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# Trade and Environmental Justice in Latin America

PETER NEWELL

This article explores the extent to which and the ways in which the *processual* and *distributional* elements of the contemporary politics of trade and environment in Latin America can be understood from the perspective of environmental justice concepts and praxis. It is argued that there exists an increasingly intimate relationship between the pursuit of trade liberalisation and the achievement of environmental justice, one which is recognised and acted upon by a growing number of social and environmental activists in Latin America. Insofar as struggles around access to resources and the location of hazard are increasingly affected by global and regional relations of production, trade has an impact upon the pursuit of environmental justice, altering the rules of the game and the strategic challenges faced by those seeking to defend the interests of poorer groups in this context. Likewise, issues, discourses and strategies of the environmental justice movement increasingly feature in contestations around trade policy. They bring to the fore key questions of political economy regarding the distribution of wealth and who gets to decide this, who benefits from trade liberalisation and who bears the cost, and whose resources are being negotiated on whose behalf.

Following Andrew Dobson, environmental justice is taken to mean ‘the distribution of environmental goods and environmental bads among human populations’.<sup>1</sup> This distinguishes it from ideas about justice *to* the environment and resonates with the large body of literature on environmental justice which emphasises themes directly relevant to trade: the disproportionate exposure of poorer populations to environmental risks from economic activity, unequal access to environmental goods and marginalisation from the political arenas in which decisions about these issues are determined.<sup>2</sup> The trade policy focus is the North American Free Trade Agreement (NAFTA), the Southern Common Market (Mercosur) and the Free Trade Area of the Americas (FTAA) negotiations that have brought to the fore many of the issues that are of concern to environmental justice movements.<sup>3</sup> The analysis draws upon ongoing research conducted through interviews and meetings with civil society activists over a number of years and supplemented by a range of academic and ‘grey’ literatures produced by activist groups.

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The argument is that trade, and policy processes associated with it, create both threats and opportunities for the pursuit of environmental justice in Latin America. While conventional environmental concerns, articulated by many mainstream 'green' groups, can be accommodated within existing trade policy regimes through the inclusion of standards, side-agreements and formalised mechanisms of participation, environmental justice concerns cannot be as they embody fundamental critiques of the very model of development being advanced by projects of regional trade integration. A focus upon environmental justice is helpful for three key inter-related sets of reasons. First, it provides an environmental critique of regional trade integration in the Americas which is much more grounded in social justice concerns than agendas advanced by mainstream environmentalists. This critique derives from the lived experience of liberalisation as denial of access to resource rights such as land and water, as well as of the extension of the rights of capital into new areas of life through control of basic services and protection of intellectual property rights (IPRs). By prioritising questions of sustainability, resource sovereignty and rights, it projects a model of regional integration fundamentally at odds with that expressed in Latin America's current trade accords. Second, environmental justice concerns provide a useful basis for critically understanding the processual and distributional elements of contemporary trade policy: who participates and on whose behalf, and who gains from trade policy and at whose expense. This raises profoundly issues of power, inequality and exclusion which feature centrally in environmental justice struggles. Third, such an emphasis provides a useful basis for understanding the networks, alliances and ensembles of resistance that are observable across the region,; the patterns of protest adopted by these coalitions and the nature of the issues around which they find common ground.

The central contributions of this article are therefore two-fold. First, by bringing concepts and praxis from literatures about environmental justice movements to analysis of trade policy in Latin America, debates about trade and environment are enriched by the political and analytical contributions of environmental justice which have hitherto been neglected.<sup>4</sup> Second, the local and still primarily North American focus of environmental justice writing is widened through its application to Latin America and scaled up to the study of trade politics – a region and an issue area that have not previously been examined from an environmental justice perspective.

The first part of the article briefly places the concept and practice of environmental justice in regional and historical context. It then explores in turn environmental dimensions of the NAFTA, Mercosur and FTAA trade agreements that have provided the principal focus for campaigns by both mainstream environmentalists and those advancing environmental justice agendas. From contesting trade negotiations, the analysis moves to groups mobilising to hold those corporate actors to account that have benefited from the trade accords in the region. The article concludes with reflection and discussion on the value added by an environmental justice framework for understanding the politics of trade in Latin America.

### Environmental justice in context

Activist and academic interest in the notion of environmental justice has been strongly shaped by the US context in which many of its defining struggles took place.<sup>5</sup> Indeed, the bulk of the literature continues to focus on the USA, despite emerging interest in poorer communities' struggles for environmental justice in such countries as South Africa and India.<sup>6</sup> By contrast, environmental justice struggles in Latin America have attracted less attention, in spite of a significant body of work on environmental politics in general within the region.<sup>7</sup> In practice, however, environmental justice concerns with equity, distribution and exclusion have featured highly in the mobilisations of socially marginalised communities disproportionately exposed to polluting industry and destructive investment practices that they associate with trade liberalisation.

In this regard, two points are worth noting. First, despite their contemporary manifestations, there is in fact a long history of environmental justice struggle in Latin America, even if not named in those terms. Insofar as environmental justice describes an environmentalism of the poor,<sup>8</sup> contesting risk allocation and the distribution of gains from resource exploitation, making linkages to other social justice movements and profiling race and class concerns in the politics of struggle, there are many examples that could be described by the term. This is particularly the case for movements protesting the abuse of indigenous peoples' rights.<sup>9</sup> Indigenous peoples and *campesino* groups are frequently at the forefront of contesting land claims of economic producers, often inhabiting resource-rich areas opened up for investment whether it be gold mines in Peru, copper mines in Chile or areas of Amazonia in Brazil.<sup>10</sup> Insofar as trade agreements enable the expansion of regional and global market actors into new areas of the continent, bringing them into contact and conflict with existing regimes of resource control and property rights, it is unsurprising that trade liberalisation intersects with existing patterns of inequality and marginalisation to produce vocal opposition to its expansionist ambitions. Embedded within broader processes of commodification, extraction and exploitation which characterise many poorer groups' relation with the state in Latin America, these groups are contesting the process by which trade liberalisation is secured, and the means employed to that end. These include the allocation of property rights and the displacement of people, the opening up of new areas to exploration and investment and a new politics of service delivery in which access for the poor is far from secure. In this sense, the current debate about trade liberalisation has to be cast within a broader historical pattern of resource exploitation and the denial of rights claims that this presupposes.

