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No opportunity to say no: a case study of procedural environmental injustice in Canada

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While a number of studies have shown that blacks, Hispanics and the poor are disproportionately exposed to pollution hazards, particularly in the United States, there are much fewer that focus on the processes contributing to environmental injustices. This paper contributes to the environmental justice literature by exploring local environmental conflict over a pollution hazard (municipal solid waste) to further decipher the process(es) that may perpetuate environmental injustices. Through a Canadian qualitative case study involving in-depth interviews with residents, we emphasize important deficits in, and experiences of, public participation throughout the environmental assessment process. We do this by recounting the experiences of black residents from a small rural community near two landfills in Eastern Canada. We find that there are subtle processes – linked primarily to public participation – that create and sustain environmental injustices by ultimately denying residents the opportunity to say “no” to unwanted developments. This case highlights both the process of injustice as well as the experience of injustice. The procedural culprits contribute to the production and reproduction of environmental injustice, demonstrating that environmental injustice is not simply a result of exposure to pollution; environmental injustice is a result of a number of long established practices, which in order to be remedied, techniques must be tailored to be inclusive of an affected population.

Keywords: procedural environmental justice; environmental equity; Canada; pollution; perception.

1. Introduction

There is considerable evidence in the environmental justice literature demonstrating that the spatial coincidence of pollution/polluting facilities and potentially vulnerable groups – so-called outcome equity – is indeed a problem. However, questions remain about the process(es) that lead to this problem – procedural inequity (Walker 2009).

This paper links to two primary areas of academic inquiry. First, it contributes to environmental justice literature by exploring local environmental conflict over a pollution hazard in order to understand, in depth, the process(es) that may perpetuate environmental injustices, and the ways these processes are experienced by those involved. Second, it contributes to the environmental impact assessment (EIA)

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literature by detailing explicitly residents' experiences of an EIA process perceived to be unfair. Through a Canadian case study, we emphasise important deficits in public participation throughout the environmental assessment process. We do this by recounting the experiences of black residents from a small rural community near two landfills in Eastern Canada. To set the stage for the study, we briefly review the environmental justice and environmental assessment literatures to outline the definitions and implications of public participation.

1.1. *Environmental justice*

Conceptualisations of environmental justice have evolved, and increasingly attention has shifted from spatial patterns of environmental injustice to the procedural underpinnings of such injustices. For example, Bullard (1996) defined environmental justice as something fundamental, "embracing the principle that all people and communities are entitled to equal protection of environmental and public health laws and regulations" (p. 493). Yet in this definition procedure is mostly implied, through reference to laws and regulations. Similarly, the US Environmental Protection Agency (EPA) conceptualisation of environmental justice focuses on outcomes rather than process explicitly, "the goal of environmental justice is to ensure that all people, regardless of race, national origin or income, are protected from disproportionate impacts of environmental hazards" (US Environmental Protection Agency, Office of Environmental Justice 2000). However, Cutter (1995) made an important distinction between outcomes and process, or distributive/spatial environmental justice and procedural environmental justice, respectively. While the former refers to patterns over space and time, e.g. the coincidence of pollution/contamination and low income or minority groups, the latter pertains to the procedures and social structures that lead to injustice. The danger in emphasising distributive justice alone (e.g. Bowen 2002) is that while academics and policy makers sort out the scale/scope of the problem, the actual causes and implications of those patterns of injustice that we already know exist remain under-studied (Pulido 1996, Walker 2009). For this paper, we will consider environmental justice under the broad umbrella of procedural justice. Rawls (1977) suggested that true *procedural* justice is possible only when there exists "the actual working of a fair social process over time in the course of which, in accordance with publicly announced rules, entitlements are earned and honored" (p. 163).

In terms of the empirical literature, a number of studies have shown that blacks, Hispanics and the poor are disproportionately exposed to pollution hazards, particularly in the US (e.g. United Church of Christ 1987, Mohai and Bryant 1992, Pitchard 2009, Wang and Feliberty 2009, Lee 2010) (see Bowen 2002 for a methodological critique), but also in Canada (Jerrett *et al.* 1997, 2001, Buzzelli *et al.* 2006, Agyeman *et al.* 2009), Australia (Lloyd-Smith and Bell 2003) and throughout Europe (Varga *et al.* 2002, Laurian, 2008). These aggregate studies attempt to answer questions such as 'are facilities placed in vulnerable neighbourhoods, or do vulnerable neighbourhoods form around facilities?' (Been and Gupta 1997), which others argue is victim-blaming (Pulido 1996). Further, settling such debates about 'which came first' has distracted us too much from delving into the historical, economic, political and social processes that are just as likely to be behind such patterns, including a poorly regulated free market and the structural-historical roots of racism *and* ongoing procedural deficits (e.g. Lake 1996, Pulido 1996, Agyeman *et al.* 2009). Given these

findings, is it somewhat surprising that a discourse of environmental justice has only recently gained traction in the environmental assessment literature, especially since just and unjust patterns are often the outcome of facility siting (Connelly and Richardson 2005, O'Faircheallaigh 2010, Walker 2010).

