

Ali, Asghar

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A conceptual framework for environmental justice based on shared but differentiated responsibilities

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**A CONCEPTUAL FRAMEWORK
FOR ENVIRONMENTAL JUSTICE
BASED ON SHARED BUT
DIFFERENTIATED RESPONSIBILITIES**

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Asghar Ali

**School of Environmental Sciences
and
The Centre for Social and Economic Research
on the Global Environment
University of East Anglia
Norwich NR4 7TJ, Norfolk UK
telephone: (44)(0)1603 592542:
email - Asghar.Ali@uea.ac.uk**

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Abstract

Environmental justice has become a major issue in the discourses of environment. The calls for environmental equity and justice are now part of major environmental negotiations like the UNFCCC and the Kyoto Protocol, to give some examples. In this paper I locate the issues of environmental justice within the broader framework of environmental sustainability and the contemporary debates about theories of justice. The environmental justice movement in the USA, which has gained popular momentum in recent years, is briefly studied. This particular grassroots movement appears to be redefining the sustainability agenda with a strong social justice content. It has similarities with environmentally informed social justice movements in the developing world, the so- called 'environmentalism of the poor'. Employing a critical discursive methodology I briefly and critically review some of the well-known theories of justice based on different principles of justice like need, desert and entitlement. These are looked at within the contemporary debates of universalism versus particularism or the 'abstract' liberal versus communitarian theories and some other critical perspectives on justice. I argue for a broader conception of environmental justice that takes into account particularities but is also sensitive to the global nature of many of the environmental problems that are spread and have impacts across regions, territories and even countries. In such situations it becomes necessary as a matter of justice to take into account differentiated impacts arising out of disproportionate contributions to environmental harms or 'bads'. I further argue that a theory of justice, which will recognize this fact, will also have to consider differentiated responsibilities.

Key words: Sustainability, sustainable development, equity, justice, distributive justice, vulnerabilities, responsibility.

1. Introduction

Justice seems to be an ever-present societal issue. It is often seen as a foremost desirable social virtue. The universal presence of the calls for justice is evidence that there are unresolved issues at different levels of human interaction and sociality. There are conflicts and disagreements, which tell us that society and its institutions have to keep grappling with matters that provide the bases and the reasons for these complaints and for the cries for justice. These are issues that define and often legitimize justice claims; grievances that are voiced by those to whom injustice - as understood by them but not necessarily endorsed by others - has been done. Justice is therefore, a historically present phenomenon that in turn signifies the societal presence of harm, exploitation and oppression on the one hand and a quest to rectify these failings on the other hand.

When we talk of justice, it is almost always about justice among human beings. Justice as we know it is typically as a human affair, involving human-human interactions and relationships. As such, in a broad and general sense, it is understood as a *social* concept. It is a claim put forward by some members of society about or against the actions, or intentions, of others. A sense of (*in*)justice arises out of a situation of competing, often rights-based, claims. The struggles for justice are reflections of problems both old and new and the way these are understood, experienced and defined by different actors. Every era's concerns have had influence on, or more importantly influenced by, the way justice has been understood, demanded and achieved. The concept of justice, because of its very nature and because in the way it is being defined and redefined in the context of complex, diverse contemporary societies has become the subject of intense debates and disagreements in recent decades. There are always differing perspectives and actors involved in these contestations. Contemporary issues of economic and political significance are bound to have influence on, or be influenced by, such inherently political and contested issue like justice. One such area is the environment and the discourses that shape the way environment is defined, understood and used or abused.

As the nature of risks and harms changes with the transformations in science and technology and the social and economic polarizations both within and across societies influencing a new understanding and redefinition of problems, for example, the calls for justice are also being framed in new ways. Environmental justice is one such area where the focus is now on the distribution of environmental quality; a focus on harms caused and aggravated by anthropogenic environmental bads and well being protected and enhanced by environmental goods. Here, justice is demanded by or on behalf of 'environmental victims'. Environmental victims are 'those who are harmed by natural processes, by anthropogenic processes mediated by the natural environment,

and by restrictions in access to the environment' (Penz 1998, p.42). Justice in its narrower sense is, therefore, about the distribution or maldistribution of or access to environmental quality - just like any other commodity - among different groups who question and protest these distributions, because they have real consequences on the quality of their lives and on their environments. In a broader sense, environmental justice may well connect with broader issues of social justice that questions socio-political and economic institutional arrangements of societies, or even of the world as a whole. An important feature of these (mal)distributions is that they often have both spatial and temporal features. On a different level, there are indeed some big ontological questions or big picture issues, for example our relationship as species with other species and with nature. Distinct but not totally unrelated from these are the specific situations, which have immediate consequences and impacts upon people's lives in their neighborhoods and communities; situations reflecting lived and experienced instances of injuries and victimization than being theoretical speculations.

Justice as concerned with the interaction and relationship of human beings with each other, as a social concept, is still, correctly so, the primary focus of attention and study for many theorists and activists. But now there is a realization of another relational aspect to the struggles for justice; that of our relationship as species - as human beings - to the rest of the natural world. Low and Gleeson (1998) term the first as 'environmental justice' and the latter as 'ecological justice' but point out that 'They are really two aspects of the same relationship' (p.2). In this paper, following this distinction, which also stresses the significant interrelated and interdependent nature of the two aspects of justice, I will mainly focus on 'environmental justice'; justice as concerned with human-human relationships. I accept that stressing this kind of dichotomy too much and too far can be misleading and may even be unnecessary. This is because eventually all environmental and ecological problems have their roots in social problems as also suggested by a 'social ecology' perspective that rejects a dualistic thinking whereby nature and society are often seen as antagonistic towards each other. Thus, 'The divisions between society and nature have their deepest roots in divisions within the social realm, namely deep-seated conflicts between human and human that are often obscured by our broad use of the word "humanity"' (Bookchin 1990: 32). The injuries done to the non-human world has a close relationship to the injustices in the human world. An ecological sensibility developing out of such understanding and based on a dialectical view of self, history, nature and society that enriches and broadens thought and action does not see aspects of a phenomenon exclusively and in isolation from other phenomenon.

Given the scope and limitations of this work, I will attempt to focus on environmental justice within a broader framework of environmental sustainability and in doing so hope that the connections between the two forms of justice (human-human and human-non human) also become visible to a certain extent. After a brief critical review of some prominent theories of justice, their principles and bases and focusing on the ensuing debates that have taken different, often clashing forms, I will argue for a broader conception of environmental justice based on the notion of shared but differentiated responsibility which is sensitive to particularities as well as supportive of a new, truly democratic universalism which will have to be debated and established dialogically through fair, active and meaningful participation of different actors and/or stakeholders with their equally different and diverse cultures, traditions or worldviews.

2. Justice and Sustainable Development

In a now cliched and much quoted paragraph, Lele says that sustainable development

is a “metafix” that will unite everybody from the profit-minded industrialist and risk minimising subsistence farmer to the equity seeking social worker, the pollution-concerned or wildlife-loving First Worlder, the growth-maximising policy maker, the goal-oriented bureaucrat, and therefore, the vote-counting politician (1991, p.613).

If one follows Lele, then it becomes evident from such a view of sustainable development that it is inherently a political and ‘contested concept’ (O’Riordan 1988; Jacobs 1999). This is, primarily, because the stakes around which the concept revolves, and is often constructed, are very high. Ever since the term was elevated by events such as the publication of the Brundtland Report (WCED) in 1987 and the Earth Summit of 1992 in Rio de Janeiro, this catch phrase has become one of the most talked about ideas of contemporary times. For example, among contemporary issues of universal importance the concept of a sustainable society is second only to the idea of an information society as the most prominent image of the future (McKenzie-Mohr and Marien, 1994 cited in Olson 1995, p.19).

The rise of environmentalism and many green movements since the 1960s around the world but especially in the North, have all, to one degree or another, rallied around the different forms and varieties of this concept. The concept has also been embraced by big commercial interests who are in turn, accused by many green groups for being the very cause of much of environmental degradations. From grassroots and local level groups to international organizations, transnational corporations and national governments all equally claim this concept as their ‘vision’ and guiding philosophy. While often it is seen as an isolated, single issue, end-of-the-pipe pollution problem, some radical perspectives understand environmental unsustainability as a symptom of a wider and much deeper malaise. Thus, we get different prescriptions for the differently diagnosed problems. The politics of sustainable development in such a contested environment is, therefore, very complex and at the end of the day is as much in need of critical political and ethical considerations as of technical and managerialist issues of say, efficiency, best practice and improvement in resource use etc., themselves political issues.

But most often these accounts and reviews of sustainable development have been narratives and according to Dobson (1998) these have been ‘bought at the cost of a degree of analytical weakness’ (p.8). In such analyses, it is often the

multiplicity of the meanings of sustainable development which are hinted at but the narrow generalizations leave out some very specific questions unanswered and the linkages, for example, between issues like justice, equity and environmental protection remain sketchy if not at all ignored. Because of the fact that the term is so open and easily co-opted by different interests, confusions can be created easily and issues central to the discourse get glossed over.

It is argued here that because sustainable development (SD) embodies a human, social dimension, it needs to be understood in a broader sense. In fact, its openness to interpretation and vagueness may well be its strength. The vagueness so characteristic of sustainable development, despite a steady proliferation of definitions, allows for dialogue and participation in discussing environmental issues and herein lies its political strength and also its analytical weakness (Cohen *et al.*, 1998). The human dimension means taking into account world-views, perceptions, rights and choices and their accompanying responsibilities about environmental change and impacts at different scales and by different actors involved although how some perceptions and choices become dominant over others and acquire legitimacy, often through systematic institutionalization, is a more specific and critical issue that needs to be understood. Human choice could be viewed at different levels; individual, communal, societal, national and global. These are interrelated and all have consequences not only for the present but also for the future of life on this planet. But what is clear is that there are some 'core ideas' that feature in most, if not all, explications of sustainability, however tinged they may be with different ideological hues.

Some of these core issues stem from the seminal document that is very much responsible for the popularization of the term. Among other things, the Brundtland Report's affirmation that 'inequality is the planet's main "environmental" problem' (WCED 1987, p.6) has given rise to different interpretations and understanding of sustainable development that often link issues of social justice with unsustainability. The Report's observations, for example, that 'poverty itself pollutes the environment, creating environmental stress in a different way. Those who are poor and hungry will often destroy their immediate environment in order to survive' (p.28) and that 'It is futile to attempt to deal with environmental problems without a broader perspective that encompasses the factors underlying world poverty and international inequality' (p.3) may be controversial and even seen as superficially concerned with symptoms rather than causes by some radical perspectives¹, but has,

¹ Some of these perspectives are, for example, social ecology and the works of social ecologists like Murray Bookchin, *The Ecology of Freedom*, 1991, Montreal: Black Rose Books, *Re-enchanting Humanity*, 1995, London: Cassell, *Remaking Society*, 1990, Boston: South End Press, and numerous articles in *Green Left Weekly*), ecosocialism and the works of ecosocialists like James O'Connor (ed.), 1994, *Is Capitalism Sustainable ? Political Economy*

nevertheless, made it possible to talk about social justice and environmental sustainability as related issues.

But is sustainable development the same as sustainability? Dobson (1998) views the first as a narrower, second-level focus while the latter as a broader issue:

...sustainable development amounts to one conception or theory of environmental sustainability rather than the two things being synonymous. It is a *conception* of sustainability in that it contains views on what is to be sustained, on why, on what the object(s) of concern are, and (often implicitly) on the degree of substitutability of human made capital for natural capital....It is a *theory* of environmental sustainability in that it argues that a particular interpretation of the causes of unsustainability leads to a determinate view of the remedies for it (p. 60, original emphasis).

While this may be a better way forward, given the highly ideological and contested nature of sustainable development, the problem is not much solved. 'Sustainability' itself is amenable to the same kind of disagreements and has at least as much potential to become a 'metafix' and therefore, contested, as its any 'theory'. For example, sustainability even though understood scientifically and 'objectively', something that Dobson seems to be suggesting, could potentially become yet another contestation depending on different deeper ontological and epistemological understanding of 'environment', 'nature', or society-nature relationship, out of which stems conceptions of self, other, freedom, needs, justice, contentment or happiness etc.

