the 1980s. This movement emerged in response to the disproportionate environmental burdens borne by minority and low-income communities.

A key event that highlighted environmental racism was the 1982 protest against a PCB (polychlorinated biphenyl) landfill in Warren County, North Carolina, a predominantly African American community. This protest is often cited as a turning point, drawing national attention to environmental racism.
Key legal frameworks and actions addressing environmental racism include:

**The National Environmental Policy Act (NEPA) of 1969:** While not specifically addressing environmental racism, NEPA requires federal agencies to consider the environmental impacts of their actions, thereby laying the groundwork for later environmental justice efforts.

**Executive Order 12898 (1994):** Issued by President Bill Clinton, this executive order was a significant step specifically targeting environmental justice. It directed federal agencies to identify and address disproportionately high and adverse health or environmental effects of their actions on minority and low-income populations.

**Environmental Protection Agency (EPA) Office of Environmental Justice:** Established in 1992, this office aims to integrate environmental justice into EPA's policies and practices, focusing on protecting vulnerable communities from environmental harms.
Legal Cases: Throughout the years, several legal cases have addressed issues related to environmental racism, though challenges such as proving intent and linking specific health outcomes to environmental hazards have made litigation difficult.

Cases like **Bean v. Southwestern Waste Management, Inc.** (1979) were among the first to frame environmental grievances in terms of civil rights.

These frameworks and actions represent efforts to recognize and address the impacts of environmental racism, although challenges remain in effectively mitigating these issues across the United States.
Environmental Racism Is Nothing New

Race is the most significant predictor of a person living near contaminated air, water, or soil.

56% of the population near toxic waste sites are people of color.

People of color: Have seen 95% of their claims against polluters denied by the EPA.

Have 38% higher nitrogen-dioxide exposure.

Are 2x more likely to live without potable water and modern sanitation.

THE Nation
PCBs and Lead Poisoning

Polychlorinated biphenyls (PCBs) and lead poisoning are two environmental hazards that have disproportionately affected communities of color in the United States, highlighting issues of environmental racism.

PCBs are industrial chemicals that were widely used in electrical equipment, construction materials, and other products until their ban in the late 1970s due to their environmental persistence and health risks. Exposure to PCBs, which can occur through contaminated air, food, soil, or water, has been linked to various health problems, including cancer and immune, reproductive, nervous, and endocrine system issues. Communities of color and low-income neighborhoods have been particularly affected by PCB contamination due to the placement of PCB-laden waste sites and industrial facilities in or near their communities.
Lead poisoning is another pervasive environmental health issue that disproportionately impacts communities of color, primarily due to the presence of lead-based paint in older, poorly maintained housing stock, and, in some cases, contaminated drinking water (as seen in the Flint, Michigan crisis). Lead exposure is especially harmful to children, causing developmental delays, learning difficulties, and behavioral problems. The legacy of redlining and housing discrimination has concentrated minorities in areas with older housing and inadequate infrastructure, increasing their risk of lead exposure.

Both PCB exposure and lead poisoning reflect broader patterns of environmental racism, where systemic inequities result in the disproportionate burden of environmental health risks on communities of color. Efforts to address these issues include cleanup initiatives, stricter regulatory standards, and targeted public health interventions, but significant challenges remain in fully mitigating the impact on affected communities.
Emissions, Exceedances, and Particulate Matter:

Emissions, exceedances, and violations of air quality standards for particulate matter disproportionately affect poorer communities of color, leading to a range of health issues, notably respiratory problems. These disparities can be attributed to several systemic and environmental factors:

**Location of Industrial Facilities:** Poorer communities of color are often situated near industrial sites, power plants, and highways, where emissions of particulate matter and other pollutants are higher. These communities may have been historically zoned in such a way that they are closer to sources of pollution, a practice tied to a legacy of racial and economic segregation.

**Housing Quality:** In these communities, housing quality can be poor, with inadequate sealing and filtration systems, leading to higher indoor levels of particulate matter and other pollutants, exacerbating exposure and health risks.
**Limited Access to Healthcare:** Limited access to quality healthcare in poorer communities of color can mean that the health effects of pollution, such as respiratory problems, are not adequately treated or managed, leading to worsened conditions and comorbidities.