Second, despite the long history of social movement mobilisation in Latin America,<sup>11</sup> it remains the case that processes of globalisation and regionalisation have brought new threats to the livelihoods of the poor in the region that have prompted new forms of mobilising and organising. The mobility of capital enabled by regional trade accords, protection afforded to investors' rights and private access to the provision of basic services such as water have brought about new forms of trans-regional mobilising apparent in the creation of cross-sectoral coalitions such as the Hemispheric Social Alliance (HSA) as well as issue-based resistance networks such as the 'Reclaiming Public Water' network calling for 'water justice'.<sup>12</sup> Such coalition building is discussed further below.

### Contesting the process

The new regional trade politics of Latin America have brought about a series of key challenges for diverse movements that have begun to organise under banners that include environmental justice. Trade accords dealing with the control of natural resources (such as gas and water), agriculture and knowledge (through IPR provisions) align the interests of regional and global capital in conflict with those of indigenous peoples and social-justice oriented environmental groups. Mainstream environmental groups, meanwhile, have sought to improve environmental provisions within the existing agreements, their aim being to achieve greater balance between trade and environmental objectives without seeing, in many cases, inherent incompatibility between the two. Their strategies are explored briefly below in relation to each of the three key trade accords in order to contrast them with the forms of mobilisation and political agendas pursued by groups that employ environmental justice frames more forcefully.<sup>13</sup>

#### NAFTA

The NAFTA agreement has perhaps generated the most interest because of its environmental side-agreement, the first of its kind. Critics envisaged a scenario in which lower environmental standards in Mexico would attract polluting industries in the USA and Canada towards Mexico. Indeed, in one survey, more than a quarter of companies said stronger environmental provisions in the USA prompted them to relocate in Mexico.<sup>14</sup> According to Mexico's secretariat of Urban Planning and Ecology more than half the *maquiladora* plants produce hazardous waste and, while waste is supposed to be transferred to the USA, 'compliance has been the exception rather than the rule'.<sup>15</sup>

A primary set of concerns, raised both during the NAFTA talks and subsequently, centre on the likelihood that trade rules will be allowed to override environmental provisions, overturning regulations that were hard won at national level. In the NAFTA context, the right of multinational companies to sue is one manifestation of this where Ethyl, a US multinational, attempted to sue the Canadian government, alleging that regulations regarding a fuel additive that it produced violated provisions of NAFTA. Canadian company Methanex then brought a claim against the government of California for phasing out a hazardous gasoline additive which the company helped to manufacture. Environmentalists fear such provisions, by which individual foreign investors gain the right to sue governments should environmental laws affect their profits, under broad interpretations of non-discrimination provisions.<sup>16</sup>

A secondary set of concerns centres on transparency of decision making and spaces for public participation in trade policy. The environmental side-agreement of NAFTA created a Joint Public Advisory Committee (JPAC) to the NACEC (North American Commission for Environmental Cooperation), designed to provide input from civil society and the business sector to the NACEC's governing council. Articles 14 and 15 of the side agreement provide that any citizen or non-governmental organisation (NGO) from the parties to the agreement may send to the secretariat a submission asserting that a party is failing to enforce effectively

its environmental law in order to promote exports or investment. In response, the NACEC's secretariat may be obliged to provide a factual record, though without legal value or the ability to trigger trade sanctions. There are also strict rules about which types of issue groups can appeal and virtually no judgements or enforcement have resulted. For example, a citizen enforcement submission complaint charging Mexico with failure to enforce its own environmental laws has been filed with the NACEC by a Chilpancingo neighbourhood association and the Environmental Health Coalition, but nothing yet has been done to clean up the site.<sup>17</sup> A Border Environmental Cooperation Commission (BECC) was also created in response to concerns expressed by NGOs about the effect of trade expansion on the Mexico-US border. Although an 18-member Advisory Board, made up of residents of the border region, is meant to ensure that the interests of state and local communities affected by BECC decisions are represented, environmentalists are 'fuming that the BECC operates behind closed doors'.<sup>18</sup> Members of the public are required to submit a request to speak at a public meeting 15 days in advance and the board retains full discretion regarding who can speak at meetings.

Despite general disquiet about the lack of transparency regarding decision making around the NAFTA agreement, environmentalist concern about the provisions of NAFTA is not unified across the region. Reflecting these differences, groups such as the National Wildlife Federation, Natural Resources Defense Council, Environmental Defense and World Wildlife Fund were able to support NAFTA,<sup>19</sup> while the Sierra Club and Friends of the Earth, Greenpeace and Public Citizen, for example, took an adversarial position. The former constructed the 'Environmental Coalition for NAFTA', which sought to have the accord accepted, complete with side-agreement. Differences in approach reflect not only diverse strategic preferences, but also significant ideological differences, that successive trade negotiations have merely served to entrench. The key difference is between those who view trade liberalisation *per se* as antithetical to ecological sustainability and those who take the view that under certain conditions trade liberalisation can contribute to sustainability. Environmental justice activists, including members of Red Mexicana de Acción Frente Al Libre Comercio (RMALC) in the Mexican context, belong to the former camp, in questioning whether side-agreements and declarations of good intent will do anything to offset the social and environmental un-sustainability of investments attracted to Mexico under the accord.<sup>20</sup>

Transnational connections among more critical groups were formed from 1991 onwards, with groups such as 'Coalition for Justice in the Maquiladoras' aiming to internationalise awareness of citizen trade campaigns. The Mobilization on Development, Trade, Labor and the Environment (MODTLE) was established as a tri-national dialogue among activists from all three NAFTA countries. Such campaigns were able to upscale to groups with greater resources and different approaches to lobbying such as 'Development Gap' that helped in their own advocacy, for example by helping community groups to testify at the US trade commission on NAFTA.<sup>21</sup> There has, therefore, been an enormous amount of transnational activism around trade issues, from border organising around NAFTA<sup>22</sup> to more recent trans-American protests focused on the Summits of the Americas. These have involved environmental groups, labour activists and

an increasing tide of indigenous activism across the region, broadening framings of environmental politics to incorporate social justice concerns.