Despite purported ambiguities surrounding the methodologies and findings of outcome-based studies (Cutter, 1995, Bowen 2002), the term 'environmental justice' has important rhetorical power. A handful of social constructionist analyses explore how activists have successfully mobilised communities with diverse grievances by using environmental justice conceptual frames, which provide semantic linkages between contemporary environmental activism and historical movements for civil rights and social justice (Capek 1993, Cable and Shriver 1995, Salazar and Moulds 1996, Sandweiss 1998, McGurty 2007, Taylor 2000, Towers 2000). This may in part explain the speed with which growing evidence of environmental injustice was translated into a 1992 Presidential Executive Order (Executive Order 12898) to include environmental justice considerations in all things conducted by federal agencies in the US. No explicit regulation of this type regarding environment justice exists in Canada. Foreman (1998) contended that the lack of boundaries to environmental justice concerns makes the concept dubious as a guide to federal policy, but he agreed that the term's vagueness helps make it extremely effective as populist political rhetoric. Yet, Harvey (1996) praised the movement for using a term that unabashedly appeals to morality instead of economic rationality. However, Harvey (1996) also cautioned that the lack of a universal standard of justice among policy makers confounds efforts to privilege grassroots claims over those of other political interests. Regardless, procedural justices remains relatively under-explored through case study work.

1.2. *Environmental impact assessment*

As with environmental justice, there are different emphases in the various definitions of environmental impact assessment. We focus on the aspects that relate most directly to procedural environmental injustice, particularly human/social impacts and public participation. Although conceived as a 'tool', a 'requirement' or a 'component', EIA is ultimately a *process* aimed to aid in the planning and decision-making process(es) concerning potential environmental consequences of a proposed action. For example, the International Association for Impact Assessment (IAIA) emphasises the importance of *prediction* and *evaluation* in their conceptualisation of EIA as "the process of identifying, predicting, evaluating and mitigating the biophysical, social, and other relevant effects of development proposals prior to major decisions being taken and commitments made" (IAIA 1999, p. 2). Gilpin (1995) likewise emphasised evaluation but he put the environment, rather than local residents of that environment, front and center: "EIA is a planning tool whose main purpose is to give the environment its due place in the decision-making process by clearly evaluating the environmental consequences of a proposed activity before action is taken" (p. 3). In general human impacts, although their interaction with local environments is only implicit, so we prefer definitions such as Noble's (2009) which at least identify *public concerns* as central, "a comprehensive and systematic process . . . that allows for the effective integration of environmental considerations and public concerns in the decision-making process . . . to help achieve the goal of sustainable development" (p. 3).

1.3. *Environmental justice, environmental assessment and participation*

Facility siting is often at the centre of environmental justice disputes (e.g. Bullard 1990, Saha and Mohai 2005), but environmental justice is too frequently *not* a core consideration during the environmental assessment process, e.g. social impact assessment (Walker 2010). For example, only recently has the often-cited text, *Methods of Environmental Impact Assessment* made explicit reference to terms such as ‘vulnerable populations’ and ‘environmental justice’ (Morris and Therivel 1995, 2009). Although there are cases where local opposition foils attempts to site various noxious facilities such as hazardous waste disposal sites, solid waste facilities and large industrial plants (Kunreuther and Slovic 1993), the existence of any form of organised opposition, and the success of such efforts, seems unevenly distributed socially (Pulido 1996, Walker 2010). This may stem from variations in community capacity to mount an organised dispute within environmental impact assessment because it is a process that remains highly technical and potentially impenetrable, particularly by groups facing a host of socio-economic challenges/vulnerabilities (Hanna 2009).

Public opposition through EIA sometimes prevents facilities perceived to be unjust. For example, several waste facilities in Michigan have been stopped since the 1970s due, in part, to the widespread growth of effective community organisations (Saha and Mohai 2005). During that time, lack of support for potentially hazardous facilities was aired in various forums (e.g. the media, public demonstrations) and increasingly through the EIA public participation process guided by the facility proponent. However, the public participation process itself may also be the source of injustice if the process is not sensitive to local community voices, or otherwise remains *inaccessible* (Connelly and Richardson 2005). Indeed, mobilisation of concerns through public participation in EIA has not been uniform and is often weak in poorer neighbourhoods in particular (Bullard 2005, Walker 2010). Although increased awareness and public opposition has led to greater transparency in siting practices *and* increased scrutiny of decision-making procedures, these have often resulted in dramatically increasing the complexity of the siting process (Northridge *et al.* 2003).

