
Environmental justice in the US: construction and uses of a flexible category An application to transportation policies in the San Francisco area

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It's only fairly recently that the environment started to be considered as mattering to the reduction of racial inequalities. It is a result of movements which started in the 1980s to criticize the unfair burden of pollution for minorities (Bullard et al., 1997). At the time, several communities organized to fight the arrival of potentially dangerous facilities in areas inhabited mostly by deprived and/or minority families (Taylor, 2000). After this political phase environmental justice became institutionalized, as it became a criterion of evaluation of public policies (Holifield, 2001). The notion was therefore transferred from one group to another, between experts, activists and public agents, none of whom hold the same definition or use it in the same way. Debates related to environmental justice have given rise in recent years to hybrid forums (Callon, Lascoumes, Barthe, 2001), in which experts and citizens debate the impacts and risks of new or planned facilities.

As the notion became used more broadly, it has caused academic debates about its efficiency both in terms of policy and in terms of politics. As a reference for public policies both sectoral and local (Faure, Pollet, Warin, 1995), it has been seized by a variety of stakeholders with diverse, and sometimes contradictory, strategies (ou: agendas). Simultaneously, it has been used as a category of analysis, in connexion with social justice in particular, though its use in academic research has been challenged (Harvey, 1996).

This paper offers a review of existing literature, in order to trace the development of the notion of environmental justice, as a category of analysis, as a category of collective action, social movements, and finally as a category of public action. We shall also look at the ways in which it is mobilized over issues relating to transportation in San Francisco¹.

1- Looking back on "environmental justice" as it was constructed in the US

What is meant exactly by "environmental justice" (henceforth "EJ") is not yet stabilized. At its simplest, it refers to the spatial overlap between environmental risks and burdens and the presence of inhabitants belonging to social or ethnic minorities. This of course calls for further definition of "environmental risks" (health, pollution, education, work, housing...), and of minority groups.

A notion constructed by social movements

The notion of EJ as it emerged in the late 1980s has been built on that of environmental racism, but aimed to widen its application to other forms of discrimination that were not purely based on race or ethnicity (Holifield, 2000). It became very popular, for, linking racial and social issues to environmental issues, it gained strength from both environmental and Civil Rights movements (Taylor, 2000 ; Holifield, 2001) and allowed for the convergence of movements with very different social characteristics (Taylor, 2000 ; Faber et McCarthy, 2001). For Taylor (2000), EJ became the "new paradigm" of environmental movements and profoundly modified their

¹ This empirical part is based on research carried out at the University of California in Berkeley and fieldwork in the San Francisco area.

discourse and ideological framework ; it enabled them to become known to a wider audience while maintaining existing structures within academia and among experts and political actors. New values were promoted with a broad appeal, under the general theme of fighting inequalities based on race, class or gender. Choosing the word "justice" is of course anything but neutral and refers to the militant use of the notion, also to be found in the discourse of unions. Furthermore, from the point of view of the emerging movement, the objective was not a "fair" allocation of pollution, but to prevent it from appearing (Holifield, 2001).

The «First National People of Color Environmental Leadership Summit», in 1991, moved beyond issues of pollution to questions of public health, work safety, transportation, resource allocation and community participation (Bullard et Johnson, 2000). A series of practical measures to apply principles of EJ were also agreed upon at this summit, and a number of organizations that had emerged locally were structured into a network coordinating different territorial and institutional levels (Faber et McCarthy, 2001).

These new EJ networks were able to lobby the Environmental Protection Agency², and promote a wider definition of the environment. This made EJ very close to social justice, taking on board political claims such as quality housing, working conditions, health, gender or education concerns. In the US, claims of EJ are part of a radical discourse about social and spatial inequalities, and they innovate in exploring new modes of participation and political activism (Faber et McCarthy, 2001). Green movements seized on the notion of EJ and submitted it to a process of "concept stretching" which partly emptied it of its meaning and specificity. In Foreman's view (1998), the difficulty in limiting the definition of EJ is what makes it very efficient as part of political rhetoric, while it contributes to the dilution of its meaning and decreases its efficiency as a category of public action. Moving EJ beyond the borders of the environmentalist movement allowed for the mobilization of a variety of associations around this hazy idea.

