

What is Environmental Justice?

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Release: December 2023

In 2021, President Biden signed Executive Order (EO) 14008, *Tackling the Climate Crisis at Home and Abroad*. While the executive order's focus is climate change, one notable component is the Justice40 Initiative, a goal that 40 percent of the overall benefits from certain federal investments flow to disadvantaged communities. As a result, grantmaking agencies are now considering the community benefits associated with proposed projects. Environmental justice (EJ) is much broader, but because of Justice40, an understanding of EJ, and how a project might promote EJ for local communities, is critical for many federally funded projects. EJ is also important for all businesses and industries to understand as it impacts their social licenses to operate and can impact the ability to make future investments.

Origin of Environmental Justice

In 1983, sociologist Robert Bullard noticed that garbage dumps in the city of Houston were disproportionately located in African American neighborhoods. While the city was 27.6 percent Black, all five of its landfills and four of its five trash incinerators were in Black communities; the fifth incinerator was in a Hispanic community (Bullard 1983). This observation has been credited with beginning the environmental justice (EJ) movement, and today, Bullard is considered the father of the academic study of environmental justice. At nearly the same time, a grassroots movement opposing the construction of a landfill in Warren County, North Carolina, is sometimes identified as the beginning of the “on-the-ground” struggle for EJ. These two strains of work – academic and grassroots – continue in the EJ community today.

Since Bullard, research on EJ has grown significantly. Its central concern is that no community shoulder a disproportionate share of the environmental health burden caused by industrial activities. Further, EJ aims to empower residents in low-income communities and communities of color to have input in the decision-making process. Although there is no single definition, EJ involves: 1) ensuring environmental externalities and disasters do not place an undue burden on disadvantaged communities (fair treatment), and 2) ensuring that those communities have access to the decision-making process (meaningful involvement).

There are numerous examples of environmental injustice that have been identified in the academic literature. For example, studies have found that:

- ▶ toxic waste disposal sites in California specifically disproportionately impact minority communities even after controlling for other economic, land-use, and population factors (Pastor et al. 2001);
- ▶ soil concentrations of heavy metals with adverse health effects are higher in poor neighborhoods in California (Masri et al 2021);
- ▶ violations of environmental laws are more common in poorer coal mining communities in Appalachia (Stretesky and Lynch 2011);

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- ▶ the areal extent of flooding around residents' home sites after Hurricane Harvey in Houston was distributed inequitably with respect to race/ethnicity and socioeconomic status (Collins et al. 2019);
- ▶ vehicular air pollution is more likely to impact Black and Hispanic children than White children in the U.S. (Rubio et al. 2021) and in Texas (Chakraborty 2022);
- ▶ regulators' Clean Water Act inspection response time is slower toward noncompliant facilities located in communities that have higher percentages of poor and Hispanic citizens (Konisky et al. 2021);
- ▶ and school districts with more Black or foreign-born children had a higher lifetime cancer risk than other districts (Grineski and Collins 2019).

