Urban planning and environmental citizenship: The negotiation of community benefits

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ABSTRACT: In the Western world, one of the major problems for urban planners is to conciliate economic growth, social justice and environmental protection [Dobson, 1998]. Although the economic and social conditions of urban citizens are frequently correlated with the environmental quality of their place of residence, decision makers leave out it. When a city decides to build or to extent a new facility which generates nuisance and pollution, this question is particularly acute. 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 [Baxamusa, 2008; Gobert 2010; Marcello, 2007]. 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 analysing different siting or enlargement projects in the United States, in Germany and in Canada and in comparing the different types of “community benefits”, we have tried to see how an “environmental city” can emerge [Boltanski, Thévenot, 1991].

KEYWORDS: environmental city, social justice, environmental inequities, right to the city, impacting facilities

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Some facilities, such as airports, landfills and other hazardous LULU (Locally Unacceptable Land Use), generate much opposition. It has become particularly difficult to expand or to site a facility, although power plants, airports are necessary for regional and local development, fulfill a public service (electric supply, air transport…), create direct employment and improve the local attractiveness. In fact, there is often a spatial discrepancy between the positive effects that benefit the regional and even the national scale, while inhabitants and host communities experience the negative effects associated with facilities.

Different solutions have been designed by developers, or local or state governments, to counteract this opposition, to increase social acceptability and later, to reallocate the benefits derived from the facility activities.

In the 70’s and 80’s, as the environmental regulation didn’t work and didn’t diminish defiance and contention, economic incentives had been implemented not only to give a sense of environmental responsibility to the polluters but also to assure local residents that the perceived benefits outweigh the perceived risks.

But the conflicts have persisted and new tools or new combinations of political and economical instruments have been deployed, such as compensation packages or financial offsets (Kunreuther et al. 1996). In the economic tradition of Coase (1960), compensation is understood as a means through which traditionally neglected social and environmental costs associated with noxious facilities can be quantified and ”internalized” into the siting process through the extension of property rights. But compensation can’t be
summarized to a new allocation of rights. Otherwise it would raise a new kind of conflict because it doesn’t tackle the interrelated question of recognition [Fraser, 2005].

In order to explore these questions, we worked on different sites in Germany (the international airport of Schönefeld…), in the United States (Los Angeles International Airport, Long Island Caithness Power plant), in Canada and in France. This allowed us to reflect on environmental citizenship and the conditions to create a real right to the city.

1. THE COMMON STRATEGIES TO INTEGRATE THE DECISION PROCESS

Different strategies are adopted by the local stakeholders of a place where a project of facility is foreseen. Opposed to the developer (a private person or a municipality) they tried to influence the decision process: either they can target to stop the project or they strive to negotiate compensation through a better allocation of positive consequences created by such a development. Usually they can participate to the environmental impact statement, but this is not enough.

1.1. A challenge for local communities and impacted residents: How to go past the loopholes the Environmental Impact Statement (EIS)/ Environmental Impact Assessment (EIA)?

An Environmental Impact Statement (EIS) is a detailed public document that provides an assessment of the potential effects a project might have on the environment. The concept was at the beginning reduced to describe impacts on natural components. Positive economic impacts for the host communities are the main register of justification to counterbalance these harms. As a matter of fact, the developer precisely outlines the direct, indirect, and induced impacts.

The human and social impacts were progressively integrated, but were not deepened. Besides, as the technical approach which prevails in EIS principally uses scientific knowledge and neglects lay or local knowledge, the EIS is a very sectorial document. Moreover, the participation process is strictly framed and seldom gives the opportunity to discuss the impacts not listed. It's quite impossible if the facility really meets a local and/or regional need.

Indeed it appears particularly important to create the conditions of an intersubjectivity (that calls for recognition of the point of view and vulnerability of the other stakeholders) between humans and non humans in this kind of evaluation process.

“Agency is the commonality of the universal; difference is the inevitable result of that agency placed in a variety of contexts. (...) It is the agency and the process of intersubjectivity which allows us fully to understand difference. Agency is the bridge between us and them”. (Schlosberg 2002: 79)

The EIA doesn’t take into account the local knowledge and the perceived risks or pollution. That’s why the amplitude of environmental statements should be spatially and functionally deepened. The study area should integrate cumulative effects (taking into account the externalities produced by other activities or facilities in the same territory) and analyze the social and ecological impacts on the whole ecosystem (river basin, natural regional coherence…).

