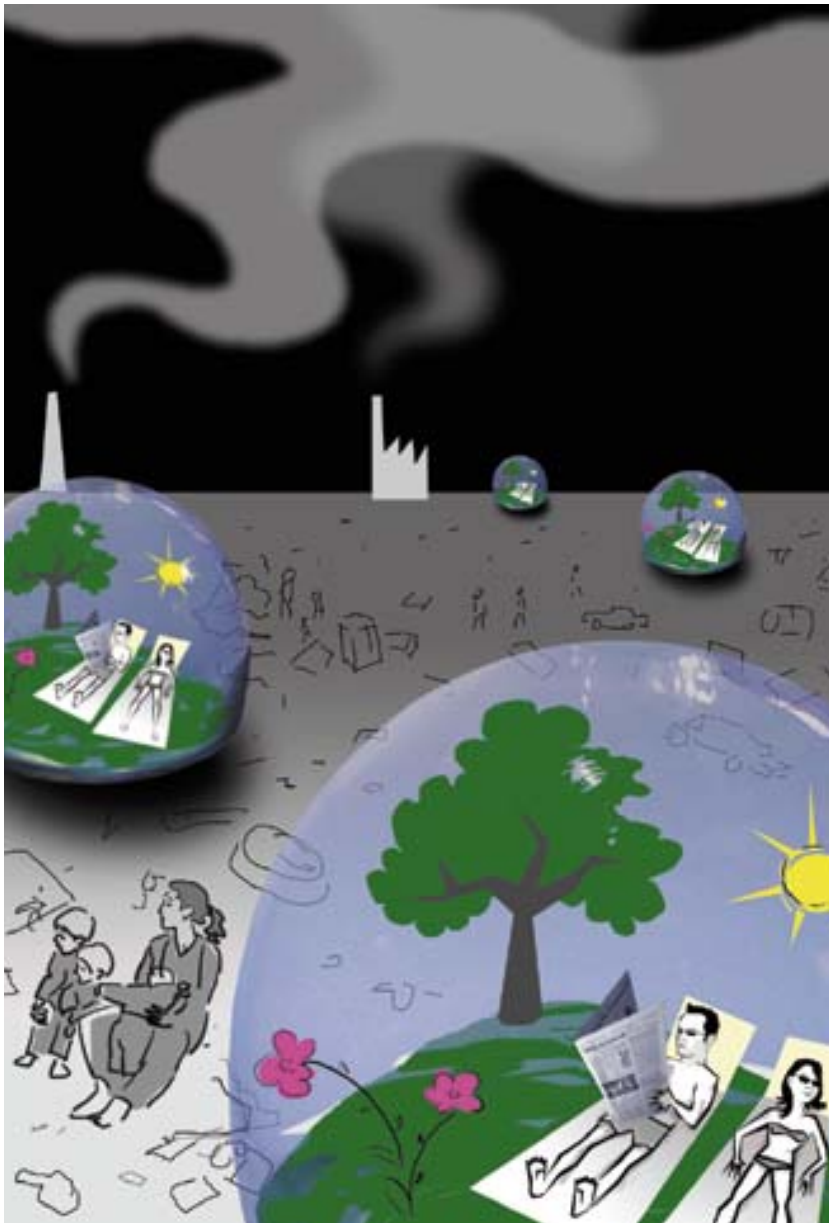


## Environmental justice: Bursting bubbles



KOCSIS ESZTER

Environmental injustices are obvious. While the poor and minorities are often living amid the worst environmental conditions, the more affluent members of society tend to enjoy isolated bubbles of cleaner air and better water.

Environmental justice, the fair distribution of environmental benefits and harms, is a bold new way to consider human rights and environmental opportunities in the CEE and NIS countries.

This issue of *Local Governance Brief* is the first to explore environmental justice in the region. Inside, *LGB* looks at ways to use environmental justice, to make everyone aware of inequalities and to build stronger communities.

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## FROM THE EDITOR

## A new opportunity

**Environmental justice is a striking concept. It clarifies the relationship between environment and human rights. It makes us focus on equality and fairness—getting our fair share of what the world has to offer, literally. In a world with environmental justice, there should be an equitable distribution of clean water, clean air, decent shelter, and an environment free of significant exposure to pollutants. These benefits must be accessible across all social strata and should not simply be reserved for the wealthy few.**

**Environmental justice can be a powerful idea. It can take root in the hearts and minds of people and promote action. It can open doors that were once invisible or closed.**

**The purpose of this issue of *Local Governance Brief* is to introduce the concept of environmental justice and provide a springboard for action to build stronger, more viable communities, where everyone enjoys environmental benefits and endures environmental harms without discrimination.**

**Environmental justice has great potential to improve individual and community life throughout the former communist region. It can help us focus on such important areas as: asserting the public interest, averting destructive conflict, making efficient use of resources, stabilizing community health, and building local development capacity.**

**As with all new approaches, however, ensuring environmental justice poses challenges. Those in leadership positions must find creative ways to help their communities overcome prejudice. The existing laws may need improvement to promote justice, because the work of identifying and measuring environmental injustices is difficult. And local governments may be hard-put to add a new problem to their overloaded agenda.**

**But environmental justice does not have to be a burden. As local governments in the region deal with the trials of transition and limited resources, they can find that working for environmental justice actually provides them with new opportunities. Citizens and officials can use environmental justice as a framework for clarifying and examining problems associated with both environmental protection and human rights. These efforts can open up new pathways to improve our lives and our towns.**

—*Tamara Steger*

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# Environmental justice cures many local ills

By ensuring that harms and benefits are equally distributed, officials can also strengthen democracy, improve community ties, and develop the economy

**By Richard Filcak**

The Czech energy company wants to find a place to build a permanent storage facility for medium- and high-level radioactive waste from nuclear power plants. By February 2004, the choice had narrowed to six alternative sites, but it was yet to be decided which site would be the “lucky” one.

Meanwhile, in a small village in Eastern Slovakia known as Rudnany, a Romani community dwells in make-shift housing on a former industrial site that is contaminated by mining waste and permanently endangered by landslides and sink holes. (See “At home in a hazardous zone,” Page 5.)

While at first glance these two stories may seem unrelated, they actually have a lot in common. In both situations, a community bears, or will bear, an unequal share of environmental harms based on their constrained economic situation or ethnic status. Communities, and even groups and individuals within communities, are far from being equal when it comes to the distribution of both adverse environmental impacts and environmental benefits.

Such environmental injustices are common throughout Central and Eastern Europe (CEE), and indeed most of the rest of the world. Efforts to combat environmental injustice on the local level will not only improve the conditions of those immediately affected but will also support healthy social and economic development of the wider region.

The concept of environmental justice provides a useful perspective for expanding development capacity and sustainability by strengthening social cohesion and social capital at the local level, while supporting changes in environmental and social policies on a national level. Ensuring environmental justice not only helps local governments address

ecological concerns, it also helps foster basic equality. If a society is going to thrive as a true democracy, all socioeconomic groups must be treated equally and fairly, and people of every class, race, gender, or ethnicity must be meaningfully involved in decisions that affect the quality of their lives.

In the case of the Czech energy company, the storage facility is likely to end up in a community that has fewer economic and social resources than other, more vital communities. Local governments under economic stress are simply more prone to accept environmentally problematic facilities, in the hopes of improving their economic performance and capacity to provide social benefits. Firms, being rational, profit-maximizing entities, naturally seek out those administrative districts that impose the least resistance to their industrial ventures. As a result, local communities that are already facing significant economic challenges tend to bear more of the negative environmental impacts from energy production—even though these communities generally use proportionally less of the energy produced.

While accepting a hazardous waste storage facility may seem like a source of quick income for a local government, it can ultimately diminish, rather than increase, a community’s prospects for economic development. Falling property prices, for example, decrease resident mobility. And radioactive waste storage sites aren’t conducive to attracting tourists.

In the case of Rudnany, marginalized Roma communities living in extreme poverty with limited social capital have almost no chance of escaping from a dangerous environment without substantial outside assistance. They are virtually “locked” into place.

When addressing the unequal distribution of environmental “benefits”<sup>1</sup> and “harms,”<sup>2</sup> local offi-

*Environmental justice efforts achieve goals that are inherent to local governments, such as:*

- *Defending the public interest of everyone, including marginalized communities*
- *Creating conditions to alleviate tensions and avoid conflict and the disintegration of communities*
- *Averting uncontrolled exploitation of precious natural resources*
- *Building greater capacity for economic and social development*

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<sup>1</sup> For example, access to clean water, air, natural resources, or environmental infrastructure.

<sup>2</sup> For example, discriminatory patterns in the location of hazardous sites or unequal treatment in waste management.

cials must navigate the different social, political, and economic interests of individual citizens and the community at large.

Local governments<sup>3</sup> are frequently in the position of being arbiters. They are under pressure to mitigate and solve problems experienced by all groups and individuals, but they must be especially attentive to disadvantaged groups and individuals affected by industrial development or insufficient access to natural resources.

By keeping environmental justice on their agenda, local governments can more clearly identify the possibilities for improving their communities and making a lasting impression for generations to come. An approach that encourages environmental justice also encourages the development of democratic governance and reforms in public administration—and ultimately makes governance at all levels more open and socially and environmentally sensitive. When they take such an

*While some groups and individuals bear an unequal share of environmental burdens, or limited access to environmental benefits, determining how this takes place and how to alter such situations are challenging undertakings.*

approach, local governments can highlight the interests of community residents who have limited capacity and space to influence local development plans or policies.

### ***Defining environmental justice***

What is environmental justice? And how exactly does it expand the tools and opportunities available to local governments to improve their communities?

Environmental justice starts with a demand for equity. But equity, like justice in general, means different things to different people. “Besides inequality,” D. Schlosberg<sup>4</sup> writes, “we must speak about recognition of the diversity of the participants and experiences in environmental justice.”

This means that environmental justice is not only about inequalities in how environmental “goods” and “bads” are distributed but also about allowing diverse groups to participate in decisionmaking processes and balancing the distribution of power and responsibility.

There are several ways to define environmental justice and injustice.<sup>5</sup> Participants of two workshops on “Improving Environmental Justice in Central and Eastern Europe”<sup>6</sup> came up with the following working definitions:

“An *environmental injustice* exists when members of disadvantaged, ethnic, minority or other groups suffer disproportionately at the local, regional (sub-national), or national levels from environmental risks or hazards, and/or suffer disproportionately from viola-

tions of fundamental human rights as a result of environmental factors, and/or are denied access to environmental investments, benefits, and/or natural resources, and/or are denied access to information and/or participation in decisionmaking; and/or access to justice in environment-related matters. ...

“A condition of *environmental justice* exists when environmental risks and hazards and investments and benefits are equally distributed without direct or indirect discrimination at all jurisdictional levels; and when access to environmental investments, benefits, and natural resources are equally distributed; and when access to information, participation in decision making, and access to justice in environment-related matters are enjoyed by all.”

While some groups and individuals bear an unequal share of environmental burdens, or limited access to environmental benefits, determining how this takes place and how to alter such situations are challenging undertakings. The very ways in which we formulate our answers to these questions determine our governance strategies and local development plans.

We may, for example, define the problem as a failure of the affected individual to take initiative. In other words, people who suffer injustices should take action to remedy their situation.

Or, we may postulate that it is in the best interests of all people to improve environmental justice, both in ad hoc situations and systematically, through policy and development practices. In this view, it is the responsibility of local government to create a positive context within which environmental justice can prevail.

<sup>3</sup> In this article I use “local governments” and “municipalities” interchangeably. However, it is important to acknowledge that they have different forms of legitimacy (appointed versus elected) and responsibilities (depending on the historical context and stage of decentralization) among Eastern European countries.

<sup>4</sup> Schlosberg, D. 1999. *Environmental justice and the new pluralism: the challenge of difference for environmentalism*. Oxford: University Press.

<sup>5</sup> For example, see the U.S. Environmental Protection Agency’s definition ([www.epa.gov/compliance/environmental\\_justice/](http://www.epa.gov/compliance/environmental_justice/)), or that of the United Church of Christ Commission for Racial Justice (<http://ecojustice.net/document/principles.htm>).

<sup>6</sup> The workshop, “Improving Environmental Justice in Central and Eastern Europe,” December 6-7, 2003, CEU Center for Environmental Policy and Law, Budapest, Hungary, convened academics and activists from Central and Eastern Europe to generate a regional definition of environmental justice with themes and indicators. This project was supported by grants from the European Commission (PHARE) and the Open Society Institute.

### ***Environmental justice offers local governments new opportunities***

Local governments in CEE struggle with many problems, including growing agendas, shrinking budgets, industrial collapse, loss of key employers, and transfer of responsibilities due to decentralization. Should cash-strapped municipal governments add environmental justice to an already overwhelming workload? Perhaps the best answer is that environmental justice does not have to be a problem: It can also be a challenge and an opportunity.

We can evaluate the implications for local governments addressing environmental injustice on the macro level (regional or statewide) and the micro level (marginalized groups within the communities). Local governments must make tough development or planning decisions involving those outside of town limits—for example, in the location of a hazardous waste facility—and they must also address development issues within their own borders. In either case, their role is to defend and promote the wellbeing of their communities.

#### ***Macro level: Decisions made outside our communities***

If we look at the issue of locating hazardous sites, we come to understand that the waste must go somewhere. The problem is that macro-level plans that ultimately affect municipalities, such as siting nuclear power plants, are made beyond the community level. Usually local community interests are not taken into account until the plans are almost finalized and only the impacts remain to be considered. When weighing decisions about energy consumption and the construction of nuclear power plants, it is important to consider simultaneously the problem of locating nuclear waste storage facilities.

Interests and development capacities of local communities must be taken into account in the early stages of policy formation, and there must be an understanding of the critical nature of the decisions from the beginning. If this is done appropriately, the challenge changes from “Not in my backyard” to “Not in anybody’s backyard.” Decisions on nuclear energy are reconsidered to prevent communities from unduly bearing the burden of the waste created by such energy production.

True environmental justice calls for the equitable distribution of environmental harms, distribution in which environmental burdens are more equally shared. Without fair distribution, macro-level planning can create “zones of marginalization.” Instead of harmonized, or at least integrated, development across a landscape, regions and localities are isolated for the purposes of waste disposal. These areas become “dumpsters of the nation’s toxic waste,” and they have a limited capacity for alternative development.

### **At home in a hazardous zone**

**Rudnany, a small village in eastern Slovakia, presents a clear example of environmental injustice. Romani inhabitants in this small village bear a disproportionate share of the town’s environmental risks compared to the majority population.**

Mining and metal processing were the main sources of employment in Rudnany, but a sudden collapse of these industries in the early 1990s reshaped the local social and economic situation. The whole area is contaminated by toxic emissions, and it is filled with abandoned factories, waste dumps, and abandoned mines. The toxic mine tailings in the area that contain mercury can cause mental illness, birth defects, kidney failure, and a host of other health problems.

Originally, development of the mine and ore-processing industry made this locality attractive to Roma workers. There was a program to build housing for workers coming to the village, but many of the new homes did not accommodate Roma. Most of them ended up in shanties on the outskirts of town. In the beginning of the 1970s, migrant Roma workers who could not find housing elsewhere moved into an abandoned factory site.

This re-settlement came with the silent approval of the authorities, despite general knowledge that the place was not suitable or safe for housing people.

There are currently two main Romani settlements in Rudnany: Patoracka and Zabi-janec. In both settlements, Romani families are living in abandoned buildings under hazardous environmental conditions without basic infrastructure.

By 2001, with support from the government, the municipality had built 270 flats for Roma in Patoracka. Two years later, however, there are still approximately 300 Roma living at the abandoned factory. Because the Romani dwellings are situated above now-defunct mining tunnels, a collapse could occur at any time.

The municipality bought 15,000 square meters of land for resettling the people of Zabi-janec, but there is no budget for building the needed housing. The mining company is now bankrupt, and the municipal and state government are also strapped for cash. Meanwhile, there is little political will to give anything that might be considered “special treatment” for the Roma.

—Richard Filcak

**Micro level: Within our communities**

Local governments that can promote environmental justice within their communities avoid a social “time bomb.” Environmental injustice at the local level, in which a part of the community experiences discrim-

*Many CEE states seem to think that the Millenium Goals apply to international aid for other countries, but not to them. Yet, in truth, environmental problems are happening in our backyard.*

ination, creates conditions for social unrest and community upheaval and ultimately reduces a community’s capacity to grow. Some of the reasons for fostering environmental justice, inherent to local governments, include the following:

- **Defending the public interest:** Local govern-

ments are supposed to represent and balance the interests of all citizens, including those who are marginalized. Local governments execute and implement international conventions and constitutional rights that have provisions against social and environmental discrimination.

- **Creating conditions to alleviate tensions and avoid the disintegration of communities:**

Community conflict can result from the unequal distribution of environmental benefits and harms. In a situation of permanent discrimination, communities will inevitably split and disintegrate.

- **Averting the uncontrolled exploitation of natural resources:**

Limited access to natural resources can, ironically, lead to uncontrolled natural resource exploitation. Thus, if needs cannot be met legitimately, people seek to meet them in other ways, which in the end are frequently not sustainable. Poverty, lack of education, or disillusionment with one’s individual prospects shape attitudes towards the environment. An appeal to protect a national park, for example, can hardly be made in a situation where residents along the park border are short of wood to heat their homes during the winter.

- **Building development capacity:** Creating partnerships across the community expands local capacity for development and averts community conflict and resource exploitation. It is necessary to build and enhance the capacities of marginalized groups to participate in economic and social cohesion programs. In addition to implementing “top-down” approaches, whereby local administrations secure policies and opportunities for local participation, it is important to embrace “bottom-up” efforts, in which communities generate and implement their own improvement strategies.

Addressing cases of environmental injustice provides solid ground for public participation and trust

building between majority and minority populations, an activity that builds long-lasting development capacity, making communities economically viable. J. Agyeman<sup>7</sup> claims that, “One explanation for the success of the environmental justice movement can be seen in the mutual benefits of a coalition between environmental and social concerns.” Conversely, social problems are more successfully resolved when accompanied by environmental concerns.

If real collaboration is going to take place, a substantial amount of energy and resources must be allocated to capacity building and empowerment programs for those on the edges of society. One danger is the assumption that difficulties can be resolved by moving people out of environmentally problematic sites into ghetto-type settlements. Such “social engineering” is a trap for local governments. While relocation may look like a fast and easy solution to a community problem of environmental injustice, the new settlement that results can haunt a region in the long-term. Moreover, in many cases where communities are relocated from environmentally hazardous conditions, the dangerous environmental problems persist.

Environmental justice must be considered from the perspective of individuals—at the social-agency level—and from the perspective of institutional capacity building. People must be empowered to help themselves.

Administrative bodies can pave the way to improving environmental justice through procedures and policies. Local governments should not have to be victims of national policy. Instead, they should be broad defenders of the public interest in their own right. By promoting environmental justice within their communities, local governments can maintain peace and ultimately build prosperity with a lasting legacy.

**Environmental justice in a broader context**

The media and decision makers in CEE tend to portray “poverty” or “social exclusion” as marginal temporary problems associated with the economic transformation of the least developed countries. Several countries suffering from poverty and a lack of social cohesion signed declarations supporting the United Nations’ Millennium Development Goals: to eradicate extreme poverty and hunger, to achieve universal primary education, to promote gender equality, to reduce child mortality, to improve maternal health, to combat major diseases, and to ensure environmental sustainability. Many CEE states, however, seem to think that the Millenium

<sup>7</sup> Agyeman, J. 2002. “Constructing environmental (in)justice: transatlantic tales.” *Environmental Politics* 3 (Autumn): 31-53.

Goals apply to international aid for other countries, but not to them.

Yet serious developmental and environmental problems are not only the concern of our neighbors. They are happening in our own backyards. These problems are dividing our cities and villages and keeping us from reaching our capacity. The fact that CEE communities are fighting over access to drinking water and facing higher-than-average infant mortality rates<sup>8</sup> indicates that the same problems exist in Europe, even if they are smaller in scale than elsewhere.

Sustainable development is development driven by the triple bottom line of economic, social, and environmental concerns. One of the implications of this concept is the recognition that “in long-term economic growth, social cohesion and environmental protection must go hand in hand.”<sup>9</sup> In other words, economic and social cohesion directly influence the environment. Development without compensation, cohesion, and collaboration can lead to a society in which more and more people suffer the adverse impacts of the exclusive life styles of a shrinking group at the top. Poverty and marginalization thus represent substantial threats to all of us.