**Economic and Political Power:** Communities of color often have less economic and political power to resist the siting of polluting industries or advocate for stricter environmental regulations and enforcement, resulting in prolonged exposure to harmful conditions.

The health impacts of exposure to particulate matter and other pollutants include a range of respiratory problems, such as asthma, bronchitis, and reduced lung function, as well as cardiovascular diseases, adverse birth outcomes, and premature death. Studies have shown that these health effects are more pronounced in communities of color and low-income communities, highlighting the intersection of environmental racism, social determinants of health, and systemic inequality.
Efforts to address these disparities include advocating for stricter air quality standards, improving pollution monitoring in affected communities, enhancing regulatory enforcement to ensure compliance by industries, and investing in community health resources.

Nonetheless, achieving meaningful progress requires addressing the underlying socio-economic and racial injustices that contribute to environmental health disparities.
Cancer Alley:

Cancer Alley is an 85-mile stretch of land along the Mississippi River between Baton Rouge and New Orleans, Louisiana, characterized by a high concentration of industrial plants, including plastic production and chemical manufacturing facilities. This region has earned its nickname due to the significantly elevated rates of cancer and other health problems reported among its residents, many of whom belong to communities of color.

The environmental and health impacts on these communities can be directly linked to the emissions and pollutants released by the dense array of industrial operations in the area. These facilities emit a variety of harmful substances, including volatile organic compounds (VOCs), particulate matter, and other carcinogens, contributing to air and water pollution. The proximity of these plants to residential areas has raised concerns about long-term health effects, including increased risks of cancer, respiratory issues, and other chronic conditions.
The situation in Cancer Alley highlights the broader issues of environmental racism and injustice, as the affected communities are predominantly African American, with historical roots in the area dating back to the era of plantations. Despite repeated calls for regulatory reforms and cleaner industrial practices, residents face challenges in achieving significant environmental and health protections due to economic, political, and social factors.

Cancer Alley serves as a stark example of the need for environmental justice, drawing attention to the urgent need for policies and practices that prioritize the health and well-being of all communities, especially those historically burdened by environmental hazards.
Climate change exacerbates environmental racism by disproportionately affecting communities of color and low-income communities, which are often more vulnerable to its impacts due to their location, lack of resources, and limited access to recovery services.

The intersection of socio-economic disparities and environmental hazards means that these communities bear the brunt of climate change effects, from extreme weather events to gradual environmental shifts.
Examples of impacted communities and how they are affected include:

**Increased Exposure to Extreme Weather:** Communities of color often reside in areas more susceptible to hurricanes, floods, and heatwaves. For example, Hurricane Katrina disproportionately affected African American residents of New Orleans, highlighting deep-rooted social and economic disparities. Similarly, heatwaves tend to have a more severe impact on urban areas with limited green space, where communities of color often reside, increasing health risks related to heat exposure.

**Rising Sea Levels and Coastal Erosion:** Indigenous communities and communities of color living in coastal areas face the threat of displacement due to rising sea levels and coastal erosion. For instance, Native American tribes along the Louisiana coast have seen their lands vanish, forcing them to contend with the loss of home, heritage, and livelihood.
Pollution and Air Quality: Climate change can worsen air quality by increasing the frequency of wildfires and changing weather patterns, which can exacerbate pollution levels. Communities of color, often living in closer proximity to polluting industries and with less capacity to relocate, experience higher rates of asthma, respiratory issues, and other health problems due to compromised air quality.

Access to Clean Water: Changes in precipitation patterns and increased frequency of extreme weather events threaten clean water supplies. The Flint, Michigan, water crisis is a prominent example, where a majority African American community suffered from lead-contaminated drinking water, underscoring systemic neglect and environmental injustice.

Mitigating these impacts requires addressing the root causes of environmental racism, including implementing policies that ensure equitable access to resources, improving infrastructure in vulnerable communities, and ensuring that climate change mitigation and adaptation efforts are inclusive and equitable. By recognizing the ways in which climate change and environmental racism intersect, steps can be taken to protect and empower affected communities, ensuring a more just and sustainable future for all.
LEGAL STRATEGIES AND CHALLENGES

Litigation strategies to address environmental racism have evolved to include a combination of tort law, civil rights law, and environmental law, each offering distinct avenues for seeking justice and remediation for affected communities.

