



HAL
open science

Environmental Justice, Community Benefits and the Right to the City. The case of Detroit

Julie Gobert

► **To cite this version:**

Julie Gobert. Environmental Justice, Community Benefits and the Right to the City. The case of Detroit. Justice spatiale = Spatial justice, 2010. hal-01841418

HAL Id: hal-01841418

<https://enpc.hal.science/hal-01841418>

Submitted on 17 Jul 2018

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

Environmental Justice, Community Benefits and the Right to the City. The case of Detroit

Julie GOBERT

Translation: Ann Dufaux, Frédéric Dufaux

Abstract: *In the United States, developers are obliged to take into account Environmental Justice (EJ) issues in order to achieve their facility projects, from a procedural and distributive point of view. The community benefits agreements are among some of the local regulation mechanisms, which contribute to better equity in the allocation of bad and good effects of an impacting facility. Only packages of manifold measures can tackle socio-environmental inequalities: reducing social vulnerability of community groups, increasing their social and political resources and benefiting from opportunities.*

In Southwest Detroit, on the occasion of two projects (relative to the extension of an intermodal freight terminal and a new bridge between Windsor and Detroit), diverse community groups gathered their strengths to counterbalance the developer's takeover and obtain compensatory countermeasures.

But this negotiation process raises some problems because it does not deal with all of the local civil society concerns, in an area already highly exposed to pollution and economically deprived. This democratic experimentalism is not sufficient to create an actual right to the city and environmental citizenship.

In the United States, Environmental Justice (EJ) has become a major paradigm for regional development and planning (Taylor, 2001). In the beginning, the framework for analysis essentially pointed at the disproportionate impact of polluting infrastructures, such as landfill sites for industrial waste, factories and highways in poor or ethnic minority communities. Today, this framework covers a number of areas who resort to public or private policies (if they need the assent of public authorities).

Contention against the ways which have resulted in the increase of environmental problems in the most sensitive communities, first led community activists and researchers to resort to objective observations (Bullard, 1990; Cole and Foster, 2001). They created grids which link the environmental, social justice and racial segregation stakes: the latter not having been taken into account in the field of environmental issues up to then (Theys, 2007). Then, as the movement gained momentum and was put on the federal agenda, namely through President Clinton's Executive Order 12898 of February 11, 1994, new challenges had to be met, essentially having to do with solutions to be found.

Compromise through compensation is not new nor a consequence of the birth of EJ in the field of urban planning and especially for regional facilities of considerable scope.¹ It is of common practice among developers, whether they work for public, or private companies, or for the local public authorities or the state or federal governments. Agreement is frequently bilateral and generally limited to the party supplying the permit and the authorizations and the applicant party. The discussions deal with aspects directly related to the infrastructure and not at all the quality of life.

The application of techniques such as linkage zoning², inclusionary zoning,³ and development agreements⁴ have been tried out previously in order to link private projects for amenities with

¹ The case studies we are hereby presenting deal with localized/selected infrastructure for transportation and include both federal and regional levels of decision. The territorial impact is both positive and negative. Yet due to the well known scale disjunction consequences, positive impacts have to do with much smaller scales than negative impacts which affect reception areas.

² Property developers who intend to build office buildings must spend 2% to 3% of the total cost for affordable housing.

³ Inclusive zoning (Dansereau 2002) is implemented through town or county rulings which make it mandatory for new housing programs to offer affordable housing to people with low income

⁴ *Development Agreements* are contracts negotiated between local governments and the owner in charge of the project. The latter accepts to provide some advantages to the local residents. The public authorities accept to "freeze"

complementary services. This legislation cannot be applied to the greater projects which have to go through a process of validation by the Federated States and the Federal Government. In fact, cities have no right to impose their decisions to public Federal developers.

That is why other types of local regulation, which are not dependent on local authorities, have been tried out and among these the community benefits agreement (CBA) (1).

However, activists pushing for socio-environmental town-planning are confronted with political and administrative authorities who are sometimes unwilling to consider redistribution and the recognition of individuals or communities. For example, in Detroit, those involved in the plans for a multimodal platform (the Detroit Intermodal Freight Terminal – DIFT) and the construction of a new bridge linking Windsor and Detroit (Detroit River International Crossing – DRIC), associations providing welfare, EJ, and environmental protection have decided to unite their efforts in order to obtain compensatory measures from the public developers (Michigan Department of Transportation) (2).

Experimenting in local democracy, proceeding from the informal level to a more formal contract, does not solve the fundamental disparities existing in regulations and that are enforced by well established practices (3). This is what the fieldwork we completed in July 2008 shows. We came to this conclusion thanks to our study based on articles published in the local press, and interviews with local planners, members of local grassroots associations, and State and Federal administration representatives.

1. Community benefits and Environmental Justice in the United States

Environmental Justice: reallocation and procedures in the United States

In the United States, Federal and State legislation make it mandatory for developers in charge of infrastructural projects, to take EJ into account: firstly at the procedural level and secondly and to a certain extent in the area of reallocation. Facilities that will or may entail pollution should not be densely concentrated in socially and economically run-down areas, where vulnerable people live. In the impact studies, a chapter is devoted to the repercussions on EJ in the area of the social and demographic territorial structure (the percentage of single mothers, the people affected belonging to minorities or with a low level of income, or affected by unemployment) which are analyzed and taken into account.

However, beyond the traditional measures of assistance to help alleviate these negative elements, nothing has been planned for and particularly as far as modernization and the extension of the projects is concerned. No stopgap measures have been taken, in order to deal with existing environmental injustice. Thus one can understand the demands of some of the activist coalitions, opposed to the project, challenging the way decisions are taken. They want the property developers, the developers and those who run these facilities to be more involved socially and ecologically.

In fact with EJ and its institutionalization at the top of the agenda, in the 1990s, we note that what came to the foreground was the procedural dimension of environmental injustice. This became obvious through forums of discussion, to which inhabitants belonging to acknowledged EJ communities, were committed.

Yet this only corresponds to the form and not to the basic issues, such as the cumulating of social and environmental inequality in one single area. If the prevailing legislation and regulations pertain more to procedural justice (the integrating of new groups of people in decision making), other local modes deal mostly with the will to reallocate and to seek

some of the urban planning regulations over a certain period in places where they foresee planning public buildings or parks (Schwartz, 2001).

substantial equality⁵. Compensation is one of the modes in local experimenting, and often not a formal framework which federal agencies are committed to throughout the American territory. The following table, resulting from the work done by British university researchers, shows how the complexity of environmental inequality makes outside intervention necessary and cannot be dealt with by a simple procedure.

