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Spaces of opposition: activism and deliberation in post-apartheid environmental politics

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ABSTRACT

Drawing on recent political theory that asks what the relationship between inclusive deliberation and oppositional activism is in processes of democratization, we develop a case study of environmental justice mobilisation in post-apartheid South Africa. We focus on the emergence of a network of social movement organisations embedded in particular localities in the city of Durban, connected into national and transnational campaigns, and centred on grievances around industrial air pollution. We analyse how the geographies of uneven industrial and urban development in Durban combine with sedimented place-based histories of activism to make particular locations spaces of democratic contention, where the scope and operation of formal democratic procedures are challenged and transformed. We examine the range of strategic engagements adopted by social movement organisations in pursuing their objectives, looking in particular at the dynamic interaction between inclusion in deliberative forums and more adversarial, activist strategies of legal challenge and dramaturgical protest. We identify the key organisational features of organisations involved in this environmental justice network which both enable and constrain particular patterns of democratic engagement with the state and capital. We also identify a disjuncture between the interpretative frames of different actors involved in participatory policy making. Both of these factors help to explain the difficulties faced by social movement organisations in opening up the space for legitimate non-parliamentary opposition in a political culture marked by norms of conciliation and consensus.

1). Inclusion, opposition and democratization

During and after the negotiated transition from apartheid to formal democracy in the 1990s, South African politics has been shaped by a strong impulse towards the inclusion of potential antagonists within networks of state patronage and policy-making (Robinson 1998). In this paper we use a case study of the politics of environmental justice in the South African city of Durban to explore the degree to which *inclusion* is the only criteria by which to assess the process of democratization (Dryzek 1996, Young 2000).[1] We examine the dynamic between inclusion in deliberative policy forums and governance structures on the one hand, and adversarial activism on other, arguing that this dynamic shapes the forms of democratic opposition that emerge in diverse public spheres. Understanding the relationships between activism and deliberation has become a key theme of recent democratic theory (Young 2001). Of particular relevance to the discussion here is literature raising the question of whether theories of agonistic democracy can provide the relevant criteria for the analysis of democratization in divided, highly unequal societies (e.g. Dryzek 2002, Kapoor 2002, Slater 2002).

Since the late 1990s there has been a sharp increase in environmental activism in South Africa, shaped by discourses of environmental justice and often focussed on contested programmes of industrial development (see Bond 2002). This coincides with a broader resurgence of social movement politics including activism around land rights, HIV/AIDS activism, and basic service delivery (Ballard 2005). The emergence of an environmental justice movement in the post-apartheid period has connected a long-standing

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conservation movement, traditionally the preserve of privileged white communities, with the concerns about everyday spaces of social reproduction that characterise poor communities suffering from a long history of systematic environmental racism (Barnett 2003, Cock 2004).

The significance of the locally embedded, but nationally and transnationally networked environmental justice movement we discuss here needs to be located in the wider context of debates about the unfolding logic of oppositional politics in South African democracy. Given the ANC's overwhelming electoral dominance, Butler (2003) argues that analytic attention should shift to the role of non-electoral mechanisms in holding government to account and checking the abuse of centralised power. Accordingly, the significance of the networked environmental politics that has emerged in Durban and beyond for the institutionalisation of democratic opposition in South Africa can be assessed along two axes (cf. Stephan 1997, 657): in terms of its effectiveness in projecting new issues of contention into the public sphere; and in terms of its effectiveness in generating new mechanisms of democratic accountability. Environmental policy-making in South Africa has seen the growth of what Dryzek (1994, 188) calls "incipient discursive designs", such as Environmental Impact Assessment (EIAs), right-to-know legislation, regulatory mediation, and public hearings. These are imperfect approximations of the deliberative ideals that have been ascribed such importance in post-liberal and radical theories of democracy. Our question is how this sort of 'incipient discursive designs' play out when transplanted to the South African context and placed alongside other, longer standing practices of oppositional political engagement. What sorts of democratic values are actually enacted in the functioning of these deliberative practices? And what sorts of

values are enacted in the contestation of these discursive designs?

 Section 2 discusses the spatialities that come together to South Durban a distinctive site of contentious politics. Section 3 analyses the dynamic of inclusion and activism shaping the strategic engagements by environmental justice organisations with state and corporate actors. Section 4 focuses on the disjuncture between the interpretative frames of activists, business representatives, politicians, and the state that helps to shape this dynamic.