**Tort Law:**
This area of law allows individuals or communities to sue for damages caused by the negligence or wrongful actions of others. In the context of environmental racism, plaintiffs can use tort law to claim compensation for health issues, property damage, or loss of quality of life due to pollution or other environmental harms. However, challenges include proving causation directly between the defendant's actions and the plaintiff's harm.
Civil Rights Law: Litigation under civil rights statutes focuses on the discriminatory impact of environmental decisions and policies. Lawsuits may argue that certain actions or policies have a disparate impact on communities of color, violating their civil rights. The Civil Rights Act of 1964, for example, has been invoked to challenge discriminatory zoning and environmental permitting. Success in these cases often requires demonstrating intentional discrimination or a pattern of decision-making that disproportionately harms minority communities.

Environmental Law: Federal environmental statutes, such as the Clean Air Act, Clean Water Act, and the National Environmental Policy Act (NEPA), provide mechanisms for challenging the adequacy of environmental reviews or compliance with regulatory standards. While not designed specifically to address environmental racism, these laws can be utilized to halt or modify projects that would disproportionately harm communities of color by ensuring thorough environmental impact assessments and adherence to environmental standards.
Challenges and Innovations:

Despite these legal tools, there are significant challenges, including the high burden of proof, the complexity of linking specific environmental exposures to health outcomes, and the limited scope of remedies available under current laws. Innovative legal strategies have emerged, such as combining environmental justice claims with human rights frameworks, and advocating for stronger enforcement of existing laws to better protect vulnerable communities.

Overall, litigation remains a crucial strategy for addressing environmental racism, providing a pathway for communities to seek redress and enforce change. However, the effectiveness of these efforts often hinges on broader legal and policy reforms to ensure environmental justice is fully integrated into environmental regulation and decision-making processes.
The hurdles in litigating environmental racism cases

Litigating environmental racism cases presents several significant hurdles, which can make it challenging for affected communities to obtain justice and adequate remedies. These obstacles stem from the intricacies of proving discrimination, the influence of property values on legal strategies, and the difficulty in securing remedies that fully address the harms experienced.

Proving Discrimination: One of the primary challenges in environmental racism litigation is the requirement to prove intentional discrimination or a disparate impact on minority communities. Demonstrating intent to discriminate can be exceedingly difficult, as it requires showing that the actions of corporations or government entities were motivated by racial or ethnic biases. Disparate impact claims, while not requiring proof of intent, still demand a thorough analysis to establish that a policy or action disproportionately harms a community of color. This requires extensive data collection and analysis, which can be resource-intensive and technically complex.
Role of Property Values: Property values play a significant role in environmental racism cases, both as a factor in where hazardous sites are located and in assessing damages. Communities of color and low-income areas often have lower property values, making them more attractive for the placement of environmentally hazardous facilities. In litigation, the depreciation of property values due to environmental harms can be a component of the damages sought. However, the challenge lies in quantifying the impact of environmental racism on property values, amidst other variables that may also affect real estate prices.

Securing Adequate Remedies: Even when litigation is successful, securing remedies that adequately address the scope of environmental and health impacts can be challenging. Remedies in these cases often involve monetary compensation, which may not fully compensate for long-term health issues, loss of community, or emotional distress. Moreover, structural changes, such as the relocation of hazardous facilities or the cleanup of pollution, can be difficult to achieve through litigation alone. These remedies require not only legal victories but also political will and substantial financial resources.
**Complexities of Environmental and Health Science:** Proving causation between environmental exposure and specific health outcomes is another hurdle. Environmental racism cases often hinge on establishing a clear link between the presence of pollutants and adverse health effects in the community. The complexity of environmental and health science, variability in individual susceptibilities, and the influence of other socio-economic factors make it challenging to attribute health problems directly to environmental racism definitively.

These hurdles highlight the complexity of using litigation as a tool to combat environmental racism. While legal strategies can be powerful, they are often complemented by policy advocacy, community organizing, and public awareness campaigns to address the multifaceted nature of environmental injustice.
Advocacy and Reform

Lawyers and law students have a vital role in advocating for communities affected by environmental racism, employing a range of strategies that span legal action, policy advocacy, community engagement, and education. Here are several strategies to effectively support and advocate for these communities:

Community Engagement and Empowerment: Building strong relationships with affected communities is foundational. Lawyers and law students can offer legal education workshops to inform residents about their rights and the legal tools at their disposal. Engaging with the community ensures that advocacy efforts are grounded in the real needs and priorities of those most impacted.