Table 5. Potential grounds for claims of injustice in IPC site locations and the need for policy intervention to address this

The deprived are taking an unfair burden of negative impacts from industrial sites	Distributional
The deprived are taking an unfair burden of negative impacts from industrial sites and they are also more vulnerable to pollution impacts	Distributional and protective
Industrial pollution adds to other environmental and social inequalities focused on the same deprived areas	Cumulative distributional
The processes by which decisions to locate IPC sites are made are or have been unfair	Procedural
People that are deprived are less able to exercise free choice in where they live	Procedural and distributional
Communities experiencing a disproportionate burden are not adequately compensated by benefits from the industrial activities	Distributional and utilitarian

Table 1. Potential causes of injustice and the regulatory methods used to deal with them
Source: Walker (2005, 12)

One territorial area may cumulate many factors leading to inequality. Therefore that area will need several different types of regulatory elements in order to deal with the problems. The community benefits agreements (CBA) do not result from the application of specific legislation, but rather from local collaboration through a multifaceted system response to the question. In this respect the use of these agreements provides many possible and contextualized answers to the problems. The socio-environmental subsidy tool highlights the change in the power relationship between the different parties involved on the territory. Negotiating more and more systematically in the area of territorial problems has improved the situation and we can note fewer legal trials of strength these days.

CBA was initially set up in California and at the outset involved private developers. In order to help facilitate the modernisation of the Los Angeles International Airport, the city (who manages the airport), accepted this type of solution. This type of transaction became popular and was adopted as an innovative public/private type of policy (Lascoumes et al, 2005).

⁵ This entails the calling into question of standard applications of norms and not necessarily the assimilation of categories and loopholes resulting from formal equality. Such are the basic tenets of positive assimilation.

The Community Benefits Agreement: a “multi-transactional” tool (Blanc, 1992)

Resulting from the negotiations that took place at the turn of this century (in the early 2000), the CBA is heir to the *Good Neighbor Agreements* and part of an effort to confine social costs in participating in better equity and the sharing of both bad and good effects of an impacting facility (Gobert, 2008).

The structure of CBAs is based on some very essential principles. On one hand, inclusiveness which is a procedural principle having to do with Civil Society and negotiating procedures, on the other hand accountability which is based on the principle of obtaining results and implies responsibility and implementation (Gross, 2008). This empowerment model for negotiating and compensating was inaugurated in Los Angeles (Baxamusa, 2008), and quickly spread to the rest of the country. It is considered as a win-win process as the benefits are granted to the local resident groups⁶ – the associations and the local public authority – for employment, professional training, housing, public parks and amenities and the environment, and to the developers who get political backing, improve their public image and will possibly avoid lawsuits (Gross et al, 2005; the Annie Casey Foundation, 2008).

The development of an environmental concept in this approach is not restricted to its strictly ecological apprehension, nor limited to the protection of the environment. Therefore the proposed solutions are numerous and deal with many levels of urban life including the habitat, people’s working conditions (especially relative to minimum wages and the guarantee that the wages paid to union and non union staff members are identical), transportation (improvement of the local residents’ network) and finally the quality of life (such as the development of parks and the reduction of all types of pollution). The solutions are based on a principle of limited replacement. For example, it is impossible to compensate for the deterioration of an ecosystem by offering financial aid to be attributed to the restoration of a community center.

Such an agreement may be negotiated for the request of the authorization of a project and for reports on the environmental impact assessment (EIA) listing the ecological consequences - and to a certain extent - the economic and social effects of the given project. The procedure is often an incremental one: the developers⁷, the local public authorities, the civic groups all participate in constructive negotiations (integrative bargaining), which is initially formulated in a collective diagnosis. The framework is either a *Community Impact Study* or more formally a *Social Impact Study*.

Specific measures are adapted according to the needs or the various impacts found in the diagnosis. Not only are the direct effects of the infrastructure (previously analyzed in the EIA), but the total sum of difficulties the population underwent discussed. We can therefore call these multi-transactional negotiations, due to the variety of topics brought up. The CBA settlements usually take place in a single location (ad hoc discussions set up where meetings are held and the impact of the projects evaluated). To conclude, there will be a single document and not a collection of protocols resulting from the various processes.

CBAs belong to the category of “supra regulatory agreements” for at least three reasons. First of all, they are rarely part of the final impact evaluation document called *Final Environmental Impact Statement (FEIS)* or *Record of Decision (ROD)*. Integrating the ROD entails several disadvantages, since only the members of the government agency are involved, but none of the members of the civics hub are deciders. They are thus unable to go to court in the case of

⁶ There are two scales of local resident gatherings. On one hand, we find a local coalition, more or less structured, with residents belonging to associations and territorial representatives. On the other the “civic pole”, which we will refer to further on, which also comprises national member associations, influential members of the community who are liable to participate in the debate even if they are not directly concerned.

⁷They include project managers and property developers.

failure to respect any concessions made. It is also more difficult for them to check the implementation of the measures taken (Larsen, 2009).

Second of all, these multilateral agreements make up for the gaps that can be found in the impact evaluation and take the “neglected” impacts, the local know-how and lack of participation into account. They are frequently settled outside of the official consultation channels which are either provided for by the EIE or the authorities managing the infrastructure.

To conclude, we may note that these agreements are complementary elements to existing legislation. For example, when people with minimum wage (*living wage provisions*) or some professional categories are not covered by regulations in the courts of law in which the CBAs are negotiated, then the coalitions will often formally take action. It is also a way of compensating for the cuts in federal aid for housing rehabilitation programs. We can indeed point to the “Strengthening America’s Communities” initiative under the Bush administration, which ended in a considerable decrease in aid for local economic development and particularly in the case of the “Community Development Block Grant” (Le Roy, Purinton, 2005).

All of these points explain why local social contracts, which are negotiated with Civil Society throughout the United States, but especially in Detroit, appear to be so attractive, even if this course of action has no legal framework and few decisions taken in court coming to nothing lead to the lifting of legal uncertainty (Salkin, 2008).

2. Detroit, “the shrinking city”: an “urban hell” undergoing restoration?

“Poor, run down, segregated Detroit ever since the end of the *Empowerment Zones*⁸ program has been totally abandoned” (Popelard, 2009). Its image is debased and it is considered the city of industrial loss (Je Jo, 2002), of social and environmental relegation. It is often shown as an urban inferno, its downtown almost empty: “a cautionary tale for urban planners, for social workers, for the rest of us. Everything that is happening elsewhere because of the economy started here a long time ago. It’s like a Petri dish of all the things that have gone wrong” (Carr, 2009). In addition, corruption appears to be poisoning the city.