The institutionalization of EJ

Before they took on board EJ, federal institutions used the legal framework provided by the Constitution to deal with racial discrimination in the area of the environment. In particular, Title VI of the 1964 Civil Rights Act provides protection from racial discrimination to all beneficiaries of federal policies. In the 1980s, a number of surveys showed evidence of a correlation between the location of dumps and the racial characteristics of nearby areas (Pellow et al., 2001). Public authorities were bound to start looking into EJ issues.

The federal administration created the National Environmental Justice Advisory Committee in 1993, whose members, from the ranks of academia, NGO representatives, community groups, local authorities, tribal governments and companies, were designated by the EPA. This committee discussed the inclusion of EJ among the priorities of the EPA. In 1994, the Clinton administration allowed for the inflexion of federal norms to take into account environmental inequalities, by passing Executive Order 12898, which dealt with federal action, and defined the extent of EJ by extending objectives of non-discrimination from the minorities and the disabled, to poor people generally. In 2000, the EPA gave the notion a specifically spatial dimension, by emphasizing place of residence :

The goal of environmental justice is to ensure that all people, regardless of race, national origin or income, are protected from disproportionate impacts of environmental hazards. To be classified as an environmental justice community, residents must be a minority and/or low

² The EPA is a federal agency created by the Nixon administration in July 1970 with the general brief of protecting the environment and public health.

income group; excluded from the environmental policy setting and/or decision-making process; subject to a disproportionate impact from one or more environmental hazards; and experience a disparate implementation of environmental regulations, requirements, practices and activities in their communities. (U.S. Environmental Protection Agency, Office of Environmental Justice, 2000, in Holifield, 2001)

The notion of EJ therefore started to evolve around a spatial definition of so-called "communities of environmental justice", and a normalization of situations with respect to environmental risks. Technical means were enlisted to define spatial boundaries, with GIS allowing for a modelization of burdens and, through confrontation with ethnic variables, to map "sensitive" areas (Harner et al., 2003). In this perspective, the notion of EJ boils down to the definition of a community eligible for a public policy and to the evaluation of environmental impacts. Following the EPA, federal administrations came up with their own definitions of EJ: for the Department of Housing and Urban Development, it refers to access to basic sanitary equipment; for federal transportation agencies, it means the EJ communities must benefit from every project in the area of transportation. EJ tends to become synonymous with access to services, as the term "environment" takes on an ever wider range of meanings.

Among environmental and community grassroots movements, this institutionalization of the notion of EJ implies a professionalization of activists, who have to negotiate constantly with governmental groups of all levels, and engage in discussion with scientists, experts and political actors. Participation in these discussions means they have to mobilize ever more specialized and technical forms of knowledge. This has, according to some authors, had negative impacts on the internal democratic processes of these movements (Faber et McCarthy, 2001), which could also be interpreted as a form of depoliticization of their action.

The construction and spread of the notion of EJ result from a merging of two discourses, that of the associations, and that of the experts, often called on by the associations. This produces rhetorical hybrids in which the sets of arguments of each group become impossible to distinguish. As in the hybrid forums described by Callon, Lacoumes and Barthes, the boundaries are constantly fluctuating between "what is acknowledged as indisputably technical and what is acknowledged as indisputably social" (2001). The movement for EJ has wed the fight against social inequality (way beyond environmental concerns) to ecological and technical priorities defined by scientific and academic research. Simultaneously, the porosity between academic expertise and activism has mutated the call for EJ into a scientific object within different academic disciplines. EJ has become a research field in its own right, under the impetus of the EPA and of public funding bodies, foundations and NGOs (Sierra Club, WWF...).

Academic debates: internal and external critique of distributive justice

The spread of the concept to a wide audience, from social movements to public institutions, was quicker than its scientific theorization. It was in fact under-theorized and little debated well into the 1990s. Two types of justice were referred to by EJ movements (Taylor, 2000) :

- distributive justice, which aims to identify the beneficiaries of equipments, services or measures leading to greater environmental efficiency (transportation, sewage treatment...) and to allow for a fair distribution of negative environmental impacts across social and ethnic groups;
- corrective justice, which deals with impacts or situations partially or totally inherited, where citizens' mobilization aims to correct retroactively effects or earlier actions or policies.