Many justice discourses in the environmental sustainability debate, as in other debates outside the sustainability discourse, appear to be primarily concerned with distribution; distribution of something. This is perhaps because many discourses of justice still remain within the distributive paradigm. Given the fact that there are all sorts of disparities and asymmetries not only within societies but also between societies, the cry for distributional justice remains the dominant form of protest. But justice exclusively seen in the context of a

and *Political Ecology*, New York: Guilford, David Pepper, 1993, *Eco-socialism, from deep Ecology to Social Justice*, London: Routledge, and numerous articles in the journal '*Capitalism, Nature, Socialism*', and some Third World perspectives like Shiva, V., *Staying Alive: Women, ecology and development*, London: Zed, Ramachandra Guha with Juan Martinez-Alier, 1997, *Varieties of Environmentalism*, London: Earthscan. For a brief and useful comparison of some of these perspectives with other sustainable development (SD) discourses like 'Market Environmentalism' and 'Ecological Modernization' see Nicholas Low and Brenden Gleeson, 1998, '*Justice, Society and Nature*', London: Routledge, chapter 7.

distributive paradigm is reductive and problematic², and may actually deter or distract us from other ways of looking at justice. This theme will be taken up in the following sections. Also, what is often counterpoised to this paradigm itself has its limitations, another aspect of my discussion of the issues in the sections that follow.

² In recent years a strong critique of the distributive paradigm has been carried out by some feminist and communitarian writers arguing for different, more concrete, contextual and less abstract approaches to issues of justice. See, especially, Iris Marion Young, 1990, *Justice and the Politics of Difference*, Princeton University Press, New Jersey; Carol Gilligan, 1982, *In a Different Voice: Psychological Theory and Women's Development*, Harvard University Press, Cambridge, Massachusetts; Seyla Benhabib, 1987, 'The generalized and the concrete other: The Kohlberg-Gilligan controversy in Feminist Theory', in *Feminism as Critique: On the Politics of Gender*, edited by Seyla Benhabib and Drucilla Cornell, University of Minnesota Press, Minneapolis; Amitai Etzioni, 1993, *The Spirit of Community*, Simon and Schuster.

3. Distribution of What?

An important question, therefore, arises ‘what is to be distributed?’ if justice is to be done. This is perhaps the most important question in the sustainability-social justice nexus. At the Earth Summit in 1992 and following that, at almost all other major international events related to development and environment for example, the Cairo Conference, Habitat II, Beijing Conference on Women, the question of fairness and justice remain as central issues for many of the voices especially those of the developing world, although it is articulated in different vocabularies of justice. There and elsewhere, for the poor and marginalised distribution is as much about resources as about fair access to these resources. Issues of trade, rules of trade, investment, development credits, loans and aid etc. as incorporated in the international governance regime consisting of institutions like The World Trade Organization (WTO), IMF, The World Bank, NAFTA are often found unjust and discriminatory by these dissenting voices. Moreover, the contemporary globalized tendency of production systems that concentrate not only benefits of modernised development but also its harms is often the core target of many of these criticisms. It is in this area, particularly the claims about the unfair or potentially unfair, disproportionate spreading and sharing of harms or risks that the distributional demands seem to have taken a new turn within the environmentalist discourse of justice. This new form of understanding of maldistribution is somewhat different from the old ones whereby the focus was mainly on access to resources, wealth etc. This is not to say that they are not connected. Of course, the distribution of wealth and power has got a lot to do in determining the distribution of social and environmental goods and harms (Boyce 1994). But what is notable is that with a change in the nature of injustices, there seems to have been a parallel shift, or rather a broadening, in the conception and language of distributive justice.

Inside the distributive perspectives of justice the question ‘what is to be distributed?’ cannot be seen in separation from ‘what is to be sustained?’. Within the politics of environment, claims of distributive justice often are bound to come face to face with the claims of sustainability. This seems unavoidable because of the fact that the very concept of sustainable development, or even sustainability, has an important normative feature and unless one talks about this feature, the concept does not make much sense unless one wants to reduce the whole notion to pure technical matters. Such an encounter seems inevitable as concern for environment become a major, if not the most important, driving force and arena of power politics, struggles and conflicts. While to some quarters it is increasingly becoming clear that it is no longer rational and desirable to talk of development, progress, resource use, security and stability, in short, environmental sustainability, without talking about equity and social justice, to others such as the narrow techno-managerialist and purely

economistic perspectives equity and justice appear to be less important issues at best and non-issues at worst.

In a very general sense, it can be said that, 'On any account of sustainability...something or other is supposed to be kept going, or at any rate not allowed to decline, over time' (Holland 1994: 169). The problem seems to be that there are different understandings of this 'something or other' and how it must be 'kept going' or sustained. One idea suggests the sustainability of a scarce natural 'capital' which can be termed as 'critical natural capital'. Similar to earlier definitions of 'critical natural capital'³ Dobson (1998) defines it as 'Critical natural capital is capital critical for the maintenance of human life' and that "'critical natural capital" is *radically indeterminate*, of course, and it might refer us (in the detail) to any number of features of the non-human world' (p. 43, emphasis added). These, according to Dobson are mostly understood and argued for in the industrialized world in terms of overarching 'ecological processes' (Norton 1992: 97), 'biogeochemical cycles' (Pearce 1993: 16), or 'global life support systems' (Bowers 1990: 8), ecological 'glue' (Pearce 1995: 52) and 'ecosystem health' (all cited in Dobson 1998: 43-44). This kind of a radical understanding of a 'critical natural capital', meaning that it is the very scarce foundational base on which all life depends and on which all life activity is carried out can indeed have very deep implications for any discussion of sustainability and social justice. The implication in such arguments is that this understanding of 'criticality' is born out of the very scarcity and limited nature of that which is crucial for life, human or otherwise, and because of this, some form of preservation and/or conservation is imperative if humanity in particular or life in general is to survive.

A further complication in such an understanding of 'critical natural capital' is that whether it is always substitutable in any way by other things or not. This is also at the heart of the debates that have been going on recently among economists and philosophers of different schools of thought and ideological persuasions. The reference here is especially to the *complementarity* versus *substitutability* debate. This means that complementarity or substitutability of

³ See R.K. Turner and D. Pearce, 1993, 'Sustainable Economic Development: Economic and Ethical Principles' in E. Barbier (ed.), *Economics and Ecology: New Frontiers and Sustainable Development*, London: Chapman and Hall, and English Nature, 1994, 'Sustainability in Practice: Planning for Environmental Sustainability, Peterborough: English Nature. English Nature defines "critical natural capital" as 'those assets, stock levels or quality levels that are highly valued; and also either essential to human health, essential to the efficient functioning of life-support systems, or irreplaceable or unsubstitutable for all practical purposes', quoted by A.Holland, 1999, p. 286, Note.15, in A. Dobson (ed.), *Fairness and Futurity: Essays on Environmental Sustainability and Social Justice*, Oxford: Oxford University Press

natural capital by human made capital. Among other things, the arguments have mostly got knitted around the concepts of 'weak' and 'strong' sustainability. Daly who champions the 'strong' sustainability and complementarity position has argued: 'weak sustainability assumes that manmade and natural capital are basically substitutes....Strong sustainability assumes that manmade and natural capital are basically complements' (1995: 49) or 'the basic relation of man-made and natural capital is one of complementarity, not substitutability' (1994 in Sagoff 1995:613). Elsewhere it is argued: 'Capital cannot ultimately substitute for resources...labour and capital complement the material resources that are transformed into a product' (Daly and Cobb 1989: 409).

On the other side of the debate is the substitutability school, so to speak, to which the 'weak', the 'very weak' sustainability positions, or the so-called 'mainstream economists' subscribe in one form or another with different degrees of affiliations. Sagoff (1995) claims that a typical argument belonging to such a position says:

The standard model of economic growth assumes that human knowledge and ingenuity can always alleviate resource shortages so that natural capital sets no limit on economic growth' (p.613) and,...if there is a limiting factor in economic production, it is knowledge, and that as long as knowledge advances, the economy can expand (1995: 610).

Holland (1999) is critical of the economic natural capital approach to sustainability and suggests a 'physical stock' approach. It is an inventory approach whereby 'informed judgments' are made 'to decide whether and in what sense there has been any depletion' (p.63). This approach, it is claimed, will overcome the problems of measurement and economic valuation, often identified with the former approach and that 'it is to lay stress on a different kind of valuation' (p.64). Norton (1999), in turn, identifies 'keystone natural resources', as a form of capital that is not interchangeable with other forms of capital and that are distinctive and defining features of a place and culture. These should be sustained because they are crucial for regional development and also because 'their loss erodes the distinctiveness of the landscape and the diversity of available habitats in the region' (p.146).

On a different level of analysis one can ask as to how and why 'nature' or what constitutes 'nature' and 'environment' have become 'capitalised' or become to be seen as 'stocks' and 'assets'. Nature as 'capital', 'stock', 'assets', 'resources' are all one or another type of valuations based on and informed by different conceptions of self, nature, and the relationship of society with nature. Some valuations are more quantitative while others are qualitative and still others as mixtures of quantitative and qualitative approaches. There are problems with

measurements of nature especially as ‘natural capital’. Since measurement has always been a first stepping-stone towards control, prediction and exploitation of resources as well as peoples, it may be asked that once nature has been inventoried, stocked, counted or measured and capitalized, what is there to stop its exploitation and abuse? In other words, why would it be safe to assume that there would be no overexploitation of those parts of nature that are commercially viable and profitable in a now globalized capitalist economy that thrives on a short term future-discounted exploitation with profit as its central axiom and which is hostile to all non-market understanding of these ‘stocks’ upon which all life depends? It may be useful and even necessary to ‘inventory’ nature for the sake of sustainability in such a manner but these must be complemented by other, essentially non-instrumental and non-capitalised conceptions of nature in order to be in tune with the essence of ‘criticality’ mentioned above.

The underlying commonality of all these approaches is the problematic notion of scarcity; something ‘critical’, something scarce, a ‘keystone resource’ that needs to be counted/inventoried, measured, sustained and passed on, often as a rationale for intergenerational justice. The worry and concern is often to be responsible and to do justice to the future generations. Compared to such needed and understandable concerns for the future generations there is rather a critical scarcity of similar resources (in the form of research studies, for example) that scrutinize similarly from every nook and cranny and analyse in detail for example, issues of international justice or justice among the present generations across societies and nations. The moral and economic concerns for the future generations’ well being is relatively overemphasized and overtheorised, often at the cost of concerns for justice here and now. Low and Gleeson (1998: 19) argue this to be rather inconsistent:

It seems more than a little inconsistent to show moral concern for future generations when the worst environmental conditions imaginable are already present in places on this planet.

Now, given the high degree of concern for ‘critical natural capital’ conception of sustainability, and for the future generations, how can, or should, these critically scarce resources be understood from a justice perspective? How they are to be reconciled with justice claims made by groups of presently living generations as opposed to the yet unborn and therefore yet to make justice claims? There are many problems with the whole idea of critical natural capital and many difficult questions lurk beneath the concept of criticality. For example, Owen (1994) argues that ‘who decides what is critical and why...to designate natural assets as critical requires *someone* to judge what is so important that it should be preserved intact, whatever the weight of other

considerations' (p.449 original emphasis). It is worth noting that claims to preserve and sustain some scarce or 'critical natural capital' for the sake of future generations can also easily mutate into justifying calls for sustaining present inequalities and injustices; inequalities which are already so visibly marked and extreme that place a fourth of humanity in absolute conditions of poverty. Since the very idea of scarcity is so 'radically indeterminate' and therefore, challengeable⁴, it can be argued that even if there is an 'objectively' established 'criticality', then perhaps such 'criticality' or access to it should be distributed, or distributing scarcity ought to become the absolute and even radical focus of discourses of environmental justice.