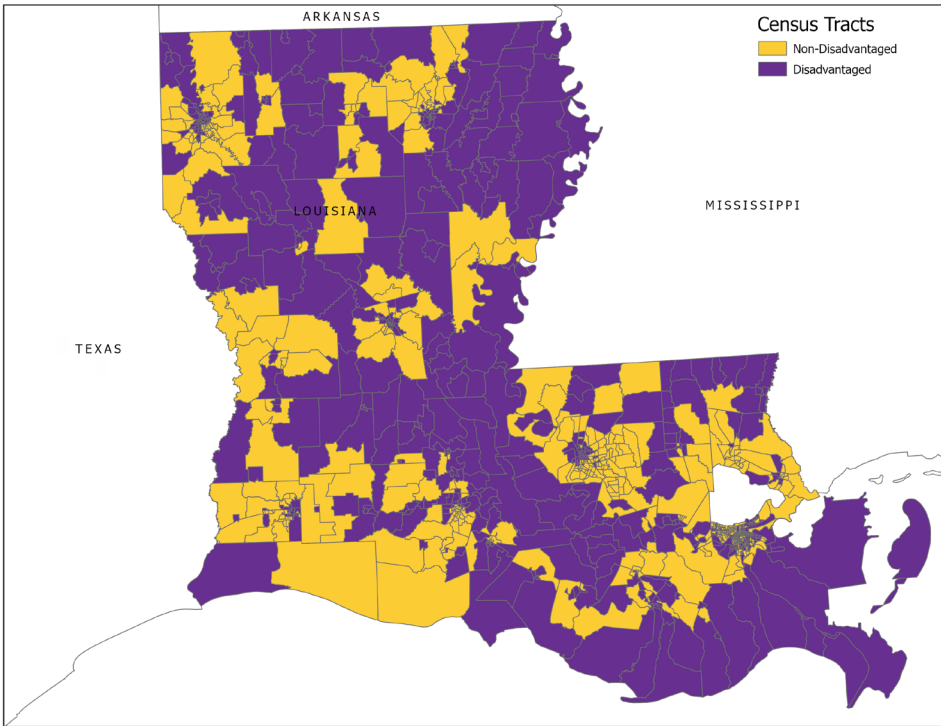
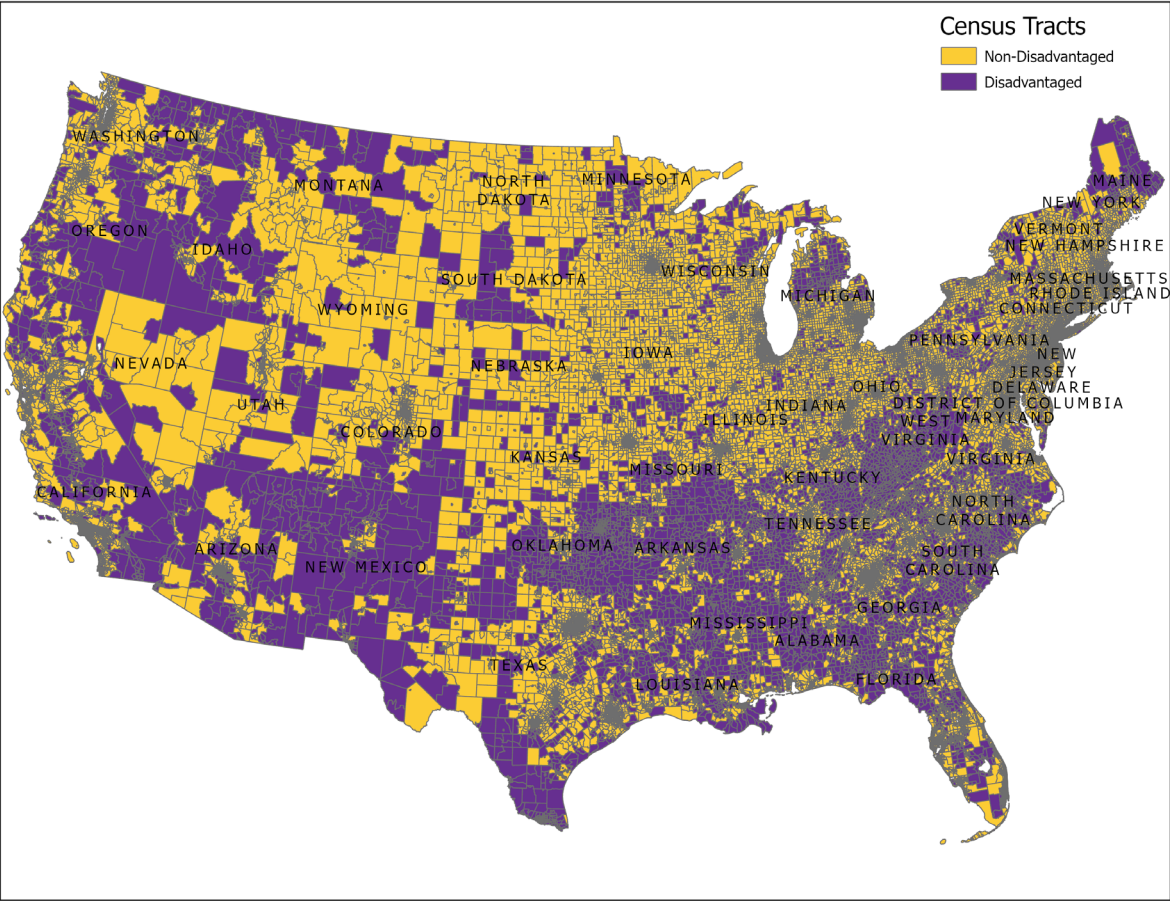
In 1994, President Clinton signed Executive Order 12898, the first Federal Order concerned with EJ. The executive order directed federal agencies to incorporate EJ into their decision making. In practice, this often means that federal agencies consider EJ in the permitting processes, specifically the National Environmental Policy Act (NEPA) process. For example, part of the legal arguments around the construction of the Formosa Plastics facility in St. James Parish revolved around the U.S. Army Corps of Engineers wetlands permitting (another legal component revolved around air quality permits). In 2021, the Corps of Engineers announced that it would conduct a full Environmental Impact Statement, rescinding an earlier decision to grant a permit based on an Environmental Assessment, which involves a lesser level of review. In announcing their decision, the Corps specifically cited EJ as a reason that lesser reviews were not satisfactory (Mitchell 2021).

