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ISSUES OF COMMUNITY EMPOWERMENT

Peggy M. Shepard†

I. Introduction

Inaccessibility to power is a factor in the politics of pollution that has turned communities into dumping grounds for life-threatening toxins and pollutants. A functional and significant link persists between racism, poverty, powerlessness, and the assault on certain communities. Poor communities tend to be less informed, less organized, and less politically influential. Such communities are prime targets for abuse from polluters, both public and private. Such communities suffer from environmental racism, which results when policies lead to the siting of potentially hazardous facilities in low-income communities and communities of color because of their relative inability to effectively mobilize against the siting.

Research indicates that people of color face a disproportionate impact from environmental problems.¹ The racial composition of a community is closely correlated to the existence of a potentially hazardous facility in a community.² This condition is environmental racism. Other factors that may influence the siting of potentially hazardous facilities include the communities' lack of control over land use and the development process, and the lack of judicial access.

The white, middle-class dominated environmental movement of the 1960s and '70s built an impressive political base for environmental reform and regulatory relief. It did not, however, address the disproportionate burden carried by low income communities and communities of color. Few realized the implications of the Not In My Backyard (NIMBY) phenomenon, that many hazardous waste facilities, garbage dumps, and polluting industries would end up in poor, powerless, black and Latino communities, rather than in affluent, white suburbs. This pattern persists even though the

† Co-Founder, West Harlem Environmental Action.

1. See, e.g., COMMISSION FOR RACIAL JUSTICE, UNITED CHURCH OF CHRIST, TOXIC WASTES AND RACE IN THE UNITED STATES xiii (1987) [hereinafter UCC REPORT].

2. See *id.*

benefits derived from industrial waste production are greatest for the affluent.³

The benign neglect of low income communities and communities of color during the 1960s and '70s left a void that was filled in the 1980s by the environmental justice movement. In some respects, the environmental justice movement of the '80s culminated in the 1st National People of Color Environmental Leadership Summit in Washington, D.C. in October 1991, which was sponsored by the Commission for Racial Justice of the United Church of Christ. Over 300 people of color delegates from fifty states, as well as Central and Latin America, Puerto Rico, the Marshall Islands, and Canada, affirmed seventeen Principles of Environmental Justice.⁴ The summit affirmed a global "Call To Action," based on grass-roots concerns, that people-of-color leaders in the movement for community self-determination will define and articulate.⁵

Self-determination is a crucial aspect of improving the quality of life in many communities of color. Uncontrolled toxic waste sites litter the communities where fifteen million blacks and eight million Latinos live.⁶ In large cities such as Houston, where six of eight municipal incinerators and all five landfills are located in black neighborhoods,⁷ and small towns such as Emelle, Alabama, a rural community with a seventy-nine percent black population and the nation's largest landfill,⁸ minority populations bear the burden of unwanted waste deposits.

Although case studies of rural southern activists fighting for environmental justice are most common,⁹ urban concerns also merit great attention. The social integrity of many urban neighborhoods is undermined by callous land use policies. Such neighborhoods are often bereft of aesthetically developed open space, littered with poorly maintained parks, and overrun by highways that hurt local businesses and isolate neighborhoods. Further, the increasing incidence of asthma-related death and illness in many communities of

3. See Michel Gelobter, *The Meaning of Urban Environmental Justice*, 21 FORDHAM URB. L.J. 841, 842-44 (1994).

4. Proceedings from The First National People of Color Environmental Leadership Summit, Principles of Environmental Justice, Oct. 24-27, 1991, at xiii-xiv.

5. *Id.* at xvii-xviii.

6. UCC REPORT, *supra* note 1, at 10.

7. ROBERT D. BULLARD, DUMPING IN DIXIE 51 (1990).

8. UCC REPORT, *supra* note 1, app. B, Table B-8.

9. See, e.g., Gerald Torres, *Environmental Burdens and Democratic Justice*, 21 FORDHAM URB. L.J. 431, 434-36 (1994).

color appears to be linked with high levels of air pollutants in those communities.¹⁰

The environmental policies and concerns of local, state, and federal governments have failed to protect their citizens. More particularly, the nation's environmental agenda neglects to account for the urban environmental problems of people of color.