Detroit is among the “the shrinking cities” that have given rise ever since the end of the 1990s to researchers interest, not only helping to understand the mechanisms of urban depopulation and decreasing demography, but also to create new remedial tools. As far as the United States is concerned, urban attrition in the *Rust Belt* has been caused by massive de-industrialization on one hand, and suburban development on the other. This trend is particularly obvious in Detroit (Digaetano, 1999): as the economic hardships of the three major automobile manufacturers, the deserting of the downtown area in conjunction with the spreading of the city and the rise in social and racial suburban segregation show. Because it was greatly affected by de-industrialization and the automation of industry, many jobs disappeared in Detroit in the 1960s, and so a number of local residents left town, leaving their homes and stores empty.

Like Leipzig, Detroit is a “pierced city” (*ville perforée* (Florentin, 2008)) with pockets of economic activity and suburban areas that are more or less well integrated. The decline has led to the decrease in tax money and thus the selective cutting of public amenities (such as the water distribution, the electricity and urban transportation networks) (Zepf, Scherrer, 2008). Yet, the shrinking of cities in East Germany, in Russia and in the United States do not appear to be insurmountable and have led local public authorities and regional authorities to review their conception of town planning in a more sustainable way and to experiment with new ways of governance and new tools of intervention (Florentin et al, 2009), flouting the growth paradigm.

⁸ Similar to French style urban free trade zones (“zones franches urbaines”), they were imposed by law on January 12th 1995, in order to counter exclusion and poverty in neighborhoods in difficulty. They attracted contractors and investors by enabling them to pay lower wages and by financing local public amenities.

In the same way, there have been many attempts to revive and transform Detroit and to turn it into a place other than a road hub or a freight transportation hub which city planning had limited its function to. This demand led to a negotiating process via CBA, as member associations wanted the California model to be applied to Detroit. However, transferring good practices faces a different local social and political set-up, with members less willing to comply with formal agreement.

DRIC and DIFT: two infrastructural projects set up in an economically and socially depressed area

Southwest Detroit⁹ (map n° 1) where Delray is located (see the two adjoining maps) is one of the most disadvantaged neighborhoods of the city, with great ethnic diversity and descendants of Hungarian, Polish, African-American and Spanish speaking Latin American origin (the latter are mostly of Mexican extraction and have been in the country for a very long time) and a large Arabic community as well (Downey, 2005).

The urban landscape comprises a number of urban and industrial wastelands, giving the impression that the area is vacant and, of political neglect. Because of this there is a trend towards illegal behavior which is exemplified by the use of illegal dumps¹⁰. "Housing property values in the area are extremely low: property values in the neighborhood average under \$25, 000 US (according to the 2000 US census) and in some cases amount to even less than \$10, 000. Housing demand is also low" (University of Michigan, 2007).

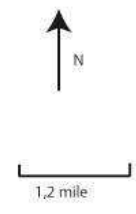
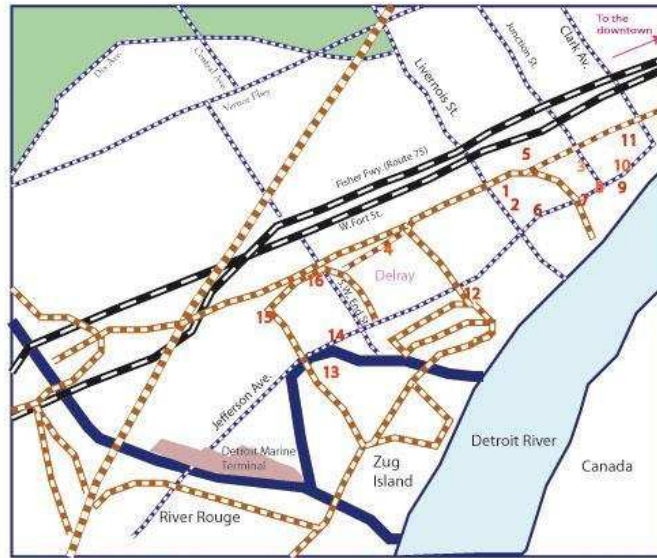
The area is one of the most polluted in all of greater Detroit, in which a number of factories that are still running can be found, as well as a road network hub linking the area to Canada (map n°2). People here have traditionally expressed and resisted the decisions taken by public authorities. They protested against the plant reprocessing waste-water. Factory directors were taken to court because of the pollution and the foul¹¹ emanations issuing forth from their plants. This type of activism does not only reflect how much legal procedures affect the balance of power in struggles such as these throughout the USA. This kind of activism illustrates how resilient some communities are in the face of the deteriorated environment they live in.

⁹ If we take the statistics of the MI 48209 Detroit census zone into consideration, the population in this area amounts to 38 895 inhabitants. The population is very mixed with a majority of Hispanics. Average income is very low: 25 536\$ in 2006.

¹⁰ Waste management is a particularly sensitive issue and at the heart of several controversial political and corruption issues.

¹¹ Let us quote the class action against the United States Steel Corporation Great Lakes Works (University of Michigan, 2007).

Southwest Detroit : An industrial area



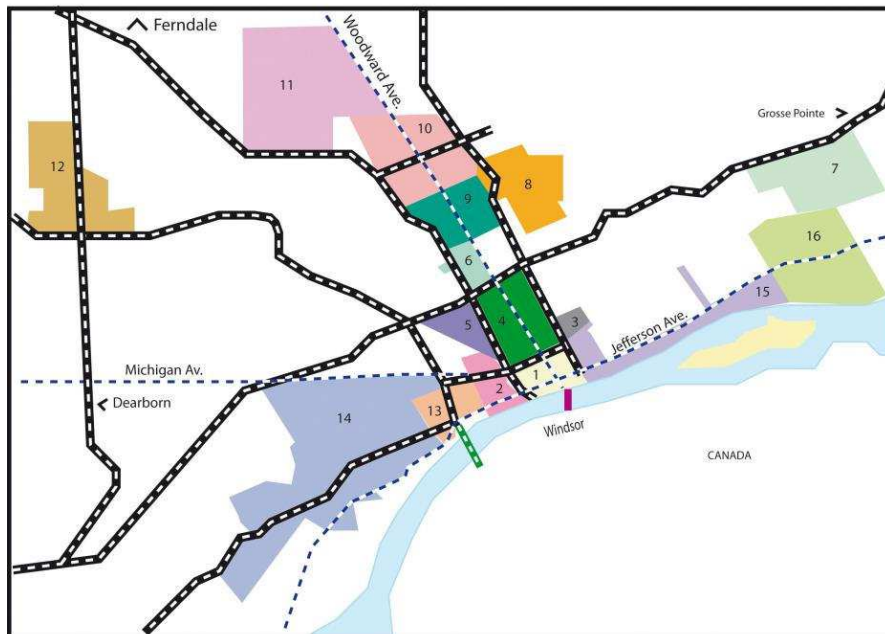
Carte réalisée à partir de Detroit News, 2000