2). Sites of democratic contention

Macro-economic policy in post-apartheid South Africa has, since 1996, been determined by a framework known as GEAR (Growth, Employment and Redistribution). GEAR imposes 'neoliberal' fiscal austerity from a national level downwards, at the same time as national government remains committed to the roll-out of basic needs to citizens. This latter imperative is devolved downwards to the local state, restructured according to principles of 'developmental local government' (Parnell *et a*l 2002), whereby municipal authorities attempt to combine pro-growth and pro-poor economic strategies. The contradiction between the costs of service delivery and nationally imposed constrictions on revenue has generated an array of highly localised political mobilisations (Hart 2003). This scalar relationship between national fiscal policy and local state capacity is overlain by the inherited uneven geography of capital accumulation in South African cities. The nationally-derived imperative to promote economic growth is focussed on specific 'spaces of dependence' where fixed investments of plant, machinery, and skilled labour have been built up over time (cf. Cox 1998). This leads some localities being identified as key sites of nationally significant strategic economic growth. It is one such place that we

focus on here, the so-called Southern Industrial Basin (SIB) in Durban. The spatialization of the accumulation processes comes together here in distinctive ways: South Durban is both a key cluster of industrial activity, particularly in petro-chemicals, as well as a key transport hub for the circulation of capital, given its adjacency to the port of Durban. In South Durban, the dynamic interaction of state imperatives of accumulation, delivery, and legitimation (cf. Dryzek et al 2003) is geographically articulated in such as way as to make this a site of democratic contention (**Figure 1**).

In the post-apartheid period, the SIB has been consistently identified by the local state and the national government as a strategic location for further economic growth. The 'envisioning' of South Durban revolves around the role of the SIB in a wider city-wide framework of economic development, shaped in turn by national economic imperatives as well as by particular policy understandings of 'globalisation' and urban economies (Robinson 2006). The strategic vision of South Durban's future centres on enhancing investment in high value added manufacturing sectors such as chemicals, plastics, metalworking and motor industry, thereby building on the potential for clustering in and around the SIB and the transport hub around the port.

The re-envisioning of Durban's economic futures has taken place at the same time as new frameworks for environmental governance has been put in place. The formal legislative framework for environmental governance in South Africa is laid down in 1998's National Environmental Management Act (NEMA), the product of sustained participatory and consultative policy-making including stakeholders from civil society (Oelefse *et al* 2005). NEMA provides the formal framework for the selective inclusion of social movement actors in environmental decision-making around specified local issues.

This system post-apartheid environmental governance is a version of "dependent ecological modernization" (Sonnenfeld 2002, 23), in which a strong impulse to further develop 'dirty' industries rubs up against externally sourced global norms of environmental governance procedures which open up narrow channels for public participation. In such contexts, it is likely that the role of civil society and social movement actors will be more contentious than envisaged in advanced capitalist liberal democracies of the North: they are likely to combine the role of "inside players" with that of "outside influences" (ibid., 21).

South Durban first emerged as a publicly identified 'environmental hotspot' in the mid-1990s, during a period of intense administrative restructuring of the local state. The newly unified local government commissioned a 'State of the Environment' report for the whole city in 1996, and then in turn a Strategic Environmental Assessment (SEA) of the South Durban basin in 1999 (Freund 2001). The SEA argued that resources required for dealing with the areas chronic pollution problems would be generated by attracting further investment in industrial development. The SEA process established the terms around which the contentious politics of South Durban's future have been organised ever since. Growth-led development visions for the future of the SIB run up against the long-standing grievances of local communities over the quality of living environments in the area. Industrial pollution has been a pressing concern for the predominantly poor back local communities in South Durban for decades. These communities have their origins in the forced relocation of the 1950s and 1960s under the Group Areas Act, when they were moved into an area already ear-marked for further industrial development (Scott 2003). The residential areas of South Durban suffer from high levels of air, ground, and water

pollution, not least because of their proximity to two oil refineries, a paper and pulp factory, and myriad petro-chemical plants. This proximity to sites of national strategic economic importance has, however, provided the opportunity for SMOs to generate highly visible and contentious expressions of the tensions between 'dirty growth' on the one hand, and social justice and delivery imperatives on the other. Mobilisation around environmental pollution and the industrial futures of the SIB has been the spark for the development of a broader environmental justice movement around 'dirty growth' that has linked other pollution 'hotspots' around South Africa into a transnational network of advocacy, research, activism, and lobbying.

The capacity of SMOs in South Durban to take advantage of this opportunity is, however, also a function of distinctive histories of activism in these communities, as well as on the capacity to build spatially extensive networks of engagement. Variations in levels of community mobilisation are shaped by the relationship between sedimented, place-specific capacities for community mobilisation and activist leadership on the one hand (Nelson 2003), and the development of new frameworks of state coordinated consultation and participation on the other (Stokke et al 2003). In South Durban, new forms of mobilisation have emerged in the last decade around the health impacts of poorly regulated industrial development. In particular, these have focussed on the health impacts of air and ground pollution. This upsurge of mobilisation is related to the long history of civic organisation and political activism in this area (Chari 2004). In Wentworth and Merebank in particular, there is a sedimented network of civic and community-based organisations (CBOs) whose origins go back to mobilisations against apartheid in the 1970s and 1980s. Long-established CBOs including the Merebank

Residents Association (MRA) and the Wentworth Development Forum (WDF) had significant input into the development of the ANC's policy on environmental issues in the early 1990s.