Both dimensions of environmental justice are in fact close and complementary, and both come under John Rawls' definition of redistributive justice (1971). Academic research first focused on

methods to measure environmental inequalities, which seemed to form a prerequisite to the formulation of corrective policies. Most research carried out in the US since the 1980s involves a measurement of environmental, racial, social or spatial inequalities (Schweitzer et Valenzuela, 2004 ; Bowen, 2002). Empirical case studies long dominated the literature about EJ, but the underlying concept of distributive justice was hardly discussed.

This focus on the geography of inequalities is one of the aspects of the use of the notion of EJ that was most criticized. Rawls's idea of justice leaves the assessment of a "fair" situation, in terms of distribution of inequalities, open to interpretation. In environmental and spatial terms, the divide between a fair and an unfair situation is particularly unclear, and heavily dependent on the context of a given city or country. How to argue about distributive justice, and correction, when the environment is by essence an element of spatial differentiation? The notion has to take the context into account, to become a "situated" notion of justice (Holifield, 2001). Therefore, greater attention is paid to situations perceived as unfair or to unfair treatment on the part of public authorities.

A second strand of criticism has to do with the distinction between inequalities in distribution and the study of social, political and institutional processes which brought about those inequalities. For Pellow et al. (2001), environmental injustice is a social process with multiple actors. Groups' interests are complex, sometimes interrelated, and environmental inequalities result from a struggle for access to resources, the costs and benefits of which are unevenly distributed. Following Young (1990), many analysts emphasized the understanding of social and institutional phenomena which bring about situations of injustice. Schlosberg (2004, 2007) suggested Rawls's notion of recognition could be used to identify, in any given context, situations deemed environmentally unfair. For Schlosberg (2007), it is necessary to go beyond the dichotomy between the unfairness of distribution, and the recognition of the underlying processes producing inequalities. A multidimensional approach is needed to grasp simultaneously the contextual and material natures of environmental inequalities and the underlying factors. This brings us closer to procedural justice (Holifield, 2001, Hillman, 2002), which, more than mere recognition, calls for citizens' participation in the decision-making processes. The implicit assumption, not itself unquestionable, is that opening the decision-making process to those who suffer from environmental consequences will allow for a reduction of unfairness in distribution.

The third strand of criticism is more extreme. It comes from marxist urban political ecology, and is inspired by David Harvey's critique (1996) of EJ. For Harvey, EJ did not recognize clearly enough the underlying logics leading to injustice, in particular the asymmetrical relations deriving from capital accumulation. Swyngedouw and Heynen (2003) are critical of the liberal perspective of distributive justice, which does not address the role of neo-liberal capitalism in the relation between Man and Nature. EJ literature was criticized for being too empirical and narrow in its theoretical range. While this critique is not unlike other calls to take into account processes of production of injustice, it goes further by challenging EJ's very theoretical framework and questioning its ability to grasp hegemonic logics which produce inequalities. In this perspective, the fact that government agencies use the notion of EJ was cited as proof that it was a mere instrument of public action.

Faced with such critiques, the debate about EJ has had to carefully contextualize the use of a notion used so widely, by social movements, public institutions and urban studies. The notion of EJ has proved its resilience, by taking on a multiplicity of meanings (Walker et Bulkeley, 2006), which depend very much on the position of social, political and scientific actors which use it (Debbané et Keil, 2004). The case of transport policy illustrates the elasticity of the notion, as well as its place among references of public action or community movements. In San Francisco,

the notion is used both by bodies responsible for formulating the transportation policy, to justify policy orientations, and by community organizations who use it to denounce discrimination and give new vigour to their claims of social justice. EJ therefore functions as a basis for consensus-building among groups between which it could have seemed difficult to find common ground.

2- transportation policy in the San Francisco area

Transportation is a particularly crucial area in terms of minority rights. The Civil Rights movement was born in public transportation through boycotts and struggles that remain mythical to this day. EJ applies there in two ways: because means of transportation have major environmental impacts, often concentrated in deprived areas mostly inhabited by minority groups, and also because inequalities in terms of access to urban resources (jobs, stores, services) are conditioned by unequal access to transportation.