LEGEND

- | | |
|---|---|
| 1. Peerless Metals | 10. MPC Environmental (entreprise d'assainissement) |
| 2. M. & J Repair Inc. | 11. Bridgewater Interiors |
| 3. Detroit Tube Products | 12. Michcon/ Delray Edison Plant/ General Electric Delray Project |
| 4. Philip Services (services environnementaux) | 13. Honeywell-National Steel-Delray Connection Railroad |
| 5. Sybill Inc. | 14. Crown Plating |
| 6. Rye Center Trucking Inc. | 15. MPC Environmental, Division of Marine Pollution Control |
| 7. Anaya's Pallets | 16. Meridian International Inc. |
| 8. Meral Prep Technologies | Recycle Regenerate Reuse |
| 9. City of Detroit (centrale électrique pour l'éclairage de la ville) | |

- Freeways and Highways
- Main roads which split up the district
- Rivers
- Railroads
- DDT Project (the Northern part of the project area doesn't appear)

"Detroit Area" : the different Districts



LEGEND

- | | | |
|-------------------|------------------------|------------------------|
| 1. Downtown | 9. Central Woodward | Highways |
| 2. Corktown | 10. Highland Park | Main roads |
| 3. Eastern Market | 11. University Commons | Windsor Detroit tunnel |
| 4. Midtown | 12. Grandmont Rosedale | Ambassador Bridge |
| 5. Woodbridge | 13. Mexicantown | |
| 6. New Center | 14. Southwest Detroit | |
| 7. Warren Conner | 15. East Riverfront | |
| 8. Hamtramck | 16. Jefferson East | |

However, the relationships existing between industry, property developers and the local residents do not always lead to court conflict.

As early as the 1990s and prior to launching a debate on DRIC and DIFT, the Southwest Detroit communities tried repeatedly to sensitize the public authorities to the need of renovating the urban structure:

"...to get the railroads, to clean up the viaducts, stop clogging up the catch basins etc, but no action has been taken. The movement towards intermodal traffic and the inevitable expansion of the freight transportation industry creates an opportunity for the immediately affected communities to leverage benefits from the State of Michigan."

Agreements had been reached between some of the companies, granting benefits to local communities. Thus Synagro, a company dealing with purifying waste water in an infrastructure located on Jefferson Avenue, settled for a *Community Benefits Memorandum of Understanding* in 2007 (they allocated funds for local projects in Delray, agreed to improve the circulation of information for the local inhabitants, created chapters dealing with enhancement of employment, and the reduction of emissions). They collaborated with local, religious and environmental groups.

It is within this context of opposing views on one hand, and seeking a dialog between the planners and civil society on the other that the DIFT and DRIC projects appeared. Both of the transportation projects had several characteristics in common: they are located close by geographically and involve the same network of participants at the town, regional and national levels (refer to the maps). In fact they both have the same main developers: the MDOT and the Federal Highway Administration (FHWA). The town council organizations on the receiving end are only liable to support the federal or state level projects or reject them, and have very little leverage.

In their speeches and in the interviews we gave, the promoters always wanted to make a distinction between the two projects, contrary to Civil Society, which underlined the strong links between them (see illustration n° 1). However, after some time, discussions made a link between both projects and took the impact of air pollution and traffic congestion into account.

Yet the MDOT refused to sign a CBA, preferring to integrate various mitigation measures in the ROD and discuss the matter when elaborating an impact paper.

"The FHWA and MDOT will partner with the City of Detroit and other federal, state and local agencies and cities to develop concepts by which enhancements can be made to Delray as it becomes the "Host Community for the DRIC project" (Project Mitigation Summary Green Sheet in FEIS 2008).

They consider the formal places where debates are held, good enough to satisfy the demands of the affected population. Thus technical committees on one hand, and assemblies organized with the local residents on the other, were arranged to decide on the location for the anchoring of the new bridge. Workshops were not only set up aiming at taking the design for the future connection between Canada and the United States into consideration, but their participants moreover decided where the road network should converge and where a customs center was to be built.

In the same way, the *Local advisory committees* including town councillors, members of associations or of interest groups gather once a month. Their agenda deals with the implementation of the coalition's demands, the state of works-in-progress and questions of litigation. Other assemblies are held in conjunction with the Local Agency Group (the steering committee) comprising institutional members (from the City of Detroit, the local public schools, the Michigan State Housing Development Authority and the City of Dearborn, etc).

But, as the MDOT essentially has the authority to deal with transportation issues, their members act as intercessors helping those involved to become fully-fledged committed actors. How can one explain the relative restraint on behalf of developers and their refusal to become committed in implementing some form of CBA? Can this only be considered as the failure for Civil Society to be part of the decisional process?

Structuring of the civics area. Uncertainties and temporary failure of the coalition opposed to DIFT

According to MDOT and FWHA, DIFT¹² was vindicated by the need to deal with the increase in traffic and to expand transshipment capacity from road to rail. Greater Detroit already has four intermodal terminals. The aim for the government agencies is to define a local strategy in order to provide a well regulated flow of goods and to speed up the processing of the goods.

However, according to some elements of research, the expected economic benefits will not be immediately noticed in the area. "Freight prosperity in Detroit is dependent on the prosperity of industrial production. Most freight facilities do not attract high-value production facilities; rather they tend to attract lower-value freight service, such as truck parking lots and container yards" (Bailey, 2001, 4).

In addition, Southwest Detroit and Southeast Dearborn¹³ are very noisy areas: trucks keep passing through, dust covers the streets, the sidewalks are practically inexistent or not easy to walk along. Maintenance of the streets is almost inexistent and the streets are full of potholes. If the accompanying measures were accepted, the project could provide the opportunity to upgrade the neighborhood and its surroundings. In fact, the area already suffers from many sources of pollution which are hardly lessened by mitigation or compensation measures. The modernization and expansion of a freight hub will increase the inconveniences, the air pollution and heavy truck thoroughfare.

That is why DIFT resulted in so much opposition. In July 2002, the Detroit town council passed a vote considering the project unnecessary. The resolutions of 2003 and 2005 substantiated this point of view: "The Detroit City Council opposes the continued decimation and destruction of the communities of southwest Detroit through the speculative effects of various public and private issues". They also condemned DRIC and criticized the lack of a reliable study on the impact and subsequent sanitary consequences.