This Essay first considers how environmental injustice and racism has impacted the West Harlem community. It next considers some of the particular health implications, such as lead poisoning and asthma, in the Harlem community. The needs of all communities of color and poverty are considered. The response of West Harlem Environmental Action to these needs is examined. Finally, the Essay concludes by briefly examining some of the obstacles to change and recognizing the need for alliances to continue to progress in the pursuit of environmental justice.

II. The West Harlem Community

The North River sewage treatment plant located in West Harlem is a state of the art symbol of environmental injustice and the impetus for environmental justice activism in the area. Twenty years ago the plant was slated to be constructed along the Hudson River at 70th Street. New York City made a political, not a scientific, decision to move it upriver to 137th Street after key developers lobbied to stop construction at the first location. The \$1.3 billion North River plant, which provided virtually no jobs or construction contracts to Harlem or northern Manhattan, began operation in May 1986.¹¹

Immediate community outrage at the noxious odors from the plant led to mass meetings and four years of angry confrontation with the city administration under Mayor Ed Koch. The community's demands included calls for an independent engineering study of the plant, stack emission tests, permanent and continuous monitoring of stack emissions, a new environmental assessment study, and a safety study on the thirty-acre Riverbank State Park being constructed atop the plant. The community further demanded that

10. Jean Ford, Presentation to the American Thoracic Society International Meeting 62 (May 16, 1993); see also Douglas Dockery et al., *An Association Between Air Pollution and Mortality in Six U.S. Cities*, 329 *NEW ENG. J. MED.* 1753 (1993) (describing increased mortality associated with air pollution from fine particulates, including sulfates).

11. See generally Vernice Miller, *Planning, Power and Politics: A Case Study of the Land Use and Siting History of the North River Water Pollution Control Plant*, 21 *FORDHAM URB. L.J.* 707 (1993).

the operating permit for the plant be withheld until their demands were met.

The North River plant is just one instance of environmental injustice occurring within the Harlem community. There is also the nearby marine transfer station where garbage is dumped onto barges, two bus depots within a five-block area, the diesel-fueled Amtrak train, the Westside Highway, and the proposed biotechnology center that has razed the historically and culturally significant San Juan Theatre and much of the Audubon Ballroom. The detriment caused by these conditions is compounded by the lack of managed open spaces and disgusting vacant lots exacerbated by the constant and improperly enforced renovation of buildings. Such improper renovation of buildings can release lead and asbestos into the air. Finally, toxic and medical waste are dumped illegally in vacant lots—vacant lots that children explore.

Working in partnership with the Natural Resources Defense Council (NRDC), West Harlem Environmental Action (WHEACT) contacted West Harlem community leaders to convene and define their environmental agenda. The group, known as The West Harlem Community Leadership Focus Group, was asked to determine the primary, non-social conditions negatively impacting West Harlem's residents. They articulated twelve areas of environmental concern.¹² After hosting several other focus groups in targeted communities, the current goal is to convene a citywide conference with the Mayor and Governor to detail a political agenda for addressing these concerns.

III. Lead Poisoning

In the United States, lead poisoning is the primary health threat to children.¹³ Fifty-seven million housing units in America contain lead paint.¹⁴ Of these units, nearly four million are occupied by toddlers and young children.¹⁵

12. The twelve areas of environmental concern were land use, sanitation, toxins, pest control, parks and open space, infrastructure, enforcement, consumer issues, air pollution, noise, vacant lots, and transportation.

13. Louis W. Sullivan, M.D., *Remarks, in PREVENTING CHILDHOOD LEAD POISONING A-2* (1991).

14. *Id.* at A-2, A-3.

15. *Id.*

A. The Impact of Lead Poisoning on Children

In New York, the chief cause of lead poisoning is poorly maintained housing built before the ban on interior lead paint in 1960.¹⁶ Therefore, the problem is particularly acute in the poorer areas of the City. For example, over fifty percent of the City's lead cases occur in Bedford-Stuyvesant, Bushwick, Fort Greene, and Brownsville, which are among the poorest areas in Brooklyn.¹⁷

In 1984, it was estimated that seventeen percent of all American children had elevated levels of lead in their blood requiring intervention.¹⁸ Lead poisoning is the most common environmental disease in young children.¹⁹ According to national standards, at least sixty-seven percent of African-American children in Harlem have been contaminated by excessive levels of lead.²⁰