There is a well-developed literature on public participation that is often traced to the landmark conceptualisation of Arnstein (1969), who argued that participation is often nothing more than empty ritual rather than something that empowers communities. Thus, she outlined a typology of eight levels of participation ranging from non-participation (e.g. manipulation and therapy), to tokenism (i.e. informing consultation, placation), to citizen power (i.e. partnership, delegated power, citizen control). More recent conceptualisations have extended Arnstein’s ladder by suggesting a continuum from technical to participatory models of decision making, with the latter being more widely preferred and legislated, and focusing on involvement of various publics, particularly those locals who are directly affected (Snell and Cowell 2006, Yang 2008, Ling *et al.* 2009). While public participation is almost unanimously regarded as desirable for EIA, there is surprisingly scant literature on how to do it well (O’Faircheallaigh 2010) and few case studies of the experience of EIA from the point of view of those directly affected (Pulido 1996). Thus, we focus attention on the experience of perceived public participation failures through a case example.

2. Case study

2.1. Background

This case study is part of a larger project investigating environmental conflict over pollution hazards *and* environmental justice across Canada. In fact, the case study outlined here was chosen from media data analysed in phase-one of this study, which used Canada's two national newspapers to identify a number of potential case studies. More specifically, the selected case study was one of the few potential cases that explicitly included the frame 'environmental justice' in four published news articles (Deacon and Baxter 2009) and, unlike the majority of Canadian environmental justice studies that focus on large, urban cases (e.g. Jerrett *et al.* 1997, 2001, Buzzelli *et al.* 2006), our case concerns a small, rural community – an area that is typically underrepresented in Canadian academic studies. We also chose this case study because, while it received coverage in national media, the exposure was minor compared to some of the more high profile environmental-related stories such as the Alberta oil sands and the Sydney Tar Ponds.

The objective is to understand the role of, *and* relationship between, power and participation as it relates to procedural environmental justice. The case study is an investigation of Lincolville, Nova Scotia, Canada; a community that was the chosen site for a regional second-generation landfill in 2006. Since this was a qualitative case study it was open and flexible and was not set up specifically to test the role of, and relationship between, power and participation within procedural environmental justice; rather the concept emerged as part of our interpretation of the interviews, in combination with existing literature(s). That is, the environmental justice literature was our starting point, but the themes within the case study led us to emphasise facility siting and environmental assessment literatures *post hoc* – a common strategy to avoid premature interpretive closure in qualitative research (Miles and Huberman 1994, Morse *et al.* 2002).

2.2. Case community

Lincolville is part of Guysborough County [The County]; a rural municipality in the Province of Nova Scotia located approximately 275 km NE of Halifax, with a population of approximately 9058. The County was founded in 1604, largely as a fishing post, and is now home to 5400 dwellings with a median income \$35,000 (CAN), well below the national \$ 43,100 figure (Statistics Canada 2008). The County comprises 73 communities, of which Guysborough and St Mary's are the largest with populations of 4681 and 2587, respectively. English is the predominant first language spoken (96.82%) and, similar to the rest of the province, Caucasians account for 95% of The County population. The County is struggling with maintaining its tax base, with high out-migration the population decreased by over 17% between 1996 and 2006, compared to a 1% *increase* in population for the province as a whole (Statistics Canada 2006).

Guysborough County has a unique pocket of black residents; within The County there are four villages that comprise nearly 100% black residents: Mulgrave, Upper Big Tracadie, Sunnyville and Lincolville, and together their population is approximately 320. Black Loyalists settled Lincolville in 1783. In addition to high out-migration, notable demographic features of Lincolville are a high percentage of residents over 40 years of age (60%) when compared to the rest of Nova Scotia and Canada (52% and