Moreover, several other groups representing other communities of local residents created a coalition (Communities for a better rail alternative): Southwest Detroit Environmental Vision (an association promoting sustainable development), ACCESS (Arab Community Center for Economic and Social Services), Detroit Hispanic Development Corporation, Sierra Club-Detroit, Southwest Detroit Business Association, Michigan State representatives, Ecology Center. They formalised their demands in a memorandum listing their environmental priorities (Table 2).

Fields of competence	Emerging Demands
Transportation	Paving of roads and sidewalks is being redone in order to deal with the traffic, improve the aspect, decrease wind and dust and limit the risk of

¹² The Draft Environmental Impact Statement (DEIS), was approved in April 2005 and offered several possible alternatives. Public hearings were held in June 2005. The Final Environmental Impact Statement integrated and took the comments made at the DEIS into account, updating all the data and the report was published in December 2009 and established the choice of alternative 4 (extension of the interchange at Junction Ward). The ROD was published on April 22nd, 2010.

¹³ According to the statistics for 2006 the population of Dearborn is 102 643 and over 90% of the population is white. The average family income is 47 946\$ (whereas average income for all of the United States is 60 374\$)

	flooding Rerouting of truck traffic to avoid driving along residential avenues and streets with local stores Restoring of urban amenities and street lighting
Economic Development	Training of qualified workers (program organized by local agencies) Program to keep companies and stores in Southwest Detroit and Dearborn going
Housing	Program for housing displaced inhabitants in conjunction with the local organizations in charge of housing
Employment	Helping the local population to find jobs by offering them professional English courses in order to enable them to apply for jobs in the construction and health fields
Environment	It will become mandatory for all infrastructures to be implemented with the best of technology in order to cut down on polluting emissions Monitoring of norms and techniques will be done by third parties that are neutral Construction of noise-reducing walls in order to protect the local residents after the changes

Table 2. The Transient DIFT coalition demands

However, the coalition split into two groups. On one hand, there were those who favored the project but wished their proposals to be integrated into MDOT, and on the other, ACCESS and the city of Dearborn supported the status quo and wished for the non application of the project. We cannot claim that tension arose between the “anti-development” and the “pro-development” parties as developers tend to simplify the situation. In fact, we see in this situation two distinct apprehensions and opposing power relationships.

In spite of existing disagreements, some mitigating and environmental improvement measures were adopted by FEIS. MDOT has programmed the reorganizing of the local road network, less truck traffic on residential streets, the building of noise reducing walls in certain areas and above all the beautifying of the area (road repair, building of new sidewalks, street lighting improvement).

A study of economic development opportunities relative to local businesses and public services in the area resulting from collaboration between the Michigan Economic Development Corporation, the Detroit Economic Growth Corporation and the Dearborn Department of Economic Development have yet to be written.

MDOT has promised its commitment in financing SEMCOG’s efforts (Southern Michigan’s Council of Governments) to start a campaign to deal with small particles. For example, MDOT has decided to replace devices for container handling currently run by diesel energy which would be run by electrical or hybrid devices instead.

However, these advances remain within the limits of those ordinarily found in the mitigation process.

The DRIC Community Benefits Coalition's tentative and incremental advances

The DRIC binational project would compensate for the lack of roads crossing over the Detroit River. According to a report related to the economic impact at the Detroit-Windsor border, the Montreal-Toronto-Windsor-Detroit-Chicago corridor is one of the densest transportation thoroughways and places of interconnection in all of North America. The current capacity of the combined tunnel and the Ambassador Bridge¹⁴ run by a private operator and linking the Detroit International Bridge Company (DIBC) and the Canadian Transit Company has reached the limit and the infrastructure would be unable to undergo a further increase in traffic.

A coalition of associations and political representatives has come into being. The DRIC Community Benefits Coalition (CBC)¹⁵ comprises approximately the same members as the DIFT Coalition and namely the Delray Community Council (DCC) but claims to be better integrated and more resourceful. They decided to support the project under certain circumstances:

"While a new border crossing will have a serious detrimental effect on a fragile community, it can also act as a catalyst for redevelopment."

We also believe the best way for this to occur is the formation of a legal binding community benefits agreement between the residents, local organizations, the State of Michigan, and the Federal Highway Administration. Such an agreement would legally guarantee that the explicit and implicit promises made to the host neighborhoods would be fulfilled. This would also ensure that there would be economic reciprocity between the international border crossing entity and business, non-profit agencies, and community members in the impact area." (Community Benefits Coalition, April 28th, 2008, DEIS DRIC commentary)

In fact, among the numerous impacts the DCC reported in 2009, they counted 257 families who were moved out of their homes, they found many neighborhoods where people were subjected to high levels of noise and had difficulty in accessing parks or playgrounds, or lost of some their important cultural centers (among them the Saint Paul African Methodist Episcopal church). But the greatest criticism of all was that FEIS was unable to grasp direct and repeated impacts of the project on health conditions, the environment, on local businesses or the removal of some sidewalks for people to get around town.

The urban planning commission for the city of Detroit, aware of its own limited position, was in favor of applying for "community benefits". It all had to do with the environment (noise abatement, vibration, light pollution which the opening of the set-up would entail) and reflects commitment to local identity.

One of the major impacts on the existing social fabric was the moving out and relocation of families, often a traumatic affair, leading to the deconstruction of social networking. The coalition was favorable to the "village concept" principle in order to ensure links between individuals living there. They requested federal program subsidies for the stabilisation of neighborhoods to be funnelled towards this objective.

It is important to preserve historical landmarks such as Fort Wayne and a number of churches built in the early 19th century. Some of the buildings and places, which exemplify territorial identity, are symbolic of asymmetric relationships existing between the property developers and

¹⁴ The company that owns the Ambassador Bridge plans to build a new 6 lane highway. This project in many respects appears to be in competition with the DRIC project favored by the public authorities. The local press is often witness to heated exchanges. Those managing the Ambassador Bridge have demonstrated their opposition to the DRIC and taken them to court several times.

¹⁵ <http://delraycbc.org/>
http://www.facebook.com/notephp?note_id-82914019388

public civic centers. A case in point has to do with the local High School showing that the most vulnerable people are the most affected and so as protesters claim it is essential to react.

"All of the alternative locations for the potential DRIC project will be immediately adjacent to Southwestern High School and thus will significantly impact the current and future student populations. (...) At minimum traffic routing, noise barriers, and vegetative buffering will be necessary to minimally reduce impacts. Any of the alternatives that provide more distance from traffic on the plaza would be preferred, as these may make differences in the local air quality" (Comments made on April 29th 2008, DEIS, DRIC)."

Different aspects of economic reallocation have also been developed (job creation, targeted professional training, identification of the local population's needs in terms of services) as well as a close watch on the environment (requesting of financing for studies in the area of air pollution and water pollution).

