

Environmental Justice in Law: Anderson v. Beatrice Foods Co. and Bean v. Southwestern Waste Management Corp.

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Abstract

Anderson v. Beatrice Foods Co (1989) and Bean v. Southwestern Waste Management Corp (1979) were two cases concerning large corporations' unethical waste dumping in their respective communities. Each case, sparking out of concern for community members' health and quality of life, catalyzed groups of community members to band together and push forward the lawsuits. For Anderson v. Beatrice Foods Co it was a group of parents whose children developed leukemia from allegedly contaminated water. For Bean v. Southwestern Waste Management Corp it was Northeast Community Action Group (NECAG), from Houston's black community. Ultimately, the two cases diverge in the extent to which they involve the Civil Rights Act, specifically Title VI, as Bean v. Southwestern Waste Management Corp argued targeted placement of "sanitary landfills" based on race. This distinction pushed Bean v. Southwestern Waste Management Corp through the Supreme Court, as it posed a challenge to the existing law.

Keywords: environment, civil rights, law, case, policy

Introduction

The 1960's to early 1980's presented new ideas and calls for change in American society. Two major focuses were the Environmental Movement and the Civil Rights Movement. Activism for these topics took many different forms, from grassroots activism to reevaluating the preexisting law. As Americans challenged law pertaining to both the environment and racial justice, lawsuits surfaced. These include Anderson v. Beatrice Foods Co (1989) and Bean v. Southwestern Waste Management Corp (1979), both pivotal cases in respect to their movement. Through the development of these cases, each focused on the intrinsic value of human life, the environmental movement and the civil rights movement seemed to converge. Anderson v. Beatrice Foods Co (1989) and Bean v. Southwestern Waste Management Corp (1979) are two cases prompted and driven by peoples' concern for their community, yet with Bean v. Southwestern Waste Management Corp tried under the Title VI of the Civil Rights Movement, highlighting deliberate placement of landfills in

black neighborhoods, intentional devaluation of areas with a majority black population, and underrepresentation for black community members within local the government, this case further challenged the existing law.

Premise

The issue of environmental justice developed in the early 1970's, progressively becoming more prominent in the late 1970's and early 1980's. The creation and implementation of the National Environmental Policy Act of 1969, signed on January 1, 1970, largely prompted the legislative aspect of the environmental movement. With this, Americans became increasingly aware of the environment and the impact they were having on the planet. Even as many Americans were becoming more conscious of the environment, pollution and waste disposal, the major offenders of US environmental policy were large corporations, who in order to save money, illegally and unethically disposed of waste from their facilities. Title VI of the Civil Rights Act of 1964 introduced and implemented the idea that "federal law prohibits discrimination on the basis of race, color, or national origin in all programs or activities receiving federal funding" (Title VI, EPA). However, this was not implemented into environmental practices until 1973. At this time, two environmental cases, namely the *Bean v. Southwestern Waste Management Corp* (1979) and the *Anderson v. Beatrice Foods Co* (1989) lawsuits were in full swing, both attempting to reach the Supreme Court.

Anderson v. Beatrice Foods Co, the first complaints filed in 1979 and this final case of the series filed in 1989, though ultimately not reaching the Supreme Court, was one of the first major lawsuits raising the issue of pollution by a major corporation. Children in Woburn, Massachusetts reportedly were contracting leukemia at higher than normal rates, causing increasing concern in the community. As concern coursed through the community, some recognized the possibility of industrial pollution

being the source of such high cancer rates. The three companies in question, all which had been established industrial plants for up to 250 years, were W.R. Grace Company, Beatrice Foods, and the Unifirst Company. The suit claimed that these companies were responsible for dumping their waste from production into the wells that supplied the city's water. The case concluded in 1990, with Beatrice Foods Co charged for covering up massive and repetitive environmental crimes and J.J. Riley Co charged for illegally cutting off toxic waste from its property, into the publicly owned well system, to conceal the extent of their pollution. Even as the Supreme Court denied certiorari in 1990, this case brought to light the potential repercussions corporations choosing not to follow environmental laws could face.