The crucial step in the projection of community grievances around pollution into the public realm came with the formation of an umbrella organization to focus on environmental concerns in 1996, the South Durban Community Environmental Alliance (SDCEA). SDCEA has had a variable membership, made up of 'member organizations' and 'affiliated organisations', including civic organizations, church groups, women's organizations, ratepayer's associations, as well as environmental groups. Its strongest base is in the former Indian area of Merebank and the coloured area of Wentworth, but it has succeeded in coordinating campaigns and mobilization around issue-specific concerns across spatially separated, racially and class-divided communities, including the Indian area of Isipingo and the conservative white area of the Bluff. The racial exclusivity of these areas has been broken down by residential mobility in the decades since the first democratic elections of 1994, so that these areas now also include significant numbers of black African residents previously restricted to African townships. SDCEA's reach into the historical African townships of South Durban, Lamontville and Umlazi, is however much more restricted. Each of these geographical communities has specific environmental concerns, depending on their proximity to particular facilities. There is, however, shared exposure to transportation of hazardous materials, pipelines leakages, and, because of the distinctive micro-climate of the South Durban basin, air pollution. Through SDCEA's concerted efforts, South Durban's two oil refineries (two of only four in the country) have become emblematic of environmental justice conflict. One

of them, the SAPREF refinery, is jointly owned by two multi-national oil companies, Shell and BP. The other one, the Engen Refinery, is owned by Petronas, Malaysia's state-owned oil and gas company.

SDCEA's activities since its formation have been shaped by the fragmented politics between communities in South Durban, and partly of fluctuations in civil society mobilization over the last decade. SDCEA does not have a broad-based mass membership; it is an umbrella organization that draws its legitimacy from the organizations who are members. This distinctive representative structure generates particular strategic pathways as SDCEA negotiates the imperatives of different scenes of activism and deliberation. At the same time, SDCEA is highly dependent on informal networks into local communities. For example, its ability to report and publicize pollution incidents such as pipeline leaks, accidents or illegal flarings at refineries, rests on linkages with local union members, doctors, and schoolteachers.

SDCEA's networked structure and its variable membership is a practical response to the problem of mobilizing spatially separate and socially divided communities around issue specific and often highly technical issues. At the same time, in so far as this reflects underlying differences and inequalities between communities, this organizational structure remains one source of potential weakness for SDCEA. The difficulty of reaching into African townships of Lamontville and Umlazi, which are characterized by political cultures in which ANC structures are much more tightly integrated into communities through councilors, branch structures, and ward committees, has become a stick with which the Municipality's ANC leadership have been able to question the legitimacy of SDCEA as representative of the residents of the SIB as a whole. This lack

of reach into African townships is linked to the perception that environmental organizations in South Durban have an anti-growth agenda. ANC ward councilors for these townships are wary of identifying too closely with SDCEA's activities, at the same as acknowledging the relevance of the grievances over pollution for their own constituencies. It has become almost routine for ANC leaders in the Municipality such as the Mayor and the City Manager to publicly question the legitimacy of environmental SMOs such as SDCEA, raising the charge that they are unrepresentative of all communities in the SIB and, implicitly when not explicitly, accusing them of racial exclusivity.

SDCEA's activities are therefore enabled and constrained by the relationships of trust and legitimacy it is able to forge with other organisations more strongly embedded in local communities. SDCEA is the organisational medium for a mode of cross-community mobilisation between racially divided social groups around issue-specific concerns. The 'translation' of the SDCEA model has been an explicit objective of activists, primarily mediated by Groundwork, a national environmental NGO based in Pietermaritzburg. Groundwork was formed in 1999 as a specialist organisation focussing on pollution issues and hazardous waste. Its leading personnel have strong personal linkages with South Durban environmental activism stretching back to the late 1980s and 1990s. Along with the Environmental Justice Networking Forum out of which it grew, Groundwork is the key actor in the emergence of an environmental justice movement in post-apartheid South Africa (Cock 2004). It is actively involved in grassroots projects aimed at mobilising particular communities, and has been crucial to the projection of the grievances in South Durban onto wider stages. Groundwork's founder and Director,

Bobby Peek, sees its main task quite explicitly as 'movement building':

> "Groundwork is based on a couple of values and principles. One is to try and
>
> develop an ability of communities to challenge other stakeholders or other people
>
> or develop that challenging capacity, and the second thing is to be able to link
>
> community struggles - internationally". (Interview, Durban, 10th February 2004).

This objective is based on an explicit commitment to an inclusive, activist model of democratization. Groundwork was set up after the initial period of post-apartheid environmental politics was completed, when national legislation that recognised principles of environmental justice and community participation was passed in 1998:

> "And we just said 'Fine, having done all that we still need some action'. You know,
>
> we still need a type of vibrant, action based, active based civil society on
>
> environmental issues" (Interview, Durban, 10th February 2004).

Groundwork sees its own role as one of networking and capacity-building between communities and between communities and other actors, such as international donors, scientific experts, and media. Groundwork is the organisational vehicle through which South Durban activists have been able to mobilise various resources to sustain local mobilisation and put pressure on national government and multinational corporations. This 'space of engagement' (cf. Cox 1998) links up specialised advocacy organisations with a shared focus on health and industrial pollution. Groundwork is the key agent of *brokerage* within this network, making connections between sites and actors and helping to establish at least temporary political identities between them (McAdam *et al* 2001, 142-3); and also of *modelling* the SDCEA example of cross-community mobilisation in other pollution 'hotspots' around South Africa (Tarrow 2001, 15).