Despite MDOT's concessions, which were apparently greater than for DIFT, the main city planner has not been very committed. Part of the funding for the projects have been allocated to new housing for those evicted but the local parties concerned are trying to get additional financial support. Thus one of the DRIC CBC members is collaborating with the Michigan State Housing Development Authority and some other associations in order to accomplish the given task (Bridging Communities, Southwest Solutions/Bagley Housing, and People's Community Service). As far as employment is concerned, the MDOT is playing the role of coordinator between the City of Detroit, the Michigan Department of Labor and Economics and the Bridging Communities Association (for the integration of the inhabitants from Delray in the construction professions). Other compensatory measures are currently being negotiated, as the environmental evaluation process is not yet completed.

The process in this respect is not a democratic deliberative model, with the collaboration of both parties aiming at reaching decisions, as the CBAs had previously initiated. The MDOT agency runs the project and does not want to give more concessions than initially decided as compensation. Therefore, the implementation of EJ is restricted. Everything hinges on the competences the Civil Society has promoted, but also its capacity to move the debate into the arena of true entitlement to the Right to the City and promotes this view for other political actors.

3. The birth of a true "Right to the City" respectful of the environment?

Ever since the EJ movement began and was institutionalized in the United States, a number of university scholars have done research on the subject. Lots of criticism came from all sides especially as some of the research was lacking in methodology, had not taken scales into account and willingly chose to take an accusatory position. The case of Detroit shows that no study may cut itself off from territorial and historical contexts. An iniquitous situation, noted at a specific point, does not allow people to identify causal links immediately. Several explanatory factors can be combined: the real estate market and long term property rentals¹⁶, zoning regulations policies for industrial concentration in areas where the employees have settled, the deliberate choice for developers to build in places where they believe there will be less protesting as people there are not well organized and lack the means to do so. David Pellow (2004) has proposed a framework for analysis to go beyond the univocal dimension of some of the points demonstrated. According to him, it is important to integrate three dimensions to the analysis: the historic aspect (in order to expand the scope beyond the present event itself or its

¹⁶ We may often note a pauperization spiral as real estate prices fall and the local housing markets are affected (Been, 1997). We may add that individual avoidance behavior is directed towards the most destitute and certain ethnic groups.

disputed and negative results), to take all the decisions having created environmental inequality (therefore implying that the many actors involved directly or indirectly are taken into account), to look at the life cycle (the territorial and social context helping to understand why at one point costs and benefits are seen to be unfair). Environmental inequality is often the consequence of systemic reasons rather than contextual reasons, strictly speaking. It seems that for both projects the city planners as well as the Civil Society representatives were unable to reach an agreement concerning the diagnosis and set clear objectives.

Lack of social and environmental compensation for the urban damage wrought

The civic pole tried to modify the objectives settled by the MDOT. Their policy is part of the framework for urban revival and the restoration of neighborhoods (Bezdek, 2006). They consider that if adequate accompanying measures are not well thought through and implemented concomitantly to the achievement of the program, then no matter how useful for the region or nationwide the program is, it will have no positive impact on the receiving end and will worsen the social and environmental condition of an already rundown area.

"Few or no residents are employed by local businesses, which is a break with the historical pattern of the neighborhood ((...) In 2000, of 1168 workers 16 and older in the three census tracts that comprise Delray, zero travelled less than 5 minutes to work, and only 121 (10.4%) travelled between 5 and 9 minutes US census 2000). In short, the Delray neighborhood and the local economic infrastructure are not highly integrated, as they once were. Rather, that infrastructure is oriented toward the regional and national economy, especially the transportation network, and is effectively no place specific" (Michigan University, 2007)

Thus the members of the DRIC CBC have also requested that the City of Detroit integrate zoning regulations for Delray be integrated in the Detroit City Master Plan, in order to work on a relevant scale to revitalise the city. It would especially be useful to find the appropriate tools in order to purchase and develop businesses and empty buildings and to destroy those that are considered dangerous and not liable to be restored and finally to see how heavy goods trucks could use the road network.

The debate regarding community benefits aims at being beneficial, through the reconciliation of social and environmental aspects. It is not simply limited to its infrastructural function (improvement of the local transportation network, for example) but should target a territorial view of what is at stake.

However, what is lacking is a metropolitan scale where the community benefits could be discussed between the private and public forces and become part of an urban policy to alleviate disparities in wealth. This in spite of the successful initiative of SEMCOG¹⁷ and some of the metropolitan organizations¹⁸ does not seem to be conceivable, due to the disparities of wealth between downtown and the suburbs (Madden, 2003) and the different politics and ethnic make-ups in those areas.

The division in local and regional governance, the autonomy of local urban and suburban politics, and insufficient leeway for the deeply indebted local government: all add to the slowing down of regional planning. Were these questions to be dealt with at a higher level, then no doubt the public policies would be more effective and efficient as they would be better coordinated and would not entail disparity (Jacobs, 2003).

¹⁷ The role of this organization is to help local government to reflect on regional issues such as transportation, the environment, economic and educational development. They have collected a lot of social and economic data.

¹⁸ Metropolitan Organizing Strategy Enabling Strength was implemental in organizing the setting-up of a metropolitan transportation organization in Detroit. The proposals were taken over by the Chamber of Commerce and local politicians. (Weir et al. 2005)

It is not up to city planners such as MDOT, representing the State of Michigan, to find some way of resolving Southwest Detroit's difficulties. Thus its strategy to download the responsibilities, a number of parties would like to see them bear, onto other institutions.

For this reason, we must admit that social and environmental compensation cannot solve institutional deficits for urban planning and the taking into account of the environment. On one hand, such compensation can be considered as a complementary tool to institute a certain form of EJ. On the other hand, to reach a certain level of efficiency, several levers have to be used.

Are "Community Benefits" a tool to implement environmental citizenship (Dobson 2005)?

Different environmental injustice cases cannot necessarily be considered as deliberate racist acts on behalf of developers or different project managers. Rather they reflect a lack of policy that would actually deal with environmental inequality at every level. In cities such as Detroit, environmental inequity is the consequence of continual spatial segregation (consolidating of ghettos), the depressed social and economic context and segregative urban structures (Massey, Denton, 1995).

The will to negotiate "community benefits" for urban infrastructure projects is part of the wish of poor or minority ethnic communities to be accepted as full-fledged negotiators, who know the local situation well and whose knowledge should to be taken into consideration at the decisional level. This is why some activists are demanding a more formal "right to city planning" providing the more destitute with the same access to public debate as the users or owners of the urban area and of reallocating either the damaged or better environmental areas (Marcello, 2008).