Lead poisoning prevents a child's mind and spirit from proper development. Lead, a highly toxic metal, can produce a range of adverse human health effects, particularly in children and fetuses.²¹ Effects include nervous and reproductive system disorders,²² delays in neurological and physical development, cognitive and behavioral changes, and hypertension.²³ Many children who are lead poisoned cannot learn to read or write, to perform simple arithmetic, or to master tasks that require basic coordination.²⁴ Children do not have to eat lead paint chips to become poisoned. They can inhale, ingest, and absorb lead from paint dust in living areas,²⁵ from dirt in playgrounds and housing demolition sites where safety regulations are not followed, and from automobile emissions.

Louis Sullivan, former United States Secretary of Health and Human Services, estimates that children with moderate lead levels may be as much as six times more likely to have significant reading

16. ERIC A. GOLDSTEIN & MARK A. IZEMAN, NATIONAL RESOURCES DEFENSE COUNCIL, *THE NEW YORK ENVIRONMENT BOOK* 172 (1990).

17. *Id.* at 173. Other areas in New York City reporting a high incidence of cases are Washington Heights and Central Harlem in Manhattan, Morrisania, Motthaven, and Tremont in the Bronx, and Jamaica in Queens.

18. See Sullivan, *supra* note 13, at A-3.

19. *Id.*

20. See Jane Perkins, *Lead Poisoning in Poor Children*, 1 ENVTL. POVERTY L. WORKING GROUP 13 (Fall 1992/Winter 1993).

21. Sullivan, *supra* note 13, at A-3.

22. NATIONAL LEAD INFO. CENTER, *LEAD: SOME QUESTIONS AND ANSWERS* 9 (Apr. 1993).

23. *Id.*

24. See Sullivan, *supra* note 13, at A-3.

25. *Id.* at A-2.

disabilities.²⁶ Dr. Sullivan further notes that “damage from regular exposure to lead is usually irreversible and some effects—such as damage to hearing or IQ—are subtle and often go undetected.”²⁷ This suggests a possible correlation between the high level of lead poisoning in African-Americans and the disproportionately high rate of New York City’s African-American youth in Special Education classes.²⁸

B. Legislating Lead Poisoning Prevention and Abatement

The New York Environmental Planning Lobby worked to draft and pass a state Comprehensive Lead Poisoning Prevention Act that mandated universal lead screening.²⁹ This year, the legislature should amend the Act to dedicate a tax to finance lead abatement programs and provide for the training and state certification of abatement workers. With the advent of such programs, a lucrative industry would emerge. The programs would present a prime opportunity for community-based job training and business development for the thousands of unemployed in lead-affected poor communities.

In the meantime, neighborhood housing development groups should provide leadership and input for a wide range of activities. The groups can help to develop inspection and abatement regulations for residential housing, as well as pre-schools and day care centers, provide technical assistance to other grassroots groups and tenants, and develop community-based training programs for abatement workers.

IV. Land Use And Transportation

Communities of color bear a disproportionate share of environmental hazards from lead and carbon monoxide in automobile emissions, contaminated soil and groundwater, and other toxic waste sites.³⁰ This is particularly true for those urban residents living near urban freeway networks and facing the health hazards

26. *Id.*

27. *Id.*

28. Liz Willen, *Report Blasts Special Ed*, NEWSDAY, Nov. 16, 1992, at 19 (African-American students constitute 38% of the general-education population and 41% of the special-education population in New York City schools. Latino and white students account for 35% and 20%, respectively, of the general-education population and 34% and 19% of the special education population).

29. N.Y. PUB. HEALTH LAW § 1370-a (McKinney Supp. 1994).

30. HENRY HOLMES, ENERGY POLICY & COMMUNITY ECONOMIC DEVELOPMENT 2 (1992).

posed by smog, which also contributes to ozone depletion and global warming.³¹

The current energy policy significantly impacts urban residents. The connection between this nation's reliance on fossil fuels, and the disproportionate negative environmental impact it has on communities of color gives those communities a strong interest in the sustainable development and energy policy debate.³² Yet advocacy systems for energy and transportation issues in communities of color are virtually non-existent. However, the New York City Environmental Justice Alliance is a board member of the Tri-State Transportation Campaign and is working to provide advocacy, education, and outreach to New York City communities of color around a broad range of transportation issues.