To address the unequal distribution of environmental harms and benefits, two main approaches for policymaking and advocacy may be considered:

- 1) a “top-down” approach that focuses on strengthening economic and social cohesion; and
- 2) a “bottom-up” approach, stressing environmental justice for those who could be adversely affected by development or those deprived of adequate participation in the distribution of environmental benefits.

These two approaches are connected, and they influence each other. Economic and social cohesion policies support marginalized populations and open up space for them to participate more fully. Environmental justice provides the background arguments needed to make changes in cohesion policies and

<sup>8</sup> In the Czech Republic and the Slovak Republic, infant mortality for Roma was double that of non-Roma (In: Ringold, D. 2000. *Roma and the transition in Central and Eastern Europe: Trends and challenges*. Washington D.C.: World Bank.)

<sup>9</sup> European Commission (EC). 2002. *A sustainable Europe for a better world: a European Union strategy for sustainable development*. Luxembourg: Office of Official Publications of the European Communities.

## TABLE 1: Roma Fare Worse in Basic Sanitation Needs

As these comparisons of basic sanitation needs show, Roma are more likely to have outdoor plumbing in both Romania and Bulgaria—a situation that suggests Roma in both countries are subject to environmental injustices.

### Location of toilet facilities in Romanian households, according to ethnicity ('98)

Ethnicity of household	Toilet inside	Toilet outside	No toilet
Romanian	42.9%	27.4%	29.7%
Hungarian	47.3%	36.0%	16.8%
<u>Roma</u>	<u>8.6%</u>	<u>46.6%</u>	<u>34.8%</u>
German	52.5%	34.4%	13.1%
Other	38.2%	51.5%	10.4%
<i>Total</i>	<i>42.9%</i>	<i>28.6%</i>	<i>28.6%</i>

SOURCE: Romania Integrated Household Survey 1998, cited in Ringold, D. 2000. *Roma and the transition in Central and Eastern Europe: Trends and challenges*. Washington D.C.: World Bank.

### Location of water tap in Bulgarian households, according to ethnicity ('97)

Ethnicity of household	Tap inside dwelling	Tap inside building	Tap outside
Bulgarian	84.5%	6.8%	8.7%
Bulgarian Turk	75.2%	10.8%	14.0%
<u>Roma</u>	<u>60.2%</u>	<u>12.1%</u>	<u>27.7%</u>
Other	81.5%	7.4%	11.1%
<i>Total</i>	<i>82.9%</i>	<i>7.2%</i>	<i>9.8%</i>

SOURCE: Bulgarian Integrated Household Survey 1997, cited in Ringold, D. 2000. *Roma and the transition in Central and Eastern Europe: Trends and challenges*. Washington D.C.: World Bank.

adjustments at the EU, national, and regional levels.

The distribution of environmental harms and benefits is a fundamental right that few will challenge.

Addressing individual cases of environmental injustice is important, but we should not forget the need for more system-wide changes in order to avoid the violation of human rights and create decent living conditions for people, regardless of class or color. Local governments, in cooperation with other actors, can work to bring about policy changes that will improve the living conditions of marginalized communities and majority populations.

# It's the law: Local officials responsible for Roma slums

International agreements mean CEE communities have more opportunities—and obligations—to correct unhealthy environments

**By Claude Cahn**

A significant segment of the Romani populations of Central and South Eastern Europe live in slum settlements—exposed areas characterized by substandard living conditions and exclusion from one or more public services. Throughout the region, the road ends where the Romani settlement begins.

More seriously endangered settlements include Patoracka, in Rudnany, Slovakia, located on a former mercury mine, Veliki Rit, outside Novi Sad, Serbia, and Ferentari, in Bucharest, Romania. The conditions in these and similar settlements are so appalling that they give rise to a simple

*The conditions in many CEE Roma settlements are so appalling that they give rise to a simple question: If this is not a public policy emergency, what is?*

question: If this is not a public policy emergency, what is?

Yet there are people who maintain that the environment of Roma settlements is simply an unfortunate by-product of economic forces, or even of the purported pathologies of the inhabitants themselves, and therefore the purview of saintly types who might seek to save slum-dwellers through charitable works and self-sacrifice. Such people reject the view that the living conditions in slums engage a state's legal obligations to take immediate corrective action.

Government officials who take the opposite view, however, will find support and guidance in an increasing number of favorable international laws and policies.

The environmental injustices in slum settlements, particularly ones inhabited predominantly or solely by one ethnic group, require urgent state and local action. Government action is needed not mere-

ly because the slum inhabitants are pitiable, but rather because the very existence of such settlements calls into question state and local government compliance with international law. In other words, it is not that officials *should* undertake policies aimed at slum upgrade, but rather that they *must* undertake such policies.

In many countries of Central and Eastern Europe (CEE), there has never been a better time to try to upgrade slum settlements. However, unless officials on the state and local level are resourceful and proactive, this window of opportunity will close fast.

## *Profile of the Romani settlements*

Factors contributing to the existence or perpetuation of substandard slum settlements among Roma in Central and South Eastern Europe include a wide range of issues, not all of them directly related to housing. The settlements all suffer from one or more of the following negative characteristics:

- The Roma housing is often located in traditional, long-term settlements of unclear status, constituting de facto neighborhoods. They are often unregulated for the purposes of zoning, lacking in basic infrastructure, lacking in security of tenure, excluded from urban planning, and situated far from goods and services.
- Local authorities or others may view areas where informal Romani settlements exist as appropriate for legal or illegal dumping and/or the construction of toxic or dangerous industrial facilities.
- Poor infrastructure and services mean there is usually inadequate water supply and inadequate disposal of solid and liquid waste.
- In some countries, long-term settlements have been destroyed and slum-dwellers displaced as a result of ethnic cleansing and violent conflict.
- New, spontaneous settlements often arise due to forced evictions, particularly in light of weakened tenants rights as a result of legal changes in CEE.
- Evictions or threats of evictions of whole settlements often occur due to development projects.
- Individual forced evictions are common, and many also involve racial discrimination.

## *Legal and policy issues*

Some efforts to address these issues have focused on the problem of environmental racism. For example, the Rio Declaration on Environment and Development has provisions that describe connec-

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tions between the environment and human rights.

But environmental regulations are not the only ones that come into play. The conditions in these slums also raise a number of human rights concerns under various international laws, and these laws can be used to correct the environmental injustices perpetrated in the Roma settlements.

What follows is a list of some of the relevant rights already secured under international laws in effect in Europe. Although the international laws ratified by each country may vary, all European states are bound by laws that secure the rights delineated below. Those dwelling in slum settlements may be suffering daily violations of these fundamental rights.

### **1. The right to adequate housing, including legal security of tenure**

A right to adequate housing does not necessarily mean that state officials have to provide a house for everyone, but the laws do outline some basic minimum standards.

Article 11(1) of the International Covenant on Economic, Social and Cultural Rights recognizes “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States parties will take appropriate steps to ensure the realization of this right.” In its General Comment No. 4 to the International Covenant on Economic, Social and Cultural Rights, the United Nations Committee on Economic, Social and Cultural Rights defined adequate housing in terms of, among other things, “legal security of tenure. Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.”

Other elements of the right to adequate housing, as elaborated by the U.N. Committee on Economic, Social and Cultural Rights, include availability of ser-

vices, materials, facilities, and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy.<sup>1</sup>

In Europe, Article 31 of the Revised European Social Charter stipulates that: “Parties undertake to take measures designed: 1. to promote access to housing of an adequate standard; 2. to prevent and reduce homelessness with a view to its gradual elimination; 3. to make the price of housing accessible to those without adequate resources.”

The right to adequate housing places a number of positive obligations on public officials, including but not limited to the following:

- Officials must ensure that housing conditions are improving over time.
- No particular groups should be excluded from improvement of housing or otherwise subjected to discrimination.
- If the public authority in question lacks adequate resources, it should seek international assistance.
- Certain actions, such as forced evictions or other measures which give rise to homelessness, are to be avoided wherever possible.
- Where actions such as forced evictions are strictly unavoidable, they must be buffered by procedural guarantees, justice guarantees, and availability of alternate accommodation.

*A right to adequate housing does not necessarily mean that state officials have to provide a house for everyone, but the laws do outline some basic minimum standards.*

### **2. The right to private and family life, home, and correspondence**

Article 8(1) of the European Convention on Human Rights sets forth the following guarantees: “Everyone has the right to respect for his private and family life, his home and his correspondence.” In *Buckley v. the UK*,<sup>2</sup> a case involving a Romani plaintiff, the European Commission of Human Rights found that an applicant’s complaint, which argued that she was prevented from living with her family in her caravans on her land, fell within the scope of Article 8 of the Convention as relating to her right to respect for her family life, private life, and home.

In its opinion, the Commission stated that the “concept of a home is not limited to those which are lawfully occupied or which have been lawfully established. ‘Home’ is an autonomous concept which does not depend on classification under domestic law.”<sup>3</sup>

Article 8’s protection encompasses each of the following rights: the right of access,<sup>4</sup> the right of occupation,<sup>5</sup> and the right not to be expelled or evicted, and it is thus intimately intertwined with the

<sup>1</sup> For a full explanation of all of the above terminology, as provided by the UN Committee on Economic, Social and Cultural Rights (CESCR), see CESCR, “General Comment Number 4 on the Right to Adequate Housing,” available on the Internet at: [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+comment+4.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CESCR+General+comment+4.En?OpenDocument)

<sup>2</sup> *Buckley v. UK*, 23/1995/529/615.

<sup>3</sup> See *Buckley v. UK*, Commission decision.

<sup>4</sup> *Wiggins v. United Kingdom*, No. 7456/76, 13 D & R 40 (1978).

<sup>5</sup> *Ibid.*

principle of legal security of tenure (see above).<sup>6</sup>

On the basis of Article 8, the European Court has developed extensively the concept of “positive obligations,” under which officials must not only restrict their own interference to rights compatible with Article 8, but they may also be required to protect the enjoyment of those rights and secure the respect for those rights in domestic law.<sup>7</sup>

### **3. Adverse possession/de facto property rights**

Adverse possession is a way of acquiring title to real property by physically occupying it for a period of time. An individual may acquire property without the consent of the actual titleholder if she possesses it long enough and meets certain requirements. Under the European Convention, the peaceful enjoyment of one’s property is secured under Article 1 of Protocol 1.

In *Öneryıldız v. Turkey*, a case involving the destruction of slum dwellers’ homes following an explosion at a rubbish tip, the European Court of Human Rights, while finding a violation by the Turkish government of Article 1 of Protocol 1, ruled, *inter alia*:

“Notwithstanding that breach of the planning rules and the lack of any valid title, the applicant was nonetheless to all intents and purposes the owner of the structure and fixtures and fittings of the dwelling he had built. ... He had established a social and family environment there and, until the accident of 28 April 1993, there had been nothing to stop him from expecting the situation to remain the same for himself and his family. ... In short, the Court considers that the dwelling built by the applicant and his residence there with his family represented a substantial economic interest. That interest, which the authorities allowed to subsist over a long period of time, amounts to a ‘possession’ within the meaning of the rule laid down in the first sentence of Article 1 § 1 of Protocol No. 1...”

### **4. The right of return to home/property following violent expulsion and/or compensation for destroyed property in the context of ethnic cleansing**

Article 8 and Article 1 of the European Convention on Human Rights secure rights of compensation for infringements of Article 8 (see above). Article 13 issues are also implicated where there is no effective domestic remedy. Compensation should also be available to Roma, Ashkaelia, and Egyptians violently expelled from Kosovo after June 25, 1999—when

local and regionwide administration was placed under the competence of the United Nations.<sup>8</sup>

### **5. Right to life/freedom from torture and other inhuman or degrading treatment**

Although protection from harm might seem at first glance remote from the issue of legal recognition of informal settlements, this right is intimately entwined with housing rights and legal security of tenure issues in post-conflict situations—in particular where, as in a number of the countries of the region, Roma have suffered violent racist assaults or ethnic cleansing.

A number of European Court of Human Rights decisions have reaffirmed the far-reaching positive obligations of the state in this area.<sup>9</sup> Ruling recently in a case involving the violent expulsion of a Romani community in Montenegro in 1995, the U.N. Committee against Torture decided that Yugoslavia had violated the Convention Against Torture after first failing to protect Roma from a pogrom (and in fact aiding and abetting rioters) and then failing to provide any form of remedy for human rights violations suffered.<sup>10</sup>

### **6. The right of the family to social, legal, and economic protection**

Article 16 of the European Social Charter states: “The Contracting Parties undertake to promote the economic, legal, and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.” In June 2003, the European Committee on Social Rights declared admissible a complaint by the European Roma Rights Center that Greece violated Article 16 taken together with the nondiscrimination provision of the charter by, among other things, failing to provide legal security of tenure to Roma in Greece.

The complaint is currently pending.

<sup>6</sup> *Cyprus v. Turkey*, 4 EHRR 482 (1976).

<sup>7</sup> *E.g. Costello-Roberts v. United Kingdom*, March 25, 1993, Series A, No. 247-C; 19 E.H.R.R. 112, para. 26.

<sup>8</sup> On right of return to property as developed in Bosnia, see [http://www.oscebih.org/human\\_rights/property.asp](http://www.oscebih.org/human_rights/property.asp). On the ethnic cleansing by ethnic Albanians of Roma from Kosovo, see: <http://errc.org/publications/indices/kosovo.shtml>. In *Beer and Regan v. Germany*, the European Court of Human Rights ruled: “The Court is of the opinion that where States establish international organizations in order to pursue or strengthen their cooperation in certain fields of activities, and where they attribute to these organizations certain competencies and accord them immunities, there may be implications as to the protection of fundamental rights.”

<sup>9</sup> See for example *Mahmut Kaya v. Turkey*, decision of 28 March 2000.

<sup>10</sup> See [http://errc.org/rr\\_nr1-2\\_2003/legalde1.shtml](http://errc.org/rr_nr1-2_2003/legalde1.shtml).

*The U.N. Committee against Torture decided that Yugoslavia violated the Convention Against Torture by failing to protect Roma from a pogrom and then failing to remedy the human rights violation.*

## 7. Nondiscrimination

Measures to ban discrimination, including the very serious harm of racial discrimination, are currently in a period of dramatic growth and expansion, particularly in Europe. Important developments in the last five years include the following:

- Opening for signature of Protocol 12 to the European Convention on Human Rights, which, once it enters into effect, will provide a comprehensive ban on discrimination in the exercise of any right secured by law.
- Adoption by the European Council of the European Union of Council Directive 2000/43/EC “implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.” This is a binding instrument on all EU member states and candidate countries, and it mandates comprehensive antidiscrimination law.
- A number of policy recommendation documents by the Council of Europe’s European Commission against Racism and Intolerance, providing further guidelines and specifications on the content and character of antidiscrimination laws and their implementing bodies.
- Entry into effect of the Framework Convention for the Protection of National Minorities, which includes a number of antidiscrimination provisions.
- An ever-increasing number of countries making the declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination. This declaration allows for individual complaint under the Convention’s review mechanism.

Two antidiscrimination concepts are particularly worthy of note. The nondiscrimination definition offered by the International Covenant on Economic, Social and Cultural Rights says that: “The rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

The concept of “indirect discrimination” is defined for the purposes of the EU Directive as “taken to occur where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons.”

Cases where one ethnic group is systematically deprived of legal security of tenure could qualify as discrimination under both of these definitions. Arti-

cle 26 of the International Covenant on Civil and Political Rights (ICCPR) is recognized by the U.N. Human Rights Committee as an autonomous right to nondiscrimination. The Committee has established, through its case law in *Broeks v. the Netherlands*<sup>11</sup> and *Zwaan de Vries v. the Netherlands*,<sup>12</sup> that discrimination in the enjoyment of social and economic rights constitutes a prima facie violation of Article 26 of the ICCPR. Both cases concerned discrimination in connection with the right to receive social security benefits and, in both cases, the Committee held that the Article 26 ban on discrimination covered issues beyond the rights secured under the ICCPR.

## 8. The ban on racial segregation

Racial segregation is banned under Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination. A number of governments and independent observers in the region have expressed increasing concern about the racial segregation of Roma in housing.

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For example, the Czech government recently reported to the UN Committee on the Elimination of Racial Discrimination:

“In their attempt to resolve the housing situation of persons who are facing social problems and do not pay the rent and services provided in connection with apartment lease, [some] municipalities provide to such persons alternative housing, frequently of poorer quality, called ‘bare flats’ or hostels. ... Such facilities house segregated groups of the population suffering from accumulated social problems, who are thus excluded from society. An alarming fact is the high proportion of Roma inhabitants of those facilities, which, in a number of cases, exceeds 80 percent.”

In working toward formalizing informal settlements, all necessary measures should be undertaken to ensure that Roma in the settlements have full and unimpeded access to all services relevant for the realization of fundamental human rights. Rights of particular concern include rights to integrated education, health care, employment, and social service and social benefits.

## Environmental rights linked to human rights

Environmental racism has increasingly illuminated issues related to Romani slums. A number of domestic and international standards and approaches emphasize interconnections between environmental protection, the right to development, and minority rights or antidiscrimination. The Rio Dec-

<sup>11</sup> United Nations Human Rights Committee. *Broeks v. the Netherlands*, communication No. 172/1984, views adopted on 9 April 1987.

<sup>12</sup> United Nations Human Rights Committee. *Zwaan de Vries v. the Netherlands*, communication No. 182/1984, views adopted on 9 April 1987.

laration on Environment and Development, for example, includes the following principles:

- Principle 3: The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.
- Principle 5: All states and all people shall cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.
- Principle 22: Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture, and interests and enable their effective participation in the achievement of sustainable development.

Principles 20 and 21 further emphasize the necessity of including women and children in environmental management and sustainable development.

In the United States, prompted by the results of a number of environmental justice studies, the federal government and many states have enacted statutes that attempt to minimize environmental burdens on minority communities. For instance, on February 11, 1994, President Bill Clinton signed Executive Order 12,898, requiring federal agencies to make environmental justice part of their missions. The executive order required each agency to develop its own environmental justice strategy, to participate in an interagency working group on environmental justice, and to collect and analyze data concerning the environmental and health risks borne by populations identified by race, national origin, and income.

mental justice strategy, to participate in an interagency working group on environmental justice, and to collect and analyze data concerning the environmental and health risks borne by populations identified by race, national origin, and income.

### ***Existing violations of rights***

In Europe, a number of current policies and practices may violate the norms described in this article. Some very problematic issues, many of which are the subject of litigation before domestic and international courts now, include the following:

- Explicitly anti-Romani laws, rules, or ordinances, such as the anti-Romani ordinance regulating housing/settlement issues that existed in Greece until July 2003.
- Housing laws or ordinances that have a disparate impact on Roma, despite being neutral on their face (“indirect discrimination” under EU standards).

- Some laws, rules, or ordinances on housing rights and forced evictions are not in conformity with international standards.
- An absence of adequate comprehensive antidiscrimination laws in accord with current standards.
- An absence of proactive policies to address Romani housing issues, including adverse possession issues, plans to address legacies of absence of security of tenure, absence of loan or grant plan for improving housing, etc.
- Lack of justice and compensation for destruction or confiscation of property in conflict, post-conflict, or non-conflict situations.
- An absence of policies on informal settlements related directly to security issues in post-conflict areas or areas with a high degree of anti-Romani sentiment.
- Environmental racism issues, such as the placement of dangerous industrial sites in or near informal Romani settlements.
- Zoning problems extend beyond Romani communities—for example, in Macedonia, where a very high percentage of all structures built reportedly lack planning permission.

Finally, in addition to issues arising from the right to adequate housing, slum settlements of Roma often give rise to other human rights abuses, such as:

- lack of access to a quality integrated education;
- lack of access to adequate health care, employment and social assistance, and social benefits;
- lack of personal documents extending beyond security of tenure, including the lack of birth certificates and identity cards, which may result in statelessness; and
- issues related to the integration of persons recently expelled from Western European countries after short- or long-term stays there.

### ***Policy implications***

It is increasingly clear that the failure of local authorities to act to remedy the exclusion of slum settlements, and to implement policy measures aimed at their upgrade, may itself constitute a violation of international law, particularly when the substandard housing conditions are prevalent among one ethnic group. And it has also become clear to environmental advocates that environmental concerns related to human settlement issues cluster, particularly in Central and Eastern Europe, around such slum settlements.