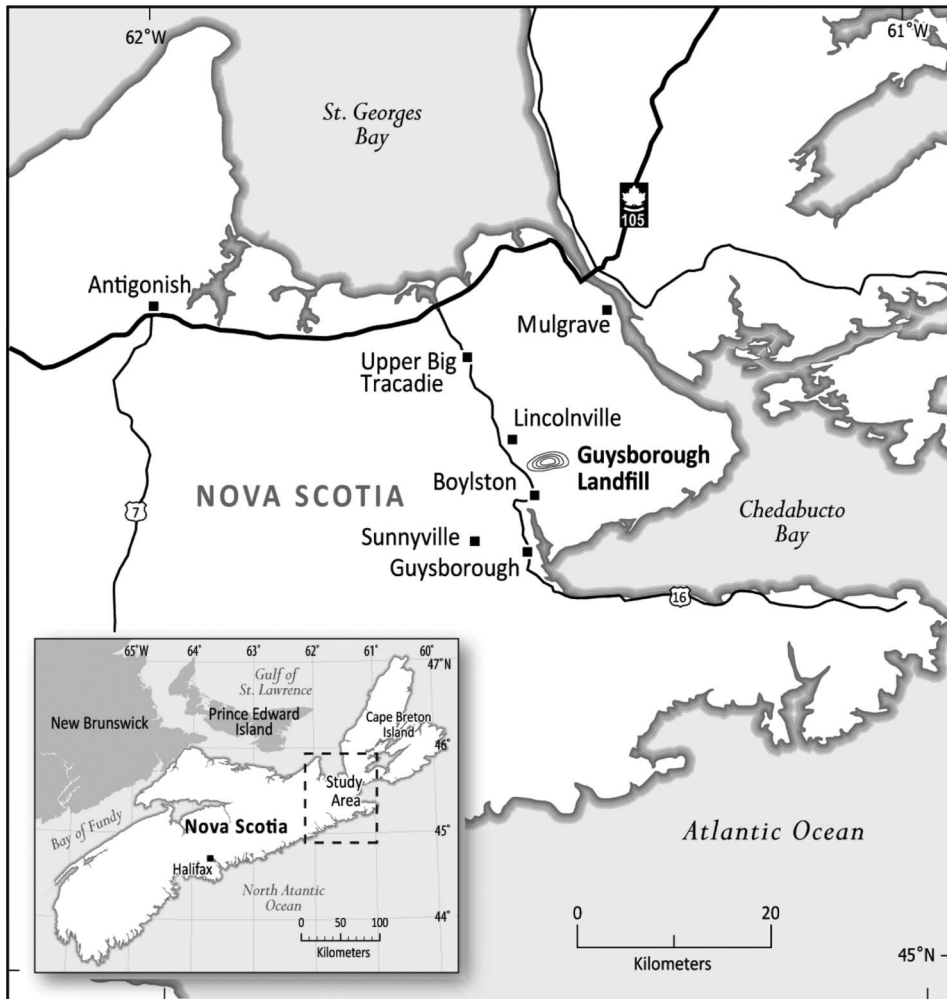


Figure 1. Guysborough County and surrounding area.

49% respectively), and the area is composed of nearly 100% black residents (e.g. last racially segregated school in Canada was located in Lincolnville and closed in 1982).

Although there was no academic work specifically on the Lincolnville case, a Master's Thesis by Hudson (2002) found that over 30% of black Nova Scotians live within a 5 km radius of a landfill. At one time the communities of Sunnyville, Lincolnville and Mulgrave all housed landfills (Figure 1). While the focus of this case study primarily concerns the 2006 second-generation landfill, it is important to recognise that a first-generation landfill had existed in the community for over 30 years since the 1970s. This provides a useful context to fully understand the scope of residents' frustrations.

2.2.1. Second generation landfill, siting and public consultation

Starting in the early 2000s, in an effort to decrease provincial spending, the Nova Scotia government began a process of amalgamating landfills. Ultimately their

numbers were reduced from 57 to seven across the province. In contrast to their predecessors, these new 'second-generation' landfills are much larger, double-lined and include leachate control and detection mechanisms. In 2004/2005, Guysborough County Council expressed interest in becoming a site for a second-generation landfill in order to generate needed tax revenues. Guysborough County hired a consulting firm to determine the suitability of the site for a second-generation landfill and they conducted extensive surface and groundwater testing, with less attention to negative social, cumulative or justice impacts. Public involvement was in the form of 'public consultation', as dictated by provincial legislation (NSEA 2009). According to the Nova Scotia Environment Act (1995), a landfill is not routinely required to go to environmental assessment; it is only through intervention of the Minister of Environment that would require the siting process to go to a full EIA with a panel hearing. The closest reference to environmental justice is in Section 12 of the Nova Scotia Environment Act, which states that the Minister of the Environment must take into account all information when formulating a decision, including "concerns expressed by the public and aboriginal people about the adverse effects, or the environmental effects, of the proposed undertaking" (NSEA 2009, Section 23). Public drop-in sessions were held in Lincolnville and Boylston to inform the residents of Guysborough Council's plans for a second-generation landfill, and at that time the public did not substantively oppose the project through the official EIA process so the Council proceeded with approvals and construction, and the landfill has been operating since 2006.

However, residents provide a more nuanced account of the siting process. In March 2007, after the landfill had become operational, the Concerned Citizens of Lincolnville (CCoL), a community group opposed to the construction of the second-generation landfill, requested permission to make a presentation at a council meeting. On 9 April 2007, the CCoL received notice that their request was denied. However, on 11 April 2007 over 30 Lincolnville residents attended the council meeting to make their presentation during the allotted *outside presentations* period. Halfway through their presentation all but two council members had walked out. The local elected councillor failed to attend meetings to which the citizen group invited them on 19 April 2006, 21 October 2006, 18 November 2006 and 10 March 2007. On 24 March 2007, these residents were denied use of the community centre for a meeting regarding the landfill by the executive body of the community centre – of which the councillor is a member. The elected liaison between the community and the Guysborough landfill committee also failed to attend any of the community meetings mentioned above. James Desmond, a member of the CCoL, stated that while the citizens were satisfied with the initial public participation efforts, the inability to keep an open dialogue was unacceptable: "We entered into those discussions in good faith . . . we were satisfied with the first meeting, but a year and a half to organise the next meeting is unacceptable and beyond belief" (Rashid 2011).