As governments search for incentives to reduce energy consumption, transportation and energy planners often overlook the damage to urban areas, the needs of neighborhoods, and the potential contribution that inner city communities can make to building sustainable urban neighborhoods. Inner cities must be involved as active participants in shaping and defining new policies.

The spaces in which we live affect our spirit and actions. Oppressive physical surroundings perpetuate and reinforce their residents' oppression. The processes by which our habitat is planned and built keeps people isolated, disempowered and depressed. For example, in West Harlem, insensitive and callous land-use siting policies have cut off the community's access to a waterfront which could have provided recreational and aesthetic benefits. Aesthetics, however, appear to be superfluous when planners develop space in communities of color and poverty. On the other hand, in the business districts and the more affluent areas of the city, flowers, shrubbery, waterfalls, benches, and vest-pocket parks are common.

The loss of an economic base has left many cities with extensive unused areas. Derelict vacant lots demoralize nearby residents, cast a pall over renewal efforts, undermine property values, and inhibit the influx of capital needed for revitalization. Although this land seems to be an obstacle to development and a burden for city governments, it can be turned into a significant resource when it is reclaimed for urban agriculture and recreational use.

Vacant land can be developed through greening while taking into account that city soil is often heavily polluted with heavy metals

31. *Id.*

32. *Id.*

such as lead, cadmium, and arsenic. These land reclamation greening strategies should not be thought of as temporary measures designed to attract developers but as a permanent open space resource to support the growth of sustainable and more self-reliant communities—communities that can grow vegetables, plants, and trees to sell, as well as producing and marketing herbs and other products.

The current economic crisis makes it progressively difficult for municipal agencies to manage and maintain public facilities, especially open spaces. This could lead to a broad range of service contracts and management leases to neighborhood organizations.

Many services could be rendered effectively and economically at the grassroots level, such as garbage collection, public housing maintenance, building code inspection, sidewalk and street maintenance, and pest control. Thus, there is an opportunity to build partnership between municipal governments, non-profit community-based organizations, and unions, whose members are residents of many of these neighborhoods and are directly affected by these deteriorating services. Working together, unions and communities can work out options that affect environmental and development issues—options that maintain jobs and create new ones. Communities do not only advocate shutting down plants but also raise health and safety issues that are in the best interests of both the community and the plant workers. The reality, however, is that there are rarely community/labor coalitions that focus on these issues.

V. Air Pollution

On many summer days you can no longer see forever or breathe deeply; exercise and deep breathing on a hot and humid day may send you to the hospital. On smog alert days, exacerbated by car and bus emissions, emergency room admissions for respiratory problems increase.³³

Recent studies of the health effects from exposure to diesel particulates have concluded that tiny inhalable soot particles, emitted in truck and bus exhaust, are the greatest cause of air pollution-related deaths in our cities.³⁴ These emissions are especially dele-

33. See Ford, *supra* note 10, at 62.

34. RENEE SKELTON & RICHARD A. KASSEL, NATIONAL RESOURCES DEFENSE COUNCIL, END OF THE LINE FOR DIRTY DIESELS: WHY NEW YORK CITY NEEDS NATURAL-GAS BUSES i (Sept. 1993) ("tiny inhalable soot particles may cause 50,000 to 60,000 deaths in the United States each year . . . [t]hese fine particles evade the

terious to human health because they are discharged at a level where people breath.³⁵ Yet, six out of seven Manhattan bus depots are located in northern Manhattan between 103rd and 181st streets. The health impact of this disproportionate siting is compounded in Harlem, whose topography—bordered by the East and West Side Highways—is partially located in a valley.