At the same time, international human rights laws have become fully normative and increasingly actionable in court in post-1989 Europe. The result is a number of initiatives aimed at improving the Romani settlements, more international funding for local governments seeking to address the problem,

*The failure of local authorities to act to remedy the exclusion of slum settlements, and to implement policy measures aimed at their upgrade, may constitute a violation of international law.*

and, in some countries, domestic policies providing explicitly for slum upgrade:

- Under Phare schemes, the EU has made available millions of euro for the upgrade of Romani settlements in a number of countries in CEE.
- For those countries joining the EU in 2004, EU “structural funding,” including the European Social Fund and the European Regional Development Fund, will make billions of euros available for poorer regions and marginalized groups.
- For those countries not joining the EU in 2004, there remain a number of EU policy frameworks through which to undertake slum upgrade.
- The OSCE missions in Bosnia and Kosovo have recently undertaken initiatives targeting slum upgrade in those CEE countries or territories with OSCE missions: Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, and Serbia and Montenegro.
- Under a national policy—though not yet through its national budget—Hungary aims at slum settlement upgrade or removal.

However, even in the current favorable funding conditions, officials engaging in slum upgrade will see their creativity and resourcefulness taxed to the limit. Projects that fail to seek sufficient inclusion, involvement, and discussion among the target groups are likely to fail. Projects that fail to include components involving non-Roma risk envy and local backlash.

There is, moreover, a danger that Roma-specific measures have the negative secondary effect of fetishizing “Romani difference,” an idea that is already much too prevalent in Europe. Furthermore, slum settlements are frequently plagued by concurrent serious social problems. In CEE, a number of slum dwellers may have been unemployed for so long that, absent effective interventions, they may be unemployable. Therefore, projects aiming at slum upgrade also need to include measures aimed at job

creation and income generation.

Although current conditions for seeking funding for slum upgrade are excellent, it is not clear how long this opportunity will last. The 2004 accession countries have received very favorable conditions for the immediate post-accession period: These countries have been defined as a poor region for the purposes of EU structural funding. But a fight is already heating up to define how EU structural funding will be allocated in the period of 2007-2014. Beneficiaries to date—Scotland,<sup>13</sup> Portugal, Greece, and Spain, to name only a few—will likely fight hard to keep scarce structural funding resources.

In light of their inexperience in accessing and making use of the billions of euros at issue, CEE policymakers will have to learn quickly to fight back for the resources to which they currently have access. Also, in light of requirements for cofinancing, policymakers will need to become far more flexible and resourceful if the serious problems of widespread slum settlements are to be eradicated.

Finally, where slum settlements are concerned, although major upgrades can seem dauntingly costly, some measures are free-of-charge or very inexpensive. For example, in some cases, the only obstacle to amnesties of informal settlements and the granting of legal title of ownership or other tenure to slum dwellers is hostility toward the idea that someone can be granted property free-of-charge, or exaggerated fears of subsequent mass squatting and demands for recognition of ownership.

While such fears may have some merit, local officials should weigh seriously the public disadvantages of perpetuating a state of insecure tenure in slum settlements. The choice should be easy: either continue the degradation of the poor in subhuman conditions or take the first steps toward housing empowerment through the granting of title. Measures to empower individuals to improve parts of local infrastructure can follow. The benefits to all of generous, well-planned and intelligently implemented amnesties may be impressive.

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<sup>13</sup> According to one study, for example, Scotland has received more than EUR 6,000,000,000 in EU Structural Funding in the past 25 years. It is at risk of losing all EU Structural Funding after the accession of the countries joining in 2004 (See Professor John Bachtler with Francois Josserand and Rona Mitchie, “EU Enlargement and the Reform of the Structural Funds: The Implications for Scotland,” *Scottish Economic Policy Network*, scoecon.net).

# Poor health of CEE's Roma settlements impacts everyone

The ill treatment of one marginalized group causes problems that infect an entire community

**By James Grellier**

Discrimination can be subtle and difficult to identify. Members of a minority may be confronted with unfair treatment in school, the workplace, or government offices without being able to provide clear legal evidence that they are victims of bias. Meanwhile, members of the majority group may be oblivious to discrimination in their home town, and they may fail to understand the negative impact that prejudice against a minority group has on the entire community.

But one form of discrimination that is obvious in Central and Eastern Europe (CEE) is the environmental injustice suffered by the Roma. The Roma, as a result of being forced to live in segregated communities with an unhealthy environment, are the most disadvantaged group in CEE.

*The limited information available shows huge discrepancies between the health of the Roma and the health of majority communities.*

They have a higher rate of communicable diseases, non-communicable diseases caused by poor environmental conditions, and environment-related mental health problems.

To a large extent, the situation of the Roma is created, or exacerbated, by decisions made on the local level, so that local action can be the most effective means for remedying their problems. Yet the requisite municipal-level action is not being taken, apparently due to a concerted effort by local officials and citizens to marginalize Roma. More can, and should, be done—for the sake of the Roma and for the sake of everyone in the municipalities where Roma live.

## *On the edge of society, on the edge of town*

The marginal social position that Roma historically occupy in countries of the region has relegated them to the edges of villages and towns.<sup>1</sup> Similarly, waste disposal, polluting industry, mining, and other potentially harmful environmental activities have also been consigned to the peripheries. As a result, Roma

endure a far greater share of environmental burdens.

Problems such as muddy unpaved streets, uncollected waste, little or no sewage system, a lack of clean or adequate water supply, and a general lack of safety are compounded by totally inadequate education, immunization, and medical attention.<sup>2</sup>

Even the limited information available shows huge discrepancies between the health of the Roma and the health of majority communities. In Slovakia, for example, the infant mortality rate among Roma is 34.8 per 1,000 births, compared to 14.6 per thousand among the majority.<sup>3</sup> Other studies indicate that the average life expectancy among Romani populations is estimated at 48 in males and 55 in females—significantly lower than that of the majority population.<sup>4</sup> A study in Spain found that there are conspicuous social and health differences between Roma and non-Roma.<sup>5</sup> Furthermore, the Roma are the most substantial minority whose health needs receive disproportionately less attention than majority communities.<sup>6</sup>

## *Communicable diseases*

Communicable diseases are a problem for everyone. But marginalized communities, such as the Roma, tend to suffer more from pollution and hygiene-related illnesses than the surrounding majority. This problem is exacerbated by impeded access to appropriate health care. Among Romani children, there is generally a higher prevalence of infectious diseases.<sup>7</sup>

Diarrheal diseases, measles, acute respiratory infections, meningitis, tuberculosis, typhoid, worms, scabies, and hepatitis all thrive in conditions dominated by overcrowding and generally inadequate

<sup>1</sup> *Pravda* "People that don't pay are moved out to the dump," May 23, 2003.

<sup>2</sup> Binnie, GAC and Ginter, E. Letters: "The health of gypsies." *BMJ* 1998; 316:1824. <http://bmj.bmjournals.com/cgi/content/full/316/7147/1824/a#art>; see also: Pahl J, Vaile M., "Health and health care among travelers." *Journal of Social Policy*. April 17, 1998 (2): 195-213.

<sup>3</sup> World Bank, 2003.

<sup>4</sup> Thomas, J., *Disease, lifestyle and consanguinity in 58 American gypsies*. *Lancet* 1987; 2:377-379.

<sup>5</sup> Cabedo Garcia V.R., Ortells i Ros E., Baquero Toledo L., Bosch Girona N., Montero Royo A., Nacher Fernandez A., Sanchez-Peral Sanchez B., Tamborero Sanjuan M.A., "What are Gypsies like and what do they suffer from?" *Aten Primaria*. June 15, 2000; 26(1): 21-5.

<sup>6</sup> McKee, M. Editorial. "The health of gypsies." *BMJ* 1997; 315:1172-1173 (November 8). <http://bmj.bmjournals.com/cgi/content/full/315/7117/1172&title=The+health+of+gypsies>

<sup>7</sup> Ginter E., Krajcovicova-Kudlackova M., Kacala O., Kovacic V., Valachovicova M., "Health status of Romanies (Gypsies) in the Slovak Republic and in the neighboring countries." *Bratis Lek Listy*. 2001; 102(10): 479-84

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housing.<sup>8</sup> Several of these diseases also proliferate under conditions of poor hygiene, including contamination of water from fecal sources. In settlements where there is inadequate disposal of waste—both domestic rubbish and sewage—these diseases flourish. Cramped and crowded housing conditions give rise to poor hygiene by providing places for vermin to breed and transmit diseases via fleas, ticks, and other means. Poor household hygiene leads to food and water contamination within the home. Cleanliness within and around home areas significantly reduces the risk of disease transmission, but proper cleaning can be more difficult in poorly lit housing.

Waste sites, whether they are official, council-operated dumps or unofficial, spontaneous garbage sites, can cause public health problems for populations living nearby. Apart from the potential long-term effects on water quality, waste sites can also create a detrimental effect on air quality, produce dangerously combustible methane, generate serious odor problems, and harbor a variety of pests—including insects, rats, and various scavenging birds, all of which may carry disease into nearby populations. As waste breaks down, both physically and chemically, it becomes a greater risk to human health. Putrifiable waste decomposes quickly and provides ideal conditions for the proliferation of pathogenic bacteria.

The most serious contagious disease problems faced by Roma in Europe at present are hepatitis A, meningitis, and tuberculosis. Hepatitis A is a viral infection of the liver that reduces its ability to function. The disease is contagious and is normally spread from person to person as a result of poor hygiene habits, especially when handling food. Hepatitis A can also be contracted from drinking contaminated water or eating food that has been processed with sewage-contaminated water.<sup>9</sup> Water contamination

can occur when the contents of poorly designed latrines gradually flow into groundwater or overflow, collecting at the surface, particularly in times of heavy rain. A study in Spain reported a nine times greater prevalence of antibodies to hepatitis A in Romani children than in the non-Romani population.<sup>10</sup> In Slovakia, hepatitis A affects those Romani communities with the lowest standards of hygiene.<sup>11</sup>

Studies have shown that meningococcal disease, a severe bacterial infection causing meningitis or septicemia, is linked to overcrowding. One study showed that, for children under 8 years of age, the most important factor affecting their likelihood of developing the disease was the ratio of people over 10 years of age per room in the child's house.<sup>12</sup> Children living in houses with several teenagers and adults, crowded into relatively few rooms, had a very high risk of catching this disease. The disease has also been related to bad hygiene conditions in families, and to lowered immunity in individuals. Outbreaks of the disease in Romani communities are common.<sup>13</sup>

Diseases such as tuberculosis rely on overcrowding and close contact for their transmission to other humans, domestic animals, and many other mammals. In 1993, the World Health Organization (WHO) declared tuberculosis to be a global emergency.

Communicable diseases seldom remain only in one part of a community, even when minorities are environmentally quite segregated from majority inhabitants. Local government health services must seek to cover the whole community. Communicable diseases remain a problem for everyone, a problem that may be solved through participation and equitable action.

### ***Environmental and non-communicable diseases***

Outdoor pollution greatly affects indoor pollution. Contaminated soil and dust brought from outside may constitute a serious health hazard if the contamination is high enough. While it is outside the scope of this article to enter into a detailed discussion of the health effects of various industrial pollutants—whether they be heavy metals, endocrine disruptors, dioxins, or PCBs—it should be noted that contamination of populated areas with such pollutants have very real, negative health effects. Children are particularly at risk, since they come into contact with the ground more often while playing—sometimes even increasing their exposure to pollutants through hand-to-mouth activity. A Spanish study reported that Romani children were at high risk of lead poisoning.<sup>14</sup>

In deprived settlements, sources of air pollution

*Studies have shown that meningococcal disease, a severe bacterial infection causing meningitis or septicemia, is linked to overcrowding.*

<sup>8</sup> *Healthy Villages — A Guide for Communities and Community Health Workers*, © 2003, WHO; see also: *UNSD — Health — Executive Summary of Task Managers' Report*.

<sup>9</sup> WHO: Water Related Diseases, Hepatitis, [http://www.who.int/water\\_sanitation\\_health/diseases/hepatitis/en/](http://www.who.int/water_sanitation_health/diseases/hepatitis/en/)

<sup>10</sup> In McKee, M., Editorial. "The health of gypsies." *BMJ* 1997; 315:1172-1173 (November 8). <http://bmj.bmjournals.com/cgi/content/full/315/7117/1172&title=The+health+of+gypsies>

<sup>11</sup> *Pravda* "Local epidemics in the areas of Vranov and Stará Lubovna. Problems with hepatitis," August 9, 2000; also: *Slovenská Republika* "Increased occurrence of hepatitis A announced in Košice district. The Roma community and Roma hamlets are most affected," August 3, 2000; also: *Východoslovenské noviny* "Viral hepatitis terrorizes Jakubany," September 5, 2000.

<sup>12</sup> Baker et al., *Pediatric Infectious Disease Journal* 2000; 19: 983-990.

<sup>13</sup> *Nový Cas* "Meningitis is also caused by poor hygiene," March 17, 2003; also: *Východoslovenské noviny* "Children from Bystrany Roma hamlet are hospitalized due to meningitis," March 19, 2003.

<sup>14</sup> Redondo MJ, Guisasola FJ, "An unknown risk group of lead poisoning: the gypsy children," *European Journal of Pediatrics* 1995; 154:197-200.

are often found inside the home. Kitchens consisting of a single gas burner or a wood-burning stove can be especially polluted.<sup>15</sup> Smoke, dampness, and mold that grows in the dampness are common in poor housing and are responsible for acute respiratory disorders, such as asthma and impaired lung function.

Adequate home ventilation is particularly important where wood, charcoal, and dung are used for cooking or heating, since these fuels give off smoke that contains harmful chemicals and particulate matter. This can lead to respiratory problems, such as bronchitis and asthma, and make tuberculosis transmission easier. In one study, the prevalence of asthma and chronic bronchitis was found to be higher among the Roma than in a control group.<sup>16</sup> Women and small children are particularly at risk from poor ventilation if they spend long periods within the home or in cooking areas.

Poor indoor lighting can also have many harmful effects on health and well being, including eyesight problems.<sup>17</sup>

Other unhealthy conditions persist in Romani settlements.

In one Slovak village, Roma were housed in temporary accommodation in the form of army tents. They complained of the cold and damp that they had to endure while waiting for old mine buildings to be converted into housing.<sup>18</sup> Another Romani settlement, Bambusky, Slovakia, is situated in very close proximity to the city landfills for domestic waste. Its inhabitants complain about the unbearable smell.<sup>19</sup>

Along with suffering from the hazards caused by contamination, Romani children generally show a higher prevalence of injuries, poisoning, and burns caused by environmental problems.<sup>20</sup> Without careful health monitoring, however, statistics indicating these problems are unlikely to surface.

Even though they operate on the basis of statewide norms, local government can have a tremendous influence on improving Romani living conditions through housing and planning policies. Such efforts will likely have positive consequences for the whole community, not just for the minority.

### **Effects of environment on mental health**

When environmental justice first gained attention as an important issue in the United States, the main focus was on the placement of waste disposal facilities in mostly poor, African American communities. The assumption was that waste disposal companies were locating their facilities within these areas because the inhabitants had very little political power with which to complain.

The legal battles fought against the waste companies in the United States were ostensibly based on a perceived environmental health risk. Though these cases often lacked the data to prove a concrete environmental health risk in the physical sense, we should never discount the potential for psychological illness, or indeed, physical disease, resulting from stress associated with the perceived threat. Housing that does not meet basic standards may have quite severe implications for psychological well being. Apart from a lack of stability, poor roofing, bad drainage, insufficient insulation and its associated problems of cold or heat, overcrowding and poor lighting within the home can also cause stress and depression.<sup>21</sup>

### **Why more isn't being done**

More official action on the local level could improve the health conditions in which Roma live, but there are several barriers preventing appropriate local government action. There is still an absence of both political will and popular support for the required policy, infrastructure, and program changes necessary to improve the situation of Roma.<sup>22</sup> Local authorities struggling with their duty to provide proper housing sites are often frustrated by neighbors' "NIMBY" ("not in my back yard") attitudes, as well as difficulties caused by differences in the Romani and majority cultures.<sup>23</sup>

Bias on the local level can manifest itself in many ways, as Petra Kovacs, a legal expert on discrimination notes: The decisionmaking process can limit minority participation or public participation in general.<sup>24</sup> Civil servants from the majority ethnicity can be less tolerant of other cultures, or they can be openly biased in the execution of policies. Local officials can favor

*There is still an absence of both political will and popular support for the required changes necessary to improve the situation of Roma.*

<sup>15</sup> *Východoslovenské noviny* "Shacks are fundamentally illegal constructions," August 3, 2000.

<sup>16</sup> Feder G., "Travelers, gypsies and primary care." *J R Coll Gen Pract* 1989; 39: 425-429.

<sup>17</sup> WHO Water Related Diseases, Hepatitis [http://www.who.int/water\\_sanitation\\_health/diseases/hepatitis/en/](http://www.who.int/water_sanitation_health/diseases/hepatitis/en/)

<sup>18</sup> *Východoslovenské noviny* "Children in army tents awaken to the cold and damp," September 5, 2000.

<sup>19</sup> *Pravda* "People that don't pay are moved out to the dump," May 23, 2003.

<sup>20</sup> Ginter E, Krajcovicova-Kudlackova M, Kacala O, Kovacic V, Valachovicova M., "Health status of Romanies (Gypsies) in the Slovak Republic and in the neighboring countries," *Bratisl Lek Listy*. 2001; 102(10): 479-84.

<sup>21</sup> WHO Water Sanitation and Health [http://www.who.int/water\\_sanitation\\_health/en/](http://www.who.int/water_sanitation_health/en/).

<sup>22</sup> Plafker, Karen, "The Social Roots of Roma Health Conditions," *Report from the Network Public Health Program*, Open Society Institute.

<sup>23</sup> Binnie, GAC and Ginter, E. Letters: "The health of gypsies." *BMJ* 1998; 316:1824. <http://bmj.bmjournals.com/cgi/content/full/316/7147/1824/a#art>.

<sup>24</sup> Kovacs, Petra, (2004) "Who Benefits? Ethnic Bias in the Local Policy Process in CEE," LGI, <http://lgi.osi.hu/ethnic>



behavior that conforms to the norm, as defined by the majority ethnic group. And officials can abuse their discretionary power when designing public policies that determine access to public services.

Local governments and their citizens need to realize that the subtle and obvious forms of bias that the majority community practices against Roma actually harm the community as a whole. When a minority community is marginalized, democracy suffers and social conflict can be increased. And when a settlement on the edge of town has an unhealthy environment, the entire municipality is put at risk.

### ***What local authorities can do***

Environmental injustice cases almost inevitably involve risks to environmental health. Local authorities have a broad range of options for addressing environmental health through policies affecting planning (including housing, water, and electricity), waste management, health services (including immunization, epidemiology, monitoring, and preventative care), research, etc.

International organizations concerned about environmental health can offer some assistance. Both the WHO and the United Nations Department of Economic and Social Affairs (UNDESA) highlight the importance of building capacity to address community health issues, establishing programs to identify environmental hazards in the causation of communicable diseases, and giving out vaccinations for the prevention of communicable diseases.

The United Nations Environment Program (UNEP), in cooperation with WHO and other agencies, has been providing member states with information through its International Register of Potentially Toxic Chemicals, the Industry and Environment Office, the Global Environment Monitoring System, and other initiatives. The information covers the health and environmental effects of chemical and physical agents; the legal status of chemicals; incorporation of environmental measures for the control of vector-borne diseases; cleaner production technologies; prevention and preparedness for accidents; information on global trends in contamination of air, food, and water; promotion of supportive environments for health; and capacity building.<sup>25</sup>

The information provided by the International Register relies on expensive scientific studies that are not always appropriate to the plethora of needs seen at the local level. Officials should therefore use caution in assessing the risk inhabitants face from potential environmental injustices. Some types of behavior

and intervention are more acceptable and successful than others, and risks and benefits must be determined properly when considering the most appropriate action.

The local authorities' role is to be sensitive to its community's social, cultural, and economic circumstances in estimating how they perceive health risks. Preventing risk has to be planned within the context of local society. Therefore, the process leans heavily on the role of local authorities, particularly given that successful preventive intervention is only partly a matter of individual circumstances and education.

Once risks are estimated, these must be sensitively and cautiously explained to the communities concerned. An atmosphere of trust between the government and all interested parties, in both the public and private sectors, is essential if interventions are to be adopted and successfully implemented.<sup>26</sup>

### ***Cross-sector approach is needed***

Human health depends on both promotional and protection-oriented programs involving all public sectors. The health sector, while important, can only be assigned a limited set of obligations, and it will have a limited scope for solving problems if it works alone. Local authorities play a key role in ensuring optimum communication between various sectors, such as health, housing, planning, education, and finance.

Curative services account for the vast majority of health service solutions currently provided. Preventive services are often weak, and health inputs into other sectors' development work are restricted by a lack of appropriate staffing by environmental epidemiologists and health policy analysts.