### *Mercosur*

In contrast to NAFTA, the debate on the relationship between trade liberalisation and environmental protection within Mercosur in Latin America is less well advanced. The incorporation of environmental issues has been weak and sporadic at best, despite the fact that the Asunción treaty that brought Mercosur into being lists regional quality of life and sustainable development amongst its broader aims.<sup>23</sup> Mercosur's environmental agency has a weak institutional status and a limited agenda. While there is a technical sub-committee (REMA – Reunión Especializada de Medio Ambiente), it focuses only on trade-related aspects of environmental policies, aimed at eliminating non-tariff barriers to trade applied for environmental reasons. It has far less formal power in comparison to the environmental institutions that exist within NAFTA. This weakness is compounded by the fact that the dispute resolution process of the Mercosur is unavailable for environmental disputes, so REMA had no means for enforcement.<sup>24</sup> Efforts to negotiate a environmental legal agreement for Mercosur took a decade (1991–2001), reflecting a combination of regulatory competition, the weakness of environmental groups and the correspondingly high levels of influence exercised by business actors. In 2001, the Mercosur Environmental Framework Agreement was signed in a form far less ambitious and expansive than the 1996 protocol version.<sup>25</sup>

One of the issues that has successfully engaged activists has been the broader 'ecological footprint' of Mercosur. If the infrastructural developments proposed for the region in order to enhance integration are not managed responsibly, the environmental consequences could be devastating. For example, the Inter-American Development Bank (IDB) has identified a mixture of transport, hydroelectric power projects and gas pipelines as essential foundations of an infrastructure for integration. Coalitions of NGOs successfully encouraged the IDB to withdraw funding for the controversial *hidrovía* proposal to construct a water superhighway to be built on the River Plate. The provision of alternative environmental and economic assessments and a legal case brought by coalitions of opponents in Brazil and Argentina (and backed by the Brazilian government) were key to the successful stalling of this Mercosur initiative.<sup>26</sup> There is significant and renewed commitment by governments across the region, however, to improve energy, transport and telecommunications in order attract foreign investors. Activists from Latin America and Europe are now joining forces to challenge a swathe of new infrastructural projects planned across the region funded by the European Investment Bank (EIB), the IDB and private investors under the banner 'Integración de la Infraestructura Regional Sudamericana'.<sup>27</sup> Activists such as Amigos de la Tierra (Friends of the Earth) in Paraguay have joined forces with counterparts in Europe, part of the 'BankWatch' coalition,<sup>28</sup> to contest the expected displacement of peoples, social upheaval and environmental destruction that will ensue. Environmental justice concerns regarding the rights of indigenous peoples, issues of property rights (over traditional medicines), land

acquisition and the pollution such projects would bring to poorer communities have featured highly in the campaign.<sup>29</sup> Processual concerns have also been raised in relation to the lack of information made available about the projects and, in particular, the ways in which concerns for commercial confidentiality have been allowed to take precedence over rights to information.

### *FTAA*

FTAA surpasses the previous two agreements in its potential breadth and ambition, with some even suggesting that Mercosur could be absorbed within FTAA.<sup>30</sup> For many, FTAA should be understood as a continent-wide extension of the basic terms and conditions of NAFTA – hence the caricature that activists use of ‘NAFTA on steroids’. Conceived by the US government at the end of 1994, the heads of government of the Americas (with the notable exception of Cuba) produced a declaration expressing their desire to initiate negotiations towards an FTAA to be concluded before 2006. The negotiations only began in April 1998, three and half years later. The negotiations are currently stalled by conflicts over subsidies in agriculture which the US wishes to maintain while calling for lower trade barriers in key markets such as Brazil, as well as concerns about liberalising services. At the Mar de Plata summit in Argentina in November 2005, US President George W. Bush expressed renewed determination to see the agreement concluded despite these ongoing conflicts and in the face of large-scale protests at the meeting demanding the abandonment of the agreement.

FTAA negotiators have been divided on the role of environmental provisions within the agreement. The USA, on one end of the spectrum, supports environmental provisions. Mexico, Central America and the Andean community, on the other end, roundly oppose their inclusion, and a group in the middle, which might consider environmental provisions depending on what they contained, includes Canada, Chile and Mercosur countries.<sup>31</sup> These positions are not, of course, static. There are differences within governments, which create openings for new alliances between groups from civil society and government departments. However, many contend, drawing on the experience of NAFTA in particular, that an agreement with environmental provisions would be a precondition for acceptance by North American governments.<sup>32</sup>

Beyond the battle that preoccupies mainstream environmental groups to secure an environmental side-agreement such as exists within NAFTA, it is the scope of the proposed FTAA that causes particular concern for environmental justice activists. It seeks to address every major industry, commodity and trade issue. So far, a series of commissions have been established in areas of key relevance to the environment such as agriculture and IPRs. Agriculture was considered so important a sector for negotiation that it not only has a special commission, but is also covered by the work of other commissions on subsidies, anti-dumping and compensation rights. Liberalisation of services also includes ‘environmental services’ such as water, controversial in light of the experience to date of water privatisation in countries such as Argentina, Uruguay and Bolivia.<sup>33</sup> The national treatment provisions are what concern many activists, where companies from all countries in the region will be afforded the same entitlement to provide services on a commercial



basis. Also, alleged quotas or prohibitions on the export of resources such as water for environmental reasons will be considered protectionist.<sup>34</sup>

At FTAA meetings in Buenos Aires and Quebec there have been explicit inter-governmental statements in support of the trade in genetically modified organisms (GMOs), prompting concerns among activists that FTAA will provide a back-door route to spreading the use of GMOs in the region.<sup>35</sup> This would be against the expressed reservations of countries like Bolivia about the technology, and driven by the need for the USA, Canada and Argentina, the world's three largest producers and exporters of GMOs, to find new markets for products rejected in Europe and parts of Asia. This issue has been raised by *campesino* groups in countries that serve as centres of origin for key crops such as maize, such as Mexico, a country which has already experienced contamination of non-GM crops by transgenic varieties.<sup>36</sup> The same groups have registered concern that IPR provisions within FTAA might continentalise North American patenting provisions, over-riding communal and indigenous peoples' rights.<sup>37</sup>