High levels of sulfur dioxides and air pollution have been associated with higher asthma mortality rates.³⁶ Asthma mortality rates have almost doubled in the U.S. since the 1970s, from 1.9 per 100,000 in 1974-77 to 3.5 per 100,000 during 1982-85.³⁷ Urban areas accounted for 80.2% of asthma deaths, with most of those deaths concentrated in New York City, Fresno County in California, Cook County in Illinois, and Maricopa County in Arizona.³⁸

New York City drives the asthma mortality rate with 10.1 deaths per 100,000.³⁹ In 1986, New York City had three percent of the national population, yet had six percent of asthma hospitalizations and seven percent of deaths due to asthma.⁴⁰ Most of these New York cases occurred in urban communities of color, such as in Central Harlem and the South Bronx.⁴¹ People of color accounted for eighty-two percent of all New York City asthma hospitalizations for 1982-86.⁴²

Asthma illness and death rates are increasing among people of color. In 1989, African-American deaths resulting from asthma were up fifty-two percent from 1980.⁴³ In recent years, asthma has been the most common diagnosis at the Harlem Hospital Center Emergency Department, accounting for more than seven percent of all emergency visits.⁴⁴

body's respiratory defense mechanisms and expose New Yorkers, especially children and the elderly, to increased risk of lung cancer, pneumonia, asthma, and other respiratory ailments.").

35. *Id.* at 1.

36. See generally Dockery et al., *supra* note 10; Ford, *supra* note 10, at 62.

37. Ford, *supra* note 10, at 60.

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.* In 1990, Central Harlem's population of 115,393 was eighty seven percent African-American with a median income of just under \$15,000 and an unemployment rate of 15.2%. *Id.* at 61.

42. Ford, *supra* note 10, at 52.

43. *Id.* This rate was twice as high as the rate for white persons.

44. *Id.* at 59. "In 1990 the overall asthma hospitalization rate was 123 per 10,000, approximately three times the New York City rate within each age group. Hospital admissions were highest for the 0-4 age group." *Id.* at 55.

Although the lack of access to primary care and inadequate self-care behavior are important risk factors for asthma illness, some doctors believe that environmental factors may pose a more serious handicap on management of asthma in Central Harlem than in other New York communities.⁴⁵ Studies have shown that Central Harlem has the highest sulfur dioxide and particulate levels in New York State.⁴⁶

The environmental and health communities must take action on this issue. The siting decisions that bring polluting facilities and vehicles into our communities are a matter of public policy. Harlem residents have not adequately protested the Transit Authority's purchase of a new fleet of diesel buses and lack of commitment to the use of trap oxidizers required to screen out diesel particulates. Although initial capital expenditures for diesel bus are lower than those for Compressed Natural Gas (CNG) buses, the long term costs may actually be greater. The high expense of the trap oxidizers, which cost as much as \$15,000 per unit, plus diesels' more frequent maintenance requirements, increase costs substantially.⁴⁷ The Toronto Transit Commission reports that CNG buses are less expensive to operate than conventional diesel buses, citing annual savings of \$7,000 per bus.⁴⁸

Since public authorities such as the Metropolitan Transit Authority ("MTA") have little or no accountability to the electorate, the environmental community must contest these agencies in other fora. West Harlem Environmental Action (WHE ACT), for example, sued the MTA to halt the construction of a second bus depot in a three-block area of West Harlem⁴⁹ and to require the submission of an Environmental Impact Statement.⁵⁰ The suit also sought to block the MTA's plans to build low-income and seniors' housing over the bus depot, which would have posed a significant health risk to the elderly residing there. The court found that the MTA was exempt from having to do an Environmental Impact Statement.⁵¹ The Court, however, also found that such an exemption

45. *Id.* at 61, 62.

46. *Id.* at 62 (the NYC forty-station Aerometric Network compiled the data from 1960 to 1980).

47. SKELTON & KASSEL, *supra* note 34, at 14.

48. *Id.* at 11.

49. The depot was the fifth, out of six in 1988, in Northern Manhattan.

50. Affirmation in Response to Respondents' Opposition to Petitioners' Motion To Renew at 2, *Beauford v. Metropolitan Transit Auth.*, No. 5028/88 (Sup. Ct. N.Y. County filed July 26, 1988).

51. *Id.* (the environmental impact statement was not required under state law because the depot was a replacement project).

would be inapplicable if a residential development were planned.⁵² Thus, the suit was responsible for halting the construction of housing atop the depot.

