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Keywords

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COMMENTARY: ENVIRONMENTAL JUSTICE AND THE BP OIL SPILL: DOES ANYONE CARE ABOUT THE "SMALL PEOPLE" OF COLOR?

By: Perry E. Wallace¹

Introduction

"We care about the *small people*" declared BP Chairman Carl-Henric Svanburg on June 16, 2010, just eight weeks after the start of the company's now-famous oil spill. Ironically, the Swedish corporate chief uttered those clumsy words while leading a campaign to stem the growing, spill-related reputational damage to BP. Compounding the irony in Mr. Svanburg's statement is the fact that he had been sent as a *substitute* for British CEO Tony Hayward, whose earlier efforts to repair BP's corporate image had also failed miserably.

Throughout these missteps, the media were providing the world with daily images of the spill. Every day, we watched as 2.6 million gallons of oil surged out of the ocean floor, constantly and uncontrolled, into the Gulf of Mexico. Surely this was a time for curative action and adroit public relations. Against this background, the highlypublicized gaffe was an especially aggravating contribution to BP's loss of favor in a time of great crisis. The spill betrayed a gigantic, multi-dimensional corporate ineptitude—not merely in linguistic and cultural facility but also, more broadly, in corporate governance and social responsibility. With the oil leak finally plugged (we hope), one would think that the flow of BP corporate governance failures should have similarly been plugged. But this apparently has not happened. Moreover, BP is not the only actor facing disapproval on the long and arduous path to recovery. Governmental and other actors have also incurred the wrath of many and varied critics ranging from environmental groups and ordinary citizens to politicians, businesses and the media.

On the other hand, certain affected groups have scarcely been mentioned in efforts to address the environmental, economic, social and cultural impacts of the oil spill. These forgotten groups include minorities, (small) businesses and communities that have also suffered. In fact—as usually happens with environmental justice matters—they have endured disproportionately greater injury and they have received disproportionately less assistance, by comparison with other impacted persons and groups. The following discussion explores the general nature and status of environmental justice, describes the plight of traditionally forgotten groups in the BP oil spill recovery efforts, and makes some observations about the elements of a curative approach to the problems of those groups.

Environmental Justice: Of People, Power and Pollution

One commonality between environmental justice and other social and economic justice topics is the notion of *power imbalances*: (1) the relative powerlessness of those being harmed and (2) the superior power of those causing, or allowing, that harm. Whatever the technical classification of the more powerful forces (governmental, corporate or individual) and whatever the impetus to cause or allow the harm (animus, greed, negligence, or mere thoughtlessness), the imbalance of power is a *core operative element* in social and economic injustice.

Obviously, the environmental or other injustice is grounded in some actual or perceived difference between those with power and those without it. Equally clear is the fact that the more powerful groups view themselves as being more privileged or entitled based on that difference. Focusing on power highlights a key enabling feature of the negative interaction between the two opposing groups. Further, certain pivotal characteristics of powerlessness (ignorance, lack of resources, lack of organization and lack of leadership) not only shed light on its causes but also contain the keys to the cures for the powerlessness and perhaps even the power imbalance itself.

Environmental Justice Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," signed by President William J. Clinton in 1994, sought to establish an official federal policy on environmental justice.² The Executive Order required each federal agency to "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."

This policy was a welcome development and appears to have resulted in some improvement in environmental justice matters, but a thorough analysis of the years since the Executive Order confirms that progress has not been, and will not be, automatic. Only determined advocacy and leadership will produce successful solutions to environmental justice problems. Frederick Douglass once famously declared that "Power concedes nothing without a demand. It never did and it never will." The following discussion of the BP oil spill's impact on people of color illustrates the truth of Douglass' declaration.

SPRING 2011 65

The Devastating Impact of the Oil Spill: Interconnected and Cumulative Harm to People of Color

From the start of the spill, there was both lay speculation and professional study on the magnitude and types of harms that would result from it. Although BP and the federal government at times downplayed the potential impact, the overwhelming public and scientific consensus was that we were witnessing a historic environmental, economic and social catastrophe in the making. In fact, we were: BP was creating the largest environmental catastrophe in American history.

Ontheotherhand, United States Representatives Mike Honda (D-Calif.) and Anh "Joseph" Cao (R-La.) concluded that the particularly harsh way in which minority communities were affected during the recovery period was not well-reported:

What is equally disastrous, but less frequently reported, is the impact to the physical health, economy and livelihoods of communities living adjacent to the Gulf Coast. Among these communities, perhaps the most vulnerable are thousands of Southeast Asian and African-American families. The adverse effects experienced by this population are potent and unique.⁴ (Emphasis added)

As these observations become public knowledge, they shed light on the paucity of basic understandings about the minority communities in that region. For example, most Americans (including many in the local media) hardly knew about the African-American commercial fishing community on the Gulf Coast. Many of these families have been in the fishing business for generations, going back to a time when people in the area spoke mainly French. These and other African-Americans are now beginning to explain how the BP spill not only brought to them the same harms affecting others in the region but also exacerbated historic race-based problems.