Local authorities are indeed challenged to maintain a flexible disposition toward diverse community needs as opportunities are presented. In one instance involving a Serbian Romani hamlet, local authorities felt stifled in making certain infrastructure improvements due to previously unfulfilled road permit requirements—despite financial support offered from the municipal water supply system and several foreign foundations.<sup>27</sup> Finding ways to remedy procedural fallibility helps avoid compounding environmental inequalities for minorities and, in many cases, majority villagers.

Good-quality housing with working infrastructure and a fully integrated health system, focused on both prevention and promotion, provide the key to building a healthy village. Local authorities and participating concerned communities have the power to guide themselves toward better health and a more sustainable and environmentally more equitable future.

*Preventing risk has to be planned within the context of local society. Therefore, the process leans heavily on the role of local authorities.*

<sup>25</sup> <http://www.who.int>.

<sup>26</sup> WHO World Health Report 2002.

<sup>27</sup> *European Roma Rights Center Newsletter*, "Snapshots: In Serbia, Bad Water Causes Disease among Roma." Nr 1, 2002.

# Central Asians divided over use of dwindling water supply

Soviet-era plans for the region's rivers were unfair and inefficient, but the newly independent republics are loath to change their old water-use patterns

**By Sarah O'Hara**

In Central Asia, where water is a scarce, poorly managed resource, some countries seem to get short-changed. Meanwhile, on the local level, the less powerful municipalities, notably rural communities, communities with minorities, and other vulnerable sectors of society, are also finding that they are losers in the grab for water.

Unlike many environmental injustice cases in Central Europe, where marginalized communities are forced to live in polluted areas, the water problems of Central Asia are as much about unequal distribution

*On the local level, less powerful municipalities, and other vulnerable sectors of society, are finding that they are losers in the grab for water.*

of environmental goods as they are about the disproportionate burden of environmental harms.

When the Soviet government ruled all of Central Asia, central planners determined the use of water, deciding, for exam-

ple, that certain republics would grow cotton using water that came from their neighbors. Although the Soviet-era system of dams and irrigation placed unsustainable demands on the region's water, at least usage was comparatively well coordinated.

Then the Soviet Union fell apart, and the various federal republics of Central Asia became independent states—Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan—each with their own agenda for water use. Tajikistan, Turkmenistan, and Uzbekistan hope that increased irrigation will help them expand their production of cotton, a valuable export. And Kyrgyzstan is stepping up hydroelectric production.

But there simply is not enough water in the region to meet such diverse demands, and the loss of central planning has made regionwide water

management all the more difficult. At the current rate of use, Central Asia will soon run dry.

Current efforts—by the international community, the central governments within the region, and local governments—to find an equitable and sustainable solution to the problems are fraught with difficulty. It is too early to say whether they will provide a successful example of transboundary cooperation on environmental issues. Nonetheless, looking at the water problems of Central Asia, and the current attempts to solve them, can teach us how difficult it can be to achieve true environmental justice—in which everyone gets a fair share of scarce resources.

## *The rivers run dry*

Central Asia is dependent on the Amu Darya and Syr Darya rivers, which together account for nearly 90 percent of the region's surface water resources. Over the millennia, these rivers have served as Central Asia's social, cultural, economic, and political core. The people who have lived along their banks have long diverted flows to bring life to the surrounding desert steppe. But irrigation and other demands on these rivers were relatively limited until the 1950s, when the construction of huge water-diversion and irrigation schemes by the Soviets resulted in a rapid increase in water usage. By the 1980s, the river flows were fully utilized.

The over-exploitation of Central Asia's rivers meant that flows to the Aral Sea dwindled to a mere trickle, precipitating a dramatic decline in its water level. The ensuing environmental crisis prompted widespread calls, both within and beyond the region, for a reduction in cotton production and improved water use.<sup>1</sup> In a vain attempt to save the sea, the Soviet authorities drew up plans to ensure at least 21-22 cubic kilometers of flow to the Aral by 2005.<sup>2</sup>

The collapse of the Soviet Union brought an abrupt halt to these plans, and despite various initiatives from the international community and a commitment from the Central Asian states to increase flows to the Aral Sea, there has been little change in water use, which is at full capacity throughout Central Asia.

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<sup>1</sup> Weinthal, E. (2001) "Sins of Omission: Constructing Negotiating sets in the Aral Sea Basin," *Journal of Environment and Development* 10(1): 50-79.

<sup>2</sup> Micklin, P.P. (1998). "Regional and International responses to the Aral Crisis." *Post-Soviet Geography and Economics* 39: 399-416.

## ***Water needed to feed the people, but cotton remains king***

During the Soviet period, Central Asia was designated a cotton growing area and grew little of its own food. With the collapse of the Soviet Union, and the discontinuation of mechanisms for importing food into the region, the Central Asian states suffered extreme food shortages. Food security became a priority for all the governments, resulting in a marked increase in the amount of land under irrigation and a greater demand for water.<sup>3</sup>

Turkmenistan, for example, has seen a 25 percent increase in its irrigated area since 1991, with virtually all newly developed areas being sown to grain.<sup>4</sup> Kyrgyzstan and Tajikistan have also made it clear that they wish to expand irrigated agriculture and that they will require more water to do this.<sup>5</sup> As a result, current demand for irrigation water in Central Asia is 150 cubic kilometers—about 30 cubic kilometers above the natural annual average river flow and 40 cubic kilometers above net water reserves.

The situation is set to deteriorate even further, because the glaciers that feed many of the rivers are also shrinking. One estimate suggests that glaciers throughout the Tien Shen, Altay, and Pamirs regions have decreased by 804 cubic kilometers over the 20th century. The melting from these glaciers has augmented river flows by 15-20 percent. In effect, much of the expansion in the irrigation system since the 1960s has been achieved by the use of non-renewable fossil water resources. As the volume of glaciers declines further, both the amount and timing of water availability will change. Over the next 25 years, it is likely that there will be a considerable diminution of water in the region's rivers.

While food production increases the demands on irrigation, cotton still consumes the bulk of Central Asia's water. Given that resources are fully exploited and set to decline, one would expect the Central Asian states to be considering whether cotton production is sustainable in the medium to long term. Yet far from decreasing cotton production, a number of the countries in the region, notably Tajikistan, Turkmenistan, and Uzbekistan, are keen to increase output as revenues gained from selling cotton represent a significant source of foreign exchange.

Uzbekistan, for example, is the fifth largest pro-

ducer and second largest exporter of cotton in the world, with over 35 percent of its foreign earnings derived from cotton sales. To maintain this production level, Uzbekistan uses over 50 percent of the water resources in the Aral Sea Basin—much of which goes to irrigate cotton fields.

Turkmenistan and, to a lesser extent, Tajikistan also grow significant amounts of cotton, and both want to increase production. In May 2000, the president of Turkmenistan announced that he intended to create a huge artificial lake in the Central Kara Kum desert, with the aim of increasing the amount of land under irrigation and boosting cotton and wheat production. Far from adopting measures to reduce water use, many of the Central Asian states appear to be intent on using more.

### ***An unfair allocation system***

The current pattern of water use in Central Asia is unsustainable, but the allocation of water also presents serious problems. The current agreement on water sharing within the Aral Sea Basin dates from the 1992 Almaty Agreement, in which the five Central Asian states agreed to adhere to an "established pattern and principles of allocation." This agreement was signed in haste, only a few weeks after the Central Asian states found themselves unexpectedly cut loose from the Soviet Union, and little if any thought was given to its long-term consequences.

By signing the Almaty Agreement, the Central Asian states chose to keep Soviet allocations unchanged. The bulk of the region's water resources is still allocated to the downstream countries of Uzbekistan and Turkmenistan, leaving the upstream states of Tajikistan and Kyrgyzstan with little access to the water generated on their territory. Moreover, the Almaty Agreement made no provision for Afghanistan, despite the fact that approximately 6 percent of the flows within the Aral Sea Basin are generated on its territory. (See Table 1.)

The upstream countries soon realized that their water allocation was not sufficient for planned expansions in agriculture. Kyrgyzstan has been particularly vocal on this point. It has argued not only that they are denied fair access to the water that rises on their territory, but also that they are expected to pay for the maintenance and upkeep of the dams and reservoirs that control the flows of the Syr Darya, while the downstream countries, especially Uzbekistan, reap the benefits.

The situation is similar in the Amu Darya Basin,

*The bulk of the region's water resources is still allocated to the downstream countries, leaving the upstream states with little access to the water generated on their territory.*

<sup>3</sup> International Crisis Group (2002): *Central Asia: Water and Conflict*, <http://www.reliefweb.int/library/documents/2002/icg-uzb-30may.pdf>

<sup>4</sup> O'Hara, S. L. and Hannan, T. (1999). "Irrigation and water management in Turkmenistan: past systems, present problems and future scenarios," *Europe-Asia Studies* 51: 21-41.

<sup>5</sup> International Crisis Group (2002): *Central Asia: Water and Conflict*, <http://www.reliefweb.int/library/documents/2002/icg-uzb-30may.pdf>

with Tajikistan being expected to release flows to ensure that cotton fields in Turkmenistan and Uzbekistan have water. The other upstream country, Afghanistan, is also entitled to withdraw flows from the Amu Darya, but Afghanistan's use has been low in recent years because widespread civil unrest and war have prevented development. As Afghanistan's situation improves, however, withdrawals are likely to increase, reducing the amount of water available for the downstream states.

For their part, the downstream countries have argued that their allocation is appropriate, because they have larger populations and their arid climate increases their water requirements. They have resisted any attempt to re-open the water allocation issue.

In June 2000, for example, Austrian Foreign Minister Benita Ferrero-Waldner, acting in her capacity as chairwoman of the Organization for Security and Co-operation in Europe (OSCE), visited Central Asia, intent on persuading the five countries to meet to discuss how the region's water resources could be used for the good of all. Despite considerable efforts, she met substantial resistance from Turkmenistan and Uzbekistan. The presidents of both countries, insisting that they preferred to handle the problem on a bilateral basis, rejected the multilateral approach proposed by the OSCE. However, if changes are not made, the upstream countries will most likely find themselves suffering from chronic water shortages—a remarkable situation given their resource base.

### *Ethnic discrimination in local water allocation*

The issue of water allocation is not only a regional problem: It has become increasingly contentious at the local level. For millions of people throughout Central Asia, the produce from small garden plots represents their sole means of survival. With the diversion of water to cotton production, many small scale farmers find themselves denied access to water.

**TABLE 1: Flow Generation in the Aral Sea Basin**

(All figures are in cubic kilometers per year.)

Country	Amu Darya Basin		Syr Darya Basin	
	Flow generation	Flow allocation	Flow generation	Flow allocation
Afghanistan	6.18	0	0	0
Kazakhstan+	0	0	4.5	12.29
Kyrgyzstan	1.9	0.24	27.4	4.03
Tajikistan	62.9	9.08	1.1	2.46
Turkmenistan*		2.78	22.02	0 0
Uzbekistan	4.7	33.9	4.14	19.68

+ Data only for the two southern provinces; \*Includes flows from Iran  
SOURCE: WARMAP (1996) and GEF reports (2002)

Some individuals who have secured large areas of land and considerable wealth are in a position to bribe and influence officials, so that they can receive water whenever they need it. Their demands for water are met before those of smaller, often more vulnerable, farmers.

The net result is that the rural poor, one of the most disadvantaged sectors of Central Asian society, are often denied a fair share of the region's water. Situations like this will increase the polarization between the "haves" and the "have nots," becoming particularly problematic in those regions where land and water resources are most scarce.

On the local level, people living the furthest down-river are often most affected by water shortages. The amount of water making it to the distal reaches of the Syr Darya in Kazakhstan, for example, declined from 10 cubic kilometers in 1994 to 5.4 cubic kilometers in 2000.<sup>6</sup> This decrease, caused by the activities of the upstream states, was exacerbated by drought toward the end of the 1990s.

A similar situation exists in the Uzbek Autonomous Republic of Karakalpakstan, located at the mouth of the Amu Darya. Officials there have complained that they often receive considerably less water than their allocation, because it has been taken by upstream users. These officials argue that the issue is not only about geography but also about the discrimination they face from other ethnic groups in the region.

During the severe drought of 1998-2002, Karakalpakstan received less than 7 percent of their quota, compared to the 50-60 percent that their upstream Uzbek neighbors received. Officials also claim that, within Karakalpakstan, ethnic Uzbeks received preferential treatment, gaining access to resources over Karakalpaks.<sup>7</sup>

### *Energy versus agriculture*

The water storage facilities built by the Soviets on the territory of Tajikistan and Kyrgyzstan give these countries the potential to become major hydropower producers. In Tajikistan, for example, not only would the development of hydropower solve the country's energy deficit, but also the electricity could prove to be a major export commodity.<sup>8</sup> To generate hydropower, however, would mean operat-

<sup>6</sup> Zamina, L. (2003) "Developing water management in South Kazakhstan," in O'Hara, S.L. (ed.) *Drop by Drop, Water Management in the Southern Caucasus and Central Asia*, Local Government and Public Service Reform Initiative, Open Society Institute-Budapest. 91-105pp. <http://lgi.osi.hu/publications>

<sup>7</sup> International Crisis Group (2002) *Central Asia: Water and Conflict*, <http://www.reliefweb.int/library/documents/2002/icg-uzb-30may.pdf>

<sup>8</sup> UNDP (2003) *Tapping the Potential: Improving Water Management in Tajikistan*. [http://www.untj.org/undp/publications/nhdr2003/NHDR\\_2003.pdf](http://www.untj.org/undp/publications/nhdr2003/NHDR_2003.pdf)

ing the region's reservoirs in conflict with the requirements of the downstream countries.

The different water requirements of the upstream and downstream republics were always problematic, but during the Soviet era the decision on when and how much water to release was made by Moscow, which for years ordered Kyrgyzstan and Tajikistan to empty their reservoirs to irrigate the cotton fields of Uzbekistan, Turkmenistan, and Kazakhstan. Energy produced during these releases was transmitted to neighboring regions of the Soviet Union and, in return, these regions sent electric power and coal to Tajikistan and Kyrgyzstan during the winter months.

Without Moscow's intervention, the regional states must now negotiate operation of the reservoirs, and this has proved extremely problematic. The introduction of national currencies, increases in the price of coal, oil, and gas, and, at times, difficult intergovernmental relations have severely reduced energy exports to the upstream countries.

The Kyrgyz reacted to the reductions by increasing the amount of water discharged from the Toktogul reservoir during the winter months in order to produce more power. Reservoirs downstream of the Toktogul, unable to cope with the volumes of water being discharged, have had to go into emergency operation mode. The Uzbeks, for example, have diverted excess flows to the Arnasai Depression to prevent destruction of downstream facilities. As a result, the volume of water in the depression has risen significantly, causing the loss of agricultural land and the submergence of roads and other infrastructure.

Increased winter discharges also left less water available for releases during the main irrigation period, a situation that has angered both the Uzbeks and the Kazakhs, who have argued that Kyrgyzstan's actions have had a negative impact on agriculture and the economy as a whole.

In an effort to solve the problem, the three countries began negotiating various protocols and agreements on the use of water and energy resources in the Syr Darya Basin. Under such agreements, the downstream countries promised to deliver a specified amount of coal, electricity, and gas to Kyrgyzstan in exchange for water releases in the summer. The agreements have improved cooperation between the states that share the river, but they have not solved the problem entirely.

With the overall agreement up for renewal, the governments must consider new issues during the negotiations. For example, it is still relatively easy for Uzbekistan to arrange that energy supply be

delivered to Kyrgyzstan, because its economy is still largely state-controlled. However, if this situation changes, or the already dilapidated energy transfer system deteriorates any further, Uzbekistan might find it harder to meet its obligations.

### *The international community: The new Moscow?*

Following the collapse of the Soviet Union, representatives from international donor agencies flocked to Central Asia's fledgling countries in droves. The issue of water was high on their agenda. The donor organizations sponsored a vast range of projects—largely technical in nature—with a price tag that some have estimated at USD 600 million in the first decade of independence.<sup>9</sup>

Yet despite the level of investment, the findings and practical outcomes have been staggeringly limited. In many ways, the international community merely stepped in and filled the void that Moscow left. The Central Asian states did not really have to think too long or hard about their predicament. Instead, they became very astute at playing the international game, expecting the international community to continue bailing them out. As one observer has noted, the international community has inadvertently created a "welfare mentality" in the region.

The international community has also failed to address many of the underlying problems, so that conditions not only fail to improve, but continue to worsen. The 1992 Almaty agreement aided the nations' transition to sovereign powers by endorsing the Soviet-era water allocation plan. But, in approving the status quo, the region and the international community let downstream nations continue securing water for inefficient irrigation practices. Furthermore, while projects have focused on increasing irrigation efficiency, few people have actually argued for major changes in crop patterns, or advocated a move away from cotton.

### *As quantity and quality drop, shortages hit some groups harder*

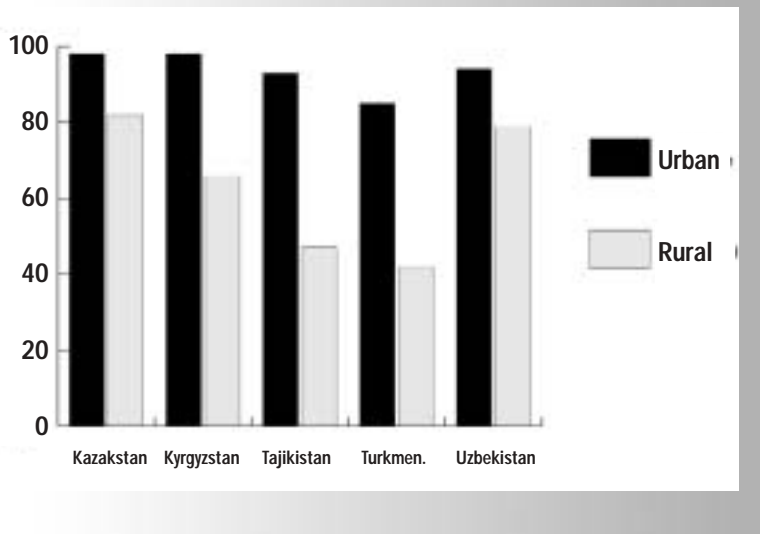
Central Asia does not suffer from an absolute water shortage at present, but it will in the future. Even with a significant improvement in the efficient use of water, the combination of increased population and climate change will result in reductions in available water and will inevitably lead to increased regional tension.

It is clear that some tough decisions have to be made, because there is simply not enough water to satisfy the competing demands of the different countries and user groups. It is also clear that the

*The international community has also failed to address many of the underlying problems, so that conditions continue to worsen.*

<sup>9</sup> Micklin, P.P. (1998). "Regional and International responses to the Aral Crisis." *Post-Soviet Geography and Economics* 39: 399-416.

**FIGURE 1: Percentage of the Population with Access to Improved Water Supply in the Countries of Central Asia**



exploitation of water resources in Central Asia is unsustainable, and that, for many people, access to water supplies is neither equitable nor adequate.

Certain groups, notably ethnic minorities and the disadvantaged and more vulnerable sectors of society, are disproportionately affected because of limited access to water, and because they are more likely to suffer from the negative impacts of water shortages. Unless the Central Asian states act soon in a coherent and cooperative manner, the issue of access to water will become increasingly contentious at both the national and local levels.

While access to water is an important issue, so is access to water of good quality. Central Asia's rivers are polluted and suffer from problems of salinity, especially in their lower reaches. People living closest to the Aral Sea have been disproportionately affected by deteriorating environmental conditions. The little flow that reaches the region is highly saline and contaminated with organic and inorganic substances. Virtually all water sources in Karakalpakstan are highly polluted, with salt levels reaching 4-6 grams per liter—up to four times the WHO standard for palatable drinking water.<sup>10</sup>

In addition, the exposure of over 40,000 square kilometers of the former sea bed has created a regionally significant dust source that is highly saline and heavily contaminated with pesticides, fertilizers, and heavy metals. People living downwind are exposed to high levels of contaminated dust.<sup>11</sup> The long-term exposure to these environmental pollutants has produced high levels of kidney and liver disease, respiratory infections, allergies, cancer, and birth abnormalities.

### *Pipes don't always reach rural communities*

Access to piped water was never at 100 percent in Central Asia, because many people, especially in rural and more remote areas, lacked even the most basic of facilities. Since independence, there has been a marked deterioration in the situation, not only in terms of access to water, but also in water quality per se. In Tajikistan, 93 percent of the urban population is connected to a piped water system, but less than 50 percent of the rural population is connected.

A significant difference in the provision of piped water between urban and rural dwellers is also noted in the other Central Asian states—though according to official figures the differential is not so great in Kazakhstan and Uzbekistan. (See Figure 1.) Yet official figures can often be misleading; while a settlement might have a piped water system in place, in many instances it is no longer operational.