VI. The Needs Of Impacted Communities

A. Health Needs: Clinics and Health Risk Assessments

The Harlem community needs a health risk assessment and a community environmental health clinic to address the community's significant health concerns. Prominent among these concerns are Harlem's and Washington Heights' extraordinarily high risk of lead poisoning and asthma-related and respiratory disease.⁵³ Further, tuberculosis and AIDs have reached virtually epidemic levels.⁵⁴ This contributes to the short life expectancy of African-American men in Harlem⁵⁵

The environmental burdens faced by West Harlem are not unlike those faced by other urban areas throughout the United States. Thus, it is imperative to determine whether the cumulative impact of exposure to multiple toxins increases health risks. If it does, federal regulators must set new emission standards to solve such problems. The Environmental Protection Agency (EPA) has launched studies to determine if minorities who often live in more polluted communities face greater risks than previously assumed.⁵⁶ An EPA spokesman admits that they "need to develop a strategic plan for attacking concentrations of risk."⁵⁷

B. Developing Leadership and Advocacy Skills

The dynamics of environmental racism take a number of forms that include decisions affecting land use, siting of facilities, enforcement of regulations, employment in mainstream environmental organizations, and the appointment of persons to serve on advisory and policymaking boards and commissions. Communities of color and poverty struggle for, at a minimum, significant participation in

52. *Id.*

53. *See supra* notes 16-20, 36-44 and accompanying text.

54. Malcolm Gladwell, *Tuberculosis Rates Increase Nationwide*, WASH. POST, Mar. 9, 1992, at A1; Malcolm Gladwell, *After Ten Years, AIDS Epidemic Shifting To Poor and Dispossessed*, WASH. POST, June 5, 1991, at A3.

55. The life expectancy of African-American men in Harlem is shorter than that of their counterparts in Bangladesh. Chronicle Wire Services, *National Report*, SAN FRANCISCO CHRONICLE, Jan. 18, 1990, at A5.

56. Peter Hong, *Do Two Pollutants Make You Sicker Than One?*, BUS. WK., Sept. 28, 1992, at 77-78.

57. *Id.*

the decisionmaking process, and ultimately, self-determination regarding environmental issues. To achieve this goal, community activists must mobilize neighborhood residents, by developing leadership training programs and political organizing skills. Many environmental strategies that the environmental justice movement utilizes are rooted in civil rights strategies such as voter participation, community protest, litigation, and negotiation with local, state, and federal authorities.

Disenfranchised communities rarely have advocacy systems to substantively and effectively affect policy development. As a result, policy makers do not consider the issues and concerns of whole impacted communities. Some large non-profit institutions, however, maintain that advocacy does not bring sustained gains to community life. They instead avow that the administration of programs is the key to real change. Both are necessary. While it is important to work at the community level to develop viable programs, it is also crucial to build at the community level an advocacy base to bring issues, concerns, needs, and ideas of communities of color to the policy making and decisionmaking process. This strategy allows communities to impact public policy at the front end rather than being in a reactive mode. It also positions people of color in the lead of a broader environmental movement away from unfair policies to sustainable community development.

C. Capacity, Institution Building and Resource Development

Many communities have a limited capacity to identify, monitor and respond to their concerns. For those communities afflicted by environmental injustice, this capacity must be assessed. Major funding institutions must stop placing primary emphasis on funding only the outreach and education activities of organizations of color. Rather, research and capacity building should receive more funding. Further, so many mainstream organizations are viable because of funding to study and provide research on communities of color, that funding an organization of color to research communities of color becomes a radical act of income redistribution.

Institutions need to be developed to fulfill the long-term need for education, training, planning, technical expertise, and an understanding of how to utilize local resources to maximize community benefit. To fully maximize local, state, and federal resources, both long and short term strategies are required. Communities and grassroots organizations must plan and act to gain political and legal authority over planning, land use, and zoning decisions in

their neighborhoods to ensure community representation and input in privately-developed and tax-aided projects. Communities must plan to achieve positions on community task forces, government advisory boards, commissions, and relevant non-profit boards to influence the public policy agenda. Communities must educate local, state, and federal legislators on their issues and concerns and monitor their actions, or lack of action, to ensure their accountability to the community.

The lack of attention that mainstream environmentalists have traditionally paid to the unique problems facing communities of color and poverty must be rectified. Communities must build coalitions and partnerships with the mainstream non-profit community and with medical and educational community-based institutions to benefit mutually from the expertise and resources that each has to offer. Mainstream environmental organizations must understand and recognize the nature and dynamics of racism, so they can work together with grassroots organizations to fight for economic and social justice in cities like New York.

Most importantly, objectives must foster greater community activism in the development and maintenance of a community's quality of life.