⁴ Mark Sagoff (1995), for example appears to be against such a notion of 'critical natural capital' or, in general, against a 'limits to growth' concept conceding that 'the thesis that there are significant natural limits to growth remains *intuitively* appealing', 'Carrying capacity and ecological economics', *Bioscience*, 45(9) p.612, (emphasis added). This skepticism may well be objectionable but at the same time there are other perspectives that challenge such scarcity theories by questioning the very conception of nature and nature-society relationship that inform them. For example, from a social ecology perspective, Murray Bookchin (1996) argues that based on a dialectical and ethical understanding of self, nature and society-nature relationship (as opposed to an instrumental one), nature may well be a realm of abundance and freedom. He argues: 'One of the most entrenched ideas in Western thought is the notion that nature is a harsh realm of necessity, a domain of unrelenting lawfulness and compulsion. From this underlying idea, two extreme attitudes have emerged. Either humanity must yield with religious or "ecological" humility to the dicta of "natural law" and take its abject place side by side with the lowly ants...or it must "conquer" nature by means of its technological and rational astuteness, in a shared project ultimately to "liberate" all of humanity from the compulsion of natural "necessity" - an enterprise that may well entail the subjugation of human by human' (*The Philosophy of Social Ecology: Essays in Dialectical Naturalism*, Montreal: Black Rose Books, p.71). The conceptual contrast between such views and the atomist, cost-benefit calculus view of self and nature could not be sharper and profound; a contrast that will inform and eventually influence discourses of environmental politics and justice.

4. The Environmental Justice Movement

The Brundtland Report (1987) on numerous occasions claims causal type linkages between poverty, inequality and environmental degradations. It does attempt, however inadequately, to bring a wider focus on these issues which are often absent from the discourse of the mainstream environmentalism and the numerous conservation movements. For example, sustainable development as advocated by international organizations like the International Institute for Environment and Development (IIED) and especially, by the IUCN's World Conservation Strategy (WCS) is a clearly narrow concept that lacks some of the more social and political insights. The overemphasis for more conservation and preservation, necessary as they are, nevertheless, come at the cost of a holistic analysis of the situation. Adams has pointed to this weakness and writes that the WCS was "pious, liberal and benign, inevitably ideological and disastrously naïve" (1990, p.51 in O'Riordan 1993, p.50). Here, environmental issues are usually taken as single issue problems and relatively seen in isolation from their broader social milieus. The claims about the linkages between poverty and environmental degradation not only shift the focus but also complicate issues of justice. Such claims are repeatedly made in the Brundtland Report (WCED 1987), for example, that 'poverty itself pollutes the environment, creating environmental stress in a different way. Those who are poor and hungry will often destroy their immediate environment in order to survive' (p.28) and that 'It is futile to attempt to deal with environmental problems without a broader perspective that encompasses the factors underlying world poverty and international inequality' (p.3). To what extent poverty 'pollutes' the environment and why so, is an open question. But in the context of justice claims it is not only this question but also who pollutes whose environment that matter equally if not more. These issues while themselves reflective of distinct understandings of the environment and their social and political discourses, have been influential in shaping the agendas of many sustainable development movements with strong social justice character around the world. In the United States the 'environmental justice' movement can be seen as a similar social justice movement which is not exclusively concerned with conservation and preservation causes that otherwise make up the agendas of so many other influential Northern sustainability groups. The apparent absence of a strong conservation element in such justice movements is at the heart of the growing suspicion that the agendas of social justice and sustainability may not be the same.

This points to the importance of social justice, democracy and human rights, for a more broader and inclusive discourse of sustainability meaning that the environmental cannot be seen in isolation from the social and the political. The environmental justice movement emphasizes the same. It asserts that 'social justice and environmental issues are inseparable, both conceptually and politic-

ally' (Grass 1995). The cost of ignoring these linkages, no matter how much un- or under-explored, both at local, national, regional and even international levels can only result in the aggravation of the situation, both environmental and social. This concern also appears to be behind the WCED arguments cited earlier. The environmental justice movement in the USA is the outcome of the 'struggle of low-class, often black communities against the incinerators and toxic waste dumps that, by accident and frequently by design, come to be sited near them (and away from affluent neighborhoods)' (Guha and Martinez-Alier, 1997, p.19). The movement is often seen to be in contrast to the more well known environmentalism of the middle class Americans who have showed less concern with the disproportionate burden of toxic wastes and risks on minority communities (Hofrichter, 1993; Low and Gleeson, 1998). Hofrichter (1993) has argued that these minority communities have been unfairly at the receiving end of 'unregulated, often racist, activities of major corporations who target them for high technology industries, incinerators and waste' (p.2). Although the contexts and their historical development are different, the grassroots, activist nature of this movement has much in common with many similar movements for social justice in the developing world, whether prefixed by sustainable development or not.

Environmental justice as a movement has mainly been a US based phenomenon. The term 'environmental racism' is also sometimes used interchangeably with environmental justice and environmental equity. In the context of US some have claimed that, 'statistics show that race is a better indicator than income in determining the probability that a community is polluted' (Collin, 1993:41). 'Environmental racism' was coined by Benjamin Chavis, then head of the United Church of Christ's Commission on Racial Justice (Mushak, 1993 cited in Cutter 1995, p. 112). The Commission carried out a study, *Toxic Wastes and Race in the United States* that concluded that 'race was consistently a more prominent factor in the location of commercial hazardous waste facilities than any other factor examined' (quoted in Collins 1993, p. 41). Environmental racism in this case is seen 'as an extension of racism in household, land use, employment, and education policies and therefore as part of the larger web of institutionalized racism' (Collins 1993, p.41). Reverend Chavis who headed the Commission on the toxic waste study states:

Environmental racism is racial discrimination in environmental policy-making and enforcement of regulations and laws, the deliberate targeting of communities of color for toxic waste facilities, the official sanctioning of the presence of life threatening poisons and pollutants in communities of color, and the history of excluding people of color from leadership of the environmental movement (quoted in Cutter 1995, p. 112).

Other authors and activists prefer the term environmental justice because they see environmental racism as 'too restrictive a term' and also because 'environmental justice...moves beyond racism to include others (regardless of race or ethnicity) who are deprived of their environmental rights, such as women, children and the poor' (Cutter 1995, p.113). Some have challenged this notion on methodological grounds (Been, 1993, Boerner and Lambert, 1995). However, these studies, funded by risk producing industries have been questioned by Goldman (1996). Robert Bullard is one of the main activist and theorist of the environmental justice movement and he has identified equity issues that are procedural, geographic, and social (Bullard 1994). According to Bullard (1994) environmental justice 'is a more politically charged term, one that connotes some remedial action to correct an injustice imposed on a specific group of people, mostly people of color in the USA' (quoted in Cutter 1995, p. 112). Bullard (1994) goes on to suggest five principles of environmental justice to promote procedural, geographic, and social equity and it must be said here that these have remarkable similarity with those proposals that are often put forward by the developing countries, for example, regarding potential disasters from toxic wastes or climate change and their effects on the vulnerable and the poor:

1. guaranteeing the right to environmental protection;
2. preventing harm before it occurs;
3. shifting the burden of proof of contamination to polluters not the residents;
4. obviating proof of intent to discriminate; and
5. redressing existing inequities (p.15).

As with so many other social issues to which attention is often drawn by social justice movements and which are expressed in a vocabulary of protestation so is the case with the environmental justice movement. In the US case the environmental justice movement clearly has strong civil rights character. It has attempted to connect with or incorporate broader social justice vocabulary from outside the conventional conservation movements that often either ignore these issues in their quest for 'wilderness' or pristine nature preservation or subsume and collapse all differential impacts and burdens in abstractions like 'human beings', 'homo sapiens' or 'we'. It may well be that in such latter instances the concern is with the macro level, a concern with what will happen to the planet and its life forms as a whole, but that need not come at the cost of these localized, concrete, micro level situations of struggles that are more visible definitions of the human condition; conditions of disproportionate and undeserved harm and injury, of deprivation and suffering, which are equally, if not more, important and urgently in need of redress. Dowie (1995) makes a similar point:

During the early years of the movement, in an understandable attempt to build the broadest possible constituency, environmentalists often described the issues as one that affected everyone equally. We all live in the same biosphere, said the gospel, breathing the same thin layer of air, eating food grown in the same soil. Our water is drawn from the same aquifers, and acid rain falls on the estates of the rich as forcefully as on the ghettos of the poor. On closer examination, however, massive inequities in environmental degradation and injustices in the policies used to correct them became evident. While created equal, all Americans were not, as things turned out, being poisoned equally (p.141, quoted in Dobson 1998: 19).

What is so remarkable is that the environmental justice movement is based in the richest country (in terms of aggregate incomes and GDP, although a society where wealth and resources are highly concentrated in few hands), in the world. What would it be like in more materially deprived societies with highly polarized groups in terms of wealth and its ubiquitous adjunct, power? Or since many environmental problems do not respect regional and national boundaries, what would it be like in a highly polarized world? A world where inequalities of everything from wealth to knowledge are the dominant defining features as also witnessed by the critical discourse of globalization and the figures of poverty published year after year by international agencies like the different UN organizations, the World Bank and others?

It becomes obvious that the claims for equity and justice are about the distribution of real as well as perceived environmental benefits and burdens or of the mechanisms and means of protection from the burdens or harms; claims made by the poor who also want prevention of and protection from the deleterious effects of environmental degradation. One aspect of the claims are that to these spatial and temporal dislocations their contribution is often meager compared to those who live more wasteful lifestyles and who have the 'ability to pay' for protection from these harmful effects. These claims make clear 'the environmental justice belief that the "environment" is no more - and certainly no less - than a particular form of goods and bads that society must divide among its members' (Dobson 1998: 20).

There are similarities between the environmental justice movement in a country like the USA and other environmentally oriented protests and struggles in the developing world. The latter can collectively be called as the 'environmentalism of the poor'. Some authors, in comparing the two types of environmentalism - that of the 'rich' and of the 'poor' - have taken a view according to which the 'environmentalism of the rich' is seen as a partial shift from a materialist to a 'post materialist' or 'post industrial' society and the 'environmentalism of the

poor' mostly concerned with 'nature/resource based conflicts' (Guha and Martinez-Alier, 1997). It is argued:

Origins and political style notwithstanding, the two varieties of environmentalism perhaps differ most markedly in their ideologies. The environmentalism of the poor originates as a clash over productive resources: a third kind of class conflict, so to speak, but one with deep ecological implications. Red on the outside, but green on the inside.... In contrast, the wilderness movement in the North originates outside the production process. It is in this respect more of a single-issue movement, calling for a change in attitudes (towards the natural world) rather than a change in systems of social production or distribution (p.18).

The different conflicts that occur in such situations as referred to in the quote, have strong ecological basis. Perhaps this is because the 'environment' has a radically different meaning and implication in such situations. In the South, for example, 'forests are not wilderness areas but habitats for the poorest of the poor' (CSE 1992: 265). The issues are complex with a highly social and political content than just aesthetic or technical matters of protecting and preserving the wild flora and fauna. At the core of these conflicts are the historical, as well as, contemporary issues of equity, access and distributional justice at all levels from the local to the global. An example of India:

The inequities in contemporary India relate not only to control over land, water, fish, forest or minerals, but also to access to education, jobs in the bureaucracy, and the process of political decision-making. There are growing social conflicts focused on each one of these concerns. Conflicts grow primarily because the gulf between omnivores and the dispossessed is continually widening (Gadgil and Guha, 1995, p.96).

Distribution then takes the form of 'ecological distribution' which refers to 'the social, spatial and temporal asymmetries or inequalities in the use by humans of environmental resources and services, i.e. in the depletion of natural resources (including the loss of biodiversity) and the burdens of pollution' (Guha and Martinez-Alier, 1997, p.31). The ensuing discontent and conflicts often suggest a strong linkage between resource use and the social and economic disparities. Environmental injustices from such a perspective are therefore, first and foremost, equity and access issues implying a broader and better understanding of these historical and structural disparities as crucial pre-requisites for any ameliorative or mitigation measure that claims to be just, inclusive and non-coercive. This kind of thinking has wider implications for the understanding of environmental justice, especially in the global context, because they import and emphasize the socio-political, in addition to the economic dimension.

The environmental justice movement, although a localized, country specific protest movement not only reflects structural arrangements of that particular society but also gives legitimacy to the voices and concerns of the less privileged and environmental victims - or potentially vulnerable to such victimization - of the world at large; a world where the economic and political order resembles the same structures in its exclusion, marginalization and oppression of its lower one fifth population. For the message of the movement to have any real impact and meaning in its truly globalized sense, it has to show awareness of and solidarity with the big pictures of injustices and will have to transcend the 'politics of place' (Low and Gleeson, 1998). Without doing that, there is a real danger that it can itself become a net contributor to injustices beyond the borders of its particular community of justice. This already happens through the *displacement* of hazardous facilities to other lesser influential and powerful communities both within and outside state borders. The movement is also a much needed correction to the worldview of the 'environmentalism of the rich'. Like its counterparts in the peripheral world, the environmental justice movement may be theoretically unsophisticated in making its case to the powers that be, but its real strength is its grassroots nature, its closeness to real life experiences of injustice and its bearing of disproportionate burdens of (ab)use of environmental resources and functions. These experiences and realities do signify situations of injustice calling for an ethical and moral concern by any humane and rational account or theory of justice; a call for a historically informed new understanding and ways of coming to terms with these issues. These situations not only call our attention to our moral faculty but also to our rational capacities to act differently and collectively since never before the world, its peoples and resources have been faced with situations with potential for disasters of enormous proportions. The responses to make just the unjust are, however, very much varied and the perspectives cover a broad spectrum of thinking as will be discussed in the next sections.