A recent survey in Central Kazakhstan serves to highlight some of the problems for remote rural settlements. Vodhoz Astana is responsible for supplying water to 17 rayons in the Astana Oblast, which have a total population of 750,000 in 710 settlements. The total size of the area under their control is 146,219 square kilometers. At present, only 45 (6.3 percent) of the settlements under their jurisdiction have a functioning water pipeline, while in other areas, the system has collapsed or was never put in place.

Access to piped water also does not necessarily mean access to clean water. Water supply systems throughout Central Asia are in a dilapidated state and receive little maintenance. As a result, water treatment facilities are often inoperational and water quality is often poor. A recent World Bank report noted that 16 percent of the water in the water supply system of the Tajik capital of Dushanbe is diverted directly from river supplies without any treatment.<sup>12</sup>

The situation is further exacerbated by the fact that water is frequently rationed and many people

<sup>10</sup> Ataniyazova, O.A. (2003) "Health and Ecological Consequences of the Aral Sea Crisis." Paper presented at the 3rd World Water Forum, Kyoto, March 19th 2003. [http://www.adb.org/Documents/Presentations/RC\\_Shared\\_Water/Ataniyazova.pdf](http://www.adb.org/Documents/Presentations/RC_Shared_Water/Ataniyazova.pdf)

<sup>11</sup> O'Hara, S.L., Wiggs, G.F.S., Mamedov, B., Davidson, G. and Hubbard, R.B. (2000) "Exposure to airborne dust contaminated with pesticides in the Aral Sea Region," *The Lancet*, 355: 627-628; Wiggs, G.F.S., O'Hara, S.L., Wegredt, J., Hubbard, R. and van der Meer, J. (2003) "The dynamics and characteristics of aeolian dust in dryland Central Asia: possible impacts on human exposure and respiratory health." *Geographical Journal*, 169: 142-157.

<sup>12</sup> World Bank (2002) *Dushanbe Water Supply Project, Project Appraisal Document*, [http://www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/2002/07/02/000094946\\_0206060403145/Rendered/PDF/multi0page.pdf](http://www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/2002/07/02/000094946_0206060403145/Rendered/PDF/multi0page.pdf)

receive water intermittently. Insufficient water treatment and cross contamination from sewage pipes are often cited as the main cause of outbreaks of typhoid fever that have occurred in recent years.

### *Open sources often the only sources*

In the absence of a piped system, people must look elsewhere for water. For a large proportion of Central Asia's population, particularly in rural areas, the only water comes from irrigation ditches, streams, ponds, and other open sources. Water drawn from open water bodies is often substandard, with high levels of both chemical and biological contaminants.

Lacking access to clean water, many rural people suffer poor health. According to the UNDP, the incidence of disease in Tajikistan is at least three-to-nine times higher in rural areas, where irrigation ditches represent the main water supply.<sup>13</sup>

While people in some areas can access open water sources or bore wells, people in other areas have neither of these options and travel considerable distances to fetch water, or rely on water being brought in by tanker.<sup>14</sup> The costs of travelling to get water or purchasing water from vendors can be considerable. This significant financial burden can make a difficult life even harder.

Considerable efforts have been made to improve drinking water quality throughout the region, but, inevitably, these efforts have focused on areas where infrastructure is already in place and where improvements can benefit the greatest number of people. People living in urban areas are most likely to benefit from investments in the domestic water sector. For most people in rural areas, the situation is unlikely to improve in the near future, and may well deteriorate even further.

Ensuring that all sectors of society benefit equally from environmental investments will be a major challenge for the governments of the region.

### *The challenge for the future*

In September 2000, the member states of the United Nations adopted the Millennium Declaration, which established goals and targets aimed at

<sup>13</sup> UNDP (2003) *Tapping the Potential: Improving water management in Tajikistan*.

<sup>14</sup> Jacobs-Gibb (2004) "Nura-Ishim River Basin Management Project" Vol. 5. *Social Surveys in Water Resources Management*, 95pp.

<sup>15</sup> The United Nations Millennium Declaration, <http://www.un.org/millennium/declaration/ares552e.pdf>

<sup>16</sup> Millennium Declaration, paragraph 23 (4).

<sup>17</sup> The UN Millennium Development Goals, <http://www.un.org/millenniumgoals/>

improving the lives of people around the world.<sup>15</sup> In Paragraph 23, the member states agreed to adopt a new ethic on the conservation and stewardship of the environment, and specifically, to stop the unsustainable exploitation of water resources by developing regional, national, and local-level water management strategies that promote both equitable access and adequate supplies.<sup>16</sup>

As signatories to the declaration, the five Central Asian states—Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan—are committed to meeting the goals of improving water quality and sanitation. Target 10 of the Millennium Development Goals states that, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation should be halved.<sup>17</sup>

Achieving this goal in Central Asia will be extremely difficult.

Formulating a strategy for managing the region's water resources is an immensely complex problem that will inevitably become more difficult as the system continues to fail and the demands upon it increase.

As signatories of the Millennium Declaration, the Central Asian states are committed to ensuring that no individual or group of people should suffer discrimination in accessing water per se or accessing water of good quality. The benefits of any improvements in the system should be equally spread across all sectors of society, with no one group benefiting more than another.

A key element for the future is cooperation between the Central Asian states and recognition that the activities of one state will have repercussions for another.

Significantly effective management will only be achieved if the Central Asian states cooperate and develop a strategy that aims to provide a public good for all, and not just for a few. Public participation in decisionmaking processes is essential, especially at the local level, where everyone should have a say in how water is used.

The current situation offers little hope of improving water management. Unless action is taken to stop the spiral of abuses, the environmental injustices that have resulted from policies and practices dating back to the Soviet era will continue to be propagated by the independent states of Central Asia.

*Public participation in decisionmaking processes is essential, especially at the local level, where everyone should have a say in how water is used.*

# Dumping on the poor

Racism and politics often appear more important than scientific and environmental concerns when it comes to siting a waste facility

By **Tamara Steger**

The steady stream of garbage produced by our consumer lifestyle seems to flow down the path of least resistance, so that a disproportionate burden of waste is dumped on the least-empowered members of society. When we view the situation from an environmental justice perspective, it becomes clear that the class and race of a neighborhood can be key factors in determining where we locate our landfills and hazardous waste facilities.

“Rich communities prevent hazardous industries from moving into their turf. They have much stronger bargaining power and higher taxes,” according to a Hungarian waste-management expert. “People who have power and money are better heard.”

*“Rich communities prevent hazardous industries from moving into their turf. They have much stronger bargaining power and higher taxes.”*  
—Hungarian waste-management expert

Communities can work to correct these injustices by employing environmental management strategies, which help to ensure that the ill-effects of waste facilities are less severe and more equitably distributed. Environmental management promotes environmental justice because it incorporates ecological assessments, public participation, and economic efficiency in considerations of how to handle waste.

The apparent influence of racism in siting waste facilities initially inspired the environmental justice movement in the United States in the late 1980s.<sup>1</sup> When it was shown that a disproportionate percentage of solid waste disposal facilities were located in black or Hispanic neighborhoods, a pioneering figure in environmental justice asserted that the reason was simple: It was plain racism.<sup>2</sup> It has become clear that minorities and the poor, who have less political clout, take on more of the solid and hazardous waste generated by industrial society.

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Such environmental injustices occur throughout the countries of Central and Eastern Europe (CEE) and the former Soviet Union (fSU). One way to address the problem is with environmental management approaches, which can help promote environmental justice in the region.

## *Justice through environmental management*

The environmental management approach to dealing with waste is relatively new for the transition countries of CEE and fSU. Communities in the region are just starting to draw upon opportunities for capacity building and cooperation with local governments, to defend their interests and secure information about the siting of waste facilities in their areas.

One environmental management policy tool that CEE and fSU countries have begun to use is environmental impact assessments (EIAs). EIAs give the public an opportunity to hear about and discuss the ecological impact of development projects, such as the building of waste facilities. EIAs can facilitate the work of decision makers and secure community interests. They can incorporate class and race concerns by taking into consideration local knowledge and public participation as part of the process of making important environmental decisions.

Improving environmental justice by taking advantage of an environmental management approach to waste management in CEE and fSU will take time. For environmental management strategies to be truly effective, the development of civic responsibility must evolve alongside local cultural values. It is important to remember, for instance, that local communities in CEE and fSU are not accustomed to paying for waste disposal.<sup>3</sup>

Thus far, many of the gains made with regard to the development of environmental management systems in the countries that acceded to the European Union this year have been due to pressure from Brussels.<sup>4</sup> For example, the EIA process is an EU requirement. However, further development of site-specific environmental management approaches is necessary in order to promote environmental justice in the location of waste facilities in the region.

<sup>1</sup> Robert Bullard (*See interview, Page 38.*) asserted that three out of five black and Hispanic Americans live close to hazardous waste facilities. Bullard, R., ed. 1993. *Confronting Environmental Racism: Voices from the Grassroots*. Boston: South End Press.

<sup>2</sup> Ibid.

<sup>3</sup> Interview with Robert Nemeskeri of the Business and Environment Program at the Regional Environmental Center for Central and Eastern Europe, Hungary.

<sup>4</sup> Ibid.



### ***Seeking a politically acceptable package***

The siting of a new waste repository appears to be about 99 percent politics and at best 1 percent science.<sup>5</sup>

The social and economic aspects and the geological conditions of a potential site must converge nicely to fit into a politically acceptable package. This is apparently one reason why waste repositories were predominantly sited in black, Hispanic or poor communities in the United States.<sup>6</sup> These sites, it was argued, were chosen because it was assumed that there would be little political resistance to the proposed projects by the surrounding poor or minority groups.

The relatively low political clout of poor and minorities puts them at a clear disadvantage when it comes to a highly political process like the siting of a waste facility. Areas that retain certain geological characteristics conducive to preventing leachate-contaminated run-off from landfills are also considered, but they will usually only be chosen if they are also socially and politically expedient.

In fact, after going through a political process to determine the best site, the geology of the area chosen may not end up being the most favorable for siting a waste facility.<sup>7</sup>

Minority or poor communities generally have less capacity to influence local decision making or policymaking on the location of waste facilities in their neighborhoods. Furthermore, with fewer resources, poor and minorities often find themselves relocating to areas where the land is less expensive, sometimes due to its proximity to waste facilities or other industrial activity.

### ***Negotiating justice***

Waste facilities can seem tempting to more economically challenged communities because the sites offer the promise of new local employment, though it is often not the kind of employment most needed. Local governments are in the difficult position of having to negotiate multiple interests, including the social, economic, political, and environmental aspects of community life. In figuring out how to deal with waste, local governments, businesses, and

<sup>5</sup> Heiman, Michael. 1996. *Race, Waste, and Class: New Perspectives on Environmental Justice*. Antipode 28(2).

<sup>6</sup> See, for example, the United Church of Christ Commission for Racial Justice, 1987, *Toxic Wastes and Race in the United States*. New York: United Church of Christ Commission for Racial Justice; United States Environmental Protection Agency, 1987, *Unfinished Business: A Comparative Assessment of Environmental Problems*. Washington, DC: U.S. EPA, Office of Policy Analysis.

<sup>7</sup> Interview with Robert Nemeskeri director of the Business and Environment Program at the Regional Environmental Center of Central and Eastern Europe in Szentendre, Hungary (2004).

### **Czech villagers fight a nuclear waste dump**

**When citizens and local officials in the Czech Republic were asked their opinion about locating a waste facility nearby, they responded with a resounding “no.” But it’s still not clear how well this answer was heard.**

The Czech Republic’s first-ever referendum on nuclear waste was held in three villages on November 16, 2003. The Czech government is looking for a place to build a facility for long-term storage of nuclear waste from the recently opened nuclear power plant at Temelin. Residents in three South Bohemian villages of Nadejkov, Bozetic, and Prestenice held the referendum to express their opinion on whether they should accept the proposed underground repository in their area. According to Radio Free Europe/Radio Liberty, “nearly all the voters in three villages opposed the plan in the non-binding referendum—roughly 97 percent in the villages of Nadejkov and Bozetic, while in the smallest of the three settlements, Prestenice, there was one vote in favor and 167 against.”

Nonetheless, the Czech government’s Radioactive Waste Repository Authority announced that it would decide on a site, either the one in South Bohemia or one of five other sites around the country, in 2004—even though non-binding referendums were also planned in these sites, according to Radio Prague.

On January 4 of this year, Radio Prague announced that 76 local authorities from around the country, representing 150,000 citizens, had signed a document opposing plans to build the underground repository between Chanovice and Pacejov, near the town of Pilsen in south-west Bohemia. The mayor of Chanovice told Radio Prague that he expected the document to gain the support of 250,000 citizens, “mostly residents of all the six areas considered by the Radioactive Waste Repository Authority, SURAO, as potential sites for the future repository.”

The mayor’s hope to unite citizens against the plan shows promise, but it remains to be seen whether residents will continue to fight together. If one of the sites is eventually selected over the others, it seems likely that the “loser” will be the location where the residents have the least political clout.

citizens can mutually support each other. Citizens can provide the impetus to improve deals made between businesses, local government, and residents.

A well-negotiated agreement means that the proposed facility is likely to be more environmentally sound, local governments can increase their revenue, citizens and businesses can maximize local development and economic potential, and business people and officials alike can generate a more positive public image. The benefits of providing the grounds for a waste facility, however, should be carefully scrutinized—and not overestimated.

In dealing with waste, politics and science must find a way to go hand in hand, lest neither be useful. Transition countries are already drawing from the experience of others, by implementing environmental management in their own communities.<sup>8</sup> Citizens' participation in technical matters pertaining

*Local governments can avoid conflict over waste management issues if they empower citizens with the scientific information and understanding they need to make sound environmental decisions.*

to waste management and the environment is still in its early stages in the West, as well as in CEE and fSU.<sup>9</sup> The environmental justice movement in the United States, for example, finds that limited understanding of technical matters is one of their biggest challenges

in promoting environmental justice.<sup>10</sup>

Local governments can avoid unnecessary conflict over waste management issues if they empower citizens with the scientific information and understanding they need to make sound environmental decisions about how to manage their waste in a just manner. In this capacity, local government acts as a civic educator rather than a powerbroker in the process of managing waste and protecting community health and economic vitality.

### ***Technological advancements reduce risks***

Technologically advanced waste-processing facilities can be very low risk. One good example is the Spite-lau garbage incinerator in Vienna. It was designed by artist and architect Hundertwasser, and its emissions are monitored and displayed in real time. It is considered to be a prime example of clean technology. As one expert on waste management in CEE said of the facility, "Nobody feels unsafe. We would

like to have such quality incinerators."

Feeling safe, however, is not the only criterion for promoting environmental justice and managing waste. A significant waste management problem in CEE includes dealing with uncontrolled landfills—random, unmonitored sites where people simply throw garbage. In uncontrolled waste sites, garbage can contain anything from batteries, which are classified as hazardous waste, to agricultural waste, including carcasses, which breed bacteria.

Uncontrolled landfills can impact on the quality of water and soil nearby, having a negative affect on what people drink and eat. And the more economically vulnerable people may rummage through this garbage to gather needed goods. In this process, they can be exposed to hazardous materials and harmful bacteria.

Waste can either flow down the path of least resistance or pathways can be generated in a deliberate fashion, using environmental management techniques that carry a sense of justice. Rather than handing a decision down, whether it be for or against a waste facility, local government officials can find creative ways to work within the community, as educators and facilitators of decisions.

Just as communities tend to lack technical capacity to consider the pros and cons of a particular facility development proposal, local governments need to know the community's concerns. Such information can be exchanged in public forums, in a mutual effort to clarify and understand risks and benefits.

Through environmental management approaches that promote ecological considerations, public participation, information exchange, and economic efficiency, the environmental and economic risks associated with waste facilities can be reduced—and so can racism.

<sup>8</sup> Consider, for example, the EcoLinks Program that facilitates projects to transfer environmental technology such as environmental management approaches from W. Europe and the U.S. to CEE and fSU. For "best practices," visit <http://www.ecolinks.org/results/BestMore.cfm>

<sup>9</sup> This concept is outlined in Shannon, M. and Antypas, A., 1996, "Civic Science is Democracy in Action," *Northwest Science*, Vol. 70, No. 1.

<sup>10</sup> Heiman, Michael. 1996. "Waste Management and Risk Assessment: Environmental Discrimination through Regulation," *Urban Geography* 17 (5):400-418.

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# CASE STUDIES

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## Activists link human rights and environmental wrongs

Changes in international law mean that connecting two issues can be an effective way to obtain justice while protecting precious resources

### By Alexios Antypas

Violations of human rights caused by the marginalization and social exclusion of certain populations in Europe often have striking environmental dimensions. Marginalized people may follow the pollution, because they have little choice but to live in the worst places under the worst conditions. In other instances, the pollution follows the marginalized, who lack the resources of wealthy and mainstream communities to fight off the polluters. Environmental laws are often broken with impunity when the victims are the poor and disadvantaged.

The legal arsenal for addressing environmental injustice in Europe has been increasing, thanks to efforts to group environmental rights and human rights together on the pan-European and worldwide level. While there is a clear need to strengthen laws in the area of environmental justice, activists have shown that human rights approaches can be beneficial in addressing environmental problems.

Through international agreements and court precedents, environmental rights have evolved into cultural and human rights, and environmental harm has come to be treated as a human rights violation. Conversely, environmental law can function as human rights law, thereby expanding legal protection of not only the environment but also the people living in it.

### ***Environmental rights: Cultural and human rights***

Outside of the United States, where a federal executive order is in place, no country has developed a legal framework that explicitly addresses the problem of environmental injustice. Instead, govern-

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ments, nongovernmental organizations, and citizens must rely on human rights and environmental laws to develop legal strategies to combat environmental injustice.

Existing precedents in European Union jurisprudence and environmental law provide a solid foundation for pursuing environmental justice campaigns to correct present injustices—and to pursue policy reform to explicitly incorporate environmental justice issues into the body of human rights and environmental law.

While these tools should be used and developed to the maximum extent possible, there is also a need for international and European legal instruments that explicitly encompass environmental justice. Developing such instruments should be a high priority for stakeholders.

The concept of environmental rights emerged early in the development of the international environmental agenda. The 1972 United Nations Conference on the Human Environment established the link between the environment and human rights in the first principle of the Stockholm Declaration: “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and wellbeing, and he bears a solemn responsibility to protect and improve the environment for present and future generations.”

In 1990, the UN General Assembly Resolution 45/94 declared “that all individuals are entitled to

### *International agreements that can have an impact on environmental justice cases include:*

- *The Stockholm Declaration from the 1972 UN Conference on the Human Environment*
- *UN General Assembly Resolution 45/94 (1990)*
- *The Rio Declaration from the 1992 UN Conference on Environment and Development*
- *The UN Commission on Human Rights Resolution 2003/71 on Human Rights and the Environment as Part of Sustainable Development (April 2003)*
- *Article 27 of the International Covenant on Civil and Political Rights*
- *UNECE's “Aarhus” Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.*
- *The European Commission's Sixth Environmental Action Program (EAP)*
- *The EU Strategy for Sustainable Development (2001)*
- *EU environmental directives*

live in an environment adequate for their health and well-being” and asked the Commission on Human Rights, with the assistance of its Sub-Commission on Prevention of Discrimination and Protection of Minorities, to develop the environment-human rights linkage in its work.

The 1992 UN Conference on Environment and Development further developed the linkage between the environment and human rights by providing a crucial procedural justice component. Principle 10 of the Rio Declaration reads:

“Environmental issues are best handled with 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 decisionmaking 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.”<sup>1</sup>

Since the Stockholm and Rio conferences, environmental rights have been codified in multilateral

*“Minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”*

—Article 27 of the International Covenant on Civil and Political Rights

environmental treaties, EU law, and the constitutions of nations, and they have been elaborated in human rights law by the UN Commission on Human Rights and the European Court of Human Rights. Both the substantive and procedural elements give meaningful and powerful tools to the public and officials who

seek to provide environmental rights to citizens, including those suffering from discrimination and disproportionate environmental risk and harm.

### ***Environmental harm: A violation of human rights***

While the right to a clean and healthy environment is finding gradual acceptance in the international community and within Europe, it has not yet been codified in a way that allows it to be used effectively as a basis for litigation. Instead, litigators are relying on traditional human rights laws, which judges are interpreting as subject to infringement by environmental harms. Aggrieved citizens suffering from harmful environmental conditions and development projects have claimed infringement of their rights to life, property, health, information, privacy and family life, enjoyment of one’s home, and judicial review.