VII. Grassroots Efforts Of West Harlem Environmental Action

WHE ACT was founded in March 1988 as a result of ongoing community struggles around the poor management of the North River Sewage Treatment Plant in Harlem and the construction of the sixth bus depot to be located in Northern Manhattan—across from a public school and a 1,600-unit housing development near 135th Street and Broadway, a densely populated and heavily trafficked area.⁵⁸

Created to combat environmental racism, WHE ACT is guided by the principle that true environmental justice cannot be achieved without a vocal, informed, and empowered community expressing its vision of what its community can and should be. An empow-

58. WHE ACT, a community-based advocacy organization serving the Harlem and Northern Manhattan communities of New York City, also works on city, state and national issues that relate to environmental justice and environmental racism. Founded by Vernice D. Miller, Peggy Shepard, Chuck Sutton and other community activists as a volunteer group, WHE ACT is now making the transition to a staffed organization. The Board of Directors of WHE ACT primarily is composed of persons of color who live in the West Harlem or Northern Manhattan community. WHE ACT's membership is composed of over one hundred neighborhood residents and twenty religious, civic, and community organizations.

ered community has the resources, motivation, information, and political savvy not only to reject and oppose, but also to formulate, initiate, and implement its own plans, and to monitor the administration and operation of such initiatives.

WHE ACT was formed with three key objectives: to force the City to fix the North River sewage treatment plant, to participate in determining future siting and planning decisions in West Harlem, and to affect the public policy agenda by positioning environmental justice as a major political issue. After several years of civil disobedience, direct action, encouraging the Borough President to commission a study of the sewage treatment plant, meetings with government officials, development of media relationships, and an extensive public speaking schedule, other communities began to follow WHE ACT's lead. Communities with old, badly managed sewage treatment plants, such as the Greenpoint/Williamsburg area in Brooklyn,⁵⁹ began to protest and mobilize.

WHE ACT's ongoing coverage by the media became an important source for information and opinion on quality of life issues and the environmental justice movement, which was relatively unknown at the time. After eight years of continued community mobilization, in the Spring of 1992, then Mayor Dinkins committed \$50 million to correct the problems at North River.⁶⁰ In 1992, a consent order established a West Harlem Environmental Benefits Fund of \$1.1 million so a community task force could recommend and address projects to ameliorate the environmental degradation of West Harlem.⁶¹

To address the need for education, training, and technical expertise, WHE ACT produced community conferences which brought together a wide range of activists. The conferences focused on information, organizing skills, and strategies relevant to environmental health issues. WHE ACT continues to educate and mobilize community residents on quality of life issues in Northern Manhattan communities as well—issues involving air and water pollution, land-use and development, zoning and siting, health risk assessments, environmental impact, toxins like lead and asbestos, en-

59. See Nancy Anderson, *The Visible Spectrum*, 21 FORDHAM URB. L.J. 723, 730, 733-35 (1994).

60. Michael Specter, *Stench at Sewage Plant is Traced; Millions Pledged For Repair Work*, N.Y. TIMES, Apr. 17, 1992, at 1.

61. *In re New York City Dep't Env'tl. Protection*, R2-3669-91-05 (N.Y. Dep't Env'tl. Conservation July 1, 1992) (North River Sewage Treatment Plant-Odor, Flow and Air Emissions Control Order); see also, Miller, *supra* note 11, at 720-21.

forcement, waterfront development, parks and open spaces, and historic preservation.

A broad base of advocacy on quality of life issues is built through outreach and an exchange of technical assistance to neighborhood groups and partnerships with religious, educational, and medical institutions and their constituencies. Given the need to institutionalize resources in West Harlem, WHE ACT is moving toward administering projects, supporting research, and initiating plans for a sustainable community.

To further partnerships with neighborhood-based institutions, WHE ACT is collaborating with the City College of New York to produce a series of fora with elected and government officials. Such fora will help build these officials' accountability to community residents. WHE ACT has also designed a seminar series on a range of environmental health issues targeting community leaders and residents.

Through an active Speakers' Bureau, WHE ACT has raised the public and media awareness of West Harlem as a symbol of environmental racism and educated attorneys (who secure pro bono services to support critical community concerns) by speaking at law schools, bar associations, religious organizations, educational institutions, and on radio and television programs. To add some virtual reality of our own, WHE ACT conducts Toxic Tours of environmental hot spots in New York City's communities of color.