Opposition to FTAA within civil society has been widespread, reflecting both what is at stake in political and economic terms and the number of countries and associated civil societies involved. A large number of anti-FTAA movements have developed positions that place themselves outside the formal trade policy process. The forms of protest in many ways mirror, and build on, experiences of global campaigning around trade issues in the World Trade Organization (WTO). Alliances between a plurality of interests, held together through exchange of information via the internet and the formulation of positions at key meetings (*encuentros*), and coming together for joint demonstrations around key summits such as Quito and Quebec, are indicative of this form of mobilising. Within these coalitions, environmental groups critical of the process and sceptical about the compatibility of trade liberalisation with sustainable development have articulated concerns which resonate with a much broader critique of neoliberal development models. There are the familiar concerns about both the potential for mobile capital to exploit lower environmental standards as well as the environmental impact of increased volumes of trade. As Acción Ecológica of Ecuador argue, 'ALCA [FTAA] implies a direct increase in the consumption and therefore production of fossil fuels, this implies an increase in CO<sub>2</sub> emissions which the US does not want to control'.<sup>38</sup> Relatedly, by reforming the legal base of energy policy in the region, there is concern that exploration for and extraction of fossil fuels will increase, further implying both social and environmental impacts on the poorer indigenous communities that inhabit these areas.

### *Subregional and bilateral agreements*

Amid the continued lack of progress towards the conclusion of a continent-wide trade accord, renewed attention to bilateral and subregional trade agreements is unsurprising. Much as activists may be concerned about the ability of North American governments to extract unreasonable terms from Latin American governments on a multilateral basis, there is perhaps heightened potential for them to do so on a bilateral basis where power inequalities are sharpened and opportunities for solidarity in the face of pressure are reduced. Groups such as

CONAIE,<sup>39</sup> the indigenous peoples' organisation of Ecuador, have been vocal in their opposition to their countries' bilateral agreement with the USA, calling for marches and the involvement of other popular movements in the campaign to persuade the government to reject the agreement.<sup>40</sup> The terms of their opposition resonate with environmental justice concerns around access to resources and their distribution. This has taken the form of objections to privatisation and foreign ownership of natural resources (oil and water), 'turning countries into products', as Blanca Chancoso of CONAIE declared,<sup>41</sup> as well as tackling broader issues of food sovereignty, and has been fuelled by fears of increased poverty and land occupation resulting from the agreement.

Similarly, activists in Central America, contesting the Central American Free Trade Area (CAFTA) agreement, organised a string of protests across the region.<sup>42</sup> A Central American-wide coalition of NGOs trade unions, peasant and indigenous organisations has formed to fight CAFTA articulating their claims in terms of defence of alternative models of social and economic development. Health and environmental issues have featured strongly in such mobilisations, in addition to more traditional concerns with defence of rural livelihoods in the face of cheaper foreign imports. In Guatemala, concerns were raised about the health impacts of GMOs and in Nicaragua activists objected to CAFTA provisions on government procurement which they claim would limit citizens' rights to water as part of an agenda of water privatisation also pursued by the IDB. Ruth Herrera of the Consumers' Defense Network observed that 'more than half of all Nicaraguans lack potable water in their homes. This vital service must be expanded and administered solely by the public sector in our country in the interests of the people . . . and not sold as a commodity for profit.'<sup>43</sup>

There is concern that CAFTA provisions will also allow environmental standards to be challenged in Central America, in the way they have been under the NAFTA agreement. Previous experience lends weight to this expectation. When the Costa Rican government denied the US-based Harken Energy Corporation a permit to conduct offshore oil exploration following a negative assessment of the environmental impacts of the project, Harken attempted to sue the government for US\$57 billion under the World Bank's International Convention for the Settlement of International Disputes, a figure that far exceeds the country's entire gross national product (GNP).<sup>44</sup>

### *Links to rural social movements*

Challenging elite control of trade policy, centred in national capitals and engaging only the most networked of civil society groups supportive of trade liberalisation, the involvement of rural social movements in trade activism has helped to strengthen environmental justice components of critiques of regional trade policy. For a set of reasons already alluded to, *campesino* and indigenous peoples' groups have become increasingly involved in regional debates about trade policy. Their strong ties to agriculture, proximity to resource-rich areas and dependence on resource economies, as well as their sensitivity to issues of property rights and access to affordable services, mean that trade agendas that have broadened to cover these issues necessarily impact upon their livelihoods.

As organisations of the poor, such groups have nothing like the financial resources of some of their counterparts in the labour and environmental movements, but they have sought to make their voices heard through traditional patterns of protest, resistance and confrontation with the state.

Environmental justice literatures often emphasise the different cultures of protest that poorer groups bring to environmental politics – a distrust of institutions and the law that is reflected in self-help strategies of protest and resistance.<sup>45</sup> This is apparent in the Latin American context where Philip Oxhorn is right to claim that ‘in many ways, indigenous movements present the most fundamental challenges for understanding the quality of democratic regimes and for theories of social movements. Their distinctly non-western experience, history of violent abuse, and understanding of rights in collective rather than liberal-individualist terms all seem to set them apart from other movements, and perhaps even from the context of civil society in which they are frequently placed.’<sup>46</sup>