5. A Brief Critical Review of Some Principles of Justice

Justice or international justice especially in the context of environment and related issues for example international trade, is often interchangeably used with the concept of equity, both intra- and intergenerational. Because equity and justice issues are often intertwined and in a complementary relationship, therefore, associated with the demands for equity are the demands for justice. Equity in its broadest sense, means 'the quality of being fair or impartial' or 'something that is fair and just'. The meaning of justice is often not far from that of equity or from the idea of fairness. As the 'first of social virtues' (Bullock *et al.*, 1988) it also means 'the quality of being right and fair' (Oxford Advanced Learner's Dictionary 1985).

However, beyond the simple dictionary definitions, justice is now a much more complex issue and the subject of intense arguments. Justice has many dimensions. For example, many accounts of justice as a desirable social virtue aspire towards and demand, although to different degrees and through different means, the establishment of appropriate political institutions and giving consideration to a shared public ethos that result in a social order that is acceptable and enjoyed by the majority if not all. An order where people's safety and liberties are maximized and social evils are kept at a minimum if not totally eradicated. Achieving these pose enormous challenges for any theory of justice, environmental or otherwise; challenges that have become more profound with the recent critiques of some of the more dominant justice theories. In the following brief critical discussion of these theories we shall see how these theories grapple with justice issues and in doing so, how they agree and disagree with each other.

It is perhaps the principles of justice, or the bases of justice which are often at the core of most discussions about distributive justice, for example need, desert, rights, entitlements and a range of virtues depending on the overall view of justice. These are also the central feature of the political philosophies and/or traditions like liberalism and socialism for example. In recent times, some of the most influential works on justice have been those by John Rawls (*A Theory of Justice*, 1971, *Political Liberalism*, 1993), Robert Nozick (*Anarchy, State, and Utopia*, 1974) and in recent years, Michael Walzer (*Spheres of Justice*, 1984). In the case of Rawls, it can be said that his major attempt has been at the formulation of a theory of justice which proposes the idea of a kind of 'well ordered' society which is so not because the aggregate figures about that society present a healthy picture which is what conventional utilitarian measures of progress and development often do but, a society where the well being of each and every

individual is a concern of justice, although based on an ‘abstract’ understanding of the individual⁵.

Rawls’ “difference principle” is at the center of his theory of justice. In its stricter meaning ‘the difference principle is satisfied by a given economic system only if those who are worst off under it are not more badly off than the worst off would be under any alternative to it’ (Cohen 1986: 133). Defining ‘Justice as Fairness’ Rawls based his theory on the following two principles:

First, each person participating in a practice, or affected by it, has an equal right to the most extensive liberty compatible with a like liberty for all; and second, inequalities are arbitrary unless it is reasonable to expect that they will work out for everyone’s advantage, and provided the positions and offices to which they attach, or from which they may be gained, are open to all (1976: 30)

Rawls (1976) further enunciates the second principle by stressing that:

It should be noted that the second principle holds that an inequality is allowed only if there is reason to believe that the practice with the inequality, or resulting in it, will work for the advantage of *every* party engaging in it. Here it is important to stress that *every* party must gain from that inequality (p. 32, original emphasis).

In fact, it was in his earlier seminal work, *A Theory of Justice* (1973) that Rawls first enunciated his principles of justice in much more detail. The second principle there reads like this:

...social and economic inequalities are to be arranged so that they are both:

⁵ The literature on these theories of justice is monumental, especially those that either support or critique Rawls’ theory. I shall, therefore restrict my discussion to some salient and relevant features of these theories. The critique of Rawls’ theory has been carried out by feminists as well as communitarians (See note 2). From another perspective, there are also critics who criticize the overall dominant framework of liberalism, individualism and secularism within which Rawls formulates his theory. See, for example, William Galston, 1991, *Liberal Purposes: Goods, Virtues and Diversity in the Liberal State*, Cambridge: Cambridge University Press; Veit Bader, ‘The Cultural Conditions of Transnational Citizenship: On the Interdependence of Political and Ethnic Cultures’, *Political Theory* 25(6), 1997, 771-813; For a criticism of the liberal states’ myths of ‘difference blindness’ and ‘neutrality’ see Veit Bader, ‘Religious Pluralism: Secularism or Priority for Democracy?’, *Political Theory* 27(5), 1999, 597-633; For a critical perspective on secularism see, T. Modood, ed., 1996, *Church, state and religious minorities*, London: Policy Studies Institute; R. Bhargava, ed., 1998, *Secularism and its critics*, Delhi: Oxford University Press.

- a). to the greatest benefit of the least advantaged, consistent with the just savings principle, and
- b). attached to offices and positions open to all under conditions of fair equality of opportunity (Rawls 1973: 302)

Rawls's 'difference principle' and his overall theory appears to be emphasizing the principle of need especially through his concept of 'primary goods'. Primary goods are, 'things it is supposed a rational man wants whatever else he wants' including, 'the basic liberties', 'freedom of movement and choice of occupation', 'powers and prerogatives of office and positions of responsibility', 'income and wealth' and 'the social bases of self-respect' (1971: 61-65, in Sen 1988: 277). In his later work, Rawls (1993) defines primary goods as,

things which is supposed a rational man wants whatever else he wants. Regardless of what an individual's rational plans are in detail, it is assumed that there are various things which he would prefer more of rather than less (p.92).

If Rawls's 'primary goods' is understood to have the quality of something that is required as a condition of survival or for the sustenance of human life, then it is rather hard to conceive what principle of justice other than basic need could be more legitimate for the distribution of those primary goods. Indeed, 'basic needs', the kind that is conditional or prerequisite for life has to figure strongly in any discussion of poverty alleviation and in theories of equality and distributive justice. The most famous articulation of justice based on the principle of need is of course, the Marxist notion of "to each according to his needs" whereby in a free and egalitarian society, as the culmination of human reason and ethics, there will be no need for a principle of distributive justice.

Desert as a principle of justice seems to be very much prevalent although not often explicitly expressed in modern capitalist and individualist societies. The overriding emphasis on individualism suggests a rational entity who possesses capacities, talents and skills for the contribution of which he/she expects to be justly rewarded. Also, because there are differentials in each individual's capacities and abilities out of which will result 'just differentials', this notion of desert does make sense, although very superficially. This is also referred to in a similar vein as the 'merit principle' or the meritocratic view of an ideal society; to do justice is to distribute something in accordance with ability and hard work etc. A criticism of this view objects that while it points to individual qualities, talents and potentials, it ignores their 'social origins'. It also claims that "'merit" is not a neutral and objective criterion for settling which of several candidates should be given sought-after position, but instead socially con-

structed notion that works in favour of those already entrenched in positions of power' and that 'it replaces a concern for equality of outcome with a concern of opportunity' (Miller 1999, p.197-80). The reductionist tendencies that are so much a hallmark of contemporary industrialized societies can and in fact do view 'merit' in a very narrow sense and therein lies the danger with this view of justice and an ideal society. Miller rightly criticizes this tendency in the talk about the justice of meritocracy:

The danger inherent in meritocracy is that one dimension of merit will be given too great an emphasis, both in terms of the esteem that attaches to it, and in terms of the material rewards that it commands. Someone who has the skill to make arts and crafts, say, that people want to buy gets recognized and rewarded; someone whose skills are less tangible but from a wider social point of view just as valuable...is liable to have her merits ignored' (1999, p.199).

One can think of a situation where an enthusiastic, if not outright predatory, financial speculator is given more 'merit' points for his 'contribution' than a devoted teacher or social worker, a scenario not too much far away from contemporary reality.

In an extreme version of such an individualist/atomist perspective (already a feature of many advanced societies) each individual sees himself/herself as an island, capable of surviving on his/her own and because of this, nobody has any obligation to anybody else. The notion of individual here is often that of the economically rational consumer, the so-called rational *homo economicus*, with preferences rather than a social and public being say, a whole citizen whose 'developed capacities and their value owe something to society' (Taylor 1986: 60) a society, to which his/her relationship is complex and mutually developmental, in a dialectical sense. Taylor (1986) calls this desert based concept of justice the 'contribution principle' and argues that:

This is not a doctrine that is anywhere spelled out. Rather what I am trying to do...is sketch what I think is the implicit background to a widely held principle of distributive justice in our society, which we can call the contribution principle. This is (at least partly) what lies behind the widely felt intuition that highly talented people ought to be paid more than the ordinary, that professions requiring high skill and extensive training should be more highly remunerated, and in general that complete equality of income, or distribution according to need, would be wrong (p.53).

Taylor sees this 'contribution principle' as a prominent feature of what he calls the 'atomist' view of western industrial society which has brought about a

“privatization” of life and that this privatization ‘naturally makes us tend to look at society as a set of necessary instruments rather than as the locus in which we can develop our most important potential’ (1986: 51). However, his conclusion is that

Justice involves giving appropriate weight to both of these principles [equalization/ principle of equal sharing and “differentials” or the contribution principle]...in any society that is *inter alia* an enterprise of economic collaboration, and in which the economic contributions are not equal, as they cannot be in an advanced technological society, some form of the contribution principle is valid (p. 63 original emphasis)

This seems to be the kind of approach that is advocated by many other justice theorists although in different formulations and with mixtures of principles. For example Galston (1986) argues on similar lines and proposes two principles that according to him typifies modern liberal societies:

First, goods and services that fall within the sphere of basic needs are to be distributed on the basis of need, and the needs of all individuals are to be regarded as equally important. Secondly, many opportunities outside the sphere of need are to be allocated to individuals through a competition in which all have a fair chance to participate (p.89).

For his part, Michael Walzer in his seminal work *Spheres of Justice* (1983) has argued that ‘Desert does not have the urgency of need and it does not involve having (owning and consuming) in the same way’, and that, ‘it is a strong claim, but it calls for difficult judgments; and only under very special conditions does it yield specific distributions’ (p.24-25)

While the equality of opportunity, as implied by the second principle in the above quote by Galston (1986), should not be confused with equality of endowment (individuals with similar naturally endowed capacities etc. rather than unique ones with varied natural capacities) and/or equality of outcome (similar and equal outcomes), it can however, be argued that there is a substantial relationship between equality of opportunity and equality of outcome in modern societies many of which are far from egalitarian and are in fact, increasingly becoming polarized. For example, in such modern societies the contemporary available opportunities have a causative relationship to and depend upon the outcomes of the previous ones or, as an egalitarian perspective would argue opportunity in a hierarchical society depends ‘not only on an open road but also upon an equal start’.

It is thus, the “equality of conditions”, the background conditions, or the equality of circumstances which influence the opportunities and the outcomes and which are then evaluated in a manner that makes the equality of opportunity concept relevant and meaningful. From the emphasis that an “equal start is also important in addition to an open road” or that because of the injustices or barriers and obstacles created by previous outcomes, the implication is that some sort of corrective measures (compensation?) will be needed if distributive justice is to mean anything. A clearer version of the same view can be found in Walzer (1986) who says:

Today’s inequalities of opportunity derive from yesterday’s victories and defeats; they are inherited from the past, carried not by genetic but by social structures, by organized power, wealth, and professional standing (p. 144).

These and other similar observations are at the center of the disagreements in the discourses of not only domestic but also of international justice. For instance, regarding greenhouse gas emissions in particular and other environmental goods and bads in general (the waste trade or the ‘traffic in risk’) an important bone of contention between the states at international fora is that of demand for responsibility based justice, especially, both contemporary and ‘historical responsibility’. The concept of ‘natural debt’ also refers to history and the historical patterns of use of nature and global natural commons.