Precedents at the international and European levels may provide advocates for environmental justice with important legal tools to pursue their aims. These important precedents may be helpful in convincing local authorities and judges to view cases of environmental injustice in the larger human-rights-and-environment framework.

In April of 2003, the UN Commission on Human Rights adopted Resolution 2003/71 on Human Rights and the Environment as Part of Sustainable Development, the strongest, most comprehensive statement to date linking human rights and the environment. It cuts across issues of poverty alleviation, substantive and procedural environmental rights, good governance, and discrimination. Importantly, it establishes a basis for the development of an explicitly distributive justice approach to environmental rights. In the development of environmental policy, states should “take into account how environmental degradation may affect disadvantaged members of society, including individuals and groups of individuals who are victims of or subject to racism.”<sup>2</sup>

Since the General Assembly resolution of 1990, the commission has developed its framework on human rights and the environment gradually—in the context of hearing numerous environment and human rights cases. A number of cases have addressed the issue of minority rights, especially when indigenous groups are denied traditional uses of natural resources and other environmental entitlements protected under Article 27 of the International Covenant on Civil and Political Rights.

Article 27 holds that “minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”<sup>3</sup> For instance, in *Bernard Ominayak and the Lubicon Band v. Canada*, the commission held that energy development on traditionally indigenous land was a threat to the culture of the band, constituting a violation of Article 27.<sup>4</sup> The cultural right to natural resources and traditional

<sup>1</sup> <http://www.unep.org/Documents/Default.asp?DocumentID=78&ArticleID=1163>

<sup>2</sup> Resolution 2003/71 adopted by the 59th session of the UN Commission on Human Rights, Geneva, 25 April 2003.

<sup>3</sup> Article 27, International Covenant on Civil and Political Rights, Adopted and opened for signature, ratification and accession by the United Nations General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976.

<sup>4</sup> Communication No. 167/1984, Decisions of the Human Rights Committee, UN Doc. CCPR/C/38/D/167/1984 (1990) cited in Dinah Shelton, 2002. “Human Rights and the Environment: Jurisprudence of Human Rights Bodies,” *Environmental Policy and Law* 32 (3/4). Shelton provides a well-rounded overview of human rights-environment jurisprudence internationally and regionally.

and customary utilization practices could potentially be applied to minorities such as Eastern Europe's Roma, who have practiced semi-subsistence lifestyles in certain rural areas.

### ***Environmental cases in the European Court of Human Rights***

The European Court of Human Rights has heard a number of environmental cases on the basis of the European Convention on Human Rights and Fundamental Freedoms. Generally, Article 8 on the right to privacy and family life and Article 10 on the right to information<sup>5</sup> have been invoked in the environmental cases. Article 1 of Protocol 1, providing the right of persons to the peaceful enjoyment of their possessions, has also been used in environmental cases when pollution or other forms of environmental degradation have resulted in a "substantial reduction" of property values not compensated by the state.<sup>6</sup>

Certain court cases—or previously, European Commission on Human Rights cases—are illustrative of the potential for using this forum to redress environmental injustices in the region of CEE. The traditionally nomadic Sami people of northern Norway brought a case against Norway claiming a violation of Article 8. The Sami argued that a proposed hydroelectric dam would infringe upon their peoples' rights to continue traditional practices that constituted a part of their privacy and family life.<sup>7</sup> The commission eventually ruled in favor of Norway, deciding that the amount of land flooded by the project might not constitute an infringement of human rights and that the project was in the larger public interest. But the commission did accept the argument that traditional practices could be considered within the rubric of privacy and family life. This finding establishes a precedent for ethnic minority groups whose traditional lifestyles, including subsistence and natural resource utilization practices, are threatened by governmental actions.

The European Court of Human Rights has found that pollution, even when it does not severely threaten human health, may constitute a violation of the right to privacy and family life. The court uses a "fair balance" test to weigh the rights of individuals with the economic interests of society in general.

In an important case, *Lopez-Ostra v. Spain*,<sup>8</sup> the court found that the challengers to a polluting plant that caused a nuisance and health problems for nearby people did not first have to exhaust all local

administrative remedies under environmental laws, but rather only needed to exhaust remedies related to basic rights. In this case, the European Court of Human Rights established a precedent in which a pollution-caused injury could be understood a priori as either a violation of environmental or human rights law. This reading gives advocates flexibility in deciding how to pursue cases of environmental injustice.

Another interesting development in the expanding environmental case law of the European Court of Human Rights is the finding in *Zander v. Sweden* that Article 6 of the European Convention on Human Rights and Fundamental Freedoms guarantees that everyone has a right to judicial review of possible civil rights violations. This decision may provide a basis for challenging authorities in environment-related cases.

In *Zander*, the plaintiff suffered from contaminated drinking water as a result of pollution from a waste treatment and storage area. Local authorities denied the plaintiff's request that the company operating the facility provide him with clean drink-

ing water at its own cost, and they did not provide the opportunity for judicial review of the decision. The court argued that "environmental inconveniences or risks" may affect fundamental rights and freedoms, a situation that triggers Article 6's requirement for judicial review.

The UN and European cases reviewed here represent a small portion of the cases heard by international and European judicial bodies dealing with the nexus of human rights and the environment. These decisions provide a basis for legal strategies in cases of environmental injustice. In addition to the Commission on Human Rights and the European Court of Human Rights, other bodies that have heard cases dealing with human rights and the environment include the UN Committee on Economic, Social, and Cultural Rights, the Committee on the Rights of the Child, and the Organization of American States.

No cases heard in these forums have acknowledged the existence of environmental rights per se, but they have interpreted human rights within the context of environmental harms. Rights protecting minorities, cultural rights, and rights to family, home, property, health, and information may, individually or in combination, apply to many cases of environmental injustice. When environmental rights themselves are more fully accepted as human rights,

*In Zander v. Sweden, the European Court of Human Rights argued that pollution of the plaintiff's drinking water qualified as "environmental inconveniences or risks," which could affect his fundamental rights or freedoms.*

<sup>5</sup> See story on Page 8 of this edition for a more detailed discussion of the convention.

<sup>6</sup> Shelton, cited above.

<sup>7</sup> Joined Applications 9278/81 (1984), 35v DR 30. See Shelton, cited above.

<sup>8</sup> *Lopez-Ostra v. Spain*, ECHR (1994). Series A. No. 303C.

a substantial challenge in pursuing environmental justice cases will be surmounted. The greatest benefits in establishing environmental rights as universal norms will go to disadvantaged and marginalized people, who suffer disproportionately from environmental harms.

### ***Environmental law as human rights law: The Aarhus Convention***

At the international level, the most important legal instrument that has emerged out of the environment-human rights nexus is the United Nations Economic Council for Europe's "Aarhus" Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. The Aarhus Convention is a new kind of environmental treaty that, rather than setting environmental standards, offers procedural

*Research in CEE countries shows that the Aarhus Convention has not been fully embraced by governmental agencies, which sometimes still operate under a socialist-era culture of secrecy.*

protections to citizens of party states, which include virtually all states in CEE—with the notable exceptions of the Russian Federation, Slovakia, Uzbekistan, Serbia and Montenegro, and Bosnia and Herzegovina.

The Aarhus Convention incorporates the spirit, and some language, from the Stockholm Declaration to establish a rights-based framework for citizen involvement in environmental governance through information access, participation in decision making, and access to justice, primarily access to legal redress. The convention establishes the legal "right of every person of present and future generations to live in an environment adequate to his or her health and well-being" (Article 1). It seeks to ensure this right through enjoining parties to the convention to proactively and reactively make information on environmental conditions available to citizens and to ensure that citizens and organizations are involved in decision making at all levels—local, regional, and national. Additionally, the convention provides guarantees that citizens who are denied access to information or the right to participate in decision making, or who suffer from the breach of environmental law, generally have the right to judicial review of their cases.

Communities suffering from environmental degradation and hazards, such as contaminated water sources and proximity to polluted sites or toxic waste, often lack adequate information about the risks to which they are exposed. Local and national authorities and private companies often withhold this information—either actively, when

they are asked to provide it, or passively, by not publishing and disseminating information that is in their possession. The Aarhus Convention is the most effective instrument now available for citizens and activists to remove the veil of ignorance smothering affected communities.

Research in Hungary and other CEE countries shows that the Aarhus Convention has not been fully embraced by governmental agencies, which sometimes still operate under a socialist-era culture of secrecy and privilege.<sup>9</sup> Yet environmental NGOs are quickly becoming adept at using the convention to challenge public authorities to divulge information that they possess but are reluctant to share. Information obtained by NGOs, lawyers, and other advocates may reveal environmental conditions that violate environmental law, opening up possibilities for pursuing "pure" environmental cases to benefit their clients.

### ***EU policy frameworks***

The Sixth Environmental Action Program (EAP) establishes the principles and norms that member states, as well as EU institutions themselves, should adopt in pursuing environmental goals. The Sixth EAP integrates human health objectives throughout—and devotes a full article to environment and health, covering chemical safety, chemical exposure, pesticides, air quality, water availability and quality, and other issues. Any of these issues may be relevant to marginalized communities. For example, Romani communities in rural areas often suffer from both restricted availability of water and from the contamination of the water sources that do exist. Communities and countries not working diligently to ensure "a high level of protection of surface and groundwater" for all citizens are thus violating the EAP.

Of perhaps even greater importance is the EU Strategy for Sustainable Development, adopted in 2001. At the Lisbon Summit, the European Council set the EU's goal as becoming "the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion." The Strategy for Sustainable Development interprets this language to mean that "economic growth, social cohesion and environmental protection must go hand in hand." It emphasizes the interconnection between a just society and a healthy environment. The strategy also lists poverty as a main threat to sustainable development, stating: "Poverty and social exclusion have enormous direct effects on

<sup>9</sup> Alexios Antypas, 2004. "A New Age for Environmental Democracy: The Aarhus Convention in Hungary," *Environmental Liability* Vol. 11(6).

individuals, such as ill health, suicide, and persistent unemployment.”

### *Where to go from here*

Broadening the sustainable development agenda in the EU to include policies against social exclusion is an important step in integrating environmental and social policy. It establishes a very strong basis for future legislation dealing with environmental justice. In addition to developing cases to protect clients in the present, human rights and environmental advocates should cooperate with each other in promoting explicit environmental justice policy objectives and legal norms at the EU level in the near to medium term. The Sustainable Development Strategy includes as an annex the goals of the Lisbon strategy in the field of social policy. This part of the document sets the core objective of making “a decisive impact on the eradication of poverty,” which includes “combat[ing] social exclusion.” By adopting the language of the Sustainable Development Strategy and the Lisbon Strategy, advocates establish legitimacy in the mainstream of European Union discourse and policy goals.

Environmental lawyers, working in collaboration with human rights lawyers, should study specific environmental statutes to assess their suitability as instruments to combat environmental injustices. For instance, the Drinking Water Directive sets high quality standards for water intended for human consumption. These regulations do not apply to water from an “individual supply” if it supplies less than 10 cubic meters per day and serves fewer than 50 people. Single, unregulated water sources in some Romani villages are known to serve hundreds of people in some cases, which would apparently mean

that these water sources fall under the purview of the Drinking Water Directive. Local governments could build a strong case in quests for funds from central governments to improve the quality of drinking water for such communities. If the central government does not act in such cases, the local government could pursue litigation.

Since the EU has specific directives for virtually every environmental harm or risk, advocates should develop strategies based on the specific circumstances of injured communities and individuals.

Communities located near waste disposal sites could benefit significantly if the dumpsites can be shown to violate environmental standards. The same approach could succeed in the area of water and air quality. Advocates can develop strategies that simultaneously employ human rights and environmental campaigns.

Using environmental statutes to improve the quality of life of marginalized people is another means for pursuing human rights. Such a strategy also has the virtue of putting pressure on recalcitrant authorities and companies to abide by environmental protection laws that are in the general public interest.

Creative strategies and collaborative efforts, between advocates for the environment and human rights and concerned governmental authorities, can bring about improvements in the quality of life and environment of communities around the region.

*Using environmental statutes to improve the quality of life of marginalized people is another means for pursuing human rights and pressuring authorities to abide by environmental laws that are good for all.*

# Environmental justice takes root in CEE legal system

The Aarhus Convention, Local Agenda 21, and other international initiatives encourage helpful changes in the laws of the region

**By Michael L. Smith**

Local governments and activists in Central and Eastern Europe (CEE) are using demands for environmental justice as a policy tool to help mobilize action on quality-of-life issues.

A review of the changing legal landscape shows that, over the last decade, CEE governments have made significant strides in implementing laws on access to information and on involvement of the public in environmental decision making. CEE citizens can now use international agreements and locally enforced environmental impact procedures to protect their environment—and a wide range of human rights.

Environmental justice became enshrined as a policy goal through the 1998 “Aarhus” Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, the United Nation’s Local Agenda 21 initiative, and other declarations.

The Aarhus Convention is an international agreement created specifically to promote environmental justice. The countries that sign and ratify the convention agree to adopt a broad range of national laws to enhance citizens’ rights to obtain information on environmental matters and to obtain judicial redress for environmental injustices. The European Union, and almost all CEE countries, are signatories to the agreement.

Agenda 21, another important international instrument for environmental justice, is “a comprehensive plan of action to be taken globally, nationally and locally by organizations of the United Nations system, governments, and major groups in every

area in which humans impact on the environment.”<sup>1</sup> Such measures, and the influence of the European Union, are driving the changes in CEE. In the current legal environment, residents and non-residents who carefully follow guidelines on requesting information should be able to gain access in a timely manner to a wide range of collected environmental data.<sup>2</sup>

area in which humans impact on the environment.”<sup>1</sup>

Such measures, and the influence of the European Union, are driving the changes in CEE. In the current legal environment, residents and non-residents who carefully follow guidelines on requesting information should be able to gain access in a timely manner to a wide range of collected environmental data.<sup>2</sup>

## *Information isn’t always available*

But, in practice, access to information does not necessarily mean that the people who most need information about their localities can easily obtain it. Countries like Poland and Hungary have thousands of abandoned and in-use landfills—and many more illegal dump sites. Environmental monitoring agencies are ill-equipped to collect data on toxic leakages for all of these sites, and few show the desire to provide that kind of information to the concerned public.<sup>3</sup>

Arguably, the tragic January 2000 spill of cyanide at a gold-processing facility in Baia Mare, Romania, one of the worst environmental disasters in CEE history, could have been prevented had information on the facility been collected according to Romanian law. Certainly that information would have been of interest to the locality’s residents, whose life expectancies are 10 years shorter than the Romanian national average and who live with toxic levels of lead in their blood.<sup>4</sup>

## *Promoting participation in decision making*

Environmental justice is more than a simple requirement that local, regional, and national administrative bodies provide access to more and better information on the environment. Authorities also need to actively follow one of the key provisions of the Aarhus Convention: “to assist and provide guidance to the public in seeking access to information, in

<sup>1</sup> United Nations website: <http://www.un.org/esa/sustdev/documents/agenda21/index.htm>

<sup>2</sup> Regional Environmental Center for Central and Eastern Europe. 1998. *Doors to Democracy: Current Trends and Practices in Public Participation in Environmental Decisionmaking in Central and Eastern Europe*. Regional Environmental Center, Szentendre, Hungary.

<sup>3</sup> See for example: Petryna, Adriana. 2002. *Life Exposed: Biological Citizens after Chernobyl*. Princeton University Press, Princeton, N.J.

<sup>4</sup> Harper, Krista and Rajan, S Ravi. 2002. “International Environmental Justice: Building the Natural Assets of the World’s Poor.” *Political Economy Research Institute Conference Paper Series*, No. 12.

*According to the Aarhus Convention, authorities must “provide guidance to the public in seeking access to information.”*

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facilitating participation in decision making and in seeking access to justice in environmental matters.”

At the local level, assistance should mean that local officials actually seek out and facilitate the involvement of those citizens who are likely to be most negatively affected by an environmental issue. This kind of proactive role for local officials may be counter to administrative traditions (as well as the political interests of the officials), but it may be necessary for promoting environmental awareness among less-educated, high-risk, and politically marginalized citizens.

As a unique example, the proactive involvement of over a dozen mayors in the Vysocina and South Bohemia regions of the Czech Republic in informing their communities of the intent of the Czech government to build a deep-storage nuclear waste facility in their localities led to petition drives and 10 local referendums against the facility. These local referendums, a rare decision making device concerning environmental matters in CEE,<sup>5</sup> had turnout rates of 60 to 80 percent, and they forced the Ministry of Trade to reconsider its plans for an eventual nuclear waste facility.

### **Expanding participation in EIAs**

Another instrument of local democratic governance essential for promoting environmental justice is the environmental impact assessment (EIA). Any development in the European Union is subject to an EIA process, which includes studies and public hearings. EIA policy in CEE countries is largely based on EC Directives 85/337 and 97/11, but differences in EIA legislation and practice have continued to grow among CEE states.

While EIA procedures in the new EU countries of CEE generally require such elements as notification of the affected public, public access to environmental impact statements and public discussion of EIA findings, many of these requirements are not guaranteed or practiced in some Newly Independent States, such as Belarus.<sup>6</sup>

But even in the new EU states, the EIA provisions are open to various interpretations and levels of implementation. Local officials can play an important role in promoting participation and awareness. For example, local officials can request that firms conducting EIAs broaden their standards of assessment to include potential health risks to different residents and workers in the locality.

<sup>5</sup> Smith, Michael L. 2004. “Referendum Campaigns and Environmental Protection: Explaining the Growing Use of Direct Democracy in the Czech Republic.” Unpublished manuscript.

<sup>6</sup> Cherp, A. 2001. “EA Legislation and practice in Central and Eastern Europe and the former USSR: A Comparative analysis.” In *Environmental Impact Assessment Review*, Vol. 21, pp. 335-361.

Though NGOs have been active in many EIAs, there is little evidence that local residents outside the “expert community” have had a significant voice or influence in this decisionmaking process. More effective local government action could improve this situation by making the EIA process more open to local citizens.

### **Political mobilization**

Environmental justice has great potential for political mobilization. Since environmental justice focuses on the human aspects of environmental conditions, it can be a rallying point for citizens who don’t normally take “green” stances. Local officials could mobilize constituencies against unsustainable forms of development, not only on purely ecological grounds, but also because of the development’s negative effect on the quality of local life, health, and well-being of local residents.

*Since environmental justice focuses on human aspects of the environment, it can be a rallying point for citizens who don’t normally take “green” stances.*

In Tábor, Czech Republic, the Civic Democratic mayor of the city planned to replace a pedestrian bridge over the city’s train station with a much larger bridge for cars and trucks to ship goods into the city center. To oppose this plan, the political party “Tábor 2002 Movement” organized a number of public forums enabling senior citizens to voice their concerns about the plans. As a result, Tábor 2002 promoted the development of a renovated pedestrian-only bridge that would allow the city’s older residents to walk easily and safely from one side of the tracks to the other.

Not only was this environmental justice approach successful—both in terms of fair treatment and meaningful involvement—in convincing city hall to build the pedestrian-only bridge, but it also boosted the public opinion and future political prospects of Tábor 2002.

Environmental justice is only beginning to be recognized as a significant policy tool in the CEE region. But there is also growing recognition that environmentally responsible policymaking requires public participation, particularly by those social constituencies that are most likely to be negatively affected by a given environmental problem. Better democratic governance and participation would help ensure that social groups are treated justly in terms of the environmental conditions in which they live and work. These democratic and social aspects of environmental justice not only create a coherent policy perspective at the local level, but also promote greater responsiveness and closer ties between elected officials and their engaged constituencies.

# Toward a measuring stick for environmental injustices

A means for gauging injustice can be useful, but there are some methodological pitfalls

**By Daniela Petrova**

Even when the burden of environmental harms is unfairly shifted onto one neighborhood or minority group, the resulting discrimination is not always obvious. It is important to have a sound methodology for identifying and measuring environmental injustice, so that steps can be taken to right ecological wrongs.

Using the appropriate set of indicators could help both officials and citizens gauge the level of the problem. The lists on the facing page cite several, interrelated factors that can be indicators of environmental injustice. Activists can use this kind of data when seeking to prove that an environmental injustice exists. And if these indicators are linked to policies, then evidence of environmental injustice could trigger corrective measures.

While the benefits of measuring environmental injustice are clear, it is important to beware of the difficulties involved. Determining whether a case of environmental injustice exists involves consideration of several factors. Certain linkages between multiple sources of data on environmental, social, and economic factors can be assumed. But asserting discrimination requires special attention to the scale of the variables analyzed and other factors, such as migration.

These methodological challenges can be compounded by the difficulty of acquiring data on specific environmental and social factors at various levels in Central and Eastern Europe (CEE).