In some settings indigenous movements have identified themselves by their indigenous, ethnic or community identities. In other cases, they have formed issue-based alliances with women’s and environmental movements, in the latter case against large projects such as hydroelectric dams in Brazil.<sup>47</sup> Often broader critiques are explicitly articulated, such as in the case of the Zapatistas of Mexico who are expressly critical of NAFTA. Indeed, the Zapatista movement is in many ways a product of the impact of neoliberal reforms on the rural poor in Mexico which turned those people against the governing Institutional Revolutionary Party (PRI) which they had traditionally supported. While the struggles of such groups are essentially based around land claims and demands for better living conditions, they also articulate, according to Miguel Teubal and Javier Rodriguez, ‘important social currents against the contemporary global model of neo-liberalism’.<sup>48</sup> The extent to which trade liberalisation, as opposed to neoliberalism in general, is invoked as the target of critique depends on the group in question. Rhetorically the two are often taken as synonymous and associated with multiple forms of oppression experienced by indigenous and *campesino* groups such that CONAIE’s campaigns against Ecuador’s free trade agreement with the USA in 2005–6 made explicit connections to military intervention, the drugs war and racist repression of indigenous peoples. Both the deliberate invoking of the language of racism and the call for ‘liberation’ from foreign control of the country’s oil reserves, legitimated by what Blanca Chancoso dubbed the ‘Oxy law’ after the company said to benefit from it,<sup>49</sup> resonate with the prominence given to issues of race and resource access common to other environmental justice struggles.<sup>50</sup> The racism here is directed towards indigenous Indians rather than Afro-Caribbean communities that are the focus of most environmental justice struggles to date, and the ecology at stake that which political ecology enables us to understand as intimately connected to questions of social justice.<sup>51</sup>

This, then, is the entry point to understanding the role of *campesino* and indigenous peoples’ movements in advancing environmental justice claims in regional trade debates. Clearly opposed to many of the central tenets of the liberalisation process, such movements are outsiders in the process, though they can lay claim to a much broader constituency of support than most mainstream

environmental groups. While the FTAA is seen by some as an opportunity for social groups to put forward proposals that they have developed in the context of Mercosur on social and *campesino* issues, others raise concerns about provisions of the proposed FTAA that have specific implications for *campesinos* and indigenous peoples.<sup>52</sup> Issues of particular concern include agricultural reforms and the removal of subsidies, fears about further consolidation of power in the hands of large food producers and measures to strengthen IPR protection, in particular the ability to register private property claims over communally held resources in the manner permitted by the WTO Trade-related Aspects of Intellectual Property Rights (TRIPs) accord.<sup>53</sup> Amid existing controversies around rights and compensation regarding the appropriation of genetic material, especially in countries such as Mexico where many controversies around access and benefit sharing have already unfolded, IPRs have been viewed variously as new a form of colonialism or at the very least as a commodification of knowledge rights.<sup>54</sup> Similarly, conflicts around the privatisation of water in Bolivia where Cochabamba was the flash-point in 2000 in a violent conflict which ended in the US water multinational Bechtel leaving the country,<sup>55</sup> form the background to current concerns around service sector liberalisation within FTAA and CAFTA as well as access to resources of national (geo-)strategic importance such as gas.<sup>56</sup> Consistent with environmental justice contests, these are natural resource struggles that embody many other elements and in which 'the environment' as conventionally understood features as just one, often minor, part.

Global connections in campaigning become apparent insofar as opposition to FTAA is re-framed as a broader struggle against the global industrialisation and intensification of agriculture, or the privatisation of public services the world over. Connections have been forged, for example, to international campaigns against GMOs, which also have a regional resonance given the centrality of Argentina and Brazil to the global GM debate. According to Teubal and Rodriguez, 'various *campesino* movements have successfully articulated in recent years an authentic global movement'.<sup>57</sup> This is grounded in opposition to multinational corporations' control of agriculture (including patenting and bio-piracy), free trade in agricultural produce (especially dumping), and the use of hormones and transgenics, and in support of food security and food sovereignty. The umbrella group Via Campesina provides a clear articulation of this position and demonstrates its global connectivity through involvement, for example, in the World Social Forums.<sup>58</sup> Coalition building of this sort and a range of protest activities have been the main strategies adopted by *campesino* movements, often aided by the financial support of sympathetic groups in Europe and North America, funding the travel of *campesino* groups to major anti-FTAA demonstrations.<sup>59</sup>

Regional dynamics are important to understanding the politics of mobilisation, the agendas around which groups cohere and the possibilities of transnational cooperation. On the environment, competing views over the nature of the relationship between sustainable development and free trade have persisted, reflecting the broader ideological divisions noted above. At times, such differences were amplified by conflicts between protest cultures which bring together groups of such divergent social profiles as middle-class students and *campesino* groups.<sup>60</sup>

There has been a general asymmetry in participation during the FTAA summits, where there has been a much stronger presence of environmentalists from North America than from organisations from Latin America. These dynamics reflect the experience during the NAFTA negotiations and the broader politics of transnational collaboration that characterised that process, but they inevitably serve to enhance the profile of narrowly defined environmental concerns at the expense of giving space to broader environmental justice critiques of trade policy in the region.

This pattern replicates that seen in many localised environmental justice contests where understandings and perceptions of the environment compete. While professionalised environmental groups are often accused of reducing mobilisations to the protection of 'nature' as a discrete and bounded entity, poorer community-based activists often employ broader notions of ecology, in which questions of the access and distribution of resources are intimately interwoven with patterns of social inequality which have to be addressed not as separate from, but as part of, the environmental conflict. Luke Cole, writing about efforts by poor communities in the USA to tackle pollution generated by the chemical industry notes that 'many in the grassroots environmental movement conceive of their struggle as not simply a 'battle against chemicals', but a kind of politics that demands popular control of corporate decision-making on behalf of workers and communities'.<sup>61</sup>

Despite significant divergence between environmental groups with regard their view of trade liberalisation and their understanding of 'the environment', there has been common ground among many groups across the region regarding the processual elements of trade policy. Concern has centred on the need for enhanced transparency in the deliberations in the run-up to and during the Summits of the Americas, including improvements in mechanisms of civil society participation for those groups willing to engage the negotiations. Demands around civil society participation have continued to be made through the Peoples' Summits that led to the HSA (Hemispheric Social Alliance), a network, officially founded in 1999, of those groups most critical of the Summits of the Americas, and of FTAA in particular. Over the course of the Summits of the Americas, the HSA has been strengthened by groups' frustration with the lack of openings within formal processes and the failure to meaningfully act on the promising rhetoric regarding civil society participation that peppered early ministerial drafts.<sup>62</sup>

### **From trade justice to corporate accountability: contesting impacts**

For those groups either excluded from or choosing to remain outside the formal arenas of trade policy making, their engagement with trade policy is often more indirect. Living with the repercussions of trade liberalisation and the exposure of rural economies to regional and global markets, much campaigning energy is directed towards holding newly mobile external economic actors to account. Often without the support of the state, in reality often in conflict with the state, poorer groups adopt a range of community-based informal strategies of corporate accountability in order to secure social and environmental justice.<sup>63</sup> Rather like

their counterparts in North America, Latin American environmental justice activists seek to contest industrial, trade and planning processes that affect them profoundly but from which they are wholly excluded, in which investors are lured to new areas with promises of cheap labour, abundant land and natural resources and promises of minimal controls on environmental pollution.