3. Methodology

The case study involved semi-structured interviews with 22 participants from six distinct groups who were connected to the landfill site and/or siting process, with an emphasis on directly affected opponents: (1) resident/non-leader/opponents ($n = 15$); (2) resident/leader/proponents ($n = 2$); (3) resident/leader/opponent ($n = 1$); (4) non-

Table 1. Semi-structured interview participant list.

Participant	Number
Resident/non-leader/opponent	15
Resident/leader/proponent	2
Resident/leader/opponent	1
Non-resident/leader/opponent	1
Non-resident/leader/proponent	1
Non-resident/non-leader/opponent	2

All opponents are black, but there is a mixture of black and Caucasians among the proponent groups. We do not identify race in the quotes for reasons of confidentiality.

resident/leader/opponents ($n = 1$); (5) non-resident/leader/proponents ($n = 1$); and (6) non-resident/non-leader/opponent ($n = 2$) (see Table 1).

Since we wanted to develop theory about environmental injustice, we purposefully emphasised opponents. Nevertheless, we chose a range of participant types to allow for the exploration of a diverse set of opinions regarding the landfill and siting processes in order to develop a robust conceptual understanding of the case. Community group leaders were selected on the basis of their level of involvement in siting. Initial contact was made with leaders ($n = 5$) at the outset of the study during a meeting in Halifax, Nova Scotia, and only those who were active participants (as proponents or opponents) were sought for interviews (Coyne 1997).

Heterogeneous maximum variation snowball sampling was used in the non-leader groups. Participants were asked to recommend, “someone who thinks differently than you do about the landfill issue”, to maximise variation, which typically helps enhance theoretical depth. The sample size was based on the principle of saturation, when noticeably little new information was being realised (Morse 2000). After about the eighteenth interview, the same names were being suggested for interviews – indicative of reaching snowball saturation (Guest *et al.* 2006). The 22 interviews in the case study were conducted in the participants’ homes. The interviews averaged approximately 80 minutes in length; with some lasting over 140 minutes and others as short as 50 minutes. All interviews were conducted with informed consent, taped and transcribed verbatim into a word processor, which translates into over 3800 lines of text, or 120 pages of interviews. These interviews were analysed for emergent themes with the aid of the qualitative software package NVivo 8 (Welsch 2002). Called contextualised thematic analysis, this approach builds on traditional modes of presentation in interview-based studies and is closely linked to grounded theory analysis (Patton 1990, Willms *et al.* 1990, Denzin and Lincoln 2000). Thus, the analysis involved a combination of inter-interview and intra-interview comparisons, as required, to achieve a depth of understanding. Thematic analysis is common in qualitative studies, whereby codes (nodes or themes) are ascribed to discrete units of text (or simply ‘quotations’) within the interviews; similar to the ‘coding and memoing’ stages of grounded theory analysis (Willms *et al.* 1990). The term ‘theme’ can be used to denote the fact that the data are grouped around a central theme or issue (Brink and Wood 1994, p. 215). Unless otherwise indicated, quotations were selected for presentation here if they were representative of all quotations for a theme. Pseudonyms are used to identify speakers.

We used three key strategies for preventing threats to qualitative rigour or ‘trustworthiness’. Specifically, we used member checking with participants in order to allow for commentary on our interpretations; prolonged engagement in the field to ensure context was understood; source triangulation, whereby different investigators analysed the same interview texts and came to consensus ideas about important concepts; and low inference descriptors – thematic codes that use plain language. We also minimised interpretive issues by including long quotations in the words of the participants to show exactly what we gleaned from the conversations. Thus, interpretations were scrutinised by multiple researchers and the participants themselves to check for credibility and confirmability (see Baxter and Eyles 1997).

4. Case study findings

Findings from this case study are focused on some of the contextual issues related to perceived, or felt, environmental injustice¹ associated with the siting process and how those are interconnected with views of Lincolnville as a community. Specifically, references to issues of distributive and procedural justice are prominent, as well as environmental racism, even though specific reference to these terms is not always used directly by residents.

4.1. Procedural justice

Our main objective was to understand the lived experience(s) of environmental injustice. Like many of the participants, Andrea, a vocal opponent of the landfill, described how they felt the community of Lincolnville was unfairly chosen as a site for the landfill, and that throughout the siting process (e.g. drop in sessions), intimidation was a tactic used by the proponents:

It’s pretty intimidating to have three or four white people in your community and you don’t know what the hell is going on and they’re talking about cells and there is going to be 17 cells. Well I asked one of the elders of the community “do you know what cells mean?” All they could think of was a jail cell.