Another perspective on justice is that which focuses on the principle of entitlement and its most well known advocate is Robert Nozick through his well-known work *Anarchy, State, and Utopia* (1974). Nozick’s theory is basically a defense of private property rights. The justifications of ownership are reflected in Nozick’s entitlement view in the following quotes (all cited in Dobson 1998: 77, 144):

‘Things come into the world already attached to people having entitlements over them’

‘The general outlines of the entitlement theory illuminates the nature and defects of the other conceptions of distributive justice. The entitlement theory of justice is *historical*; whether a distribution is just depends upon how it came about’ (original emphasis)

‘Justice in holdings is historical; it depends on what actually happened’

‘Whatever arises from a just situation is itself just’

and

In a free society, diverse persons control different resources, and new holdings arise out of the voluntary exchanges and actions of persons. There is no more a distributing or distribution of shares than there is a distributing of mates in a society in which persons choose whom they will marry. The result is the product of many individual decisions which the different individuals are entitled to make (Nozick, 1974: 149-150, cited in Low and Gleeson 1998: 79).

Nozick and before him Fredrick Hayek have argued for a property-based approach to justice meaning entitlement to property. Justice is about the acquisition and transfer of private property. In their view justice is frequently seen in its procedural sense; the justice of the outcomes are not relevant as long as the procedures have been just. Moreover, if the 'original' acquisition and the subsequent transfers of property was just, then claims made on other principles of justice like need for example, are less important or irrelevant. This 'original' acquisition of property draws from a 'Lockean proviso' according to which an acquisition should not worsen the position of others by preventing them from acquiring the same.

The entitlement approach to justice has its fair share of critics⁶. An obvious problem arises with its claims regarding the legitimacy of the initial 'original' acquisition of property. The Lockean proviso that it draws upon may hold true for certain situations where resources are in abundant supply but where resources are scarce and are of vital nature, such 'original' acquisitions can become monopolistic, with no concern for vital and basic human needs and can, therefore, be deemed unjust and unethical. Furthermore, the kind of accurate and 'just' information needed to make such a claim may not be always available. The element of uncertainty and distortion, therefore, creep in as regards the legitimacy of much of existing private property. Cohen (1985) makes a seemingly insignificant point but which has validity if one takes into account recent centuries of world history which is full of stories of exploitation, plunder and coercive occupations of land and other resources:

Take, for example, the shirt that I am wearing. Superior force, nothing more, is the likely means whereby whoever first privatized the land from

⁶ 6. Among others, see the works of the Marxist writer G.A. Cohen especially his essay, 'Self-ownership, world-ownership and equality', in F.S. Lucash, ed., *Justice and Equality: Here and Now*, Ithaca NY and London: Cornell University Press, 1986, and G.A.Cohen, 'Nozick on appropriation', *New Left Review*, 150, March/April 1985, 89-107; Amartya Sen's work is also critical of the entitlement theory of justice. See, *Poverty and famines : an essay on entitlement and deprivation*, Oxford : Clarendon, 1981.

which came the cotton out of which it is made secured his title to it (p.92).

The economist Amartya Sen's work on famines and his observation regarding entitlements critically shows that how under such "justly held" or "unrestricted" or "inalienable" property rights famines can and have occurred and have left a track of detrimental consequences for the victims of starvation. In a situation of hunger and starvation 'there was no overall decline in food availability at all, and the famines occurred precisely because of shifts in entitlement resulting from exercises of rights that are perfectly legitimate' (Sen, 1984: 311-2). But while entitlements can result in certain terrible and undesirable outcomes, in terms of global commons or 'environmental space' like the emissions of greenhouse gases it is often the choice principle of justice for those who demand 'equal rights of all individuals on earth to the use of the atmosphere' (CSE 1992: 276). For example, the Indian non governmental organization the Center for Science and Environment (CSE) one of the most vocal NGOs from South, argued for such entitlements in their statement issued prior to the UNCED sponsored Earth Summit in Rio in 1992. In proposing an equal rights to the atmosphere, the CSE argued - and still insists on such a principle - that the 'South should be demanding compensatory measures from the north for errant behaviour as a question of its right over global resources' (p. 278). Further, it maintains, among other things, that its proposed scheme should be attractive to all parties because:

1. it is consistent with the norms of human rights and equality, [and that]
2. it is a system built on rights, not on aid or charity or undue and unequal obligations (CSE 1992, p.278).

An exclusive insistence on entitlements or rights may well be disadvantageous for those who do not possess the necessary capacities and tools either because of 'historical barriers' or previous injustices, or because of naturally unequal endowments, which are often made even more unequal because of the existing structural and systemic unequal arrangements. It is also important to note that, given the fact that the principle of 'poor sell cheap' is a prominent feature of the rapidly globalizing capitalist world economy, there is no good reason to think that the environmental resources and their associated functions that the poor would come to own as a result of property rights (in itself unlikely the way things stand at present), will be sold or exchanged at socially just and 'ecologically correct' prices. There will always be incentives for abuse of these 'rights' as long as there are no mechanisms against exploitation in an economically polarized and unequal world. The weaker parties' acquiescence to sell cheap to the powerful (because there are immediate survival needs or because there is a lack of information and knowledge about the nature of the

agreements and the long term consequences of such selling) could itself be a reflection of background injustices (Shue, 1992). It is these background issues that compound the discourses of justice. Or in other word, a historical and inherently political understanding and theorizing about justice stand in sharp contrast to a narrowly rational and 'pragmatic' approach to justice. For example, from a game theoretical perspective leverage in negotiations depend exactly on how justice is viewed and, more importantly, on how issues are linked to arrive at definitions and perspectives on justice. While history matters, it can be argued that historical type arguments can well be amenable to abuse by entrenched interests parading as the voice of the poor.

6. Environment, International Justice and the Universal/Particular Debate

Jamieson (1994:203) has suggested: 'Perhaps the most important idea of global environmental justice views the environment as a commodity whose distribution should be governed by principles of justice'. But can there be such a justice? This is a very contentious issue and some think it is impossible to talk about such a thing as 'international justice'. One such view is that identified with the 'realist school' of international relations that deny the application of any kind of ethical or moral principles across societies and on a global scale. This perspective remains the dominant normative view of international relations (Baylis and Rengerr 1992, p.9). The idea is that since there is no global 'community', there cannot be international justice and that politics should be seen separately from ethics. It stresses order and survival (often seen as the 'morality of states') and not justice, national interests and security and not moral and ethical considerations. The perspective is supported by a Hobbesian and Machiavellian state-centric worldview with narrow, inadequate and essentially egoistical assumptions about human nature. This kind of view especially in relation to matters of inter-state justice, although with different political commitments and ethical foundations, is also reflected in many other theories of justice especially those that have now come to be known as the 'communitarian' theories. These perspectives critique universalist and 'abstract' idea and 'seek to derive justice from "history, tradition or local context"' (Attfied and Wilkins, 1992:6). For example, Michael Walzer's influential *Sphere of Justice* (1983) is one such theory. Walzer who is one of the most radically liberal and pluralist communitarians, puts forward a 'pluralistic' approach that argues for different 'spheres' and principles of justice:

I want to argue...that the principles of justice are themselves pluralistic in form; that different social goods ought to be distributed for different reasons, in accordance with different procedures, by different agents; and that all these differences derive from different understandings of social goods themselves - the inevitable product of historical cultural particularism (1983: 6).

For Walzer (1983:5) 'Justice is a human construction, and it is doubtful that it can be made in only one way'. Goods have different social meanings and they are all social in nature. 'Goods in the world have shared meanings because conceptions and creation are social processes. For the same reason, goods have different meanings in different societies. The same "thing" is valued for different reasons, or it is valued here and disvalued there' (p.7). Also:

A single necessary good, and one that is always necessary - food, for example - carries different meanings in different places. Bread is the staff

of life, the body of Christ, the symbol of the Sabbath, the means of hospitality, and so on (p.8).

Walzer is correct as regards the different social meanings and values of goods in different places. But if one may ask why in certain concrete situations something as necessary, a “staff of life” like bread, has different value and meaning in different places or, why a starving person sees bread in a different light from someone else who is not faced with the same predicament? It is then, not difficult to see that it is basically the circumstances, some of them life threatening, that produce these different understandings of the otherwise same thing. In such extreme cases most ethical positions and systems would suggest that *need* be the choice principle of distribution. But Walzer casts doubts: ‘If the religious uses of bread were to conflict with its nutritional uses - if the gods demanded that bread be baked and burned rather than eaten - it is by no means clear which use would be primary’ (p.8). While Walzer is certainly not implying this, an ironic meaning could be read into the ‘religious uses’ of basic commodities or resources to mean as those uses which are dictated by the instrumental and narrow calculus of capitalist market economy that see nothing wrong in channeling critical resources into non-basic needs investments and by ‘gods’ to mean as the powerful terrestrial entities that have vested interests in such investments! After all, according to this kind of rationality, it indeed becomes very much clear which use would be primary because it makes much more sense to invest in producing ‘nutritious’ food for the pets of the wealthy that will bring more returns to the investor(s) than to invest in food crops or in other ventures that may not bring the same kind of profits but will surely save starving lives and reduce human misery.

The recent debates between liberal and the communitarian theorists of justice is of particular interest here regarding international justice. Liberal theories have recently been accused of being too ‘abstract’ not grounded in social reality, not context sensitive and that they avoid taking into account the differences among communities, societies and states etc. Their apparent attempt to look for a single principle or single set of principles of justice is particularly criticized. In this way, its communitarian critics are increasingly questioning the ‘universalism’ of liberal theories of justice. Rawls’ ‘impartiality’ and ‘justice as fairness’ and liberal secularism’s apparent ‘neutrality’ have come under critical scrutiny. Moreover, most liberal theorists are accused of being too staunch advocates of the secular ‘wall of separation’ between say, religion and public affairs at the cost of undermining cultural, religious diversity and democratic pluralism (Bader, 1999). Bader (1999) suggests that liberal theorists should be concerned more with the ‘priority for democracy’ rather than with the myths of ‘neutrality’ and a ‘hands-off’ approach to justice. Carens (1999) argues on similar lines and thinks that a better approach to issues of justice would be one of ‘immersion’

rather than abstraction and ‘neutral’ distance. The similarities of this view with some feminist perspectives like the ‘ethics of care’ (Gilligan 1982) are striking. ‘Immersion’ or inclusiveness is a feature of Iris Young’s (1990) conception of justice, which is also very critical of the ‘neutrality’ and ‘impartiality’ thesis. Young’s argument can be seen as a standard critique of the strict ‘impartiality’ position like that of Rawls :

Rawls presents us with not so flashy a fiction, but the original position which he constructs as the point of view of impartiality is...utopian....The ideal of impartiality is an idealist fiction. It is impossible to adopt an unsituated moral point of view, and if a point of view is situated, then it cannot be universal, it cannot stand apart from and understand all points of view (1990: 104).

Among other things, the communitarian perspectives seem to be attempting to bring back a substantial ethical outlook into conceptions of justice; a virtue based outlook on issues of justice. This is particularly visible in the work of Alasdair MacIntyre (1981) which argues for a ‘virtue ethic’. For MacIntyre cultural traditions, their vocabularies and narratives are indispensable and cannot be discarded if we want to conduct a meaningful discourse of justice and rationality. Communitarian theories appear to be reluctant to talk about universal justice based on a theory that will have a universal descriptive and prescriptive reach. While the idea of international justice seems to be unattractive to communitarian theorists they do, however, express their concerns and call for international charity and aid.

What is often being suggested is that while there should be international concern in the form of charity and humanitarian action, there can be no international justice. But is it possible, to achieve ends of justice through charitable means and if it is, should it be? What is the normative and substantive difference between the two and how they relate to and affect the dignity or the sense of that dignity of a person, a group or community to whom a charitable ‘justice’ is done? Is charity and aid the way to go in addressing the cumulative products of past injustices which are, ironically, so well captured in a previous quote by Walzer (1986) himself?

Today’s inequalities of opportunity derive from yesterday’s victories and defeats; they are inherited from the past, carried not by genetic but by social structures, by organized power, wealth, and professional standing (p.144).

Belsey (1992) replies with an example of famine:

It is a truth, though a depressing one, that even if the immediate and desperate crisis of famine and starvation could be solved, the underlying problem of widespread absolute poverty would remain, and with it the constant threat of breakdown into further famines. Famine relief is of course vital, but because it is treating the symptoms rather than tackling the underlying causes, it is only amelioration and not a cure (p. 36).