In the next section we track the emergence of this spatially extensive but issue-specific environmental justice network as it passes through South Durban. We focus in particular on the ways in which pressures on SMOs towards inclusion – to compromise and deliberate – are offset by countervailing pressures to mobilise opposition outside of formal arenas of policy and governance.

3). Dynamic democratization and environmental justice

Air pollution in particular has become emblematic of a broader problem of industrial pollution and environmental injustice in South Durban, articulated in terms of a history of lack of recognition and systematic secrecy. Mobilisation around these issues has in turn centred on demands for both substantive and procedural justice: that there should be no more unplanned development, that future development should adhere to the highest standards of environmental quality, and that businesses are held accountable for their past actions; and that those affected by past and future industrial development should be part of the decision-making process. These principles are clearly set out in SDCEA's vision statement published to mark it's 10th anniversary (SDCEA, 2006). These two sets of demands are not easily squared; the inclusion of activists and SMOs in formal deliberative procedures has in part served to underscore a relative lack of progress on more substantive demands, and this in turn helps to account for the range of more oppositional strategies that they have continued to deploy. The tension between them helps account for the juggling by SMOS of more inclusive, deliberative strategies with more adversarial forms of activism.

3.i). *Participation in deliberative forums*

The most important of the new procedures established by NEMA to facilitate and promote public participation in environmental governance is a re-vamped Environmental Impact Assessment system. The EIA system requires that the provincial government sees to it that businesses seek representations and opinions from affected communities. It is a means through which a three-way engagement between state, capital, and civil society actors has been institutionalized. In KwaZulu-Natal, the overwhelming majority of EIAs handled by the provincial environmental management department pertain to proposed industrial development in South Durban. One of the successes of environmental justice mobilization since the 1990s has been to establish SDCEA as the 'certified' representative of local communities in this EIA process (Scott *et al*, 2002). This strategy is still driven by the logic of inclusion in environmental governance, and it has required a set of organizational transformations in SDCEA, with an increasing emphasis on external fundraising, professional administration, and formal advocacy. The flip-side of this inclusion is that SDCEA has become a 'dumping ground' for EIA's. Faced with an increasing volume of EIA applications, SDCEA has found itself faced with the problem of 'stakeholder burnout' as it struggles to cope with the technical and scientific demands required to make participation in these procedures meaningful. In terms of substantive outcomes, this engagement reaps few tangible benefits. Virtually every EIAs is approved. In effect, the EIA process supports incremental industrial expansion, and SDCEA's inclusion in deliberative procedures therefore does little address their more fundamental demands for more meaningful participation by local communities in the long-term planning of the SIB.

In principle, the EIA process provides for the inclusion of the interests of marginalized groups into the decision-making process (cf. Scott and Oelofse 2005). In practice, however, lack of resources and capacity means that SMOs do not have equal power compared to local businesses or large multinational corporations seeking further development in the area. This style of participation requires SMOs to compromise on their most fundamental objectives:

> "Is the very legalistic, systematic process the way to respond? Because you just get sucked in a process. You start having to understand their jargon. You have to understand engaging in their debates and how they see things and how they put things on the table. Whereas, what you actually want at one level is a damn clean environment." (Bobby Peek, Interview, Durban, 10th February 2004).

It is this tension between procedural inclusion and substantive change that helps account for SDCEA's continuing recourse to more contentious forms of mobilization.

While SDCEA has been included in formal deliberative processes such as EIAs, as well as succeeding in having new procedures for participation and consultation around air pollution and health monitoring, this does not mean that they have forsaken more contentious repertoires, as SDCEA's Chairperson, Des D'Sa, explains: "At the same time we said we are not going to give up the struggle in the streets. It is important to keep the struggle in the streets." (Interview, Durban, 9th August 2003).

Fully aware of the limitations of inclusion in deliberative forums, D'Sa articulates an expansive, multifaceted understanding of the different forms 'activism' involves:

> "It means having regular public forums, it means writing regular letters to these government officials and politicians, it means when people don't respond and are

afraid to deliver it means taking to the streets and doing a protest and, you know,

constantly being in the media and showing them for what the are. That is what

activism is all about, activism is about bringing a message across and there are

many ways of doing it, protest is one of them, picketing is another one, writing

letters is another one, getting to the media and going to meetings". (Interview,

Durban, 11th February 2004).

Here there is a clear sense that the purpose of 'activism' is to exert pressure on both the

state and capital in order to shift the parameters of inclusive forums and deliberative

procedures. Doing 'activism' therefore has an instrumental function, internally connected

to more conciliatory practices of engagement in deliberative forums. But it also has an

intrinsic dimension as a means through which representative, networked organisations

like SDCEA and Groundwork maintain their own coherence and perform their legitimacy

to their constituent memberships and broader publics. We now explore each of these

dimensions of doing activism, and elaborate on the dynamic relationship between them.