EJ and transportation

The notion of EJ became important in the area of transportation in the late 1990s, both in academic research and in public policies. Methods were proposed to measure the environmental impacts of transportation projects (Forkenbrock et Schweitzer, 1999 ; Mills et Neuhauser, 2000). Beyond strictly academic research, some work combined theoretical engagement and political involvement in the field, which played a major part in spreading the notion of environmental justice (Bullard et Johnson, 1997 ; Bullard, Johnson et Torres, 2004).

In 2003, the Institute for Transportation Studies of the University of Berkeley published a "Citizen's Guide" to EJ in transportation (Cairns et al., 2003). According to the authors of this guide, EJ applied to transportation means benefits and inconveniences of transportation equipment should be spread evenly between populations. Beyond equal access to networks and a fair distribution of burdens linked to transportation, the guide also mentions the participation of communities to the setting up of projects. This goes further than definitions discussed above, and encompasses unequal access for different social and ethnic groups. The environmental dimension becomes less important than the aim for social justice, the issues of accessibility, and the notion of procedural justice related to the participation of disadvantaged groups.

In the domain of transportation, as in that of natural resources, researchers at the universities of California at Berkeley and Los Angeles played a major part in the structuring of EJ movements, illustrating the porosity between academia and collective action. The Citizen's Guide and lasting collaborations with green associations go further than mere advice about modes of action, they actually define categories for action and priorities, thereby formatting collective action. Academic work was conceived of as allowing for a direct application of results in the political arena.

Nationally, transportation policies started taking on social justice goals in the 1990s, in a break with what has been called the "interstate era" of highway-building (Jakowitsch, Ernst, 2004). A landmark measure, the Intermodal Surface Transportation Efficiency Act (ISTEA) was passed in 1991, and brought about a balance between investment in roads and the development of public transportation³ (Goldman, Deakin, 2000). It also made funding autonomous? which means metropolitan transport authorities now make their own investment decisions and can decide to

³ Before ISTEA, federal funding covered 90% of costs for road investment but only 75% for public transportation projects.

prioritize collective transportation⁴. Finally, it made cooperation with citizens and transportation bodies compulsory⁵. The Transportation Equity Act for the 21st Century (TEA-21), which took over from ISTEA in 1998, is very much in its continuity, but the association of citizens and users to decision-making is reinforced, and taking into account the needs of the poor and of minorities is stated as a priority, as indeed became the rule in all urban policies. While the prioritizing of public transportation over road-building was initiated out of environmental concerns, issues of EJ gradually took over, and became an objective, as well as a criterion of evaluation, of transportation policies.

Whilst EJ became a part of struggles against inequalities in mobility, it also got caught between two sometimes contradictory imperatives: improve accessibility for poor and minority households, and protect the environment. The social and the purely environmental aspects both contained in the notion of EJ were not necessarily easy to combine in the area of transportation (Schweitzer and Valenzuela, 2004).

EJ goals in transportation policies in San Francisco

The San Francisco area, which has always been innovative in terms of environmental protection and of social justice, is particularly interesting to look at to see how EJ principles are applied in the area of transportation⁶. Let's look first at how local public actors used the notion, and then at how it was mobilized by community organizations.

An institutionally fragmented area

San Francisco's population is very diverse ethnically. Poverty rates tend to be lower there than in California generally (9% against 14%), but living costs are very high. The urbanized area was shaped by the use of automobiles, despite efforts made to develop public transportation: a mere 9% of households did not own a car in 2006. However, this rate reaches 27% for poor households, who are therefore heavily dependent on other modes of transportation, public in particular, which means these are a major issue in terms of social and environmental justice.

The San Francisco area is extremely fragmented in institutional terms (Innes et Gruber, 2000). Several actors share decision-making and the management of a complex and poorly coordinated transportation system.

- the **Metropolitan Transportation Commission** (MTC) has managed transportation policy in the area for the past thirty years. Created in 1970, it first took part in the implementation of the BART (Bay Area Rapid Transit) project, the regional rail network, and it currently handles most of the funding granted by federal government for transportation policy⁷.

the **9 counties** within the urban area play an important part in defining and funding mobility policies, by earmarking a portion of sale taxes for transportation.

4 Funding for public transportation or other community projects now represents about 75% of funds allocated to road building.

5 Each urban area must have a Regional Transportation Plan defining strategies and priorities in terms of transportation, which must have been elaborated in agreement with representatives of communities.