George (1992) who has explored the politics of food and hunger also argues for justice because charity as a 'stop-gap' does not address structural and systemic causes of injustice.

There is something disturbing when the two are conflated and confused with each other. Although in a sense justice cannot be separated from virtues like care, concern and compassion for instance, it cannot be replaced with them either without changing its substantial meaning and its intrinsic essence radically; the kind of essence that is constitutive of these virtues yet is something more. A similar sense permeates, for example, the Kantian notion of 'moral equality' of all persons. Perhaps this is what substantive theories of justice also argue for, that is, to have some general concept of the good, the ethical and the rational as one dialectically synthesized concept which would guide justice essentially because as 'morally equals' humans are ends in themselves and when these ends are intentionally violated by some, anywhere and at any time, injustice is done. But what the 'recipients', if not the victims, deem unjust because of the circumstances that they find themselves in - circumstances which are not 'natural' or 'inevitable', which are 'carried not by genetic but by social structures' - solution has to come through a framework or theory of justice and not charity. It is always possible that in such situations charity, however necessary and desirable, could actually legitimize injustice. Moreover, and perhaps more relevant here, it is perfectly possible - in fact a feature of certain strands of environmentalism - to talk passionately and benevolently about 'care' and 'concern' for the environment, for 'wildlife' preservation, even about sustainability, without ever talking about social justice in any substantial and meaningful sense.

Another objection made to the universalist views of justice is that by the dominant 'realist' school on the grounds of reciprocity which, in a nutshell, means that because there is no real reciprocity (of power and not moral) therefore, there are and can be no obligations of the powerful towards the weak. Nielsen (1992) has argued that instead of such a reciprocity there is a need for 'moral reciprocity' based on the Kantian conception of moral equality. The 'realist' school is realist in that it takes for granted, even justifies, contemporary power structures and power-relations often in an ahistorical framework. But history matters and historical contexts matter. It matters everywhere. Claims based on conceptions of histories matter. It (the realist position) discounts all

this and it fails to see how the dialectic of power has developed through the ages and in that development process who and how some were systematically trampled down and disempowered through unjust practices and abusive exercise of power. Justice is not just about 'here and now' but equally about 'there and then'. But for such perspectives it appears that justice is not an issue to be argued from grounds with such implicitly judgmental orientations, as if there was such a thing as 'ethical neutrality' or some imagined view from nowhere to talk about such inherently normative issues. This kind of outlook with its own logic of reciprocity of power might as well disregard all claims of justice and obligation towards the weak (therefore, all) non-human life forms because just like their weak and oppressed human counterparts, they are also unable to reciprocate enough to counter 'real' and existing power.

The dominant reductionist views about international relations, politics and the deafening silence about historical, structural nature of oppression, exploitation and discrimination makes any talk of international justice irrelevant. The state-centric conception of world politics with obsolete and particularistic political forms refuses to acknowledge new, complex and dangerous problems that potentially threaten the possibility and the character of life forms not just within confined borders but also on the planet as a whole. But this refusal in itself becomes an injustice because it ignores the changed nature of the interaction of states and non-state actors in the global arena and the resulting benefits and burdens that are produced and shared, often disproportionately and undeservedly, by the parties. The very word 'interdependence' has taken a new meaning. A world in which states are seen as autarkic with exclusive concern for what happens within the domestic borders is a world blind to injustices at other supra-state levels. Beitz (1979) while criticizing the passing concern shown by liberal theorists for international justice has argued that 'In an interdependent world, confining principles of social justice to domestic societies has the effect of taxing the poor nations so that others may benefit from living in "just" regimes' (p.150). In the context of migration and border controls in liberal/democratic societies Bader (1995) has termed this kind of attitude as 'collective welfare chauvinism' (p.215).

The realist state-centric position with its over-emphasis on the twin principles of territoriality and sovereignty while suitable for the management of more localized natural resources is dangerously at odds with many areas of the biosphere that needs collaboration or joint action. These areas are commonly known as the global 'commons' or within the theoretical constructs of social science as 'collective goods' (Rowlands 1992, p.290). This kind of understanding of global resources and their management calls into question the conventional unilateralist attitude towards global issues. In recent years this critical challenge has been partially gaining some acceptance, as also evident in certain environ-

mental treaties and agreements, but it has a long way to go in order to replace the entrenched worldviews that dominate global politics of international relations. If such issues cut across national boundaries and there is growing degree of interdependence, then with each interaction complexity of issues is bound to grow and within each interaction there are normative issues involved that defy isolationist and reductionist disciplinary thinking. The proper tools of analysis needed must then be diverse and cross-or trans-disciplinary. For example, Rowlands (1992), in pointing out the growing interest in 'trans-boundary material flow' has argued that 'this issue has increased the challenge to our traditional interpretation of international relations by clearly revealing the true "interdependence" of the global environment: trans-boundary actions can effect another state' and that 'it further illustrates the permeability of the realist's billiard ball by demonstrating that international issues can have their origins in domestic concerns' (p.295).

Returning to the universal/particular debate, if it appears that the circumstances of justice are plural and complex then it would be rather futile to argue for a single principle to be valid universally and for all situations. But this complexity and diversity need not lead us to a silence and surrender in the face of pervasive issues of oppressions and injustice with global reach and effects. Regarding the now much dissected incompatibility thesis of universal 'abstraction' and particular 'sensitivity to context', O'Neill (1992) using the example of poor women in impoverished economies, who she identifies as the 'impoverished providers', has cogently and convincingly suggested that this dichotomy is unnecessary and can be avoided. She distinguishes between 'idealization' and 'abstraction' and argues that abstraction is possible and perhaps necessary for an international theory of justice without idealization: 'Abstract principles can guide context-sensitive judgment without lapsing into relativism' (p.53). She argues:

Idealizations may privilege certain sorts of human agent and life and certain sorts of society by covertly presenting (enhanced versions of) their specific characteristics as true of all human action and life. In this way covert gender chauvinism and an exaggerated view of state sovereignty can be combined with liberal principles. Idealization masquerading as abstraction yields theories that appear to apply widely, but which covertly exclude those who do not match a certain ideal, or match it less well than others. Those who are excluded are then seen as defective or inadequate (p.58).

Moreover,

Idealized conceptions both of state sovereignty and of state boundaries limit discussions of international distributive justice....The only way to find theories that have a wide scope is to abstract from the particularities

of agents; but, when abstraction is displaced by idealization, we are not led to theories with wide scope but to theories that apply to idealized agents (O'Neill 1992, p.61).

Whether this kind of 'abstraction without idealization' remains an open question. But it does hint towards a way forward to establish general human interests, for example, in the context of global environmental issues and the situations of justice arising therein. The particularistic corrections to strict 'neutrality', 'impartiality' or 'difference-blind' positions of liberalism should be welcomed but without creating a false dichotomy that sees all types of universal conceptions as impossible at best and totalitarian or oppressive at worst. The other extreme that puts too much emphasis on the particular and the specific at the cost of the universal and the general, may itself become an obstacle to the elaboration of an inclusive and immersed conception of justice at all levels, which is so much needed to address the contemporary human condition. Oppression and injustice have many faces as Young (1990) has argued. They affect at different levels, their victims live in different places and the victimizers, either people or institutions are sometimes different and at other times the same. While some of these faces are easily visible and recognizable, others, more pervasive and structural ones are not. Harvey (1999) calls these subtle, non-violent but deeply damaging forms of oppressions as 'civilized oppression'. Harvey argues that 'Western societies generally and specific institutions within them may pride themselves on being examples of civilization in practice, yet oppressive relationships may pervade some of these institutions, even though the absence of force and of overt denials makes their analysis challenging and their recognition a matter of skill' (p.180). If one ignores, or fails to talk about one kind of oppression and protest against another, then one is not doing much justice after all. Moreover, one should always try to keep the big and historical picture of injustice in mind while at the same time being critically aware of the local and particular forms and of all the other faces, sometimes changing faces, of oppressions and injustices. The big picture injustices are those that are reflected in the contemporary world in the form of oppressive neo-imperialist institutions and relationships.

The universalist-particularist debate about justice issues has implications for any discourse of international (environmental) justice. For example, whether the liberal/communitarian debate can lead us to a new understanding of a rapidly changing world throwing up complex and complicated social and environmental problems with deep ethical implications, remain to be seen. So far, it seems that these debates are not adequately engaged with these issues but have been more focused on methodological and philosophical arguments. Some of the implications will become clear in the following sections.

7. Towards a ‘Shared but Differentiated Responsibilities’ Conception of Environmental Justice

7.1 Vulnerabilities, capabilities and environmental victims

The Brundtland Report (WCED) claims that “inequality is the planet’s main environmental problem” (1987:5). One could as well think of it as a social and historical ‘problem’, as a cumulative end-product of historical events and processes. A more deeper view would think of it as an ethical problem. But one must ask, ‘inequality of what ?’ Or more precisely, ‘Equality of what?’, as Amartya Sen has done. Sen’s work on capabilities, freedom of choice and alternatives and their effects on well being and quality of life are major contributions to moral philosophy and welfare economics. In addition to his contribution to the understanding of famines and how and why they occur, Sen has also significantly added to the ethical basis of justice which he ‘locates not so much in needs, interests or rights but in human capabilities and their facilitation’ (Attfield and Wilkins 1992:2). In a series of publications and lectures Sen has tried to establish the relationship between freedom and capabilities and their overall influence on and relationship with people’s quality of lives and well being. On the one hand, Sen makes a distinction between ‘negative’ and ‘positive’ freedoms based on Isaiah Berlin’s concepts of the two terms and, on the other hand, between ‘instrumental’ and ‘intrinsic’ freedoms. Negative freedom is understood as the non-interference of others in an individual’s affairs whereas positive freedom has a more substantial meaning and is understood as a person’s actual capacities to do something or to be. Sen defines the latter set as:

In the ‘instrumental’ view, freedom is taken to be important precisely because of its being a means to other ends, rather than being valuable in itself. In contrast, the ‘intrinsic’ view of the importance of freedom asserts that freedom is valuable in itself, and not only because of what it permits us to achieve or do. The good life may be seen to be a life of freedom, and in that context freedom is not just a way of achieving good life, it is *constitutive* of the good life itself (1995:92).

Sen has particularly been concerned with positive and intrinsic freedoms because in his work on poverty and famines he has shown that a focus on negative freedom is inadequate. Recently, Sen (1999) has stressed upon the role of freedom as the determinant of the quality of our lives and that this quality in particular and development in general should not only be measured with narrower indicators but by our freedoms to do and be. This means that not only the inequality of wealth but also that of freedom and capabilities be of concern to us, although there are important linkages between the two. If there is a positive relationship between quality of life and quality of environment, it can

be argued that the range and quality of one's freedoms, particularly positive freedom, may also be measured by one's environment - especially when it directly and critically supports subsistence. That is, where there is better environment there is more freedom, or vice versa.

This kind of relationship has also been shown by the Environmental Kuznets Curve, the EKC⁷ although that quality and therefore, the freedom that makes it possible, may be "imported" or appropriated. Such ecological appropriations for example, have been shown in studies like 'ecological footprints', 'appropriated carrying capacity' and 'environmental space' which give estimates of how much one region depends and appropriates resources of other regions (Rees and Wackernagel, 1994). Ecological footprints simply means 'resources consumed per person'. For example, Rees estimates that 4-6 hectares of land are needed to maintain the average consumer lifestyle in the North or the developed countries. Yet in 1990 the total available productive land globally was only 1.7 hectares per person. Giving the example of Netherlands, Rees estimates that it consumes the output equivalent to 14 times as much productive land as is contained within its own borders (figures cited in *New Internationalist* 1996, p. 19). The deficits in this case and most other similar ones are usually expropriated for example, from the resources of lower-income countries usually through 'free' trade in primary products.