Of the 22 concerned residents, four made reference to race when talking about the landfill siting process. Andrea’s reference to “white people” in her comments highlights how the role of race is important in this community, which is especially poignant due to the history of racial segregation for this group. Seven residents directly addressed the community consultation period – something that is mandatory under provincial environmental regulation in Nova Scotia (NSEA 1994, Section 44) – feeling that it was not inclusive and non-accessible. For example, during the consultation period leading up to the decision to site the landfill in Lincolnville (spring/summer 2005), Jon, who opposed the landfill, felt that residents had little-to-no say because they were only provided one public drop-in session, and they were inadequately notified about a process that was ultimately laden with ‘jargon’:

They [the proponents] had very little say whatsoever. The municipality of Guysborough came to the area and held one drop-in meeting. I attended that meeting. A lot of people did not attend that focus meeting. They didn’t know what was going on. Even if they had attended the meeting, many wouldn’t have understood the jargon that was being thrown around in the community hall by engineers and representatives from the municipality and the landfill.

Jen, a resident of Lincolnville, also described the confusion caused by complex terminology and industry-specific jargon. She was also a vocal opponent of the landfill and heavily involved in raising awareness against it. Jen felt that not only were the contents of the consultation confusing for many of the residents, but the setting of the meeting itself was an intimidating incursion by outsiders:

They [the proponents] knew the mentality of what they were working with and they did the minimum to move forward. There was never any consultation about how it would affect the residents of the community.

This feeling of exclusion was countered by those proponents from the municipality who suggested that consultants working for the proponent did more than enough to provide community residents with the opportunity to voice their concern(s). For example, Mark noted that even though the proponents held drop-in meetings, they were not well attended and he suggested that this was the fault of the residents of Lincolnville, not the municipality:

I don't think that they [consultation meetings] were well attended generally speaking. We [Guysborough municipality] promoted them. This is the way people are. It's a NIMBY thing for the most part and it is always difficult, especially in a community such as ours where the demographic is really skewed to older people and it is hard to get people out. We had meetings. We did an extensive consultation, announcements in the paper and council meetings and a newsletter to communities affected: Lincolnville, Boylston, Guysborough and Dover explaining what people could expect from this, because there is a sizeable investment of municipal resources.

Our interpretation here is by way of contrast. The reference to a demographic "skewed to older persons" and a lack of mention of race or black residents talking to white siting agents contrasts with Andrea's reference to race, and underscores that, in comparison to people like her, proponents like Mark perhaps did not have race in the forefront of their mind in their decision making. Mark also used the politically loaded term 'NIMBY' which is pejorative – a shorthand way to brush aside locals' concerns – which likewise allowed him to sidestep any issues related to race and income altogether. NIMBY suggests residents opposed to the landfill were being selfish and were not considering the greater good of the wider county and province. However, 19 of the concerned Lincolnville residents have been opposed to landfill in the area for over 30 years and, more importantly, the community has already done their part as waste site hosts for the first generation landfill.

However, Stacy, a community leader, echoed Mark's sentiments, claiming that the municipality did enough and seemed to place the blame on residents themselves for their lack of participation in the process:

There were sessions put on in the community centres and none of the residents attended. I attended, Mark attended and Brian attended. They [Lincolnville residents] had nothing to say at that time. "Fine, everything is going to be fine" was the attitude. They [the engineers] brought in liners and showed us what they were doing and would be using, to draft where it was going and how we were going to benefit from it, where the first cell was going to be, where the next was going to be. I mean, all that information was given to us and the whole day session was started in the morning and they were there till 7:00pm that night. I think there might have been five or six people come out. There were very few people there. No one came out to comment to say, "What are you doing?" or "How are you doing it?" or anything like that.

The phrases “What are you doing?” and “How are you doing it” suggest that the project was a forgone conclusion. Indeed, as we highlight above, any input from these consultation sessions was not destined for a full environmental assessment with further public participation in front of a panel of experts. Stacy emphasised the ‘what’ and ‘how’ of the landfill and not ‘why’; specifically, there is no indication in her interview that she is concerned with whether or not it *should* be located near a community that has already had to live with landfill for 30 years, and would reap few direct benefits from the new site. Jen left the impression that poor turnout was the residents’ fault in what seemed to be an information process rather than one that either acknowledged the long-term exposure of the community to landfills or attempted shared decision making.

Indeed, there are alternate explanations for lack of participation. Further to the idea that the facility was a foregone conclusion, three participants from Lincolnville opposed to the facility felt that the consultation process, even if it had been more appropriate and better advertised, was simply ‘lip service’, and that the decision to site the landfill was made long before the community was asked to be involved. Carole suggested residents’ voices were just noise and their opinions “didn’t matter” in the end:

We had a chance to voice our opinion, but that was it and I doubt our opinion really mattered at that point. It [the landfill] was coming whether we liked it or not. Our voices were only voices. They didn’t matter.

Gerald, another long-term Lincolnville resident, agreed with Carole that by the time the sessions were held, the decision to site the landfill in Lincolnville had already been made and amounted to ‘lip service’:

There were a few meetings I think. I don’t know how much input the people actually had. I think by the time those sessions were scheduled the dump was a done deal. It was just, what’s the saying? Lip service.