Henri Lefebvre's Right to the City cannot be classified as belonging to civic, political or social rights categories. It is rather at the crossroads of these different categories which give the individuals and the local residents the possibility of being part of the transformation of their city and their environment and to voice their opinions in local public action (Jouve, 2009). It is therefore an acceptable theory satisfying the demands of EJ.

Demands for community benefits have filled the Federal legislation and State legislation cracks. The latter institutions have tried to develop an insurance system to counter the devaluation of real estate, for social and environmental protection which neither the American Welfare State nor the private sector pay for. The low level of social rights forces people to find other means to protect themselves against the existing economic powers and widespread transcendent powers. As a consequence, the community benefits system tries to compensate for the gaps in urban policies for the destitute neighborhoods which have successively come and gone (the Urban Renewal, Model Cities, Community Development Block Grants, in the creation of Empowerment zones, the local government, business representatives and the inhabitants coordinated their efforts) (Ho, 2007). In fact, in spite of the gradual improvement, the framework regulating intervention focuses practically exclusively on renovated physical development and the use of private sector resources. Some of the social and economic aspects were not dealt with as such. In addition, the modes of consultation were limited to public meetings for a long time, before local initiative, not decided by the higher authorities (Community Development Councils) appeared. On the other hand, participation in the phases of planning is considerable but inexistent in the realisation and the follow-up of the project.

Those in favor of the community benefits are therefore trying to reconcile the physical aspects of their projects (their design, the restructuring of their neighborhoods) with the non material aspects (perceived risks, the quality of life) and the procedural aspects. The idea is to deal with the effect on the appropriated area, which is a territory that is geographically and socially

defined, and to deal with certain categories of individuals (providing they belong to specific social and economic categories).

But strong will alone is not enough, as the negotiations in Detroit have shown, and have led to a not entirely satisfactory outcome for the associations. The CBA types of contracts, either public or private, cannot be a substitute for public responsibility (Sheikh, 2008; Browne, 1995) in terms of the police, territorial structuring and EJ.

Conclusion

Up to what point can “democratic experimenting” efficiently bring in flexibility and an informal relationship between the different parties, when facing growth or the construction of an infrastructure?

Protection versus pollution and environmental damage are not a part of a claim right¹⁹, a renewed Welfare State might provide. Thus the need, in order to face environmental awareness, for ad hoc solutions, which become institutionalized whether one likes it or not, and demonstrate a trend towards contract based social and urban links.

Yet this possibility of local regulations, which are quite flexible, does not provide a full answer to all of the urban and environmental stakes. It only puts into question the unequal allocation of resources. Neither the State, nor an independent third party, does the regulating in order to decrease territorial disparities and the discrepancy in resources between the negotiating parties. In addition, although certain procedures have shown their limitations, no review of the regulatory processes has been planned for to evaluate their impacts. Yet if environmental evaluations were initially “a formal regulatory state run procedure, paving the way for social negotiations and part of major projects targeting sustainable development” (Fortin, 2009), today it is a monitoring system which has not taken the evolution of society into account. It has currently been split or bypassed by informal semi-private methods of debate.

As Harvey (1996, 401) underlined, EJ can only come into being by “confronting the fundamental underlying processes and their associated power structures, social relations, institutional configurations, discourses and belief systems that generate environmental and social injustice.”

EJ is both an ethics for action, for persuading and for promoting responsibility which needs to gain momentum (Pellow, 2005). Moreover, opening the arena for negotiation to new audiences does not deal with the question of including non-human beings and nature in such a social and territorial compromise (Sze, London, 2009; Bellan et al. 2007).

About the author : Julie GOBERT, CRETEIL, Institut d’Urbanisme, Université Paris Est-Créteil

To quote this article : Julie GOBERT, « Justice environnementale, community benefits et droit à la ville: le cas de Detroit » [“Environmental justice, community benefits and the right to the city. The case of Detroit”, traduction : Ann Dufaux, Frédéric Dufaux], **justice spatiale | spatial justice** , n° 02 octobre | october 2010 , <http://www.jssj.org>

References

ANNIE CASEY FOUNDATION, *Community benefits agreements – The Power, practice and promise of a responsible redevelopment tool*, 51 p, 2007.

BAILEY L., *Freight Industry as Part of the economy of Southwest Detroit: Working towards a compatible redevelopment vision*, University of Michigan, 32 p. 2001.

¹⁹ We are looking at collective social rights with effective State action which generally receives public funding and exists within the framework of legislation protecting the right to work, for example.