The *Bean v. Southwestern Waste Management Corp*, filed in 1979 challenged Houston corporations and their deliberate placement of "sanitary landfills" in black neighborhoods. This was the first waste and pollution case challenging unethical waste disposal action of corporations under civil rights law. The landfills were far from sanitary, contaminating the air and the ground that many black families' homes were built on. From the early 1920s through 1978, over 80 percent of Houston's household garbage landfills and incinerators were located in mostly black neighborhoods. With the city's population being only 25 percent black, it was clear that there was intention behind where corporations were disposing of their waste. While the waste disposal was argued to have been following waste disposal guidelines, the extreme concentration and obviously planned locations brought concern to Houston's black communities. This case in particular worked to stop another "sanitary landfill" from being built in a majority black, middle-income neighborhood. This landfill would harm the community beyond health and safety, affecting the land value and operation of the high

school, which was only 170 feet from the site (U.S. Commission on Civil Rights, 2016).

Robert Bullard defines environmental injustice as the “fair treatment of people of all races, income, and cultures concerning the development, implementation and enforcement of environmental laws, regulations, and policies, and their meaningful involvement in the decision-making processes of the government (Whitman, 2001). Since then, Bullard has become a scholar on the topic and even coined the father of the environmental justice movement. In discussing the history behind environmental injustice, he highlights the issue that the United States is still working to find its national identity, an issue rooted in divide, and one that fosters issues like racial injustice. He then evaluates why waste disposal, in particular, has become a civil rights issue. Bullard revealed that historically, waste tends to be disposed of in areas that are the least valuable and do not have the political power to resist. Naturally in a country with a history of systemic racism, the “less valuable” areas tend to be black communities (Bullard, 2019).

With the intersection of the environmental movement and civil rights, culminating in the idea of environmental justice, these two similar cases each interact differently with Title VI, yielding different results. In the context of Title VI of the Civil Rights Act of 1964, to what extent did the decisions in *Bean v. Southwest Waste Management Corp. in Texas* and *Anderson v. Beatrice Foods Co. in Massachusetts*, each with different outcomes, respond to the evolving integration of the Civil Rights Act into the environmental justice movement?

Environmental Movement, Civil Rights Movement, and Title VI

With the environmental movement and racial justice movement thriving in two separate spaces in the early 1970s, their intersection was evident when the

Environmental Protection Agency’s (EPA) was pushed to evaluate the extent to which they address civil rights. The environmental movement began picking up traction in the early 1960’s, becoming a more widespread and talked about issue in the mid to late 1970’s. Concern was growing over clean air, clean water, waste disposal, and other environmental pollutants that could potentially risk Americans’ health. This prompted Congress to pass the first piece of legislation to address air pollution in 1955: The Air Pollution Control Act (1955). While this particular act was minimally effective in that it was left to individual states to enforce and regulate, it set a precedent for the importance and urgency of the environmental movement. This catalyzed deeper research into pollution, prompting the 1963 Clean Air Act, giving the federal government the ability to more closely regulate air pollution. Shortly following, the Water Quality Act and the Motor Vehicle Air Pollution Control Act were both passed in 1965, showing the rapid increase and intensified focus on environmental law. The course of the Civil Rights Movement followed an incredibly similar timeline in terms of key events and the growing importance of the issue. Monumental moments like Martin Luther King’s “I Have a Dream” speech during the March on Washington in 1963, were heavily concentrated in the time period. Even as these two national movements were gaining traction and attention from both the American public and the government, each movement was establishing itself exclusively in their spheres.

The environmental movement and the civil rights movement were, at the time, two wildly separate issues that hadn’t yet had the chance or faced an issue where the two would merge paths. With the Civil Rights Act of 1964 signed, environmental organizations, previously not involving themselves with the racial justice movement, ultimately pushed organizations like the EPA to reevaluate the way they operated in terms of racial equitability.