Newly acquired capital mobility has altered the power dynamics between corporations and communities to the advantage of the former. Activists have employed tactics to contest forms of 'economic blackmail', where communities are played off against one another as companies seek the best deal in terms of low levels of taxation and regulation and a cheap labour force. There are of course traditions of this sort of campaigning which pre-date NAFTA's entry into force,<sup>64</sup> but the opportunities created by NAFTA for such practices have been expanded and consolidated. Struggles around NAFTA's Chapter 11 have been particularly significant in this respect. In August 2000, the California-based Metalclad corporation used chapter 11 provisions to sue the Mexican government for \$16.7 million for rejecting its proposal to build a hazardous waste facility in an already 'highly contaminated' community.<sup>65</sup> There is a clear environmental justice element to this organising when it seeks to contest the location of hazardous forms of production in poorer communities. In instances such as this, it was the local government that was sued for attempting to regulate pollution, whereas in many environmental justice struggles in the USA and elsewhere local groups are often in conflict with a government keen to attract new investment at whatever social and environmental cost. There are, indeed, many such cases in Latin America where local opposition to resource investors has been overridden by a government determined to attract investors. The Canadian mining company Manhattan Minerals Corporation ran into controversy over its development of a mine in the Tambo Grande district of Peru requiring the relocation of 2000 families.<sup>66</sup> This was despite a plebiscite, organised by Oxfam and held in the local municipality in June 2002, that showed 98.7 per cent of local voters to be against the project. The involvement of an international NGO, particularly of Oxfam's standing, helped to focus international attention on the project and build linkages to international mining campaigns in Canada.

Frequently, opposition has formed to mega-projects that provide the infrastructure necessary to realise the projected gains from trade accords. Mobilisations in relation to Mercosur's *hidrovía* project and incipient campaigns around infrastructural developments sponsored by the IDB and EIB were mentioned above, and across the region there has been opposition to the proposed Plan Puebla-Panama (PPP) bringing together a range of indigenous peoples and environmental groups.<sup>67</sup> In many demonstrations explicit links have been articulated by activists between FTAA, CAFTA and the PPP, which are understood as part of a common project of imperial resource control.<sup>68</sup>

A more recent environmental conflict in the Mercosur region has been the dispute over the paper mills in the Uruguayan coastal city of Fray Bentos developed by the Finnish company Botnia and initially ENCE (Empresa Nacional Celulosa España) from Spain, the largest single investment in Uruguay's history. Environmental activists in Entre Rios, Argentina (la Asamblea Ciudadana Ambiental de Gualguaychú) have mobilised around the probable release of

waste contaminants from the new factories into the river which they share with Uruguay, demanding at a minimum a full environmental assessment before production commences. Other concerns include the treatment of solid wastes and the stench generated by gas emitted from the plants, as well as their proximity to urban centres.<sup>69</sup> Their concerns have been lent credibility by the track record of ENCE in Valdivia, Chile and in Spain where the company has faced fines – sites that campaigners in Argentina have visited through activist networks.<sup>70</sup>

Groups critical of the factories have been able to form alliances and assemblies with environmental activists in Uruguay and garnered significant public support for their campaign. Activists claim the gathering of 40,000 people that marched on this issue is unprecedented in the region for an environmental campaign.<sup>71</sup> Protest tactics have involved forming pickets and blockading key roads and bridges which connect Uruguay and Argentina at the height of the holiday season, mimicking tactics adopted by the *piqueteros* movement of the unemployed in Argentina and other social justice movements across the region.<sup>72</sup> The drastic actions are a response to the fact that initial work has begun on the construction of the factories, allegedly in the absence of consultation with the Argentine government as required by the 1975 ‘Statute of the River Uruguay’<sup>73</sup> and in the absence of required environmental impact assessments. The conflict has gained the status of a high political issue causing tensions between the countries two presidents Néstor Kirchner and Tabaré Vázquez,<sup>74</sup> with Uruguayan officials claiming that the actions of the protesters threaten Mercosur and the achievements of regional integration and Argentina initiating proceedings before the International Court of Justice.<sup>75</sup> To reject the expansion of the industry in the area would also be to go against World Bank recommendations, made over 20 years, that the south of the country be developed in this way.<sup>76</sup> This is in spite of concerns that the paper producers, keen to relocate in Uruguay to avoid European regulations requiring changes in production, are engaging in ‘pollution flight’.

Foreign investment in Latin America enabled by regional trade agreements has been met with innovative forms of transnational activism and a new politics of investor accountability. As with other forms of trade activism, poorer communities in Latin America have been able to form alliances with groups sympathetic to their plight and keen to expose the consequences of rapid liberalisation in the absence of adequate social and environmental safeguards as well as acts of corporate irresponsibility by Northern-based firms adopting double standards when they operate in developing countries.<sup>77</sup> The Permanent Peoples’ Tribunal, launched in Vienna in May 2006 on ‘Neo-liberal policies and European TNCs in Latin America and the Caribbean’, provided one such opportunity allowing environmental activists from Uruguay to bring cases against the water companies Suez of France and Aguas de Barcelona y Bilbao from Spain, and Mapuche activists from Patagonia Argentina to provide evidence of alleged illegal sales of their land to foreign investors such as the Italian fashion retailer Benetton.<sup>78</sup>

Often such campaigning serves to globalise localised resource struggles that pre-date regional trade accords but which acquire renewed significance in light of them. Campaigns against the oil producers Chevron and Texaco for their role in extracting resources from contested land in Ecuador provide one example.<sup>79</sup> A report about Texaco’s operations in Ecuador in the 1980s documented that