3.ii). *Activism and enforcement*

Environmental justice SMOs from South Durban have adopted less conciliatory

approaches in order to enforce formal commitments and procedures. These include legal

challenges to the local and provincial government, aimed at forcing the state to engage

more proactively with capital over pollution issues. SDCEA's to pursue this course has

depended on establishing links with the Cape Town based Legal Resources Centre

(LRC), an NGO which provides legal services to poor and historically vulnerable people,

and which has a long running involvement in environmental justice issues.

SDCEA and LRC have invoked constitutionally guaranteed legal rights to due process and procedural justice to force the provincial state to act in accordance with its formal obligations and enforce EIA procedures on businesses. An example is SDCEA's challenge to the Mondi Paper Company's application to build a new incinerator in 2003. After the two oil refineries, Mondi, part of the multinational Anglo-American group, is the third largest polluter in the South Durban area. SDCEA and the LRC successfully challenged the constitutionality of Mondi's plans on the grounds of irregularities in the provincial government's administration of EIA procedures. The long term effectiveness of this legal activism is limited. By 2005, Mondi had been given the go ahead for the incinerator ('Mondi burner gets green light', *The Mercury*, 18th July 2005.

Despite these limitations, the importance of this type of 'impact litigation' is twofold. Firstly, SDCEAs challenge of Mondi's planned incinerator is an example of activism aimed at forcing state agencies to enforce existing legislative provisions. This sort of adversarial legal activism does have some effect in ensuring that legislated procedures of accountability, consultation, and appeal are followed by both state and capital. Secondly, this legal enforcement of the state's formal obligations is also a means by which SMOs can gain some leverage with capital. The legal challenge to Mondi opened a space for negotiation with industry over its future plans.

SDCEA's legal strategy has been primarily focused on enforcing the obligations of provincial government, which is responsible for EIA application for new industrial development. But SMOs also engages in adversarial activism focused on existing sources of pollution. Groundwork has become increasingly active nationally around the enforcement of existing air pollution standards. They have targeted health officials of

local municipalities, accusing them of inaction and claiming that these officials have been prevented from taking legal action against big polluters in SIB (Health officials stink, say Durban residents', *Cape Times*, 15th September 2003). The response to these campaigns has varied from municipality to municipality: the legislative status of air pollution enforcement has remained unclear in the absence of air pollution legislation, only enacted in 2004. Officials in eThekwini have, however, become more and more vigorous in enforcing emission standards, creatively using local bye-laws which allow minimal fines for excessive emissions ('Polluters can no longer evade watchdogs of environment, *Business Day* , 12th August 2005). Even in the absence of formal legislation then, activism can be a means of applying pressure on state officials in a context in which the administrative capacities of the local state are in a state of flux.

The dependent ecological modernization paradigm established by NEMA constructs scientific knowledge as a vector for engagement in participatory forums. This creates another opportunity for activism oriented towards effective enforcement. Local activists from South Durban have been drawn into a dynamic of international networking and fundraising in order to mobilize the resources of scientific expertise required by their inclusion environmental management systems, and also in order to exert pressure through media coverage. Groundwork has been crucial in brokering between SDCEA and national and international NGOs. For example, this has building a network of cooperative relationships between SDCEA, Groundwork, and the Danish environmental conservation organization DN (Danmarks Naturfredsforening). From 2001 to 2004, a Danish government-funded collaboration between DN and SDCEA focused on various aspects of capacity-building. For both Groundwork, who initiated the project, and DN, the purpose

of their collaboration was to provide resources to enable SDCEA to engage with both government and business more effectively through scientific expertise. This requirement has become all the more important as SDCEA's initial phase of activism in the late 1990s succeeded in having a new system of environmental and health monitoring, the 'Multi-Point Plan' (MPP), set-up by national government in 2001.

The MPP is the most substantive outcome of the sustained mobilization and activism in and around South Durban since 1995, culminating in 2000's media campaigning. The MPP puts in place provisions for a systematic environmental monitoring system; for an objective health study; and for an integrated air quality management plan. It also empowers local government as the authority for environmental regulation, thereby shifting the institutional location of environmental conflict once again, opening new opportunities for further bureaucratized forms of engagement.

The MPP is an inclusive, deliberative apparatus aimed at establishing consensus. It represents both a success for environmental activism, but also presents both new opportunities and threats which can follow from incorporation in such a technocratic, consensual deliberative forum. This is indicative of the dual strategy that faces SMOs in their interactions with state and capital on the one hand and their support base on the other:

> "Once you start to participate the feeling is generally – well lets start discussing mitigation measures rather than discussing 'we don't want it here'… so the question today in social movements is - do you get involved to try and work the system? Or do you stand outside the system and show up its contradictions?"
>
> Bobby Peek, Interview, Durban, 10th February 2004).