Under the Civil Rights Act of 1964, Title VI established that discrimination in federally funded organizations was prohibited. (EPA, 2021). With this law passing, the United States Environmental Protection Agency (EPA), a federally funded organization heading the environmental movement, did not officially recognize Title VI in their policy until years after the act was passed. With the civil rights movement raising issue for communities concerned about their health and well-being, patterns of various ethnic minorities being more regularly impacted by pollution, promoted the conversation of Environmental Justice in the early 1970's. As Robert Bullard stated, "whether by conscious design or institutional neglect, communities of color in urban ghettos, in rural 'poverty pockets', or on economically impoverished Native-American reservations face some of the worst environmental devastation in the nation" (Bullard, 2019). With new research and work drawing the connection between environmental law and civil rights, in 1973, EPA implemented internal regulations to address violations of Title VI of the Civil Rights Act, including creating their own "Office of Civil Rights", aimed to process complaints filed under Title VI (EPA, 2021). EPA decision to officially implement Title VI regulations in their corporation's policy, rather than simply operating under the mandate showed their recognition of civil rights within the environmental movement, as well as reflecting national recognition of the movement.

Catalyzing the Cases

In the late 1970s, two environmental cases, *Anderson v. Beatrice Foods Co.* in Massachusetts and *Southwest Waste Management Corp.* in Texas displayed parallels in concern for the health and overall well-being of their respective communities, catalyzing each of these cases. *Anderson v. Beatrice Foods Co.* took place in Woburn, Massachusetts, where residents took notice of increasing childhood leukemia cases beginning

in 1965 and persisting through the early 1980's (*Anderson et al. v. Cryovac, Inc.*, 1982). Parents and community members were understandably alarmed and called for an investigation. As suspicions were rising, many pointed to the well-established corporations housed throughout the Woburn area, suggesting that their waste and pollutants could be the cause of the rising cancer cases. Industrial pollution, occurring as a tannery, chemical plant, and laundry service company each allegedly dumped toxic waste into the town's water supply, outraged many residents (*Anderson et al. v. Cryovac, Inc.*, 1982). Joining the rest of Woburn in their frustration Anne Anderson, along with equally concerned residents, headed a lawsuit against Beatrice Foods, W. R. Grace and Company, and UniFirst. Anderson claimed that each of these corporations was responsible for pollutants in the town's well, which supplied water to the entire community (*Anderson et al. v. Cryovac, Inc.*, 1982). The plaintiffs in the case consisted of seven families with children who were either fighting leukemia or children who had already passed away from leukemia (*Anderson et al. v. Cryovac, Inc.*, 1982). Not only were these parents advocating for their own children, but for the rest of the community. With two city-owned wells contaminated, the prospect of more children and community members being negatively affected drove the case forward.

The public pushback prompted a lawsuit against Southwest Waste Management Corp, the company responsible for the proposal for placement of this new landfill. *Bean v. Southwest Waste Management Corp.* in Texas similarly stemmed from within the Houston community over concern for community members. With a proposal for a new Whispering Pines "sanitary landfill" to be placed in a middle class, predominantly black, suburban community, namely, Northwood Manor, the community quickly band together to push back (Bullard & Texas Southern University, 2014). Together they formed the

Northeast Community Action Group (NECAG) in hopes to fight the proposal and keep the landfill out of their community. Having observed the effects of garbage landfills and incinerators in other Houston neighborhoods on the land value, tax base, residents' health, and overall functionality of the community, NECAG saw the potential devastation that Northwood Manor could face. Resident's passion for keeping the well-being of their community intact was highlighted in the 1978 protests against the Whispering Pines Sanitary Landfill (Bullard & Texas Southern University, 2014). The protests cemented Northwood Manor and the greater black Houston community's worries and determination to bring light to dangers associated with "sanitary landfills". Prosecutors argued that placing a "sanitary landfill" in a community would negatively affect residents' health, property value, and lower the chances that other companies would establish themselves in Houston neighborhoods with these landfills, reducing job opportunities. (United States District Court for the Southern District of Texas, 1979). It is clear that the black community members saw the health threats posed by the garbage landfills and incinerators being placed near their home, but also worried that their quality and ability to move through life with the maximum opportunity could be in jeopardy. Ultimately, the *Bean v. Southwestern Waste Management Corp.* case's focus on pollution in predominantly black neighborhoods, rather than pollutants' effects on the entire city, begins to highlight the differences between the two cases.