## *Linking multiple variables with discrimination*

Measuring environmental justice requires drawing together detailed information from several dimensions, including the economy, the environment, and society. It requires making linkages between social, economic, and environmental factors.

Pertinent social factors include race, ethnicity, nationality, urban and rural divisions, gender, and age. Economic and environmental indicators include con-

sumption and investment, personal and household incomes, savings, urban environmental data, environmental expenditure, emissions, health statistics, land quality, crime or fear of crime, and data on waste collection and treatment. These indicators need to be linked to one another, in order to show whether the present situation has the potential to be environmentally unjust.

When we look at the range of links that can be made between these factors, we can make the following assumptions:

- There are connections between social and economic status, employment and demographic trends.
- There are connections between economic production and environmental depletion and degradation.
- Government plays a role as a regulator and a provider of services, such as health, education, etc.
- Healthy environment and life conditions have an impact on human capital and employment.
- Environmental use has an impact on health.
- Tools for implementing environmental policies and enforcing environmental legislation are related.

## *Challenges to asserting a case of injustice*

Along with focusing on the more general connections between social, economic, and environmental conditions, environmental justice draws special attention to the role of discrimination and racism. To measure environmental injustices, therefore, we must develop a methodology that can shed light on discrimination in relationship to environmental conditions.

But it is not always clear how certain people end up living in poor environmental conditions. In some cases, the poor may move closer to high-risk industries due to market forces, while in others, these industries may intentionally be sited close to the poor due to discriminatory decision making. Determining exactly why some people are exposed to a worse environment is essential when trying to gauge the type and severity of a case of environmental injustice.

In other cases, poor and minority groups may live in areas where they have limited access to drinking water and sanitation. Again, this may be the result of blatant discrimination during the decisionmaking process. But such a situation could also be the result of recent migration, such as the mass movements of people that have taken place in the former Yugoslavia.

Another obstacle to measuring environmental justice is the so-called "modifiable areal unit" problem. This is a statistical problem caused by the difficulty of choosing the right geographical boundaries or other parameters when making social and economic mea-

*Measuring cases of environmental injustice requires detailed information from the economy, the environment, and society.*

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surements. The modifiable areal unit problem can make it harder to study environmental justice because data may be based on census tracts, post-code areas or counties, when health risks based on environmental hazards may impact a much smaller geographical area.

In CEE, determining the proper sample size and other parameters may only be the beginning of the problem. Much of the necessary data can be difficult to obtain in this region. There is a lack of data on the sub-national and regional level, and there are bureaucratic and administrative barriers to obtaining data in a reasonable amount of time.

### ***Providing input to the policy process***

Despite these challenges, efforts to develop a sound methodology for measuring environmental injustice can help broaden the policy debate on the issue and allow a more open approach to setting policy.

During the "Improving Environmental Justice in Central and Eastern Europe" workshops, a Phare and OSI supported project of the Center for Environmental Policy and Law at Central European University, participants sought to create a proper set of themes and issues on environmental justice. The workshops focused on the range of interconnections between legislation, human rights, economic, environmental, and social policy issues.

By attempting to measure such interrelated issues, it is possible to raise public awareness of environmental justice and encourage more transparent government. The process can encourage development of appropriate policy responses to questions related to equal use of natural resources, fair distribution of environmental effects and comprehensive assessment of the actions of policymakers and activists.

Singling out indicators of environmental justice can have a number of other positive impacts on the policy process. These indicators can be used on the local level, to inform the creation of regional development plans. They can also be an integral component of the advocacy and awareness-raising processes.

In the long-term, one of the most important benefits of connecting key indicators is an increased overall capacity for analyzing environmental justice issues over time and for making assessments and predictions about future development patterns.

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4. Jendroska, Jerzy, "UN ECE Convention on access to information, public participation in decision-making and access to justice in environmental matters", Environmental Law Information and Advocacy Service, Wroclaw, 2002.
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## Potential indicators of environmental justice, with data sources

### **Potential economic and social indicators**

National and regional statistics can be a good source for the following data:

- Income per capita
- Level of employment and unemployment
- Distribution of governmental/EU funds
- Distribution of investment into transport/water/electricity
- Land ownership

National and local public opinion surveys—disaggregated by income, neighborhood, gender, religion, ethnicity, etc.—can be a good source for the following data:

- Environmental plans and programs
- Level of strength of formal and informal networks
- Level of involvement of stakeholders in decision making
- Rates and continuity of public investments
- Access to, and participation in, the decision making process
- Quality of the waste water and waste treatment and disposal services

Health statistics and administrative records can be a good source for the following data:

- Rates of cancer, asthma, chronic bronchitis, emphysema and other respiratory diseases
- Access to quality health-care provision
- Access to health-related education

### **Environmental context**

Administrative records can be a good source for the following data:

- Distance from environmental risks
- Level of air pollution
- Water quality
- Soil contamination
- Residential segregation (distance from the city/village)
- Transport infrastructure (airports, highways)

Public information reviews or peer assessments can be a good source for the following data:

- Availability of the local cadastre and categorization of the housing in land-use plans
- Availability of targeted, tailored environmental information
- Access to environmental information
- Access to natural resources
- Access to waste-water treatment
- Quality of construction (health and safety)
- Access to recreational areas
- Access to canalization and maintenance of sanitation
- Access to environmental education

### **Potential legal indicators**

Surveys or expert interviews—disaggregated by gender, age, social status, occupation, etc.—can be a good source for the following data:

- Aarhus Convention provisions
- Legislation or common law that makes financial institutions directly liable for environmental damages associated with customers
- Law enforcement
- Level of personal security
- Legality (possession of permission to register, property rights, permanent residence)
- Accessibility of legal tools for defending segregation of ownership
- Capacity to formulate and defend own interests

Administrative records can be a good source for the following data:

- Proportion of cases of positive and negative court decisions concerning environmental problems
- Number of legal initiatives

# Finding funding to promote environmental justice

Local communities in CEE don't have to deal with pollution and other health hazards alone

By **Richard Filcak**

The costs of dealing with cases of environmental injustice can be devastating: Sometimes, expensive clean-up of toxic waste may be necessary, and there can be a need to relocate residents who live in a dangerously polluted area.

There are many problems that community members can address through sheer enthusiasm, but solving cases of environmental injustice usually requires substantial financial resources. While a key source for these funds is the European Union money made available for "social cohesion policies," there are also other funds available. Local government officials, civil society

*Given the dearth of public resources for environmental justice, local governments often rely on support from international agencies and donors.*

activists, and all other stakeholders in Central and Eastern Europe (CEE) should be aware of the possible sources of help available through preaccession funds and other means.

Local governments addressing problems involving environmental discrimination or injustice often rely on public money from either the local or state budget, but such resources are usually limited or very difficult to obtain in the region, for the following reasons:

- **Limited budgets of local administrators:** Even in relatively better-off countries with decentralized allocation of taxes, there is a lack of funding to address serious environmental problems. The increasing cost of health care, education, and maintenance of buildings and infrastructure borne by local governments limits the room for action. Moreover, environmental injustices are more likely to occur in poorer regions, with weaker economic capital.
- **State budget under siege:** Economic transfor-

mation and increasing budget expenditures have created a situation in which almost all (if not all) CEE countries face budget deficits. This fact, combined with a high level of corruption and the nontransparent process of privatization, reveals a situation where public expenditures may grow and yet still not provide enough resources for acute cases of social or environmental discrimination.

There may be a reluctance to provide even the limited local funds that are available: The problems of poverty and marginalization are sometimes seen as a matter of self-determination and personal responsibility. But a community may be unable to address its own problems. In the case of many poor Romani communities—where race and class definitely play a role in the distribution of environmental hazards and benefits—external assistance is a crucial factor in improving the situation.

According to Zoltan Barany: "Whatever success the Roma have had in improving their conditions in the post-1989 period have been largely due to exogenous factors, that is to say, domestic authorities, international organizations, and nongovernmental agencies."<sup>1</sup>

## *The European Union and cohesion policies*

Given the dearth of public resources for environmental justice, local governments often rely on support from international agencies and donors. Among the more obvious sources of international assistance are the so-called "social cohesion funds" from the European Union (EU). When it comes to addressing problems of economic and social marginalization in various regions and communities, the EU's economic and social cohesion policies represent the most systematic efforts in Europe.

The concepts of economic and social cohesion were introduced in the Single European Act (1986), and, since the Treaty on European Union (1992), they constitute one of the three pillars of the European Community, alongside the single market and European economic union. Economic and social cohesion policies are implemented through financial instruments funded from the EU budget. The financial instruments for regional solidarity are summarized in Table 1.

Although the EU cohesion policies are not

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<sup>1</sup> Barany, Zoltan (1998), "Orphans of transition: Gypsies in Eastern Europe," *Journal of Democracy* 9 (3):142-156.

focused on environmental justice in particular, they may be a source of funding and “momentum for change” through preaccession or post-accession financial schemes. Still, to be completely effective, these EU programs must be more sensitive to the issues of the disadvantaged individuals and groups, and those in need must be able to participate in the programs, so the resources are not used exclusively by only well-connected consultancy companies and more financially stable regions.

Those who are disadvantaged, due to class, race, or both, need enhanced capacities if they are to participate in economic and social cohesion programs. This means that it is not enough to address the problems of victims of environmental injustice with governmental or development agency projects in a “top-down” approach. It is also important to enable these communities to develop their own responses and programs to their problems—in a “bottom-up” approach. Such an approach requires real partnership in programming and implementation, with the involvement of communities and local people.

### ***Searching for common interests***

There is no governmental grant scheme focused particularly on addressing environmental injustice in CEE. Local governments seeking to address this problem can apply for infrastructure development funds, but there is extreme competition for this money. It is even harder to find government funding for addressing the second dimension of environmental justice, namely meaningful participation of all stakeholders and community building.

As inspiration we may take an example from the United States. The U.S. Environmental Protection Agency established the Office of Environmental Justice in 2003. The mission of the office is to open dialogue and prevent any unfair treatment in the distribution of environmental harms through meaningful involvement of all stakeholders. One of the core activities is the Collaborative Problem-solving Grants Program to provide financial assistance to eligible community-based organizations.

Community-based projects and social capital and awareness-raising programs are supported mostly by international agencies and donors in CEE. There is a substantial advantage in merging these community-building programs with infrastructure development projects. Any community-ori-

## **TABLE 1: Useful EU financial instruments**

### **The structural funds:**

- European Regional Development Fund (ERDF)
- European Agricultural Guidance and Guarantee Fund (EAGGF)
- European Social Fund (ESF)
- Financial Instrument for Fisheries Guidance (FIGG)

### **The Cohesion Fund**

#### **The preaccession financial instruments:**

- Instrument for Structural Policies for Preaccession (ISPA)
- Agricultural instrument for preaccession (SAPARD)
- PHARE

### **The European Investment Bank (EIB)**

ented projects must include not only minorities, but the majority as well. Otherwise we may face hostility and community disintegration on the basis of allegedly different treatment for different people.

Besides public money and European funds, there are many international donors active in CEE. Although they usually support individual projects, they may provide initial impetus for action. This impetus must be followed up by other systematic interventions. Some of the most complex and comprehensive international support for projects in CEE comes from the United Nations Development Program for Local Agenda 21 and the Local Initiatives Program promoted by the Regional Environmental Center for Central and Eastern Europe (REC). Both types of funding can support efforts where environmental justice works in synergy with local-level participatory and community-building activities.

Central and local governments should take primary responsibility for elimination of any form of environmental discrimination. But in the transitional period, which may last a long time in some countries, involvement of international agencies and donors has proven to be crucial in achieving any substantial change.

This achievement is not simply about money—it's also about demonstrating a certain know-how and framing an agenda that involves all stakeholders. It would therefore require a common effort of activists, governments, local municipalities, and experts to reframe the scope of these supportive grants and include issues of environmental justice in their development programs and plans.

# Activist discusses growth of a grassroots movement

Robert Bullard, a pioneering scholar and activist in the U.S. environmental justice movement, is interviewed here by Errol Schweizer of *Earth First! Journal*

**Errol Schweizer (ES):** *What is the environmental justice movement?*

**Robert Bullard (RB):** The environmental justice movement has basically redefined what environmentalism is all about. It basically says that the environment is everything: where we live, work, play, go to school, as well as the physical and natural world. And so we can't separate the physical environment from the cultural environment. We have to talk about making sure that justice is integrated throughout all of the stuff that we do.

What the environmental justice movement is about is trying to address all of the inequities that result from human settlement, industrial facility siting and industrial development. What we've tried to do

*"I think a lot of grassroots groups have come head-on with a lot of the larger groups that have not understood exactly what environmental justice is."*

over the last 20 years is educate and assist groups in organizing and mobilizing, empowering themselves to take charge of their lives, their community and their surroundings. It's more of a concept of trying to address power imbalances,

lack of political enfranchisement, and to redirect resources so that we can create some healthy, livable and sustainable types of models.

**ES:** *How have environmental justice groups organized themselves?*

**RB:** For the most part, a lot of the small grassroots groups operate from a bottom-up model. They don't have boards of directors and large budgets and large staffs but they do operate with the idea that everyone has a role and we are all equal in this together. The environmental justice groups are more egalitarian, most of them are led by women, and its more democratic. Not to say its perfect but it does bring out the idea that power rests in all of us, and, when we operate as a collective, that's when we are most powerful

and we move forward as a unit, as a body and not necessarily with a hierarchy. But I think a lot of it is when you can have an issue that can mobilize, organize and create the catalyst that gets thousands of people at a meeting, saying this is what we want and we're not gonna back up till we get it.

I think that's where the environmental justice movement is more of a grassroots movement of ordinary people who may not see themselves as traditional environmentalists, but are just as concerned about the environment as someone who may be a member of the Sierra Club or the Audubon Society.

**ES:** *How has the environmental justice movement come into conflict with these traditional, white environmental groups?*

**RB:** There's been a lot of conflict and misunderstanding about what the role of some of the green groups are as it relates to environmental justice and particularly working in communities of color. And what we're saying is that its just one environment. You're talking about planet earth, where we live, and if in fact we are going to have a global movement for environmental justice, we have to understand what environment is and what the agendas are. A lot of grassroots groups and communities of color are saying that we have to work in our communities and take care of educating and empowering our people before we can talk about having other people do stuff for us. I think a lot of grassroots groups have come head-on with a lot of the larger groups that have not understood exactly what environmental justice is.

**ES:** *What kind of role has race played in the siting of toxic facilities in this country?*

**RB:** Race is still the potent factor for predicting where Locally Unwanted Land Uses (LULUs) go. A lot of people say its class, but race and class are intertwined. Because the society is so racist and because racism touches every institution—employment, housing, education, facility siting, land use decisions, you can't really extract race out of decisions that are being made by persons who are in power and the power arrangements are unequal. When we talk about the institution of racism as it exists in environmental policy, enforcement, land use, zoning and all those things—all of that is part of the environment and we have to make sure that our brothers and sisters who are in environmental groups understand that's what we are saying.

Environmental justice is not a social program, it's not affirmative action, its about justice. and until we get justice in environmental protection, justice in terms of enforcement of regulations, we will not

*This article is excerpted from a longer piece, originally published in Earth First! Journal in July, 1999.*

even talk about achieving sustainable development or sustainability issues until we talk about justice. A lot of the groups that are trying to address these issues in the absence of dealing with race may be fooling themselves. When we talk about what's happening along the U.S.-Mexican border and the colonias and the maquilas and the devastation that is happening along the border—the health conditions of children and workers—we must understand that it's also related to our consumption patterns, consumption behavior and who has the most money to consume the most. And those are issues that may be unpopular when we sit in rooms and talk but I think that's how the environmental justice movement is forcing these issues on the table and really getting a lot of people to think about how we can start to address the disparities and the inequities and the privileged position that some people have only because of the skin color that they were born in. And that's where the justice issues come into account.

Now all of the issues of environmental racism and environmental justice don't just deal with people of color. We are just as much concerned with inequities in Appalachia, for example, where the whites are basically dumped on because of lack of economic and political clout and lack of having a voice to say "no" and that's environmental injustice. So we're trying to work with groups across the political spectrums—democrats, republicans, independents, on the reservations, in the barrios, in the ghettos, on the border and internationally—to see that we address these issues in a comprehensive manner.

**ES:** *How can you pose these issues to people when organizing in low income and politically disenfranchised communities, especially communities with little open space or access to natural areas?*

**RB:** The first line is that we have to start early. We have to educate young people that it is their right to have access to open space, green space, parks, outdoors, as opposed to people thinking that they're supposed to be living in an area where the only park is a basketball court with no net. We have to give people this idea that it's their right to have access to open space and green space and we have to provide funds to make sure that we get them early on and take them on field trips, take them to a wilderness area, a refuge, a reserve, to a park, a real park, and to integrate this information into our curriculum.

In your geography course, in your social studies course, or science course make sure you integrate this into it, and have videos that you can show, but ultimately the best example that you can have is that young people visit these places and see for themselves what nature is.

If you talk about people of color, African Americans for example, we are land-based people. Africans are land-based people. Native Americans are land-based peoples. We have been pushed off land and we

now find ourselves in cities but that doesn't mean that there's no institutional memory of what the land was to us and how we are tied to the land and how our whole existence was based on community and being tied to the land. And so I think we've gotten away from that but the reintroduction of those concepts can be achieved if we make a concerted effort at trying to do that. And some of that is being done, if you look at the environmental education curriculum that is integrating environmental justice into it. ...

Traditional environmental education is to basically do it by the numbers, the way it's been done for the last 50 years and that's not working. It's not working for our communities.

**ES:** *How has the environmental justice movement attacked the mode of production, the way that things are made, as well as the fact that things are being dumped on people?*

**RB:** Well, as a matter of fact, there was a meeting in Detroit [recently] on clean production. And what we're saying is that clean production can be a major component in the environmental justice movement because if we are talking about clean production, changing the way things are made and what goes into the manufacturing of products, we can save a lot of headaches for communities that are surrounded by polluting industries. So if we clean up the production and a lot of communities that are living on the fence lines with these facilities, a lot of their problems can be solved immediately. So EJ and clean production go hand in hand. What we are saying is that we have to make sure that, as these new movements come along, we integrate EJ into it. We've done that with the clean production movement.

**ES:** *What can [activists] do to further the vision of the environmental justice movement?*

**RB:** Well, you know, the EJ movement is an inclusive movement. What we are saying is that everything on the spectrum as it relates to siting, pollution, industrial contamination in communities, non-sustainable development, non-sustainable patterns of production, I think everybody has a role in that. The EJ movement is an anti-racist movement and I don't think you can get any more radical than fighting racism. Because when you talk about fighting racism, you make a lot of enemies because racism permeates everything. ...

The environmental justice movement over the last 10 years has really matured onto developing policies and issue statements and working on issues ranging from housing, transportation, health to economic development, community revitalization, you name it.

*"The EJ movement is an anti-racist movement and I don't think you can get any more radical than fighting racism. Because when you talk about fighting racism, you make a lot of enemies because racism permeates everything."*

# Selected further reading on environmental justice

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# LGI NEWS

## LGI launches new website

The Local Government and Public Service Reform Initiative (LGI) has announced the upcoming launch of its redesigned website, which features a content management system, designed to make the site more user-friendly.

By this summer, users should be able to search for information on the site by issue, country, or region. Users can also sign up to receive the LGI "Announce" newsletter by e-mail, participate in forums on a number of topics, and download documents and other resources. Prospective grantees can find out more information about the proposal process and explore LGI's many programs and activities.

## LGI and Stability Pact form a joint project database

LGI recently met with the Organisation for Economic Co-operation and Development (OECD) to take primary data from OECD to build a database of projects in the former Yugoslavia that are funded by members of the Stability Pact for South Eastern Europe. LGI and the Stability Pact's Secretariat in Brussels agreed two years ago to compile and maintain a database. This partnership allows for potential cooperation, even distribution of resources, and exchange of experiences, while cutting back on duplication of efforts.

## Call for proposals for Policy Fellowship 2004/2005

LGI is currently seeking applications for its Policy Fellowship 2004/2005 program, which seeks to support policy research aimed at stimulating innovative and practical policy reform.

Participants in the fellowship program work in small teams under the guidance of a well-respected mentor to produce analytical, policy oriented studies on a given topic. This year's topics are:

1. "Subnational Budget Watch."
2. "The EU's Wider European Neighbourhood Initiative: Ensuring the free movement of people, goods, services, and capital."

The work that the fellows do for the next program, which will run from October 2004 to October 2005, will be relevant to these two broad topics.

LGI fellows produce high-quality studies, which present policy options and recommendations geared towards the policy-making community in their respective countries. LGI provides its fellows

with training in how to write effective, concise, fact-based, practical policy reports. Other training modules LGI offers its fellows include public speaking and presentation skills and advocacy methods.