- BAXAMUSA M. H.**, "Empowering communities through deliberation: The model of community benefits agreements" *Journal of Planning Education and Research*, 27(3), pp. 261-276, 2008.
- BEEN V.**, "Coming to the Nuisance or Going to the Barrios? A. Longitudinal Analysis of Environmental Justice Claims", *Ecology Law Quarterly*, n°24, pp. 1 – 56, 1997.
- BELLAN G., BELLAN-SANTINI D. ET DAUVIN J.-C.**, « À propos de quelques utilisations des termes « Inégalités écologiques » : simples impropriétés de langage ou accaparement abusif ? », *Développement durable et territoire*, mis en ligne le 3 mai 2007.
- BEZDEK B. L.**, "To Attain 'the Just Rewards of so much Struggle': Local-Resident Equity Participation in Urban Revitalization". *Hofstra Law Review*, Vol. 35, pp. 101-175, 2006.
- BLANC M. (dir.)**, *Pour une sociologie de la transaction sociale*, L'Harmattan, 291 p, 1992.
- BROWNE W., VERBURG K.**, *Michigan Politics and Government, Facing change in a complex state*, Lincoln, University of Nebraska Press, 1995.
- CARR D.**, 2009, « Investment in a city of struggles », *New York Times*, 20 septembre.
- DANSEREAU F.**, « Le logement social et la lutte contre la pauvreté », Intervention dans le séminaire de l'OMISS, En ligne, consulté le 10 décembre 2009, 2002.. <http://www.omiss.ca/seminaire/2002/fdansereau.pdf>
- DELRAY CITY COUNCIL**, *Comments from the community benefits coalition to the final environmental impact statement for the DRIC*, 78 p. 2009.
- DIGAETANO A., LAWLESS P.**, "Urban governance and industrial decline: governing structures and policy agendas in Birmingham and Sheffield and Detroit, Michigan, 1980-1997, *Urban Affairs review*, n°34, p. 546, 1999.
- DOWNNEY L.**, "The Unintended Significance of Race: Environmental Racial Inequality in Detroit." *Social Forces*, n° 83, vol. 3, p. 971-1007, 2005.
- DOBSON A.**, 2003, *Citizenship and the environment*, Oxford, 225 p.
- FLORENTIN D.**, 2008, *Leipzig ou la ville perforée : une "shrinking city" modèle ?*, mémoire de master, sous la direction de Fol S. et Dufaux F., université Paris I Panthéon-Sorbonne, 130 p.
- FLORENTIN D., FOL S, ROTH H.** « La "Stadtschrumpfung" ou "rétrécissement urbain" en Allemagne : un champ de recherche émergent », *Cybergeo : European Journal of Geography*, 2009. [En ligne], Consulté le 15 février 2010 <http://cybergeo.revues.org/index22123.html>
- FORTIN M.**, 2009, « L'évaluation environnementale de grands projets industriels : potentialités et limites pour la gouvernance territoriale », *VertigO – La revue en sciences de l'environnement*, Vol. 9, n° 1.
- GOBERT J.**, 2008, « Compensation territoriale, justice et inégalités environnementales aux Etats-Unis », *Espace populations sociétés*, n°1, p.71-82.
- GROSS J.**, 2008, "Community Benefits Agreements: Definitions, Values, and Legal Enforceability", *Journal of Affordable Housing*, Vol. 17, p. 1-2.
- GROSS J, LEROY G., & JANIS-APARICIO M.**, 2005, *Community benefits agreements: Making development projects accountable*. Los Angeles, CA: Good Jobs First and the California Partnership for Working Families, consulté le 20 avril 2008 [En ligne], URL : http://www.laane.org/docs/research/CBA_Handbook_2005.pdf
- HARVEY D.**, 1996, *Justice, Nature and the Geography of Difference*, Blackwell, 468 p.
- HO W.**, 2007, *Community benefits agreements: an evolution in public benefits negotiation processes*, Master in City Planning, Massachusetts Institute of Technology, 107 p. <http://dspace.mit.edu/bitstream/handle/1721.1/42009/226315663.pdf?sequence=1> .
- JACOBS A.**, 2003, "Embedded Autonomy and uneven metropolitan development: a comparison of the Detroit and Nagoya Auto Regions, 1969-2000", *Urban Studies*, vol. 40, n°2, p. 335-360.
- JE JO H.**, 2002, *Regional Restructuring and Urban Regimes: A Comparison of the Pittsburgh and Detroit Metropolitan Areas*, University of Michigan, 46 p.
- JOUVE B.**, 2008, « Le droit à la ville : Nouveaux défis, nouveaux thèmes d'études », Introduction du colloque, 11-15 octobre, Klosterhotel, Vadstena, Suède.
- KOHN AMY J.**, 2005, *The struggle for Vibrancy: A study a local government intervention in Detroit's Inner Suburbs*, Master in City Planning, MIT, 139 p.
- LARSEN L.**, 2009, "The pursuit of responsible development : Addressing anticipated benefits and unwanted burdens through CBA", CLOSUP, Université du Michigan, 23 p.
- LASCOURMES P., LE GALES P.**, 2005, *Gouverner par les instruments*, Les presses de Sciences Po, 369 p.
- LEFEBVRE H.**, 2004, *Le droit à la ville*, Economica.
- LEMIEUX V.**, 1998, *Les coalitions. Liens, transactions et contrôles*, Paris, PUF, 235 p.
- LEROY G., PURINTON A.**, 2005, *Community benefits Agreements : ensuring that urban redevelopment benefits everyone*, 28 p., 2005 [En ligne], URL: www.nfg.org/publications/community_benefits_agreements.pdf
- MADDEN J.F.**, 2003, "The Changing Spatial Concentration of Income and Poverty among Suburbs of Large US Metropolitan Areas" *Urban Studies*, Vol. 40, No. 3, p. 481-503.
- MARCELLO DAVID A.**, 2007, "Community benefit agreements: New Vehicle for Investment in America's Neighborhoods", *Urban Lawyer*, vol. 39, p. 657.

- MASSEY D., DENTON N.**, 1993, *American Apartheid*, Harvard University Press, Cambridge.
- MITCHELL-WEAVER C., MILLER D.**, 2000, "Multilevel Governance and Metropolitan regionalism in the USA", *Urban Studies*, vol. 37, n° 5-6, p. 851-876.
- PELLOW D. ET AL.**, 2005, *Power, Justice, And The Environment: A Critical Appraisal Of The Environmental Justice Movement*, MIT Press, 349 p.
- PELLOW D.**, 2004 "The politics of illegal dumping: An environmental justice framework", *Qualitative sociology*, vol. 27, n°4, p. 551-525.
- PEPELARD A.**, 2010, « Detroit, la ville afro-américaine qui rétrécit », *Le Monde diplomatique*, janvier.
- SALKIN P., LEVINE A.**, 2008, "Negotiating for social justice and the promise of community benefits agreements: Case studies of current and developing agreements", *Journal of Affordable Housing and Community Development Law*, pp. 113.
- SCHWARTZ B.**, 2001, Development Agreements: Contracting for Vested Rights, *B.C. Env't. Aff. L. Rev.* n°28, pp. 719.
- SHEIKH N.**, 2008, "Community Benefits Agreements: Can Private Contracts Replace Public Responsibility?", *Cornell Journal of Law & Public Policy*, n°18, pp. 223.
- SZE J., LONDON J.**, 2008, "Environmental Justice at the Crossroads", *Sociology Compass*, n°2 (4), pp.1331-1354.
- TAYLOR .**, 2000, "The Rise of the Environmental Justice Paradigm", *American Behavioral Scientist*, Vol. 43, No. 4, pp. 508-580.
- THEYS J.**, 2007, "Pourquoi les préoccupations sociales et environnementales s'ignorent-elles mutuellement. Essai d'interprétation à partir du thème des inégalités écologique », in Cornut, Bauler et Zaccàï (coord.), *Environnement et inégalités sociales*, Editions de l'université de Bruxelles, pp. 24-35.
- UNIVERSITY OF MICHIGAN**, 2007, *A local response to the DRIC – Recommendations to guide a CBA*, pour le compte de Delray community council, Urban and regional planning Program.
- WALKER G. ET AL.**, 2005, "Industrial pollution and social deprivation: Evidence and complexity in evaluating and responding to environmental inequality", *Local Environment*, vol. 10, n°4, pp. 361-377.
- WEIR M., WOLMAN H., SWANSTROM T.**, 2005, The Calculus of Coalitions: Cities, Suburbs, and the Metropolitan Agenda", *Urban Affairs Review*, vol. 40; pp. 730.
- ZEPF M., SCHERRER F., ET AL.**, 2008, *Les services urbains en réseau à l'épreuve des villes rétrécissantes : l'évolution des réseaux d'eau et d'assainissement à Berlin-Brandenburg*, rapport pour le PUCA, 152 p.