Indeed the representatives of the residents, of the communities demand not only to be recognized as being specifically “impacted” by the different nuisances of an infrastructure as individuals and as communities. They also ask for that developers and experts recognize certain impacts which were ignored up to now like property value losses, territory stigmatization, health effect (asthma…).
As legislation and national regulation aren’t able to fulfill the EIS shortness, local solutions have been experimented. For example, some compensatory agreements include independent scientific surveys so as to fulfil loopholes and better apprehend some effects like property-value impacts of an environmental disamenity (Hide 2001; Kiel 1995).

In fact, the negotiation of compensation measures seems to be a means to allow a better intersubjectivity and integrate new data like perceptions. Often community benefits agreements aren’t imbedded in the EIS. They take rather the shape of a supra-regulatory agreement or they result from parallel transactions.

1.2. Coalition-building and collective brainstorming

To develop their capacity to influence the behaviors of other stakeholders and to reduce uncertainties, opponents strive to increase their resources, their institutional weight in creating advocacy coalition and in seeking extern support (media, political personalities…). “Community coalitions are incubators for innovative solutions to large problems” (Wolff 2001: 168), because their members succeed firstly in overcoming their differences to find a common ground and are also ready to negotiate. Then they can partly stabilize their institutional environment and find more advantages in the collective action (Lemieux 1998).

At the Los Angeles airport (LAX), the developer (the city of Los Angeles and its department responsible for airports: LAWA) was obliged to negotiate, because the opposition had managed to organize itself as a structured coalition. It gathered together actors from a variety of public and private institutions at all levels of government which shared a set of basic beliefs (policy goals plus causal and other perceptions) and who sought to manipulate the rules, the local governments in order to achieve their goals (Baxamusa 2008). With the Environmental Impact Report, the LAX coalition had grasped the opportunity to win political leverage. Many aspects of their grievances, outside the risk mitigation and the health threats, were tractable and divisible to be redistributed.

What is particularly noticeable is that in the 90’s another coalition of local municipalities had succeeded in stopping the extension project of the different mayors, but without creating an alternate solution. They were in the confrontation and propose not acceptable solutions for all stakeholders. Each side wasn’t able to take into consideration the point of view of the other side. The entry of new actors and the new conceptualization of the problems led to more constructive relationships…

For the Schönefeld airport in Berlin, a solution has been built between local communities and the public developer (hold by the two concerned Länder and the state) after a judgment in 2006. The public developer couldn’t obtain the necessary permits without revising his project, particularly concerning noise abatement. That’s why he decided to associate municipalities and to create a forum to discuss the points of contention. This common brainstorming was the way to collectively reflect the development and city planning.

1.3. Distributional justice ought to be related to procedural justice

One of the major drawbacks of the decision making process is not to include all stakeholders at all stages of the process. This practice feeds the feeling of distrust and of manipulation.

In the US, at LA, the negotiations of a community benefits agreement don’t only include advocacy groups, local government, but also environmental justice groups, religious communities, trade unions, school districts…

In Germany, for the two studied cases (Berlin and Hamburg), participation focuses on the local consultation of elites (mayors, state departments...). Grass-roots associations were not admitted, even in the Berlin case, where the Dialogforum was created.

In fact, different kinds of ‘hybrid forums’ (Callon et al. 2001) were established because the stakeholders interacted differently in Berlin and in Los Angeles and don’t have the same bargaining power. We can notice that these large socio-spatial compromises are based upon a redistribution of power in a local context. For
Foucault (1980: 89–90): “Power is not an *institution* nor a *structure* nor a certain *capacity* which some possess: it is the name which is given to a complex strategic situation by a certain society”. Power is an unstable construction, which can be partially redistributed, when the stakeholders’ organisation is reconfigured and new tools of collective regulation are invented.