6 Our fieldwork was carried out between January and July 2004, and relied on an analysis of available reports, working papers, etc, as well as approximately thirty interviews with local actors (within the metropolitan transportation authority, transportation companies, associations and community organizations). We also took part in several meetings (working committees on the access to transportation of deprived people, meetings between the metropolitan transportation authority and representatives of associations and communities, etc).

7 Since the Intermodal Surface Transportation Efficiency Act (ISTEA) was passed in 1991, the allocation of funding to transportation authorities and bodies implementing projects is handled by MTC.

28 transportation agencies are active in the area, the most important of which is MUNI, the city of San Francisco's. BART comes second, with a much larger catchment area and expanding rapid transit lines. AC Transit, the largest bus company in the area, serves Alameda and Contra Costa counties, and a number of smaller, either public or private, agencies, serve the rest.

EJ in transportation planning documents

Social fairness became a concern of the Bay Area's Regional Transportation Plan in 1998, but EJ principles as such were only implemented starting with the 2001 Plan, authored by the Metropolitan Transportation Commission. This included a report on the "Lifeline Transportation Network", which defined a network of lines considered "vital". This notion was based on the transportation needs in the poorest parts of the Bay Area, and emphasized serving the neighborhoods with the highest proportion of deprived households, and essential destinations such as job centers, schools, daycare centers, medical centers, housing authorities, public services and so on. The aim was to improve such essential links by adding trains and extending service timetables.

The Plan also included a report on fairness and EJ, which it defined as the cooperation with low-income and minority groups in the planning process, and ensuring that neighbourhoods defined as "critical" benefit fairly from transportation without bearing a disproportionate burden. Benefits were measured merely in terms of access to jobs. The assessment in the 1998 report showed satisfactory results, both in terms of accessibility for deprived areas and of planned improvements.

This case shows that in practical terms social justice and EJ principles can be combined: documents deal with them alongside as though their compatibility were a given. Participation of deprived and minority groups is seen as crucial, which coincides with a procedural understanding of justice and testifies to the importance of participative decision-making as a new benchmark of public action, as is the case in "collaborative planning" procedures. However, this application of the notion of EJ was strongly challenged at the regional level. The first report submitted to community organizations was instantly contested, as these claimed that real accessibility could not be measured with purely "technical" criteria, and should be assessed on the basis of people's actual needs and practices. There is a gap between justice principles enunciated as political priorities, and the application by experts using statistical measurements presented as unquestionable. The apparent consensus between experts and representatives of community organizations did not resist to this issue of measurement, in which the "legitimate knowledge" of the first group was given priority over experience and "citizen knowledge". In addition, quite a few of the lines described as "vital" to poor citizens' mobility in 1999 were later closed, when budgetary cuts were rendered unavoidable by a fall in the proceeds of the sales tax, due to the recession in the early 2000s (Bénit-Gbaffou et al., 2007). The institutional fragmentation of transportation meant that objectives stated by the regional authority could be belied by decisions taken locally by bus companies.

These debates rendered the need to associate users to decision-making even more obvious, and it was therefore decided, in 2003, to turn to community-based transportation planning. This was first tested on 5 areas, then extended in 2005 to 25 deprived neighborhoods, and 18 more in 2008. The close involvement of community representatives in planning decisions is part of the process of professionalization of activists described above. They were also involved in all the work prior to the publication of the Regional Transportation Plan for 2030, approved in February 2005, in particular to define criteria to assess social fairness and EJ. Measurements of accessibility were improved, all basic services being taken into account, alongside job access. A

further improvement came from a measurement of distances traveled by means of transportation within deprived neighborhoods, which made it possible to take into account unequal impacts of noise and pollution which were formerly disregarded, despite the fact they were present at the origin of the formulation of EJ. The report concluded, as had the previous one, that deprived neighborhoods will benefit from the Plan without bearing any negative impact. However, it did specify that it is impossible to measure to what extent public transportation really allows users to "travel when and where they want", and that it is only possible to measure trips which are in fact occurring.

What is obvious in this local example is the discrepancy between the sophisticated consultation processes and careful evaluation of needs, and the insufficient funding available to respond to them. Project implementation depends on local funding, by the counties, which is subject to electoral consultation. The multiple levels involved in the implementation of transportation policies make EJ objectives virtually unattainable. Locally, despite the priority granted to EJ, it remains difficult to carry out policies explicitly aimed at deprived neighborhoods. It seems that EJ operates more as a justification for locally implemented actions rather than as a guide to formulate fairer policies socially and spatially.