Specifically, African-American businesses are not receiving many of the oil spill cleanup contracts. Nor are they as likely to be hired by white-owned business as employees when those contracts are let—other than for the most hazardous and dangerous of jobs. Additionally, the substantial lingering effects of Hurricane Katrina had already weakened this community in fundamental and disproportionate ways. Finally, there is the matter of waste disposal from the oil spill. Where is the waste being sent? Here, the BP oil spill matter becomes both symbol and substance of the environmental justice dilemma. The following quote from Robert Bullard, Director of the Environmental Justice

Resource Center at Clark Atlanta University, puts it this way:

Given the sad history of waste disposal in the southern United States, it should be no surprise to anyone that the BP disposal plan looks a lot like "Dumping in Dixie," and has become a core environmental justice concern, especially among low-income and people of color communities in the Gulf coast—communities whose residents have historically borne more than their fair share of solid waste landfills and hazardous waste facilities before and after natural and manmade disasters.⁵

Similarly, Southeast Asian fishermen make up onethird of the 13,000 fishing vessels registered in the Gulf Coast. Among the phenomena creating special challenges for Southeast Asians is the language barrier, which, along with general problems of discrimination and distrust of government, makes for a stultifying blockage in gaining access to mainstream services and information. Their history, like of that of the African-American communities, is one of challenges and difficulties that left them especially vulnerable to the oil spill: arrival in the U.S. as political refugees, harsh resettlement camp conditions, racial discrimination and isolation, and, of course, Katrina.

The United Houma Nation of that region has been recognized by Louisiana but not by the federal government. Sources allege that oil-related interests have successfully opposed federal recognition in order to have access to their lands for oil and gas operations. Federal protection would bestow significant rights, benefits and protections to this group and increase their prospects for responding properly to the devastations of Katrina and the oil spill. In the meantime, oil from the spill is slowly threatening their livelihood and culture. It has destroyed oyster plots, ruined crab traps and blocked shrimp trawlers from choice fishing grounds.

These examples tell an all-too-typical story of environmental injustice in action, replete with all the usual characteristics of power imbalance, unequal treatment, widespread indifference and tragic consequences. It is with these examples in mind that the search for solutions must proceed. What should be the nature of solutions to this particular environmental justice dilemma?

Seeking Solutions to Environmental Injustice; Some Considerations

From May 27 through June 10, the National Office of the National Association for the Advancement of Colored People (NAACP) conducted an extensive

investigation of the BP oil spill. After touring affected areas in the Gulf and meeting with important constituencies involved in, or affected by, the spill, the NAACP issued a report, BP Oil Drilling Disaster—NAACP Investigation (the NAACP Report) containing a list of Recommendations.⁶ Those Recommendations were the result of a thorough and considered process and deserve serious consideration in seeking solutions to the BP oil spill. The main points of the Recommendations are as follows:

- Financial Support for Community Based Organizations
- Accessible and Effective Claims Process
- Physical and Mental Health Care for All
- Equal Access to Contracting Opportunities for Businesses Owned by People of Color
- Community and Worker Safety Provisions
- Impact Assessments—Analysis of Physical and Mental Health, Financial, and Socio-Cultural Short and Long Term Impacts
- Safe, Quality Housing Provisions for Displaced Persons
- Federal Recognition for the Houma Tribe
- Direct Troubled Asset Relief Program and Small Business Administration Funding to Community Development Financial Institutions
- Improved Information Dissemination
- Comprehensive Ongoing Environmental Assessments
- Preservation of the Gulf, Marshlands, Estuaries, and Other Waterways and Dependent Sea Life
- Clean Energy, Green Jobs, and Increased Regulation of Oil Drilling

Without question, the Recommendations are expansive and would require considerable expenditures of money and time. The simple reality is that such a sacrifice is necessary to bring about a true and permanent solution to the problems of the affected communities. First, to a great degree, these expenditures would comprise resources that should have already been applied over many past years. Past failures set the stage for the disproportionately calamitous impact of the oil spill on these groups. Second, the expenditures would address the larger economic and socio-cultural infrastructure of the communities and make them stronger and less vulnerable—a benefit that would be shared far beyond the communities themselves. These considerations speak to the dire need for just the sort of expansive, comprehensive approach suggested by the Recommendations in the NAACP Report.

Conclusion

The BP oil spill, unfortunately, has generated yet another sad example of environmental injustice. Moreover, the stakes are higher than ever before, as the tragedies associated with it promise to be greater than ever before. As discussed in this article, the elements of environmental justice dilemmas are always profound and they set the stage for profoundly adverse consequences for the affected communities and others.

Yet, lawmakers and other leaders could turn this tragedy into something more like a victory, if they have the will and the courage. Failure to do so, in an era in which natural threats are now augmented by human-made errors such as anthropogenic global warming and in which human-made political and economic instability reign, only promises great trouble for us all. Guidance such as that so thoughtfully prepared and offered in the NAACP Report should be the basis for forceful action by all those concerned with good governance in society.

Endnotes

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² Exec. Order No.12898, 59 Fed. Reg. 32 (Feb. 16, 1994).
³ THE FREDERICK DOUGLASS PAPERS. SERIES ONE:
SPEECHES, DEBATES, AND INTERVIEWS, VOLUME 3: 1855-63
204 (John W. Blassingame, ed.)(1986) available at http://

www.buildingequality.us/Quotes/Frederick_Douglass.htm.

- ⁴ Posting of Reps. Mike Honda (D-Cal.) and Anh "Joseph" Cao (R-La) to The Hill's Congress Blog, http://thehill.com/blogs/congress-blog/energy-a-environment/113325-bp-oil-spills-impacts-on-vulnerable-minority-communities-reps-mike-honda-and-anh-qjosephq-cao (August 9, 2010 12:26PM EST).
- ⁵ Robert Bullard, Government Allows BP to Dump Oil-Spill Waste on Black Communities, OPEDNEWS, July 22, 2010, available at http://www.opednews.com/articles/Government-Allows-BP-to-Du-by-Robert-Bullard-100721-879.html.
- ⁶ See National Association for the Advancement of Colored People, BP Oil Drilling Disaster—NAACP Investigation Overview, available at http://naacp.3cdn.net/b827a4ea75a4bbbd5c_jfm6bee32.pdf (summarizing the report's key findings).

SPRING 2011 67