Justice40

As previously mentioned, during President Biden's first week in office, he signed Executive Order 14008. The primary focus of the Executive Order (EO) was climate change: It included sections on the Paris Agreement, the creation of a National Climate Task Force, sustainable manufacturing, and a variety of other climate related policies. The EO also required that 40 percent of the benefits associated with certain categories of federal spending go to disadvantaged communities. This is known as the Justice40 requirement. Applicable categories include climate change, clean energy and energy efficiency, clean transit, affordable and sustainable housing, training and workforce development, remediation and reduction of legacy pollution, and the development of clean water and wastewater infrastructure. When the Inflation Reduction Act, Bipartisan Infrastructure Law, and American Rescue Plan were signed into law, much of the spending in those bills was determined to be subject to EO 14008. As a result, the Executive Order requires that 40 percent of the benefits of hundreds of billions of dollars accrue to disadvantaged communities. Thus, companies and researchers applying for federal funding through these programs should be aware of the Justice40 component in funding applications.

While Justice40 is influenced by EJ, Justice40 is far broader in its geographic scope. The federal government released the Climate and Economic Justice Screening Tool (CEJST) to help stakeholders identify census tracts that are considered disadvantaged communities and thus eligible under Justice40. Note that much of the Gulf Coast and Louisiana are identified as eligible for Justice40 funding under CEJST.

Figure 1. U.S. (top) and Louisiana (bottom) census tracts included under Justice40



What is Climate Justice?

Climate justice is an offshoot of environmental justice. Climate justice is premised on the idea that poor and minority populations should not bear a disproportionate share of the costs of climate change (Berberian et al. 2022), nor should they bear the burdens of the economic changes required to respond to climate change (Snyder 2018; Carley et al. 2018). As the world sets goals to reduce greenhouse gas emissions⁴, there will inevitably be economic winners and losers of governmental policies and incentives. Although decarbonization efforts will be inherently costly for the global economy, climate justice and Justice40 are intended to alleviate the negative economic and localized environmental impacts of this decarbonization process for disadvantaged communities.

How does EJ Impact Louisiana?

Louisiana has a history of racial inequality. African Americans make up 33 percent of Louisiana's population, and the average African American worker earns just 66 percent of the statewide average income. For comparison, nationally African Americans make up approximately 14 percent of the population and earn approximately 74 percent of the national average (IPUMS ACS).⁵ Thus, the already significant national earnings disparity between White and Black workers is even more pronounced in Louisiana, and the Black population makes up a larger share of Louisiana than of the U.S.

According to the prior mentioned CEJST tool, 49 percent of Louisiana's population resides within a disadvantaged community (DAC), compared to 33 percent of the U.S. population. Louisiana has the sixth highest share of population living within a DAC. Simultaneously, Louisiana has the fifth highest greenhouse gas emissions per capita, due largely to the concentration of industrial infrastructure.

Louisiana also has several sites of historical EJ significance.⁶ For example, the 1984 Louisiana Supreme Court case of *McCastle v Rollins Environmental Services* involved claims of residents in the town of Alsen, La., in East Baton Rouge Parish, that a chemical land farming operation near their homes was creating pollution and causing them injury. The case and the protest that led to it were among the first social movements that today would be characterized as involving environmental injustice. The case held that the claims of the residents were sufficient that the residents could litigate as a class. This holding set an important class action precedent.

More recently, in *United States v. Denka Performance Elastomer, LLC*, the U.S. Environmental Protection Agency asked a federal court in New Orleans to grant a preliminary injunction against Denka, a Japanese chemical company, which owns a neoprene plant in Laplace, La. In EPA's motion, they are requesting the court to order Denka to require pollution controls to reduce chloroprene emissions, a pollutant the EPA has determined to be a likely carcinogen (US EPA 2023). At the time of this writing, the case is ongoing. Across the state, in Colfax, La., the firm Clean Harbors burns munitions in the open, the only location in the country permitted to burn hazardous waste outside of an incinerator (Richmond-Bryant et al, 2022). The LSU Superfund Research Center is evaluating the potential health effects of this activity.