3.2 million gallons of toxic waste were being spilled from the company's operations every day. Subsequent legal battles have taken on international dimensions, with US legal activists working with indigenous peoples' groups against the government of Ecuador, which was anxious not to scare off would-be oil investment.<sup>80</sup> The company is facing a class action suit in the USA and consumer boycotts organised by *Acción Ecológica* and Rainforest Action Network. In June 1994, Ecuador's 12 indigenous peoples' groups united to shut down the whole country for two weeks, protesting 'decades of environmental destruction and social irresponsibility'.<sup>81</sup>

Another oil-related case is that of Oxy and the U'wa people of Colombia, threatening mass suicide if Los Angeles-based Occidental Petroleum was allowed to go ahead with plans, developed in 1995, to drill for oil on U'wa land. Highlighting the importance of identity politics to environmental justice claim making in Latin America, the U'wa people issued a declaration stating 'we would rather die, protecting everything we hold sacred rather than lose everything that makes us U'wa'.<sup>82</sup> Rights enshrined in legal conventions combined with communication technologies that enable communities at the frontline of these forms of resistance to be in touch with groups sympathetic to their aims has created a public relations nightmare for firms hoping to contain localised conflicts with groups whose resources they are seeking to access. For example, Amazon Watch and Action Resource Centre organised a non-violent direct action against Occidental's headquarters in Los Angeles when protesters 'installed' a 23-foot mock pipeline in Occidental's lobby. As J. Timmond Roberts and Nikki Demetria Thanos suggest, 'with the globalization of investment capital has also come the globalization of communications and human rights law'.<sup>83</sup> This has enabled the forging of links between struggles for indigenous rights and environmental sustainability.

While patterns of trade liberalisation bring to the fore new corporate accountability struggles, for many of these movements old battles continue with state-owned and small and medium-sized firms that are less mobile and less equipped to take advantage of investor access and provisions in trade agreements, but no less polluting as a result. Campaigns against the state-owned oil firm PEMEX in Mexico, where an explosion in 1984 in Ixhuatpec was reported to have killed more than 500 people, or similar such incidents in Cubatão near São Paulo, known as the 'Valley of death', testify to this.<sup>84</sup> Foreign-owned transnationals such as Occidental and Shell are often more vulnerable to indigenous activism than Latin American state-owned companies, such as CVG-EDELCA in Venezuela, since they are more sensitive to global publics and more likely to be influenced by transnational organising.<sup>85</sup> If anything, trade liberalisation has brought extra challenges for poorer communities, not just new ones.

### **The value of an environmental justice approach**

Insofar as the notion of environmental justice foregrounds questions of social justice through its emphasis on questions of distribution, exclusion and equity, it provides a helpful analytical frame for understanding contemporary mobilisations around trade and environment in Latin America. Advancing an environmentalism of the poor, the livelihood struggles of many of these groups share



the strategies, values and experiences of many other social and environmental justice movements across the world, but perhaps especially in the majority world.<sup>86</sup> Although debates on environmental justice are often framed by the unique experiences from which they derive in the US, the patterns of social exclusion they identify in resource conflicts and decision making on environmental questions find parallels in struggles in Latin America. While configurations of race, ethnicity and class clearly assume different forms in distinct locales, the sources of struggle and the contests over strategy that these produce resonate with the experience of environmental justice movements contesting trade policy in Latin America. In particular, the emphasis on environmental justice draws attention to the following themes which unite the forms of claim making and practices of mobilisation discussed above.

*Exclusion* is clearly a key theme running throughout these mobilisations, both in terms of the absence of meaningful institutional spaces provided by national governments and within regional bodies addressing trade liberalisation, but also more fundamentally the lack of representation within trade policy processes of groups most directly affected by the social and environmental costs of economic adjustment. The perception that these are negotiations conducted by and on behalf of political and commercial elites persists, fuelling discontent and resentment in its wake.

*Equity* clearly underpins much of the claim making by environmental justice activists. *Equity of process* refers to the democratic deficits described above in relation to participation, transparency and access to information. But *equity of distribution* is also fundamental here, where trade liberalisation is seen to enable the extraction of natural resources without a corresponding obligation to return the benefits of that extraction to the communities that host the resources. These concerns emerge in debates about private control of genetic material through IPRs and in relation to conflicts over access to resources such as water and gas described above. Ensuring access to new (resource) markets and acquiring land for infrastructural projects associated with trade liberalisation enflames existing conflicts over land, bringing into play many landless rural movements that have aligned themselves against free trade processes within Latin America – most vocally the Movimento dos Trabalhadores Rurais Sem Terra (MST) in Brazil, but on a smaller scale in countries such as Paraguay too.<sup>87</sup> Such conflicts resonate with previous struggles over the re-patriation of profit from resource use in the region – what Norman Girvan referred to as ‘corporate imperialism’.<sup>88</sup> Interestingly, such language is now enjoying a revival through the rhetoric of Venezuela’s President Hugo Chávez and Bolivia’s President Evo Morales regarding national control of their countries’ natural resources.<sup>89</sup>

Equity concerns are also prominent at the interface between issues of poverty, health and environment that characterise the work of many environmental justice groups, such as the *maquiladora* coalitions and the Environmental Health Coalition confronting the disproportionate exposure of poorer groups to the social and environmental ‘externalities’ of trade. Women’s movements have been particularly important allies of environmental justice advocates, drawing attention to the gendered dimensions of this process, where women are more frequently exposed to workplace hazards, but also bear the brunt of the family’s

exposure to hazards 'where we work, live and play', to coin a phrase of the environmental justice movement.<sup>90</sup>

*Race.* Although an explicitly racial dimension of the environmental justice critique is often not articulated in the region to the extent it is in the USA, the dynamics which processes of trade liberalisation unleash graft on to a set of existing social inequalities in Latin America, many of which are, debatably, race-based. In parts of Latin America a form of 'colonialism within' is practiced when elites of white European or *mestizo* descent forcibly remove indigenous Indians from their lands or extract resources coercively for global export. Invoking rationales employed by former colonisers, such controversial practices continue to be validated through references to the need to modernise backward peoples and their 'unproductive' livelihoods. The incentives given to large livestock raising and timber companies in the Brazilian Amazon, for instance, reflect the view that latex extraction and nut harvesting by traditional populations are 'backward' economic activities that fail to utilise the area sufficiently.<sup>91</sup> The sense in which elites of European origin are overseeing the integration of the region by trading for profit the natural resources that indigenous and *campesino* groups have collectively stewarded for many centuries merely serves to antagonise delicate race relations in many Andean countries. Struggles in Bolivia and Ecuador, in particular, to get heads of rural social movements into power are indicative of the strength of feeling on these issues which also find resonance in the denunciations of trade agreements by indigenous activists, noted above.<sup>92</sup>