Contradictions between social and environmental issues

However, EJ was used successfully by local organizations to counter projects formulated by the metropolitan transportation authority and by BART. The notion served as common ground for a number of groups differing widely both sociologically and in terms of activism. There were on the one hand, powerful green groups, like the Sierra Club, with mostly white middle-class members, and on the other, community groups defending the interests of the poor and minorities. These organizations long active separately came together around the issue of transportation, forming the Transportation And Land Use Coalition, which managed, in a local referendum, to build an agreement on a potentially conflictual issue. This had to do with the rejection of a railway line south of the Bay, which would have decreased funding available for bus lines, without answering the needs of the poor and minority groups. The projected infrastructure would have served essentially suburban, white, middle-class areas, as opposed to buses, used mostly by poorer groups in central parts of the city. Inspired by the case successfully brought to court by the Los Angeles Bus Riders Union, three individuals supported by the coalition lodged a complaint for discrimination against the metropolitan commission in May 2005, challenging the priority given to rail over bus networks⁸.

In this instance the notion of EJ served as common ground for the convergence, which was by no means natural, between objectives of social and spatial justice (serving deprived neighborhoods) and of protection of the environment (by facilitating access to public transportation). The outcome, however, was unexpected, since the coalition in effect rejected new funding for public transportation which would have had positive environmental impacts, in a region where the use of cars is so prevalent (Bénil-Gbaffou et al., 2007). The notion, when it enters the political field, therefore seems to carry a major internal contradiction, the one between social and environmental issues. While these can be reconciled and claims for environmentalist and social improvements be federated, the convergence does appear fragile and likely to turn against those who brought it about.

⁸ For an overview of these two conflicts, see our work with Claire Bénil-Gbaffou (Bénil-Gbaffou, Fol and Pflieger, 2007).

Conclusion

EJ is used in a number of contexts. In academic debates, it has been criticized and its relevance challenged. It has however allowed for transfers and exchanges between academia, political and activist spheres, as shown above in the specific case of transportation. It has been used as a lever in the field of collective action, and has given new life to the struggle against racial and social inequalities. As shown here in the case of the Bay Area, it allowed for unforeseen alliances between claims of green groups and those of activists with a more social brief. Last but not least, in terms of evaluation of public action, EJ is called upon everywhere to justify projects and has become part of public administrations' vocabulary. Though the actual outcomes of this are as yet hard to determine, it is unlikely that it has really become a criterion of evaluation of policies.

According to Bullard and Johnson (2000), environmental protection, as currently implemented, merely manages, regulates and distributes hazards, while institutionalizing inequalities. For some actors⁹, the institutionalization of EJ has limited its political range and blurred the limits of the struggle against racism and segregation. Focusing on environmental aspects can cause one to forget other essential dimensions of segregation, such as equal access to employment. A similar process is taking place in France, with the use of the concept of "sustainable development", which is supposed to combine protection of the environment and social justice objectives. As observed by Jacques Theys (2002), the notion of sustainable development does not resolve the tension between environmental quality and social fairness : "one is entitled to wonder whether, beneath a layer of fine sentiments, the discourse on sustainable development is not valued primarily because it obscures the contradictions it carries". This instrumental use of notions is paralleled in San Francisco, where EJ is used by actors in the sphere of transportation at the metropolitan level to obscure their inability to have their priorities applied locally, which is ultimately, in a fragmented system, the level at which much concrete action, and most of funding, takes place.

If the notion of EJ is less mealy-mouthed than that of sustainable development, in that it can clearly expose the tensions between racial and social discrimination and environmental protection, it may nevertheless contribute to obscuring real issues of social fairness. However, in the US social and political context, it could be that environmental objectives are the best pretext found by social movements, or some politicians, to promote greater fairness and solidarity, at a time when issues of inequality, be they social or racial, no longer sell as well.

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⁹ 2004 interview with Michel Gelobter, director of *Redefining Progress*, an association for the protection of the environment and member of the Board of Environmental Justice Advisory Council ; 2004 interview with Steven Pitts, Center for Labor Research and Education, Berkeley.

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