The power of an actor can increase with empowerment strategies to raise social capabilities (Sen, 1996). That is often the case when associations want to be heard. They also rely their arguments on local knowledge so that orphan impacts (no treated by the public sphere) become visible and compensable.

### 2. THE ENVIRONMENTAL COMMUNITY BENEFITS AS A NEW WAY TO IMPROVE SOCIAL ACCEPTABILITY AND SOCIAL JUSTICE

What about these new instruments of regulation? They are constructed in order to overcome the inefficiencies of the traditional environmental impact assessment which is more or less an account of what the developer wants. The different forms of community benefits, sometimes integrated in a specific agreement, tempt to reallocate benefits in better hearing impacted populations and communities.

#### 2.1. Definition of community benefits

The development of community benefits has resulted from a gradual recognition of the weakness of a mitigation-only approach to siting hazardous facilities. Besides, ecosystems should be analyzed as “reflexive complex systems which imply the study of the human dimensions of ecological change” (Martinez-Allier 1998), of the transformations of human environmental perceptions. They are based on a cross-sectorial approach.

Compensatory agreements lead to socialization of risk and of environmental effects at the local scale, as the costs are borne by the developer or the industry manager. The other parties to the contract mostly abandon their rights to sue the developer, if he respects the different measures of the community benefits agreement.

They are different from Unilateral Commitments (codes of conduct or guidelines developed unilaterally by industries) which don’t result from negotiations but from the developer’s good will. They set apart fiscal revenues, as they are negotiated and seldom stemmed from the systematical implementation of a local or national legislation.
Thinking in terms of community benefits can be considered as paradoxical because it contradicts the traditional way of thinking about the links between nature and humans in the context of environmental policies and the public action. One generally outlines the lack of consideration about nature and ecological devices and one tries to protect them, to grant them a special status and to change the behaviors towards them. However, some environmentalist movements like environmental justice have emphasized the inability of the traditional ecological groups to simultaneously address environmental inequities between social and ethnic groups and to incorporate the human aspect (Cable et al, 2005).

Compensation agreements rest on a large meaning of “environment” because they take into account human beings, well-being and social needs. These components, neglected in the traditional approach of compensation, as it is used in Germany, are negotiated between different stakeholders impacted by a facility: job training program and first-source hiring program for residents, nuisance mitigation, community-based research study, property value protection…

2.2. The redistribution towards the more vulnerable populations
In the USA, the negotiation of community benefits is particularly intertwined with the claims of environmental justice, even if some activists think this is a fool’s bargain (Bullard, 1990). Indeed, since Bill Clinton signed the Executive order mandating all federal agencies to fight against environmental discrimination, the fair treatment and meaningful involvement of all people regardless of race or income has become a main objective. When a developer prepares an EIA, he has to be vigilant about all disproportionate harmful impacts towards vulnerable populations.

Besides, when a CBA is implemented, special measures specifically tackle poor households, single-parent families (Gobert, 2008)...

However, it’s not the case for all forms of community benefits, even if the improvement of social justice is a major concern of all negotiations of this type… But according to the countries and the Welfare State traditions, the involvement for minorities and poor people differs. The national laws protect in France or in Germany the workers who belong to labor unions; they afford to citizens a minimal wage… In the USA, the CBA could be the opportunity to discuss these points and to aim to correct social inequities, made worse with environmental damages.

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).

3. A LADDER FOR THE ENVIRONMENTAL CITIZENSHIP: CRITERIA AND TYPOLOGY OF THE DIFFERENT FORMS OF COMMUNITY BENEFITS

Different forms of community benefits are negotiated, but to categorize them, it’s necessary to define criteria and to combine them.

3.1. Criteria to assess the forms and efficiency of the environmental citizenship

A multidimensional approach allows knowing if we are face to a new form of citizenship and if the socio-environmental compensations are a new social protection against damages, which were ignored or just dealt
at the source.

A first criterion is the level of environmental integration of the compensation package. That is to say if it only takes into account ecological protection of biodiversity, vulnerable ecosystems or if the environmental impacts are considered as if they worsened the social and health conditions of people.

The second major criterion is the level of participation. What kind of process (public meetings, outreach actions…) is established to favor the integration of all populations?