DN's resources have been crucial in enabling SDCEA to use the data generated by the MPP for further advocacy and mobilization. In particular DN has provided scientific expertise which enables SDCEA to make effective use of the data generated by the MPP. This support is acknowledged by the local government's MPP Programme Manager: the MPP process generates extensive data about emissions: "And then they [SDCEA] send the results to us and say, what have you done about this?". (Interview with Siva Chetty, Durban, 6th February 2004).

The collaboration between SDCEA, Groundwork and DN has been shaped by the different understandings of activism and advocacy, inclusion and opposition held by the South African organizations and the Danish NGO. The Danish participants in the collaboration are strongly committed to a deliberative strategy of engaging constructively with state and business, as a way of gaining more effective access to data. DN saw itself as enhancing SDCEA's external communications strategy, with the aim of teaching SDCEA to "talk not shout" (Interview with Lone Alstrup, DN Local Action Project Coordinator, Copenhagen, 2nd November 2005). DN's perception was that SDCEA needed to move beyond the confrontational stance that it had developed from its inception in the 1990s, not least by acknowledging the industry had made significant strides to respond to community concerns. As Peek acknowledges, this strategic understanding is not easily aligned with the activist imaginary of South African SMOs:

> "I mean South Durban does find a bit of pressure on them but it's not a pressure,
> it's a pressure to do things very well, you know the Danish do it 'this way' and
> south Durban must do it 'this way'. And we've had a couple of heated meetings,
> where we the Danes understood, okay we have to do it the African way."

(Interview, Durban, 10th February 2004).

This tension between the strategic frames of the different actors implicated in contentious politics in South Durban is an index of basic division between the 'behavioural' objectives of organizations like DN, embedded in transnational advocacy networks, and national and locally accountable SMOs such as Groundwork and SDCEA: while the latter are engaged in *contentious* interaction with states and corporations, the former are oriented towards more routine and *consensual* transactions with these same actors (cf. Tarrow 2001, 12).

This tension between contention and consensus is internalized in the strains that shape SDCEA's activities its relationship with partners in this network of environmental justice mobilisation. It has become a more formalized NGO, with professional staff and external donor relationships oriented to increasing the organizations' capacity to engage in what are often highly technical scientific consultation procedures. At the same time, SDCEA is an alliance of groups which are often highly localized with the South Durban area. As it has been drawn into deliberative procedures that have required the formalization and organizational transformation of SDCEA, so the strains in this mediated relationship with local communities have become more and more difficult to negotiate. And herein lays one reason why SDCEA is unable to straightforwardly adopt the deliberative strategy considered the norm by international advocacy groups such as DN: the dramaturgy of adversarial activism is one of the repertoires available to SDCEA to perform its legitimacy to local communities. As Chari (2004, 25) observes, SDCEA "does not command a steady mass base", but "they can pull in a crowd for spectacular events by drawing on a variety of other community organisations".

3.iii). *Activism and legitimacy*

SDCEA has achieved success in becoming the 'certified' voice of environmental expertise amongst local communities in the SIB and more broadly in Durban. But as it has been drawn into inclusive, deliberative forms of engagement, and become more formalized as an organization, it has also maintained an array of informal protest and demonstration tactics. Recourse to forms of dramaturgical protest amongst environmental justice SMOs reflects the fundamental division between their substantive demands and the vision of environmental governance held by locally embedded industrial capital and the core economic growth imperatives of local and national state. SDCEA's position is that "further expansion of industrial development in South Durban, without a clear management framework to protect people from the environmental and health impacts of development is not feasible" (SDCEA, Memo prepared for Multi-Point Plan Quarterly Forum Meeting, 13th March 2003). The consistent demand of SMOs is for a moratorium on further development: "Any new development must be people centred. People First! People before Profits! Health before Wealth!" (SDCEA, 2006, 3). In contrast, the vision of 'sustainable development' held by business representatives such as the General Manager of the Mondi paper and pulp plant in South Durban is one in which further growth and environmental quality are complimentary: "We have to see this as a step-wise process - make money, improve emissions, make more money, make more improvements" (Minutes of Multi-Point Plan Quarterly Forum Meeting, 13th March 2003). In this vision, further industrial development drives the dynamic of enhanced environmental sustainability.

This vision underlies the strategic engagements by multinational capital embedded in

South Durban with local SMOs. Alongside forums such as the MPP, the EIA management system, and local state bureaucracies, contrasting visions of South Durban's past and future are increasingly contested in forums initiated by economic actors embedded in the SIB. Shell, the co-owners of the SAPREF refinery in South Durban, have been one of the leading global players in the development of CSR programmes focused on stakeholder engagement and sustainable development. The translation of these global programmes to South Durban only came after the peak of publicity generated by SDCEA and Groundwork in 2000. In the wake of this concerted media campaign, Shell undertook a review the SAPREF refinery in 2002 as a means of addressing the history of contentious politics around pollution in South Durban. It acknowledged that SAPREF could not continue to rely on pre-1994 relationships with government "for their license to operate, but must instead proactively engage with a range of stakeholders" (*2002 Social Performance Review: SAPREF Refinery, Durban, South Africa*. July 2003, p. 12). SDCEA, however, was identified as an obstacle to developing more collaborative, partnership-based forms of engagement with local communities:

> "SDCEA has systematically hardened its stance versus the refinery, and is deeply distrustful of its outreach efforts to communities. At the same time, some of the NGOs that are part of SDCEA's coalition (as well as community residents more generally) have come to question certain aspects of SDCEA's position, particularly its assertion to be the only representative body of the communities surrounding the refinery, and feel that SDCEA's rigidity has come to constitute an obstacle to work (sic) collaboratively with SAPREF for the betterment of the communities they

serve" (Ibid., 24).