At the conclusion of the program, LGI works with its fellows to determine what steps it can take to support the proposed recommendations in the completed studies.

For more background information about the fellowship program see: <http://lgi.osi.hu/fellowship/>. For detailed information about topics, the application procedure, the target fellows and regional focus please visit <http://lgi.osi.hu/news/2004/2004-05-06.asp>.

## Trainers study 'Ethnic Diversity and Conflict Management'

A training-of-trainers program called "Ethnic Diversity and Conflict Management," which aims to give participants the skills and knowledge needed to develop policies for multiethnic communities, will take place in December 2004.

This training session will be a repeat of a successful workshop that was originally held in December 2003 and was run by LGI's Managing Multiethnic Communities Program with the support of Partners Foundation for Local Development (FDPL), Romania.

MMC workshops are designed for policymakers, policy advisers, officials from public and private organizations, think tank staff members and the media. The workshops are intended to raise awareness about public policies and the role of central and local governments in a multiethnic environment.

The first "Ethnic Diversity and Conflict Management" training of trainers was held within the framework of the regional program "Working Together," a capacity building program, initiated and managed by FPDL with financial support from LGI.

The training was based on the "Ethnic Diversity and Conflict Management" manual, developed by Ana Vasilache in collaboration with the LGI Managing Multiethnic Communities Program (<http://lgi.osi.hu/ethnic>), a project directed by Petra Kovacs, LGI senior researcher.

Ana Vasilache and Nicole Rata, FPDL senior trainers, designed and conducted the course. The program design had the following structure:

**First component:** Conducted by the senior trainers, this component focused on building common understanding on basic concepts, such as adult learning characteristics and principles, experiential

learning stages, training design principles, the trainer's role, and training tools.

**Second component:** Participants had the opportunity to study individually and to work in teams to design and conduct one three-hour training session, based on the concepts and exercises provided in the manual. Feedback sessions were organized after the training sessions to discuss the teams' performance and to learn from their experiences.

**Third component:** Participants gave feedback on the training manual, making recommendations for improvement. Participants also evaluated the entire learning process and developed Action Plans to apply what was learned back home.

The announcement for online applications to the upcoming "Ethnic Diversity and Conflict Management" training of trainers program will be launched in a couple of months on the FPDL website: [www.fpd.l.ro](http://www.fpd.l.ro)

Selected participants will receive the final version of the manual, which will be published by the LGI Managing Multiethnic Communities Program in 2004. They will also receive information on other forthcoming volumes of MMCP training manuals.

For more information, contact the project manager, Petra Kovacs, at: [kovacsp@osi.hu](mailto:kovacsp@osi.hu).

## LGI and WBI offer course on fiscal matters, local government

Participants from 25 Central and Eastern European and former Soviet Union countries, as well as India, Indonesia, Mongolia, Pakistan, and Turkey, will take a two-week in-depth course entitled "Intergovernmental Fiscal Relations and Local Financial Management," between July 12-23 in Budapest.

The course is co-organized, under the auspices of the Summer University of Central European University, by the World Bank Institute (WBI) and LGI. It will provide a review as well as an advanced discussion and analysis of:

- worldwide trends in fiscal decentralization;
- alternative models for structuring a multilevel public sector;
- the concept and practice of the assignment of expenditure responsibilities and revenue authority;
- the design of various forms of central-subnational transfers;
- creditworthiness and the financial risks of local authorities;
- models for strengthening local own-source revenues;
- and the emerging topic of the relationship between the structure of governmental institutions and anticorruption (institutional integrity) practices.

## Two courses to cover urban planning matters

Two new courses in urban planning are being offered at the Central European University Summer University (CEU/SUN), thanks to cooperation between LGI, the WBI, and the Open Society Institute.

The new "Urban Finance Course for South Eastern Europe," jointly developed by LGI and the WBI, was tested with a five-day pilot training session in Vienna, from April 26-30, 2004.

The aim of the new course is to integrate the ideas behind the two joint WBI/LGI courses, one on intergovernmental finance and one on urban management. Complete course materials have been prepared and will be used in the future for 10-day courses. The target audience consists of national government officials, local government professionals, university faculty staff, analysts, potential future trainers, and experts from international organizations. Course modules include: (1) the role of local governance: urban development trends; (2) fiscal framework; (3) urban challenges; (4) the role of the private sector in urban development; and (5) integration of urban and financial planning.

LGI is also cofinancing a course at CEE/SUN entitled "Urban and City Development Strategies in a Globalized World." This 10-day course will take place from July 5-16, 2004.

This course will cover five modules: (1) urban development context in a globalized world; (2) strategic planning; (3) financial planning; (4) sectoral strategies; and (5) overreaching combinations of strategies.

The idea and core content of the course is based on the successful Urban and City Management Course that was jointly sponsored by the Open Society Institute, LGI, and WBI. For the SUN version of the course, the core subjects of the original course are selected and re-balanced by the inclusion of more theoretical approaches and more emphasis on policy analysis of cases researched by participants.

The target audience includes professionals in the local government sector, representatives of non-governmental and civil society organizations working with local governments, university teachers, social scientists, and representatives of research institutions.

## LGI represented at Hurst seminar

Members of LGI presented research summarizing relevant experiences of Central and Eastern European local governments with minority inclusion at the "Hurst Seminar on Reform and Democracy in Local Government of Countries in Transformation," which was organized by the Ben Gurion University of the Negev, Beer Sheva, and took place

near the Dead Sea in Israel, on May 22-24, 2004.

The workshop set out to analyze the main objectives and achievements of the various reforms intended to build, modernize or restructure local government systems. As research on local government modernization develops in a global perspective, LGI's work and expertise is also placed in a new framework, with a double challenge of using the expertise it has developed in changing conditions and locations and of joining other cooperative projects.

LGI Researcher Petra Kovacs and Consultant Zsuzsa Katona contributed their research about CEE governments' work to ensure minority participation in local public policy processes, as well as local governments effects on equitable access to public services. Their research found that the absence of adequate structural arrangements, institutions of minority participation in decisionmaking processes, or procedures for bargaining at the local level result in the inequitable access of minorities to public services. These insufficient arrangements apparently lead to the filtering out of minority needs and formulations of policy problems from the public policy agenda and inadequate/biased policy solutions.

Kovacs and Katona also found that CEE local governments feature a largely unchallenged exercise of ethnic monopoly during the implementation of local public policies, lack of performance measurement (focused on policy adjustment) and independent monitoring—and these factors also influence and maintain the inequitable access of minorities to public services.

They recommended, therefore, that the state (including local governments) be an active recruiter of minorities into public administration, that participation of minorities be encouraged, that issues of concern to minorities receive special attention through inclusive processes of setting the policy agenda, that minority issues be mainstreamed through all areas of local government operations, that institutional routines of representation and cooperation be promoted and that strong and trusted formal mechanisms be created to eliminate ethnic monopoly in service delivery.

Panelists from 14 different countries presented their findings on the dynamics of local government reforms in China, South Africa, France, Germany, Switzerland, Mexico, Israel, and CEE countries, such as the Czech Republic, Romania, Hungary, Russia, Poland, and others.

The workshop was cosponsored by the Ben Gurion University Centre for the Study of European Politics and Society, the Ben Gurion University Chaim Herzog Center for Middle East Studies &

Diplomacy, the Ben Gurion University Lynn & Lloyd Hurst Family Chair in Local Government, the French Center for Academic & Cultural Cooperation (CEFIC) in Beer Sheva, and the Research Committees on Local Government and Politics and Public Policy and Administration of the International Political Science Association.

## Gábor Péteri moving from LGI to LGID

Effective April 15, 2004, Gábor Péteri left his post as Research Director at LGI to take on the new position of Development Director at LGI Development Ltd. ([www.lgidev.com](http://www.lgidev.com)).

Gábor joined LGI in April 2000. Over the past four years, he has designed and managed LGI's activities in developing public policy institute functions, and coordinated LGI's policy-relevant research. Although Gabor is not a full-time employee at LGI, he will finish his current projects with LGI on a contractual basis.

Gábor has also been involved in building LGID as a revenue earning nonprofit entity. An expert in municipal finance and public service management, he will coordinate LGID's projects and do consulting for the company. Gábor can be reached at his new e-mail address ([gpeteri@lgidev.com](mailto:gpeteri@lgidev.com)).

## New publications from LGI

LGI has announced the publication of the following new volumes. To order these, or any other LGI publications, see page 47, or send an e-mail to: [lgipublications@osi.hu](mailto:lgipublications@osi.hu).

### ***Combating Conflict of Interest in the CEE Countries***

By Barbara Kudrycka

344 pages

ISBN: 963 9419 50 8

Over the last decade privatization, decentralization and public procurement processes have provided opportunities for unscrupulous civil servants to benefit in Central and Eastern Europe.

Conflict of interest is the power of public officials to promote their private interest, the private interests of their relatives, or those of commercial enterprises in which they participate.

Consonant with this definition, a legal and regulatory framework designed to regulate conflict of interest would prohibit public officials from engagement in private business, require officials to disclose private interest in any issue under consideration, or require officials to withdraw from participation in such decisions.

Among its strongest conclusions, *Combating Con-*

*flict of Interest* recommends: the establishment of a clear legal regime related to local government employees and elected officials; the development of a monitoring, accountability and sanction system; the implementation of effective audit and risk assessment mechanisms; efficient legal remedies against biased decisions on concessions, licenses, subsidies, tax breaks and land management; legal and binding declarations of local officials' private interests; the adoption of an obligatory code of ethics; withdrawal procedures from potential conflicts of interest for all officials; a Commission on Ethics for reporting and investigating cases and enforcing sanctions.

The cases of Bulgaria, Latvia, Poland, Romania, Russia, and Slovakia are considered in this new volume of the Local Government Policy Partnership.

### ***Drop by Drop: Water Management in the Southern Caucasus and Central Asia***

By Sarah O'Hara

100 pages

ISBN: 963 9419 70 2

Water is a key resource in the Caucasus and Central Asia, contributing significantly to the agricultural sector, the export economy and energy production. During the Soviet period, the region's water resources were managed with the aim of ensuring that centrally determined output targets were achieved.

After the Soviet Union disbanded, the eight newly independent states of Central Asia inherited the responsibility for the management and maintenance of the vast, highly complex and extremely bureaucratic water resources sector.

In some countries, maintenance programs have come to a halt, while in others, they are operating at a minimal level.

Many irrigation and drainage systems are no longer functional. Domestic water supplies have deteriorated rapidly.

Many settlements are now without a central water supply. The quality of water is poor and deteriorating.

For many, the produce of small garden plots has become essential to food security. The needs of the individual, however, are often in competition with the needs of the state.

Case studies of Armenia and Kazakhstan are the basis for this volume, which recognizes the need for improved and better-integrated water management strategies.

Essential steps include a new water code; reorganization of governmental water management makeup; clarification of irrigation ownership issues; and increased government and international donor investment.

### ***Local Government in Poland: An Insider's Story***

By Jerzy Regulski

246 pages

ISBN: 963 9419 68 0

The year 1990 marked the beginning of systemic transformations in Poland. The restoration of democratic local and regional authorities had a prominent role in that process. Much knowledge and experience has been gathered through all these years. Until now, neither a history of the reestablishment of local government in Poland nor a critical analysis of the preparation, implementation and effects of reforms has been published.

This study consists of three quite different parts. The first part presents a chronological history of events from 1981 to 2000. Its purpose is to describe the events, indicate the existing correlations and outline the causal nexus, before turning to the processes of reform, when local government concepts matured and were transformed into reality.

Part two of the book analyzes transformations in specific areas. It deals with the evolution of local government legislation as well as the responsibilities, property, economic activity, and finance of local government, while taking into account the status of gmina staff and boards, gmina associations and supporting institutions. Part two also looks at the relations between local governments and local communities, and this section focuses mostly on the chronology of events.

Part three is an attempt to assess to what extent decentralization has been achieved in various areas and to identify the mechanisms of transformation. To an extent, local government reforms are a political process and should be evaluated in a political context. The problem is not to design an ideal reform. The problem is to implement it. These chapters present the author's views and opinions.

The annexes provide additional information such as a chronology of important events and selected institutional information.

### ***Gauging Success: Performance Measurement in South Eastern Europe***

By Zeljko Sevic

168 pages

ISBN: 963 9419 76 1

According to the theory of New Public Management, a modern, efficient government should focus on results and value for money; devolve authority and enhance flexibility; strengthen accountability; stress clients and services; develop strategy and policy; and introduce competition elements in its management.

Since the political changes of the 1990s, expectations for a complete change in the public sector in South Eastern Europe have not been met. Perpetual economic crises, failing public infrastructure and

under-performing social services have been typical. So far the focus has been on technical issues rather than what must be done to change the structure of the public sector.

Within this frustrating status quo, one valuable problem-solving tool available to governments is performance measurement. Strategic planning of public revenues and budgets is key to this idea. Efficiency is used to redefine policy and practices. It monitors and values the outcomes to determine their quality to a person, social group, or society. A successful performance measurement system depends on processes and procedures. Infrastructure and human resources training are also an essential part of the equation.

Many governments are struggling to develop such a system to address the outstanding political problems of the ongoing transition. *Gauging Success* presents country studies of Albania, Croatia, Macedonia, Montenegro, and Serbia.

### ***Local Government Borrowing: Risks and Rewards***

By Pawel Swianiewicz

450 pages

ISBN: 963 9419 51 6

Decentralization in the region has led to local governments having a choice in how they generate revenue. Local authorities now enjoy considerable discretion in policy-making and are responsible for a variety of public services that require capital investments. Meanwhile, taxation has become a means of financial independence and credit has been formalized.

Against this reform in local government, Pawel Swianiewicz asks two key questions: Should local governments borrow? And should local politicians support the practice? What is clear in answering these questions is the need to distinguish between borrowing for capital investment and for financing day-to-day operations. A balanced budget prescribes that local authorities never take on debt to cover current costs, but it allows, and even promotes, prudent borrowing for capital purposes. Local governments must choose between the reward of capital improvements and the risk of debt.

The introduction to this volume of the Local Government Policy Partnership sketches the theoretical and practical consequences that local governments face in deciding to borrow. It cites examples from Western Europe, where local governments have succeeded and failed in managing capital loans. Subsequent country studies reflect on the borrowing market in the Czech Republic, Estonia, Hungary, Poland, Romania, Russia, and Slovakia. They recommend steps that would facilitate the opportunities for local governments to borrow. Regulation is essential to local government borrowing and a variety of practical arrangements are presented.

### ***LGI Study: Dilemmas and Compromises: Fiscal Equalization in Transition Countries***

By Sergii Slukhai

180 pages

ISBN: 963 9419 73 7

This book contains an analysis of fiscal equalization, an important component of intergovernmental fiscal relations, in three post-communist countries: Romania, Russia, and Ukraine. Since the late 1980s, these countries have been in a process of finding their own paths for public sector democratization and construction of a sound public finance management system, whereby the state was to be made cheaper and more effective. The state would be reinvented to be more consistent with a new (transitional) condition of society.

Post-socialist countries' intergovernmental equalization systems redistributed large portions of public revenues due to an egalitarian notion of equality. After the start of the transition period, this public finance approach, backed by the dominant communist ideology, disappeared. For this reason, the comparative study of the equalization techniques as they evolve in different countries could help generate solutions to emerging problems in the intergovernmental equalization field, in both horizontal and vertical dimensions.

The collection of papers presented in this book is dedicated to the fiscal equalization policy pursued by the respective national governments from the late 1990s. Using country-specific practical evidence and highlighting current developments, the authors search for possible improvements to current fiscal equalization schemes and aim to develop a set of proposals on how to make them more effective, providing valuable information for other transition countries facing similar problems.

### **NISPAcee publishes book on Bucharest conference**

A new book that discusses the nature of effective civil service and public policy in Central and Eastern Europe is being published from selected papers submitted for the 11th National Institutes and Schools of Public Administration in Central and Eastern Europe (NISPAcee) Annual Conference: Bucharest 2003.

The book, called *Enhancing the Capacities to Govern: Challenges Facing the Central and Eastern European Countries*, includes theoretical and empirical cases, mostly from and about the region.

NISPAcee frequently works in partnership with LGI.

More information about the book is available at <http://users.ox.ac.uk/~scat1663/Publications/Papers/Govern%20Capacities.htm>

# Publications available from LGI

The following publications are available from LGI. To order, fill out the form below and return it to LGI. You can also visit our website, <http://lgi.osi.hu/>, to find publications in html and pdf formats.

## Discussion Papers

- No. 12: Igor Munteanu-*Local Development in Moldova: Concepts and Practices*  
 No. 14: Mátys Gáspár-*Practice of Best Practices*  
 No. 15: Milena Minkova-*Regional Development in the CEECs: The Association Agreements and EU Regional Aid Policy*  
 No. 16: György Gajduscek and György Hajnal-*Evaluation of the Hungarian General Civil Service Training Program*  
 No. 17: Galina Kouryandanskaya-*Budgetary Pluralism of Russian Authorities*  
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 No. 19: Paul Dax, József Fucskó, Péter Kajner and Gábor Ungvári-*Public Grants and Private Investments in Solid Waste Management: Case Study on the Alföld Region in Hungary*  
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 No. 24: Diane Stone and Heidi Ullrich-*Policy Research Institutes and Think Tanks in Western Europe: Development Trends and Procedures*  
 No. 25: Peter Rado-*The Role of Hungarian County Public Education Funds in the Development of the Education of Roma Pupils*  
 No. 26: Pawel Swianiewicz-*Foundations of Fiscal Decentralization. Benchmarking Guide for Countries in Transition (English/Russian)*  
 No. 27: Dmitry Pashkun-*Analysis of State Administration in Uzbekistan: Structure and Practice*

## Books

- Guidebook to Proposal Writing in CEE and the Former Soviet Union '99.*  
 Please specify English or Russian version.  
 Högye, Mihály, ed., 2001, *Local and Regional Tax Administration in Transition Countries*  
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## A FINAL WORD

# CEPL pioneers discussion of environmental justice in CEE

Workshops bring together lawyers and activists concerned about rights and the environment

As part of its pioneering effort to provide a springboard for promoting environmental justice in Central and Eastern Europe, the Central European University Center for Environmental Policy and Law (CEPL) hosted a March 24 workshop in Budapest.

The “Improving Environmental Justice” workshop, supported by Phare and the Open Society Institute, brought together lawyers, researchers, and activists from Central and Eastern Europe (CEE) and the United Kingdom to continue the work began in the first such workshop, which was held in December 2003.

The two workshops sought to meet several objectives:

- to develop a clear understanding among key non-governmental actors of how to conceptualize and

address environmental justice issues in the context of EU accession, in particular with relation to the European Union’s Sustainable Development Strategy and its Sixth Environmental Action Programme;

- to establish an informed civic action network to articulate and promote environmental justice in Central and Eastern Europe;
- to increase the visibility and importance of European Union accession in new members and candidate countries by raising awareness of environmental justice issues among civic leaders in CEE.

The results of the workshops, including a definition of environmental justice, themes, issues, and resources, will be published in a brochure that is to be available in August 2004.

Participants at these workshops established the Coalition for Environmental Justice (CEJ), a network of activists, lawyers, and researchers promoting environmental justice in Europe. The network provides a space to form new partnerships, share information and resources, and cooperatively develop environmental justice projects. Its objective is to articulate and promote environmental justice in the CEE region. To join the CEJ network, visit: [http://groups.yahoo.com/group/coalition\\_environmentaljustice/](http://groups.yahoo.com/group/coalition_environmentaljustice/)

CEPL was founded in 2002. It is building upon a foundation of more than 10 years of experience in the Central European University Department of Environmental Sciences and Policy, and it works closely with researchers and environmental stakeholders in the region. CEPL is committed to promoting excellence in environmental policy and law research and the development and implementation capacity of policy and law and environmental management practices. In addition to its own projects, CEPL seeks to serve as a focal point for integrating environmental policy research on the post-socialist region and to facilitate connections between researchers and institutions engaged in environmental action.

For more information, see: [www.cepl.ceu.hu](http://www.cepl.ceu.hu), or send an e-mail to: [cepl@ceu.hu](mailto:cepl@ceu.hu).

## About LGI

The Local Government and Public Service Reform Initiative (LGI), publisher of *Local Governance Brief*, is an international development, policy research and grant-giving project of the Open Society Institute. Its mission is to promote democratic and effective government, primarily in Southern and Eastern Europe, the Caucasus and Central Asia. LGI supports public administration reform, decentralization, improvement of governance techniques and public policy formulation.

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