Strategic Litigation: Utilize litigation strategically to challenge discriminatory practices and seek remedies for communities harmed by environmental racism. This can involve filing lawsuits based on civil rights, environmental law, and tort law, as well as intervening in administrative processes to oppose harmful permits or projects.
Policy Advocacy: Work on policy development and legislative advocacy to promote laws and regulations that address environmental racism and protect vulnerable communities. This can include supporting stronger environmental protection standards, ensuring equitable enforcement of existing laws, and advocating for policies that incorporate environmental justice principles.

Collaboration with Other Disciplines: Environmental issues are complex and multifaceted, often requiring expertise in science, public health, urban planning, and more. Lawyers and law students can collaborate with professionals in these fields to build stronger cases and advocacy campaigns that are informed by a comprehensive understanding of environmental racism's impacts.

Public Awareness and Education: Raise public awareness about environmental racism and its effects through writing, speaking, and utilizing social media. Highlighting individual stories and community struggles can help garner public support for legislative and regulatory changes.
Pro Bono and Volunteer Work: Participate in pro bono work or volunteer with organizations focused on environmental justice. This provides direct support to affected communities and offers law students practical experience in environmental and civil rights law.

Legal Research and Scholarship: Contribute to legal scholarship on environmental racism by researching and publishing on the topic. Academic work can help elucidate the legal challenges and opportunities related to environmental justice, influencing both public discourse and legal practice.

Networking and Coalition Building: Join or form coalitions with other legal professionals, environmental organizations, community groups, and activists working on environmental justice issues. Broad coalitions can amplify efforts, share resources, and increase the impact of advocacy work.

By employing these strategies, lawyers and law students can play a crucial role in addressing environmental racism, supporting affected communities in their fight for justice and equitable treatment.
To better protect communities of color from environmental hazards, comprehensive reforms are needed across local, state, and federal levels. These reforms should aim to address the root causes of environmental racism, ensure equitable enforcement of environmental laws, and promote community participation in environmental decision-making processes. Here is an overview of potential reforms:

**Local Level**

**Zoning and Land Use Policies:** Revise zoning and land use policies to prevent the concentration of polluting industries in communities of color. Implement buffer zones around residential areas to limit exposure to pollutants.

**Environmental Impact Assessments:** Require environmental impact assessments that specifically evaluate the potential disproportionate effects on communities of color for all new projects or industrial developments.

**Local Environmental Justice Policies:** Enact local ordinances that integrate environmental justice principles into municipal operations, planning, and decision-making processes.
State Level

**Environmental Justice Acts:** States can pass comprehensive Environmental Justice Acts that mandate the consideration of cumulative impacts in permitting decisions and require state agencies to develop strategies for reducing disparities in environmental health outcomes.

**Enhanced Monitoring and Enforcement:** Improve monitoring of pollution in communities of color and strengthen enforcement of environmental regulations to ensure compliance by industrial facilities.

**Funding for Community Projects:** Establish state-funded programs to support community-led environmental health and sustainability projects in communities disproportionately affected by environmental hazards.
Federal Level

**Strengthening and Enforcing Environmental Laws:** Strengthen federal environmental laws, such as the Clean Air Act and Clean Water Act, with provisions that specifically address environmental justice. Ensure equitable enforcement across all communities.

**National Environmental Justice Strategy:** Develop and implement a comprehensive national strategy for environmental justice, coordinating efforts across all federal agencies to address environmental disparities and promote healthy, sustainable communities.

**Community Right-to-Know and Participation:** Enhance laws and policies to improve community access to information about local environmental hazards and ensure meaningful community participation in environmental decision-making processes.
Funding and Technical Assistance:
Provide targeted funding and technical assistance to communities of color for environmental cleanup, infrastructure improvements, and resilience planning against climate change impacts.

Research and Data Collection:
Invest in research and data collection to better understand the impacts of environmental hazards on communities of color, support evidence-based policymaking, and track progress in addressing environmental injustices.
ALLOW ME TO HAVE A FUTURE