Road to the Supreme Court

While *Bean v. Southwestern Waste Management Corp.* (1979), brought up a new issue to the Supreme Court, arguing that Title VI of the Civil Rights Act was should be implemented within the arena of the environmental movement, *Anderson v. Beatrice Foods Co* (1979) ultimately did not make it to the Supreme Court, as it did not prompt

change beyond preexisting law and previous Supreme Court cases. In Woburn, residents were fighting three major corporations, W.R. Grace Company, Beatrice Foods, and the Unifirst Company, all of which had been established in the 1850's, years before the current residents and their families had settled there (US Court of Appeals, 1990). Recognizing the negative effects of Beatrice Foods and the two other corporations' waste disposal was having on the Woburn community came long after the plants had established themselves and began engaging in poor environmental practices. Conversely, *Bean v. Southwestern Waste Management Corp* fought the unnecessary placement of a new "sanitary landfill". Community members saw the potential negative implications caused by landfills and incinerators, rather than trying to get rid of an already established problem. By observing other black neighborhoods around them, Northwood Manor residents were able to look forward and see the potential threat their community faced. In *Anderson v. Beatrice Foods Co*, prosecutors were fighting corporations that had already established their roots in Massachusetts, versus *Bean v. Southwestern Waste Management Corp*, which was fighting a corporation that was forcing itself into the Northwood Manor community.

In evaluating individual populations that the corporations' pollutants affected, it can be concluded that the most heavily affected portion of the population was not determined by race. In Woburn, not only was the majority of the Woburn population white, but the contamination affected the entire community, as two publicly-owned wells were contaminated (United States District Court D. Massachusetts, 1989). Because the wells were publicly owned, this water reached all of the town's residents, affecting all members of the community fairly equally. It was not a single group of people or a particular area of Woburn being affected by the water contamination, but rather the entire town; anyone who's home

water was supplied by one of the two contaminated wells could face health issues. This meant the entire town. With the case based on unusual rising childhood Leukemia cases in Woburn, the most affected group of people was children (Complaint: Anderson et al. v. Cryovac, Inc, 1982). Rather, children were simply more susceptible to the harsh chemicals polluting the drinking water, given their physical size and development (Complaint: Anderson et al. v. Cryovac, Inc, 1982). Prosecutors presented evidence suggesting that the chemicals contaminating Woburn's groundwater were "toxic and can destroy cells" (US Court of Appeals for the First Circuit, 1990). The chemicals were toxic and damaging to every person exposed, not a specific population. Unlike Woburn combating unethical environmental practices affecting their entire town, *Bean v. Southwestern Waste Management Corp* examined the intentional placement of the Whispering Pines landfill, as well as other landfills and incinerators in Houston. Prosecutors argued that the specific placement of the landfills within Houston was targeted because they were majority-black communities (United States District Court for the Southern District of Texas, 1979). With environmental justice research conducted at Texas Southern University in 1978, following the Whispering Pines protests, it was found that over 80 percent of Houston's household garbage landfills and incinerators were located in mostly black neighborhoods, even though only 25% of Houston was composed of black community members (Bullard, Johnson, King, Barbara Jordan-Mickey Leland School of Public Affairs, Texas Southern University, 1978). Prosecutors argued that placing the landfill in Northwood Manor, opposed to any other middle-class neighborhood, was meant to not detract from white neighborhoods; there was fear that if the landfills were placed in white neighborhoods, community members would want to move out and potential new residents would be driven away (US District

Court for the Southern District of Texas, 1979). This shows that the corporations were aware that their pollutants would be damaging in terms of both health and the value of the community. Completely aware of the damage the waste disposal site could cause, directed their efforts to choose a location that was, in their eyes, of lesser value.