Before exploring the implications of all this for a proposed theory of environmental justice let us turn to some other similar findings regarding differential impacts. According to Boyce (1994), 'environmental degradation per unit consumption is not necessarily constant across income classes....Indeed, it is conceivable that degradation per unit consumption is *greater* for the rich; compare, for example, bicycles and automobiles' (original emphasis, p.173). This kind of observation is also similar to the claims of environmental justice movement. Boyce introduces a 'political-economy framework' in the argument by pointing to the important big divider - power. For instance, since, in the real world, power more often than not, correlates positively with wealth, Boyce (1994) believes that 'situations in which the winners are powerful can be expected to occur more frequently than situations in which the losers are powerful' and that 'the greater the inequality of power, the greater the extent

⁷ EKC describes 'the relationship between some pollutants and income as an inverted-U increasing levels of pollution for people living in lower income countries and declining levels of pollution for higher per capita incomes', (Rothman and de Bruyn, 1998, 'Probing into the environmental Kuznets curve hypothesis' *Ecological Economics* 25, p.143). The relationship derives its name from the works of Simon Kuznets who first proposed a relationship between income and economic growth. See S. Kuznets, 1955, 'Economic growth and income inequality, *American Economic Review*, 45, pp:1-28.

and social cost of environmental degradation' (p.173). He therefore, concludes that 'democracy and equity are important not only as ends in themselves, but also as means to environmental protection' (Boyce 1994:178).

Torras and Boyce (1998) who have carried out a critical reassessment of the Environmental Kuznet's Curve (EKC) argue that 'changes in the distribution of power are central to the connection between the two phenomenon [income and pollution in the EKC]' (p.149). The authors make an important observation in their conclusion that, 'as average income in a given country rises, pollution-intensive production may be relocated to lower income countries. If so, this may reflect power inequalities among countries, as well as within them' (p.158). Since the capitalist world economy is very much infused with risk, and there is a growing hostility of communities in the industrialized world towards the siting of risk-producing land uses an 'efficient' 'traffic in risk' is just a logical outcome. Low and Gleeson (1998) have argued that 'given these centrifugal social and regulatory pressures, it should be no surprise that environmental organizations are reporting a flourishing trade in toxic wastes, exported mainly from developed countries to developing countries' (p.122). Today many of the persistent environmental harms and risks are not 'solved' but the impacts are simply shifted from one locality to another. Dryzek (1987) has shown this tendency of 'displacement' using the case of acid rain in USA. It is solved by building tall smokestacks: 'Instead of polluting areas adjacent to copper smelters in Utah or coal-burning power stations in Ohio, the sulfur dioxide ends up in the form of acid rain in rural areas such as the Rocky Mountains or the Adirondacks' (p. 16).

Dryzek notes three forms of displacement:

1. Spatial displacement. For example shifting waste dumps from one place to another
2. Displacement through shifting the problem to another medium. For example dumping in the sea instead of on land
3. Temporal displacement; Problem is delayed and displaced into the future. For example the long-term effects of nuclear testing (cited in Low and Gleeson 1998, p.35).

What makes these situations more problematic and unjust is the difficulty in attributing responsibility for ecological disasters. The tragic incidences like the one that happened in Bhopal in India is a good example to see how risk-producing entities can get away without shouldering responsibility for their acts. Multinational capital in this particular case was able to solve the issue outside court and cheaply: 'Indeed, as the Indian government argued when seeking to have Bhopal case heard in a US court, multinational capital is able to use its

detrterritorialised organizational structure to maximize the advantages of the “organized non-liability” (Low and Gleeson 1998, p.127).

But there is a more pernicious form of ecocide that is not all too visible; a kind of slow death that occurs through sustained poisoning and degradation of environments and life support systems. More than 100 million people are displaced every year from their local environments by mega-development projects in the developing world. Valleys are flooded, villages drowned, land appropriated for more commercial projects the fruits of which are not justly shared. There are numerous small, unreported but equally lethal Bhopals that happen in many of these places. Weir (1987) notes:

Bhopal is being repeated, not just as explosions, infernos, and deadly clouds heard, felt, and seen, the world over, but as ‘mini-Bhopals’ - smaller industrial accidents that occur with disturbing frequency in chemical plants in both developed and developing countries. Even more numerous and deadly are the ‘slow-motion Bhopals’ - unseen and chronic poisoning from industrial pollution that causes irreversible pain, suffering, and death (p. xi-xii).

Returning to Sen (1988), if ‘The freedom to choose between alternative functioning bundles reflects a person’s “advantage” - his or her “capability” to function’ (1988: 279), then, conversely, it can be argued that the unfreedom, or the lack or absence of freedom to choose between alternatives will reflect a person’s ‘disadvantage’ - his or her ‘incapability’ to function or function properly. This incapability will also be a reflection and a cause of the person’s vulnerabilities. A major share of these vulnerabilities could well be due to social-political, institutional/structural constraints, which incapacitate and dis-empower. Moreover, due to ecological dislocations both of local and global nature - themselves reflections of these arrangements - these vulnerabilities could further be worsened.

A good example of this kind of scenario has been presented by Onora O’Neill (1992) whose focus on the poor women in poor countries, the ‘impoverished providers’, raises crucial issues of justice. It is argued:

Women’s lives are not well conceived just as those of idealized individuals. A world of such individuals assumes away relations of dependence and interdependence; yet these are central to most lives actually available to women....These women may depend on others but lack the supposed securities of dependence....They are powerless, yet others who are yet more vulnerable depend on them for protection (O’Neill 1992:51)

There are similarities between demands for gender and international justice. In the global context, the vulnerabilities of the 'impoverished providers' and those of the 'impoverished' in general are similar in the sense that while the difference certainly exist in degree, it may not exist so much in kind under certain circumstances. It is possible to think of a situation in which while those who are not the most vulnerable 'impoverished providers' in the domestic sphere are, nevertheless, absolutely vulnerable and 'impoverished' on a different scale, in a different bigger circle or sphere to which they also belong and depend upon in addition to the smaller ones. This comparison is not meant to belittle the experiences and the predicaments of the former and it should not be seen as a condonation or justification of the existence of domestic or local structures of oppression. But that these local spheres of injustice are also situated in and are part of a wider, bigger unjust sphere the workings of which affect *all* the impoverished - impoverished to different degrees, but nevertheless impoverished. O'Neill (1992:51) argues:

They may find that they are relegated to and subordinated within a domestic sphere, whose separate and distinctive existence is legitimated not by appeals to justice but by entrenched views of family life and honour. They may also find that this domestic sphere is embedded in an economy that is sub-ordinate to distant and richer economies...their rewards fluctuating to the beat of distant economic forces.

A serious and just account of justice cannot ignore the plight of O'Neill's 'impoverished providers' in marginalized and developing economies but that account of justice cannot also gloss over the predicaments of the impoverished in general, who may be the oppressors in one sphere but the absolutely vulnerable and oppressed in another and who may suffer equally in the wake of ecological disasters not necessarily, and more important, not *equally* of their own making. Such a conception of justice needs, perhaps, a kind of 'contribution principle', like the one discussed earlier, not only for environmental 'goods' and the consequent rewards but also for environmental 'bads' and the say, consequent penalties, to strike a fair balance.

Because the weak and vulnerable are not equal partners in power relations and lack not only the resources that are the determinants of capabilities but also the freedoms to exercise them or the power of agency to employ them, they are always in a disadvantaged position. For example, in negotiations and transactions the existence of such vulnerabilities cannot give rise to a legitimate consent or agreement because of the disparities in access to information and knowledge, the security to dissent and to have an equal say in the change or modification of arrangements. If the present circumstances of justice are 'ethical diversity' (O'Neill 1988:718), then it is important to note that this 'ethical

diversity' is, however, shaped by the equally diverse universe of experiences and encounters some of which are enabling and empowering while others disabling and disempowering; some enhance capabilities and freedoms while others restrict and stunt these capabilities which are potentially latent and reside in every human being. The internal, local and domestic *as well as* the external, universal relations, unequal exchanges and interdependencies contribute to these circumstances of (in)justice and inequity, environmental or otherwise. If such is the contemporary state of affairs at local/national as well as global levels, then what kind of a theory of justice is required? How can justice be deliberated and established in an unequal world with such 'impoverished' vulnerable agents?

7.2 Responsibility: shared but differentiated

In our contemporary, rapidly globalizing world, in all spheres of commerce, culture and communications, if one consider the nature, scope and reach of most accompanying social and environmental influences and the impacts that arise out of the pursuance of different interests through the complex mechanisms of interdependencies and interactions, then one is faced with a rather novel situation. This is a situation of mutual involvement of agents, be they individuals, groups, states or multinational corporations, and their corresponding mutual claims of rights and obligations. That these impacts can be, and actually are, variable within and across boundaries and spheres both in degree and in kind and which are coped with by agents with different vulnerabilities and capabilities cannot be overemphasized. In such scenarios (which are not too unrealistic but arguably contemporary and existing), while obligations to others decrease in strength as one moves away from one's immediate circle, as we are told (Wenz 1988)⁸, the impacts and consequences of actions of some may not necessarily decrease with distance from the inner most core. In fact, the very

⁸ Peter Wenz writes: 'The closer our relationship is to someone or something, the greater the number of our obligations in that relationship, and/or the stronger our obligations in that relationshipMy obligations toward a person increase with proximity to me of the circle on which the person exists (Wenz 1988, *Environmental Justice*, New York: SUNY Press, p. 316). This has remarkable resemblance to Sidgwick's nineteenth-century 'common-sense morality'. Sidgwick, long before Wenz's 'concentric circles' theory was formulated, said (failings of gender aside): 'We should all agree that each of us is bound to show kindness to his parents and spouse and children, and to other kinsmen in a less degree: and to those who have rendered services to him, and any others whom he may have admitted to his intimacy and called friends: and to neighbors and to fellow-countrymen more than others: and perhaps we may say to those of our own race more than to black or yellow men, and generally to human beings in proportion to their affinity to ourselves', quoted in A. Belsey 1992, 'World Poverty, justice and equality', in Attfield, R. and Wilkins, B. (eds.) *International Justice and the Third World*, Routledge, London p.38). Belsey rightly objects to such views that it is indeed true that most people's behaviors are exactly of that nature but is it justified to make a virtue out of this kind of rationalization of self-centeredness and then base a theory of justice on it especially in relation to issues and actions that have impacts, some of them very harmful, across boundaries, territories - national or otherwise - and 'circles'?

commonality of many environmental resources and services they provide gives them a global reach. The extent of an action's impact therefore, can no longer be restricted to a certain 'sphere' or 'circle' and this obviously creates an 'imperative of responsibility' among people who may or may not be the inhabitants of same ecological space or geographical, or for that matter, of emotional kinship 'circles'. As mentioned earlier, in Dryzek's view these problems are merely moved around or 'displaced' rather than dealt with in a meaningful way.

In the context of the contemporary patterns of social and economic change, if the extent of an action's impact goes far beyond the conventional political units and forms like the state, then what conceptions of community, justice and ethics are needed? For example, instead of tinkering with the dominant logic of international relations which precludes any attempt of expanding the notion of community, should we not be asking more fundamental questions about these issues? Linklater (1990) asks:

Does the state exhaust our political obligations, or are there wider and more fundamental obligations that survive, so to speak, the fragmentation of the human race into sovereign states? If there are surviving obligations, are they the obligations that states owe one another as members of a society of states? Are there duties that the individual owes to the whole of humanity, and are there rights that individuals can claim to turn against the human species and its political representatives? To what extent are there universal obligations not just to uphold the rights of human beings as far as possible within the current system, but to construct new global institutions and practices capable of realizing higher levels of human community and solidarity?' (p.136-37).

Fain (1987) has argued for a 'task-theoretic' normative politics. Fain sees the globalness of tasks as an appropriate defining category for these concepts of community, moral obligations and global responsibility. Fain has argued against 'legal conceptualism' and sees a normative imperative behind global problems. Since certain tasks cannot be solved by individuals and nation states, what we need is a notion of belonging and responsibility to a larger community. Similarly, Warner (1993) has suggested that 'The parameters of the community to whom one is responsible...vary according to the issue' and that 'the relationship between community and responsibility becomes crucial once we leave the liberal individual/state' (p.441). But I would argue that the relationship *between the individual and the world* - social as well as natural world - also becomes crucial once we move away from the individualist notions of the self. With the complex patterns of changes in the world today there must also come

an expansion in the notions of self, community, belonging, responsibility and the justice of these circumstances.