The review's distinction between 'more extreme critics' and 'moderate elements' in local communities formed the basis for the vision of a *corporate social investment* strategy aimed at building relationships with 'stakeholders' through consultation, employment, building links with local suppliers, and investing in capacity-building for local community organisations:

> "'Healthy' organizations make good partners. The healthier an organization is, the more it is able to mobilize constituency and garner support. In addition, a series of strong local NGOs that work collaboratively with SAPREF on development issues is probably the best 'shield' against negative press, and certainly an enhancement to reputational issues. To that effect, SAPREF should dedicate a proportion of its Social Investment funds to build the organisational capacity of community-based NGOs in Wentworth and Merebank." (Ibid., 37).

This is a business-friendly model of participatory development, translated from a Dutch context to South Africa, in which 'corporate social investment' is to be used to build relationships business interests with local service delivery priorities. It is a vision explicitly aimed at engendering a more conciliatory, cooperative and less confrontational engagement between capital and local communities, preferably unmediated by state regulation or legislation.

There is a fundamental incommensurability tension between the 'inclusive' impulse of corporate social programmes aimed at building strategically beneficial partnerships, and the demands of SMOs for accountability and redress of past injustice. The discourse of environmental racism adopted by South African activists focuses not just compensation

for current pollution, but also makes demands for historical accountability and redress. This division over the degree to which past injustice has been adequately put right or whether a line should be drawn under the abuses of apartheid is fundamental to the different interpretations of how organisations like SDCEA and Groundwork should engage in the politics of environmental governance. This network of environmental justice organisations is embedded in localities in which persistent exposure to environmental risks is entangled with lived histories of the injustices and legacies of apartheid. SAPREF's adoption of Shell's Social Performance agenda, in so far as it is couched in a vocabulary of corporate social *investment* rather than *responsibility*, is implicated in a wider attempt to avoid calls for redress for the inequalities inherited from apartheid of which they were a beneficiary (Fig 2005). The response, in South Africa as elsewhere, is a social movement discourse of 'corporate accountability' (Lund-Thomsen 2005), one which Groundwork has been active in translating into the South Durban context (see Groundwork 2002).

SAPREF have implemented this new strategy since 2004. One effect has been to heighten the difficulties involved in negotiating between the different interests of the organisations involved in SDCEA: "There has been a big battle being waged within the local communities about which of us is taking funds from the industry or fighting for the environment." (Des D'Sa, Interview, Durban, 9th August 2003). Various organisations associated with SDCEA have become involved in corporate initiatives around poverty alleviation, environmental education, support of broad range of community organisations. SDCEA, on the other hand, has an imperative not to be seen to be 'getting in bed with industry' by accepting this source of funding:

It is used in another way now to create division, to destroy the voice of civil society. [...] There is a lot of funds being pumped in by major industries in South Durban into those communities to try to stop the voice of civil society." (Des D'Sa, Interview, Durban, 11th February 2003).

In contrast to corporate strategies of social investment, stakeholder forums and voluntary agreements, SMOs like SDCEA and Groundwork actively demand a strong and engaged role for national and local state actors in regulating and enforcing environmental standards. They are deeply suspicious of models of inclusion that circumvent the formal democratic institutions of state regulation and legislation. SDCEA, for example, sees its primary role as one of aiming to "make our government work" (SDCEA Memo, 28th March 2002). This alternative vision of the democracy is captured in SDCEA's 'Ten commandments of good environmental governance to be upheld by Shell and the South African government', tabled in a letter to Shell in 2003 (SDCEA Memo, April 2003):

"1). Thou shall have a pollution reduction plan. […].

2). Thou shall not rely on voluntary agreements for pollution reduction but on the law. […].

3). Thou shall protect the people's environment and health against pollution caused by old and leaking infrastructures by replacing it. […].

4). Polluters shall be held accountable. […].

5). People shall not loose (sic) their property and land due to industrial mismanagement and activity. […].

6). Thou shall not withhold information from your neighbours. […].

7). Thou shall not develop and uphold law to prohibit access to information on environment, health and safety. […].

8). Government will protect its people from industrial accidents by developing evacuation plans. […].

9). Thou shall have an air pollution monitoring system. […].

10). Government will monitor peoples' health. […]."

These demands capture the range of community concerns that SDCEA articulates in the public realm; they also indicate the degree to which environmental justice activism is oriented towards pressurizing state actors to enforce legal and regulatory obligations on nationally and multinationally owned capital located in South Durban. Protests, demonstrations, and mass meetings have therefore continued to be an important element of SDCEA's activities over the last decade.