In terms of climate justice, Louisiana is likely to see mixed economic impacts from decarbonization. While many have worried about the negative effects of decarbonization on the oil and gas industry, Louisiana is already experiencing significant investment from firms interested in reducing industrial sources of

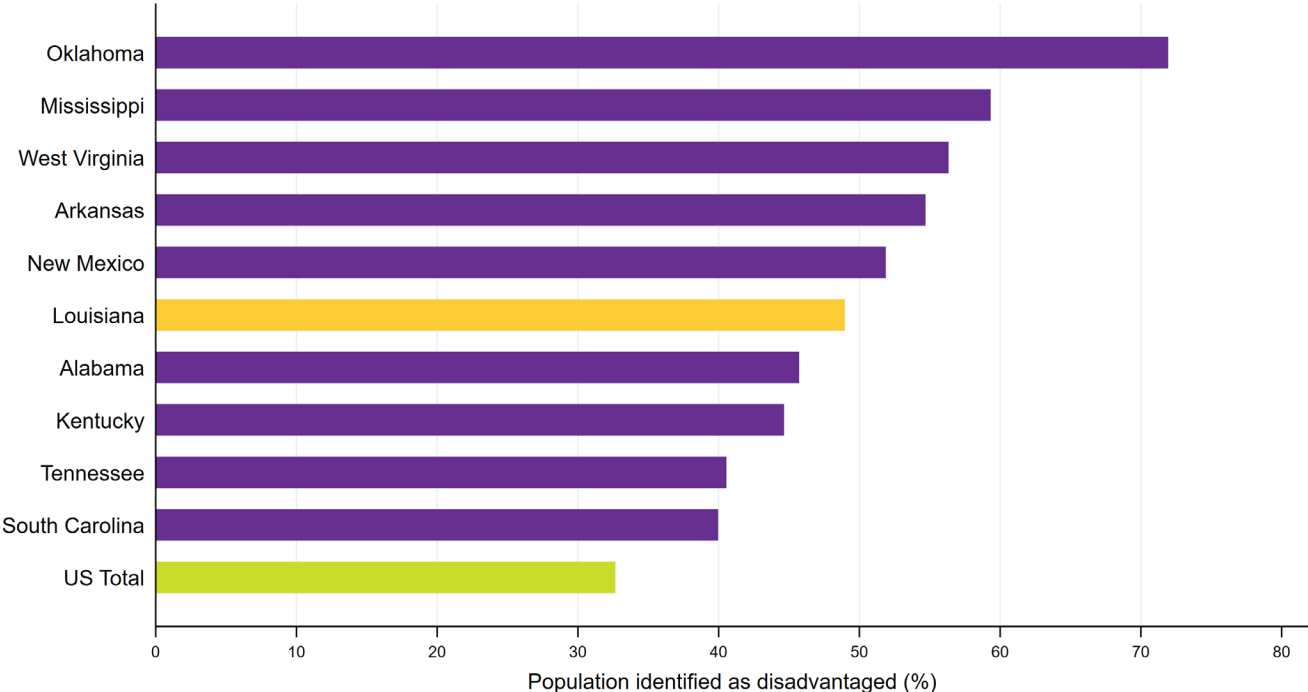
⁴ The Paris Agreement, which went into effect in November of 2016, includes 190 countries representing over 97 percent of global emissions.

⁵ Thanks to Bulent Unel for compiling these statistics.

⁶ Please note that this document does not portray the opinion of the authors of this study, nor LSU, regarding these specific cases. The descriptions of these cases are accurate, to the best of our knowledge.

greenhouse gas emissions and investments in renewable energy on the power grid. Because the federal government is frequently involved in facilitating these investments through tax credits and other subsidies, they are often subject to the conditions of Justice40. The population of South Louisiana is also particularly susceptible to sea level rise and storms. To follow the principles of environmental justice, regulators and companies can ensure that any *local* environmental damages of investments to reduce greenhouse gas emissions do not place undue burdens on disadvantaged communities and that those communities have access to the decision-making process of how and if these decarbonization-motivated investments occur within their communities.

Figure 2: Share of Population Residing in Disadvantaged Communities Top 10 States



Source: Community and Environmental Justice Screening Tool Version 1.0

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