What is curious is that while the proponents went to the effort of promoting the drop-in sessions, many residents such as Andrea, complained that the method of promoting the meetings was inappropriate; many residents did not subscribe to the local paper where the meeting advertisements were published and instead read the popular daily from Halifax:

They sent it out in the [Guysborough] *Journal*. No one in the community of Lincolnville buys the *Guysborough Journal*, you know the [Halifax] *Chronicle* goes by, any news they want to know is in there.

There was a clear disconnect between the landfill proponents, including the municipal decision makers, and the Lincolnville residents during public participation (consultation). Although it may have followed the letter of the law/regulations, it did not seem to follow the spirit of public participation – to actively consult with residents and allow them even the opportunity to say, ‘no’. This lack of spirit has led to frustration from community members, which has been documented in news articles regarding the community. In an article published in *The Dominion*, Lincolnville resident Brian Daye noted that residents felt like no one cared enough about the future of their community even to listen to their concerns:

We've had a number of meetings where the municipality from all levels was invited to come to listen to us and try to work with us on *something* ... I'm sure something could have been worked out. (Lindsay 1996)

5. Implications/discussion

The Lincolnville case study illustrates both subtle and not-so-subtle processes of exclusion – linked primarily to public participation (consultation) – that create and sustain environmental injustice by ultimately denying residents the opportunity to say ‘no’ to cumulative and unwanted development. To be clear, there are no requirements to consider environmental justice in relation to EIA in the provincial EIA process which has full jurisdiction in this case. Yet, there are assumptions that the public will be meaningfully involved, particularly those that are most directly affected. This study contributes to debates about the role of effective public participation (Ling *et al.* 2009) throughout the EA process and fills the need identified by O’Faircheallaigh (2010) for more case studies of how public participation is practised and with what effects. However, we come at this from a case study that started out as an exploration of felt environmental injustice.

There are two issues concerning public participation at play here: both the *type* and *style* of public involvement. In terms of the type of involvement, the concerned residents seem to peg the process on Arnstein’s (1969) ladder somewhere between ‘degree of tokenism’ and ‘non-participation’. As far as style of involvement is concerned, the technical and racial divides between the proponents and residents was poorly bridged; instead, the lack of such bridging was sustained by jargon. One solution to this is to allow residents to hire their own experts who would be versed in the relevant technical and linguistic conventions of the proponents’ consultants. However, since this process did not go to a full panel hearing, intervener funding would not be available to these residents in a system that has such funding; yet this province does not provide intervener funding at all (Nova Scotia Environment Act 2001). Although environmental impact assessment remained complex and technical on some levels, the residents seemed keenly aware that the process was stacked against them providing meaningful input to decision making (see also Walker 2010). This may explain why they took matters into their own hands by voicing their concerns at the town council and through an opposition website (Save Lincolnville Campaign, 2012²). As the siting history and comments of the residents underscore, going outside the official process met with shunning by the majority of the council. Thus, the residents recounted multiple layers of procedural injustice that closely fitted with what O’Faircheallaigh (2010) identified as systems of public participation that ‘reinforces powerlessness’.

It may be trite to say that public participation is imbued with power, but the Lincolnville case provides an example of how vividly imbalanced power can be – not just decision making power, but even the power to be involved. If an individual or a community is unable to mount a fight against a possible injustice (e.g. landfill location) for any number of reasons (e.g. economic disadvantage), meaningful participation is not possible. The majority of Lincolnville residents that we spoke to were opposed to the landfill, but they did not mount a fight against it within the confines of the ‘system’ (formal EIA process), both because they *could* not because they lacked technical expertise and because they *chose* not to. This is not a case of residents failing to inform themselves about the technical details of landfills and how

they are sited. These residents were very knowledgeable, because they were savvy enough to know the process was not going to allow them to express their views in a meaningful way to the people they felt should hear their concerns (i.e. local and provincial government). While in the UK Walker (2010) found that meaningful accounts of justice are not routinely under the purview of EIA, he suggested that in the UK context the sides can at least square off against each other in EIA forums (e.g. panel hearings). Yet cases such as Lincolnville's are worse in the sense that no such forums may even be available to locals (see also O'Faircheallaigh 2010).

This is more than just an issue of what might be called cognitive inaccessibility (e.g. complex language, jargon), since it also has to do with the entire setting (Dietz and Stern 2009). For example, the issue of race seemed to be inappropriately downplayed by siting agents and members of council. Further, although the community consultations seemed flexible in terms of time available to talk with experts, such sessions nevertheless diffused community opposition. That is, interaction in the consultations sessions was limited and did not allow the residents to present a united front in a single public meeting where all stakeholders, particularly other locals, got to hear their neighbours' views.