Which degree of citizen participation is reached? Arnstein (1969) created a normative ladder of 8 rungs. Even if we can criticize this quite rigid approach, it is useful to identify if some power are delegated to public or not.

The third touchstone is to assess if the compensation measures come from the local initiatives and creativity or if they are just the implementation of a national regulation. What are the endogenous and exogenous forces, which influence the scope and the form of these measures?

Consequently the fourth main point is the ability to internalize the social costs and then the solution gave to environmental inequalities.

The last criterion is the degree of institutionalization of the measures. Studying how the social field can be semi-autonomous, what the role of State or of other public actors compare to the private stakeholders, gives an idea if we are just in a local experimentation, which can’t be replicated… or if they are recognized and then the stakeholders “empowered” to really negotiate in a win-win manner.

According to these criteria and our field cases, we could work on the creation of a ladder of community benefits.

3.2. Community benefits as an indicator of the depth of environmental and social justice

The first step and the more largely applied compensation measures are the ecological remediation. When a developer impairs an ecosystem, he’s obliged to repair it or to pay for the damages he caused (Mitigation Banking). The social impacts are ignored (Ruhl, Salzmann, 2006).

The unilateral measures that a developer takes to improve the social acceptability of his activities are not discussed with other stakeholders. They are used as a means to improve communication and to make green the corporate image of the firm.

The national/regional legislations and regulations were implemented in some states in the USA and voted but not applied in France. They may reify the results of negotiations and minimize the ability to invent new local solution, answering local needs.

The national agreements between firms and governments are non-local solutions, but the compel developers to integrate the demands of inhabitants.

The local agreements between host and impacted communities and the developer are based upon local creativity, but the process doesn’t integrate the civil society.

The community benefits agreements can solve many problems in bringing together almost all stakeholders and in creating the conditions to initiate multivariate transactions. They are compromises between a plurality of actors, who try not only to find a consensus and to elaborate a “local social contract”, but also to implement it to a specific perimeter. This one doesn’t match with the administrative limits but with the limits of the negative impacts and needs of people.

These kind of agreement is an attempt to rehabilitate the city impacted by real estate depreciation, stigmatization, pollution, as well as to grant a new urban dignity to people who are no more considered as
passive host residents of facilities, but as actors of the future of their district. In Detroit, the social activists take advantage from two projects, the Detroit Intermodal Freight Terminal and the Detroit River International Crossing, to oblige the public developers not to harm more to an already polluted and deprived area. They didn’t reject the projects but try to transform them to community based development (sidewalks’ improvement, aesthetic of the streets, by-path for trucks…).

CONCLUSION

Compensation plays an increasingly promising role in resolving a wide variety of siting disputes. The evolution of developer’s toolbox and the resort to compensatory measures is nearly common in several Western countries. This environmental policy convergence questions the mechanisms of domestic policy change. It’s not the result from bilateral or multilateral transnational networks. In this matter this confluence doesn’t come from a process of imposition to one country to another or from internationally shared social learning (international colloquiums between developers or airport owners). Therefore, we are obliged to study how harmonisation (legal obligation for example with European directives or Natura 2000 network), regulatory competition and benchmarking, and communication influence the national and local stakeholders and the institutions (Veeman 2008). In fact, endogenous and exogenous factors follow a similar objective: conciliating the technical, natural, and human “worlds”.

Compensation measures are a tool of public and private action to improve the acceptability of infrastructure in their host territory. To be efficient and productive, they must be embedded in a dialogical, interactive and inclusive process. Moreover, compensation is not sufficient; the community benefits agreements have to integrate prevention, information and cooperative implementation.

Ultimately they don’t overcome the radical Western shifts between human and nonhuman entities, rationality and subjectivity, but try to put the basis of a cooperative frame where natural ecosystems and human needs are equally protected against the technological development.

This tool reflects an evolution in the behaviors of stakeholders, obliged to find a local and trans-sectorial compromise.

Environmental community benefits don’t match to Weak sustainability or Strong sustainability, but establish a reflection about the degree of compensability according to the environmental damages, that is not only limited to objective factors that the technical system can easily assess, but also encompasses subjective and perceived environmental aspects.

REFERENCES