However, ‘because engagement with the world is necessarily “global” in its scope, but the world is characterized by a multiplicity of agents none of whom can single-handedly bear the burden of global responsibility, the way in which our ethical responsibility is to be acted upon has to be contested and negotiated’ (Campbell, 1993, p.99). These multiple agents with different capabilities to cope and handle burdens may find themselves in a world that thrusts upon them a disproportionate amount of risks and dangers. Because of the essentially differentiated impacts on the common ecological resources and functions by different agents with different capabilities and vulnerabilities, it is argued here, a theory of justice, which is compatible with a critical conception of ecological sustainability must be based on the principle of shared but differentiated responsibilities. Responsibility as not merely shared but differently shared because of differences and asymmetries that are the main, even definitive feature of societies and of the world in large. This is also because ‘responsibility...is a function of power and knowledge’ (Jonas 1984:123) and it is only too well known a fact that power and knowledge (already a determinant of much power, the ‘information gap’) have never been so unequally and disproportionately wielded as it is today. Jonas (1984) has argued that ‘Power conjoined with reason carries responsibility with it’ (p.138) or, that

...responsibility is a correlate of power, so that the scope and kind of power determine the scope and kind of responsibility. When power and its constant exercise grow to certain dimensions, then not only the magnitude but also the qualitative nature of responsibility changes, with the effect that deeds of power generate the contents of the “ought”, which thus is essentially in answer to what is being done (p.128).

Jonas’s concern was about the future, the future generations and future of the planet itself but his thesis on the ‘imperative of responsibility’ and his exploration of an ‘ethics for a technological age’ can equally well apply to the contemporary world of impoverished and vulnerable agents; to the intra-generational and international scene as well as to the intergeneration scenario. He put his thesis by making the following basic distinctions:

The first and most general condition of responsibility is causal power, that is, that acting makes an impact on the world; the second, that such acting is under the agent’s control; and third, that he can foresee its consequences to some extent (1984:90).

Jonas's generalizations can be zoomed in or viewed in a more detailed manner whereby the asymmetries of power wielded by different agents, their differentiated capacities, capabilities, the consequent disproportionate impacts, and freedoms to control and foresee consequences become more visible. And what will be revealed under the magnifying lens will have implications for a theory of justice based on the principle of shared but differentiated responsibilities.

In such a schema, justice requires that the vulnerable be at least capable and have the freedom to cope and function, let's say, in an environmental emergency. This may well require an unequal treatment, a biased and impartial treatment in *favour* of the vulnerable. This kind of thinking about justice may actually contradict with, for example, the often strictly and exclusively reward (desert) based 'contribution principle', but it will be in agreement with a compensatory principle of rational as well as ethical and responsible sharing of both the benefits and costs of that which is global and common without unnecessarily denying rewards for contributions of individuals and groups. This kind of compensation - not to be confused with aid and charity - will be legitimate given the fact that the contemporary injustices and inequalities, of opportunities and freedoms are not sudden phenomena but are accumulations that carry a historical baggage. This is not an entirely new insight. For example, in many democratic societies the system of taxing (in an egalitarian conception the more progressive taxing) of income and wealth, more or less, performs the same function. It appears that among other reasons, it is done because there is a public value system that demands it as a matter of justice. In historical terms, most societies have functioned under similar principles of justice as Bookchin has also argued. Bookchin (1991) refers to the principles of 'irreducible minimum' (Radin 1960) and the 'equality of unequals' as inherent features of many organic societies:

The principle of the irreducible minimum thus affirms the existence of inequality within the group - *inequality* of physical and mental powers, of skills and virtuosity, of psyches and proclivities. It does so not to ignore these inequalities or denigrate them, but on the contrary, to *compensate* for them...organic society tends to operate unconsciously according to the *equality of unequals* - that is, a freely given, unreflective form of social behaviour and distribution that compensates inequalities and does not yield to the fictive claim...that everyone is equal (p.144, original emphasis).

But in modern liberal tradition the blindfolded Justitia and her scales must dispense 'equal and exact' justice. All competing and conflicting claims and interests are equalized and must be resolved blindly in a balancing manner:

Indeed, all scales can *ever* do is to reduce qualitative difference to quantitative ones. Accordingly, everyone must be equal before Justitia; her blindfold prevents her from drawing any distinctions between [and]...from making any changes of measure due to difference among her supplicants....But persons are very different indeed, as the primordial equality of unequals had recognized. Justitia's rule of equality - of equivalence - thus completely reverses the old principle. Inasmuch as all are theoretically "equal" in her unseeing eyes, although often grossly unequal in fact, she turns the equality of unequals into *the inequality of equals*....Accordingly, the rule of equivalence, as symbolized by the scales in Justitia's hand, calls for *balance*, not compensation (Bookchin 1991:148 original emphasis).

Thinking in such a radical way about distributive justice '*demands more, not less, to be just to the vulnerable*' (O'Neill 1992:69 original emphasis). In the context of environmental damages since these vulnerabilities are exacerbated and capabilities and freedoms diminished variedly due to the differential impacts on the commonly shared environmental goods and services, the so called global commons and the 'services' they provide, distributive justice can therefore be seen as the call for the distribution of responsibilities. It would also be a call for the distribution of freedoms, the freedoms that are reflective of advantages and capabilities as well as of the disadvantages and vulnerabilities to cope with 'produced' ecological dislocations. Because these freedoms and capabilities are infringed upon differently by these 'produced' environmental bads, which are proportionately more detrimental to the vulnerable agents when compared with their contribution to these environmental bads, this demand is seen to be as fair and just. Justice is here, first and foremost, a matter of responsibility, of shared but differentiated responsibility; differentiated in proportion to the power of the agents and its reach and negative impacts upon vulnerable others. To these vulnerable others one may as well add the non-human life forms.

So where does all this leave us with a conception of sustainability that often sees the protection of a limited or scarce 'critical natural capital' as essential if humanity is to move towards a sustainable future which is also just? What kind of a theory of justice can we pin our hopes to for such a sustainable future? A particularist, local, communitarian theory which while provides the required correction to a strictly abstract 'contextually insensitive' stance but which ignores other broader and wider contexts. Or a theory that has universal concern; that abstracts without idealization as O'Neill has pointed out; that while avoids collapsing all specific circumstances of injustice and diversity of ethics, culture, tradition and identity into uniformity and standardization, identifies not only everybody's shared and mutual general interests in the

environment and its sustainability but also their differentiated responsibilities towards those general interests? Perhaps this dichotomy, if emphasised too much, itself is misleading. If one must play with geometric shapes then, one has to ask whether a 'concentric circles', a 'spherical' type of a theory of justice with their parochial orientations (important as they are in certain contexts but rather less meaningful when it comes to other, global, transnational and trans-communal issues like many of the ecological issues inherently are) makes sense or one that has a big circle that encapsulates and encircles all the other circles and spheres inside it. Some of these circles will be concentric while most others eccentric and overlapping with each other but, nevertheless, all embedded in and dependent on that one big circle.

This kind of an approach to reach to a theory of justice based on a general human interest and such a conception of responsibilities is essential if sustainability and social justice, not only within societies but also among societies have to be achieved. This could be an essential element of an 'ecological sensibility', 'ecological rationality' and of 'ecological virtue' as part of a new reconstitution of human subjectivity. The suspicion that the agendas of environmental sustainability and social justice may diverge may or may not prove to be right. It will all depend upon what we eventually mean by sustainability, social justice but more important, upon our understanding of self, other and society-nature relationship. But, on another note, dealing with such a substantially normative issue like justice one has to ask whether a sustainable world where social justice is denied to the majority of its inhabitants would also be desirable if it was possible, proven 'scientifically' or otherwise? This denial could well be through ideological distortions as Kai Nielsen has pointed out: 'Ideological mystification leads us to believe that there is nothing significant that could be done about these matters or nothing that could be done short of impoverishing us all or undermining our civil liberties. But that is just ideological mystification' (1992:32).

8. By Way of Conclusion

There is no escape from ethical dilemmas in these times of complex transformations and fragmentations. As Stanley Hoffman put it: ‘the claims of ordinary morality, the clamour for a kind of state conduct that does not almost inevitably lead to deceit and violence, cannot be suppressed. We must remember that states are led by human beings whose actions affect human beings within and outside: considerations of good and evil, right and wrong are therefore both inevitable and legitimate’ (cited in Goulet 1992, p. 231).

The contemporary human condition demands our attention to justice. Justice is important. It is important not only in its narrow, contractarian-legalistic and distributive sense but also in its more substantially ethical and moral aspects. Approximately a quarter of humanity is trapped into absolute poverty and exclusion. We have entered the twenty first century with all of humanity’s achievements and glories but injustices of all kinds in all societies stare us right in the face. But now there is a new twist to all these circumstances of injustice in the form of ecological degradations that can potentially threaten - are already threatening in some places - the very survival of all life including ours, on this planet.

Justice is understood differently depending upon so many things some of which I have briefly discussed in this paper. The principles or bases of justice are diverse. The seemingly strict and opposing dichotomies like universal and particular, abstract and concrete/context sensitive etc. not only criticize and therefore, inform and correct each other but importantly, they also complement each other in many ways although it may not appear so. Each can be enriched and broadened by the critical stance taken by the other. In the context of environmental justice I have tried to argue that it is not helpful to stick to one or the other in a strict manner. For example, the postmodernist criticism of abstract universalism and universal solutions to issues of justice should be welcomed but with caution. If the so called ‘grand narratives’ of the old universalism were faulty, as is often argued, and did not deliver as expected and hoped, then we need a new universalism and alternative grand narratives. The critiques of universalism should now focus more on what type of universalism rather than universalism *per se*. Or, whose universalism? We must go through a pre-universalistic period, with all its attending anxieties, disagreements, frustrations before arriving to a truly inclusive universalism. There is no escaping, or perhaps should not be, from grand narratives if there is to be a universal solution to injustices that arise out of events, interactions and arrangements that influence different peoples at different places some of whom are within the boundaries of the nation-states and some without as in the case of many environmental problems. There is some truth in Fredrick Jameson’s observation

that grand narratives merely go underground but they do not disappear completely.

It may be objected, rightly so, that the differences - methodological, theoretical and especially ideological, for example - are not trivial between positions usually taken as we have already seen in this paper especially the universal/particular debate about justice. But again, it can be argued that if the old universalism and its baggage which many contemporary theorists, including theorists of justice, are so critical of did not fulfill all promises, then perhaps it is because it was not truly universal in the first place, some of the insistent claims notwithstanding. For example, Bader (1995) argues that 'Historically, all known forms of "liberal-democratic" or "republican universalism" up till now are badly disguised versions of chauvinism' (p.232). For instance, these forms did not include or at times even did not acknowledge the visions, hopes and modes of thoughts of all peoples. It was flawed because it was built on some wrong or distorted assumptions about all 'others', especially oppressive views about the victims of history. It had a tendency to extend particular notions to universal proportions and to insist that that particular was 'objective', 'neutral' and 'impartial'. But what is more important is that this kind of new universalism out of which a comprehensive and inclusive theory of justice will have a good chance to emerge with new grand narratives will not be given; it will have to be established through democratic deliberations and inclusive participation, through a 'dialogue of visions'. In other words, these truly democratic narratives will have to be established dialogically and discursively which may well mean a radical revision, even inversion, of the old assumptions about self, society, nature and particularly about the others of nature and society. This is one prerequisite, a crucial one, for a theory of justice, environmental or otherwise and applicable at different levels. It is so, because after all is said and done, sustainability, however defined, requires no less a definition of community than one that includes humanity - all of it and all peoples - as its members. In a discursively reached conception of justice the particular as well as the universal is the planet itself.

The State, as it has developed from the European experience through the treaty of Westphalia in 1648 and onwards, along with all its monopolistic paraphernalia of violence has historically 'sought to limit the scope of both sub-national and transnational solidarities and identities' (Linklater 1990, p.149). Because of the fear of its internationalization, the idea of community has thus remained limited to the boundary of the nation-state. As Linklater (1990) has argued that 'states have sought a monopoly over the right to define political identity, because 'their survival and their success have largely depended upon it' (p.149). If within this kind of framework moral and political inclusion remains fixated with concern for human beings within state boundaries, it is

almost impossible to imagine the inclusion of non-human species to make up a 'community' of life forms, a dominant concern of 'ecological justice' (Low and Gleeson 1998).

In the end we as human beings and as peoples are all responsible for what happens to this planet. But since, as people, and groups of people, our contributions, both historical and contemporary and both towards environmental goods and bads, are not of the same order and kind, the corresponding responsibilities especially for harms, must also not be the same and equal but differentiated, *justly differentiated* if justice is to be done. The past of the species was not shared responsibly and justly by all its members, but both rationality and ethics demand that its future destiny, if there is to be one, a sustainable one, must be shared *responsibly*.

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