The need for coalitions and networks is critical if environmental justice activists are to speak with a strong unified voice and take action on local, state, regional, and national issues and legislation. In 1990, WHE ACT began working with other New York City activists to form the New York City Environmental Justice Alliance, a citywide network. Last year, the Alliance sponsored a forum for local, city, and state candidates for public office. In partnership with other non-profit and mainstream environmental groups, the Alliance coordinates outreach and education on targeted transportation issues in communities of color. WHE ACT has also worked to develop the multi-cultural, multi-ethnic North East Region Environmental Justice Network, which will sponsor a regional conference in August, 1994.

Finally, litigation, even when the underlying lawsuit is not won, has been an important tool in garnering attention, securing additional documents and data, negotiating concessions and achieving authority to enforce existing consent orders and agreements. WHE ACT's suit against the MTA stopped construction of housing

that would have posed a significant health risk to its inhabitants. On December 30, 1993, WHE ACT reached a settlement in its lawsuit against the City for operating the North River plant as a public and private nuisance.⁶² The settlement calls for a \$1.1 million West Harlem Fund to be established to address the community's environmental and health concerns. WHE ACT, in consultation with other plaintiffs, controls the fund and intends to use it to further institutionalize a West Harlem planning and advocacy organization.

The organization's focus will be to develop partnerships to fund the development of a West Harlem environmental health clinic that will treat respiratory ailments such as asthma, while furthering research on the relationship between West Harlem's polluted air and the spiralling incidence of asthma illness and death. In addition, WHE ACT will administer environmental education and advocacy projects, produce a cable television show and tabloid newspaper, encourage the development of green businesses, and expand the scope of the Earth Crew Recyclers, a summer youth corps of African-American and Latino teenagers, into a year-round environmental education and service program.

Most importantly, the settlement gives plaintiffs legal leverage to ensure that the city administration completes its \$50 million fix-up of the North River plant. If the City fails to comply, WHE ACT can bring suit to enforce compliance with the city-state consent order and other agreements aimed at fixing and maintaining the North River plant.

VIII. Conclusion

The environmental justice movement has established the moral high ground and, as a result, is gaining momentum. The efforts by its activists to network and participate with various boards, and mainstream environmental groups, has resulted in the formation of alliances. Such alliances have broadened the range of parties interested in these issues and thus, raised the environmental justice issue to the city and civic agenda and positioned environmental justice as a foundation funding priority.

After struggling to attain a new funding category for environmental justice activities, however, low-budget community-based environmental justice groups find themselves shut out once again.

62. *Id.*; *West Harlem Env'tl. Action v. New York City Dep't Env'tl. Protection*, No. 16743/92 (Sup. Ct. N.Y. County May 5, 1992).

These groups often submit proposals only to discover that mainstream and non-community-based environmental groups and large non-profits are rushing to submit proposals for these limited funds. Until last year, many of these high-powered organizations had never heard of environmental justice and continue to dispute that environmental racism exists. Others seek to collaborate on proposals with community groups that have already applied on their own. For example, the U.S. Environmental Protection Agency's grant for environmental justice related projects will distribute fifty thousand dollars to five to ten groups in all of Region II (New York, New Jersey, and Puerto Rico). Many high-powered, non community based organizations are competing with community based organizations for these funds.

The power to effectuate change is still maintained by the permanent government. The media, major law firms and lobbyists, Wall Street financiers, real estate developers, multinational corporations, elite civic groups, foundations, boards and commissions all play a large role in establishing a city's environmental policy. If communities are not represented in these organizations, they will continue to be locked out of the real decisionmaking process.

Those who call cities their home must begin a dialogue on a vision of a city in which all can be proud to live. Since urban policy involves a struggle over the control of production and distribution of profits, regardless of the health and safety of community residents and workers, community leaders must be clear about environmental conditions, and they must work to formulate community strategies to address our issues. The debate over policy is the debate over resources, power, and strategy. A united community holds the power. Communities of color and poverty must establish partnerships with community-based institutions and forge coalitions with ethical mainstream environmental organizations and non-profits. Then we can work together to improve the quality of life of our urban environment by collaborating on solutions and strategies that will achieve environmental justice for all.