Although not an environmental justice example per se, Petts (2004) outlined contrasting landfill siting consultation in Hampshire County that allowed several opportunities for residents to participate (e.g. formal working groups that met on a regular basis). While not without criticism (e.g. meetings took place too late in the process for some), Petts argued that the process was largely seen as a valuable lesson in effective public participation as part of the environmental assessment process. In the most optimistic case, if Lincolnville residents had been provided with the opportunity to review material prior to it being presented at the drop-in meetings, they might have been more meaningfully engaged. Yet, ultimately even that would have done little to overcome the perception among some residents that the meetings simply paid 'lip service' to a decision that had effectively already been made.

The residents' frustrations can be traced to a point much earlier in the siting process and ultimately to the legislation itself. Thus, if a particular population is not *really* engaged until *after* the Minister makes this decision, that population effectively has no opportunity to say 'no'. Besides being unable to argue the case for putting the facility elsewhere, there is no social impact assessment (SIA) as required by a full EIA report; a report that would have either addressed environmental justice and cumulative (social) effects directly, or allowed expert-assisted community groups to raise such issues in a public hearing if intervener funding was available. Walker (2010) suggested the SIA process is actually the most likely forum for airing and addressing issues of environmental injustice; a sub-process of the EIA that was denied to the Lincolnville residents.

Thus, there is a fundamental conundrum when communities try to address environmental justice through the EIA process, since saying 'no' to an undertaking is available to residents in theory, typically that is its purpose in practice; rather the focus is on ensuring any impacts are monitored and mitigated (Jay *et al.* 2007). Environmental justice is not something that can be easily mitigated without heeding 'no' and putting it somewhere else (Walker 2009, 2010). However, there are few other means for opposition residents to raise issues of justice within existing policy structures. Although attendance to issues of environmental justice places EIA outside its original comfort zone of technical-rational environmental impacts, it is nevertheless a reasonable candidate to incorporate such a siting criterion in much the

same way cumulative effects and social impact assessment have gained traction (Jay *et al.* 2007).

6. Summary and conclusions; implications for environmental justice

This case study highlights that environmental justice may be difficult to achieve through traditional, inflexible environmental impact assessment processes, partially because EIA was not conceived with such social/structural issues in mind. There is some hope that public participation may be one route to addressing justice issues, but we highlight how this procedure can also have the opposite effect by further entrenching injustices (O'Faircheallaigh 2010). The Lincolnville case adds to the few studies that have explored the processes that (potentially) lead to patterns of felt environmental injustice. Our case suggests the potentially positive impacts of moving towards imaginative, flexible systems of public participation that more thoroughly engage directly affected residents. For example, under most EIA systems intervenor funding is not available until after a full-blown EIA report and hearing has been requested by the regulating authority (e.g. the Minister). Yet, there is evidence in the words of the Lincolnville residents, who struggled with technical matters in public consultation meetings, that earlier opportunities for such funding might better facilitate participation. That is, such funding would allow the community to interact with experts, learn the process and better understand what are legitimate ways to say, 'no' under existing EIA structural parameters (Jeffrey 2002). It is perhaps time to consider environmental justice as a guiding principle at all stages of EIA, whereby decisions are biased *against* allowing proponents to simply follow the path of least community resistance, or worse, stack the deck against resistance within the system. Although residents can come up with imaginative and intelligent ways to circumvent the system – as the Lincolnville residents did – there are nevertheless typically limits to the capacities socially vulnerable groups/places have for such resistance.

We have retraced a case that shows *how* EIA procedures that do not explicitly account for environmental justice can produce what is arguably a stark injustice 'outcome'. The interviews with the Lincolnville residents show public participation as limited consultation and, in the absence of appreciable compensation, may be framed as unjust. We are not inferring intent to be racist *per se*, but the net effect is nevertheless socially regressive whereby this community, who has already had to live with a decommissioned landfill, has a new environmental threat with which to contend (Rawls 1977). Yet, even in the absence of writing principles of environmental justice into legislation, stronger principles for public participation may help. Opportunities need to be provided to communities – particularly ones with low incomes and education – for becoming involved on their own terms. Although this may involve mechanisms for them to engage third-party assistance for interpreting both the rules of the environmental assessment and impact/benefit information provided by proponents, this should also include public forums for marginalised groups to provide united voice(s), rather than forums which diffuse and mute such a voice(s).

This case highlights both the process of injustice as well as the experience of injustice. In some cases the procedural culprits may be minor or even unintended, yet they are additive and ultimately contribute to the production and reproduction of environmental injustice. Environmental injustice is not simply a result of exposure to

pollution; environmental injustice is a result of a number of long-established practices, which in order to be remedied, must be understood in terms of the way they are actually practised.

Notes

1. In the spirit of W.I. Thomas (1928), who suggested that situations perceived to be real have real consequences, we focus here on felt injustice rather than attempt any type of objective/normative assessment of injustice.
2. As further evidence of how financially and technically difficult opposition has been for these people, this website has had at least two different 'homes' on the Internet and has been offline several times since they seem to rely on the kindness of others to provide free webhosting.

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