*Class.* Although the resource struggles intensified by trade liberalisation have been interpreted through conventional class analysis,<sup>93</sup> the analysis here would suggest that the role of class in environmental justice conflicts is more complicated. Control of the means of production can legitimately be said to be aim of many groups within the region, from the movements of the landless in Brazil to post-crisis occupations of factories in Argentina,<sup>94</sup> but it would be a mistake to suggest that what primarily defines movements advancing specifically environmental justice concerns is that they are working class defined by their lack of control of the means of production. Many groups seem to identify a class that they are opposed to, something which might be characterised as a 'managerial class' in terms associated with Robert Cox:<sup>95</sup> business and policy elites responsible for the management of the economy. But their perceptions of what unites them and the claims around which they mobilise often invoke race, ethnicity or national characteristics rather than (or in conjunction with) primarily class-based elements. Identity politics are crucial to understanding these struggles: the claims made and the repertoires of protest adopted. The value of attempting to assert a hierarchy of exploitation based on class, race or gender, increasingly discredited in many environmental justice literatures,<sup>96</sup> should also be questioned when it comes to the politics of trade. Hence, whilst recognising the class dimensions of what, in many cases, are movements of the poor, there are multiple environmental justices being articulated here which intersect with the politics of regional trade in different ways, refracted through local understandings of the environment, resources and development.<sup>97</sup>

*Rights* bring different discourses of environmental justice together in relation to trade policy, whether it is the *distribution* of the right to a clean environment, food

or livelihood or *process* rights such as the right to participation, association and information. Many of the mobilisations described above invoke rights claims to defend areas of the commons perceived to be under threat from the expansion of trade. Articulating demands in these terms is seen as an important line of defence against the 'investor rights' which the FTAA threatens to carry and which companies have already invoked in the context of NAFTA to uphold their claimed right to make a profit.

The narrow framing of the trade agenda in Latin America means that those formalised spaces that do exist for participation are unlikely to be accessible or useful for groups advancing environmental justice claims. Being cast as outsiders will make it more likely that they will seek alliances with other movements threatened by trade policy initiatives. In this sense, environmental justice concerns regarding trade can be considered part of, but run the danger of being subsumed within, broader critiques of trade liberalisation under the umbrella of coalitions such as HSA. A number of strategic dilemmas flow from this situation regarding possible alliances with other movements and the role of environmental justice within those – the extent to which engagement in trade policy, even from a position of opposition and contestation, plays to the strengths and agendas of environmental justice movements, and whether transnational protest politics around environmental justice are possible and desirable given the traditionally localised nature of such struggles, even if in practice they manifest and reflect transnational dimensions.

There are shared resources and support that can be derived from belonging to coalitions such as the HSA which allow for the articulation of a range of inter-related, although not always internally consistent, demands from platforms with greater profile and further reach than individual movements could achieve on their own. Perhaps most significantly, as has been argued here, it is more often the case that there is an identifiable environmental justice element to existing campaigns around land, health and indigenous rights rather than an easily discernible self-identified environmental justice movement in its own right, despite the increasing uptake of that discourse in Latin America. The challenge is to connect in politically meaningful and strategically relevant ways, localised campaigns of an explicitly environmental justice nature with regional movements whose agendas feature environmental justice as just one element of a broader spectrum of concern regarding regional trade policy.

An emphasis on environmental justice broadens, deepens and contests the environmental politics of trade in Latin America. Conventional understandings of the environment are politicised and historicised both by 'indigenous ecology's' emphasis on knowledge politics and by the recognition, central to environmental justice concepts and praxis, that all environmental problems are ultimately social ones.<sup>98</sup> Questions of access and entitlement are highlighted and patterns of discrimination in resource use and exploitation are rendered visible and contestable by foregrounding questions of distribution and exclusion. The 'political ecology of trade', which many movements advance by approaching trade-environment relationships from the perspective of rights, embedding environmental issues within a broader framework of social justice thinking, also raises questions about the relationship between democracy and the market. Insofar as governments across the region are seen to be more sensitive to the needs of foreign capital than

to broader social needs or notions of the public interest, questions of legitimacy and representation inevitably arise. Where trade agreements are concluded without regard for those whose resources are being negotiated or whose livelihoods will be adjusted by the process, we can expect greater and more intense forms of conflict over trade policy, not just aimed at democratising the market but about economic democracy – a more fundamental debate about who the economy should serve and how.

## **Conclusion**

From the negotiation of trade rules through largely closed inter-governmental processes to the investments which ultimately result in firms taking advantage of new opportunities to access markets, consumers and resources, we see a growing but shifting civil society response to the perceived injustices of trade policy as it is currently conceived and implemented in Latin America. Those opposed to its processual elements and distributional consequences include a diverse set of movements with a range of agendas that often compete and conflict, but which share key concerns around equity, exclusion and social justice. Those groups approaching their critique from the perspective of environmental justice have successfully highlighted the disproportionate social and environmental costs that marginalised groups are expected to bear in the name of ‘development’ from which they rarely benefit. They have raised crucial questions about the sustainability, in both a social and an environmental sense, of prevailing trade models within the region and they have forced policy elites to appreciate the level of concern and discontent about the model of economic development they are promoting for Latin America. The new political landscape across the region, the stalled status of the FTAA negotiations and the heightened unpopularity of ‘free’ trade’s strongest advocate in the region, President George W. Bush, may have the combined effect of creating a window of opportunity for the agenda pursued by environmental justice groups and their allies across a range of similarly concerned social movements to get a more serious hearing than has thus far been the case.

## **Notes**

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