The extent to which each of the cases involved civil rights shows a divergence in the two cases. Northwood Manor was an unlikely place for a waste facility, given that it was composed of single-family homes, schools, and well-kept landscaping. What distinguished it from other middle-class Houston neighborhoods was the fact that the majority of the population was black. It is clear that the placement of landfills was deliberate, as Houston's black population would not have the means to fight the waste disposing corporations. Texas Southern University broke the population down stating that 52.3 percent were White, 27.4 percent Black, 17.6 percent Hispanic, and 2.7 percent Asian and other (Bullard, Texas Southern University, 2014). Given that just under half of the population were people of color, it is surprising that the majority of Houston's local government was white. With the black community, extremely underrepresented in local government, it was easy for the city to choose black neighborhoods to house waste facilities. Although Houston's population was one-quarter black, one hundred percent of city-owned landfills and seventy-five percent of city-owned incinerators were all in Black neighborhoods (Bullard, Johnson, King, Barbara Jordan-Mickey Leland School of Public Affairs, Texas Southern University, 1978). This shows that the government took advantage of the fact that generally, the communities they were placing waste disposal facilities in would not have the means to fight and oppose the city's plans. Following the government's practices, private waste corporations did the same, with seventy-five

percent of privately-owned landfills in black communities, only exacerbating the problem (Bullard, Johnson, King, Barbara Jordan-Mickey Leland School of Public Affairs, & Texas Southern University, 1970-1978). Given these numbers, it is evident that Title VI of the Civil Rights Act was being undermined, as the city was discriminating purely based on race.

With the intersection of environmental law and civil rights driving the *Bean v. Southwestern Waste Management Corp* lawsuit, compared to the *Anderson v. Beatrice Foods Co* case pertaining strictly to environmental factors, the Houston case proceeded to the Supreme Court following its trial at the US District Court for the Southern District of Texas, while the Woburn case was denied certiorari in 1990. In the *Anderson v. Beatrice Foods Co*, the majority of evidence was derived from scientific findings on the way the city wells lay in the ground, the production of chemicals, etc. In a sense, the case was more straight forward than *Bean v. Southwestern Waste Management Corp*, as it was rooted in science and technicalities in the corporations' waste disposal patterns. Because the case was so deeply rooted in science and proving that the chemicals came directly from the corporation's properties, the Supreme Court determined that the case would not be tried. The case did not present new ideas or challenge the existing law in a way that would warrant a Supreme Court trial. Alternately, *Bean v. Southwestern Waste Management Corp* was more complex in that it was the first case to challenge environmental law under the Civil Rights Act. Science rather accompanied Texas Southern University's statistical evidence pointing to blatant discrimination by both private waste disposal companies and the city's government-funded companies. This intersection of civil rights and environmental policy proved to challenge the existing law, Title VI of the Civil Rights Act, in a new way, pushing the case through the Supreme Court.

While environmental law worked to protect Americans from careless pollution from corporations, prosecutors argued that Title IV did not encompass and require the idea of racial equitability to be applied when addressing environmental issues.

Even though both cases ultimately lost, *Anderson v. Beatrice Foods Co* and *Bean v. Southwestern Waste Management Corp* were successful in that they shed light on two pressing issues that advocated for fair treatment of human life. The *Anderson* case proved that a small community could stand up to large corporations to make them pay the price of poisoning their community. The *Bean* case took this a step further, for its grassroots base challenged the city, while also being the first lawsuit to charge environmental discrimination under Title VI of the Civil Rights Act. Each case continues to have a lasting effect, pushing communities to speak up when facing both environmental and racial injustices. Specifically, in Houston, the intersection of environmentalism and racial justice is tackled today, as the city combats both illegal dumpsite incidents along with creating a diverse and representative team to head Houston's environmental movement.

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