Adversarial activism and dramaturgical modes of mobilisation expose some of the tensions underlying the dynamic growth and transformation of environmental justice politics in South Durban. SMOs draw on a repertoire of mobilisation and protest inherited from anti-apartheid politics. But these strategies are not automatically transferable to post-apartheid contexts, shaped by the changing dynamics of community identities and social relations, as well as changing organisational dynamics as community-based organisations (CBOs) have switched increasingly towards service-delivery functions. Within SDCEA and its affiliated organisations, different actors hold contrasting perspectives on the source of SDCEA's representative legitimacy. Over its history, various organisations and activists have left or loosened their connections with SDCEA. Some activists hold that SDCEA's public mandate must be based in a constant, iterative

process of calling and holding meetings in which mandates are given and confirmed. In this vision, an organisations' public mandate is garnered and maintained through high levels of community participation; SMOs are understood as *delegates* of communities. But SDCEA's mandate is not derived directly from participation of a membership base; it is mediated by the member organisations of which it is made up:

> "We get our mandate from public forums, you know we have regular meetings in the public domain, we have mandates from the schools, churches and all the other organisations that we work with, to do what work we do". (Des D'Sa, Interview, Durban, 9th August 2003).

In principle at least, it is these organisations that derive their mandates from highly mobilised active community participation, as one former SDCEA activist explains:

> "Now the way reps are supposed to function is that they come from another organisation and they have like a whole lot of like strings of attachments in terms of in their community, and they are meant to follow certain procedures to ensure that there is a sense of democracy in the community, that the decisions that they take are based on the fact that they've gone out and found out what people need". (Michelle Simons, Interview, Durban, 12th February 2004).

The practicability of this model has been strained by transformations in the nature of local activism in communities in South Durban since 1994. Former SDCEA activists recognise that the increasing dependence of SDCEA on donor funding is an inevitable response to the need to engage in technocratic and scientific modes of public participation, they also see this as a reason for the lack of attention to grassroots mobilisation in local communities. In contrast, an active member of SDCEA's executive

committee acknowledges the difficulty that SDCEA has in maintaining its legitimacy with local communities, but puts this down to heightened apathy:

> "You are having your elections, you are running democratically, people I think are happy, but they don't come in and they don't contribute and that kind of thing. They are quite comfortable with you taking their issue and running with it. We don't have the direct grassroots accountability, we do what we think is right and we carry on" (Rajen Naidoo, Interview, Durban, 7th August 2004.

While these two perspectives differ over the reasons for the relative lack of active mobilisation around environmental concerns, and over the degree to which community mobilisation should be the responsibility of an organisation like SDCEA, both acknowledge that the absence of sustained popular mobilisation around these issues is a persistent problem for SMOs.

SDCEA has had to negotiate changing dynamics of community participation, including transformation in the way in which previously highly active local ANC branches are organised, in its core support areas of Merebank and Wentworth, at the same time as it tries to reach out and sustain support in other communities characterised by distinctive socio-economic and political histories of their own. SDCEA is already a network of organisations, and its consolidation has in turn involved it being drawn into wider networks at national and international level. In part, recourse to activist repertoires is an expression of the distance between SDCEA and its local constituencies, a distance exacerbated by the organisational transformation that it has undergone as it has been included into expertise-heavy forums of public consultation and participatory. Nonetheless, SDCEA's form of mediated legitimacy, resting on the claim that its

legitimacy lies with residents through the support of representative organisations (SDCEA memo, ND), has been effectively translated to other pollution 'hotspots' in South Africa through the active efforts of Groundwork's national campaigning for enhanced clean air legislation. It is an organisational structure that Groundwork has *modelled* elsewhere to mobilise otherwise diverse, separate interests into a national campaign. The SDCEA model has been translated to communities in Sasolburg, Secunda, Vanderbijlpark, Richards Bay, and Cape Town, re-framed as 'fenceline communities' living and working in 'hotspots' and sharing a set of grievances around the health impacts of unrestricted 'dirty growth' ('Air Quality Management in Industrial Hotspots in South Africa', Groundwork Memo to Parliamentary Portfolio Committee on Environmental Affairs and Tourism, 3rd April 2003).

4). Activism and the norms of deliberation

The ongoing recourse to adversarial and confrontational styles of oppositional activism is, therefore, an effect of various factors. It reflects the fundamental limitations of participatory procedures when it comes to addressing substantive demands for a moratorium on industrial development, since this demand runs directly against the economic imperative to promote further expansion in the SIB. But it also reflects the distinctive organisational structure of environmental activism that has grown up around the contested futures of South Durban: SDCEA has a highly mediated relationship with its key constituents, which means that it is obliged to make use of protest repertoires that run against the conciliatory logic embedded in formal procedures adopted by both state and capital; it is also part of a spatially extensive network of transnational advocacy

whose activities often centre on set-piece events of spectacular protest aimed at generating maximum public attention in various media. These styles of activism are part of the same dynamic through which SDCEA and Groundwork have successfully engaged in more inclusive and deliberative forums. But they sit uncomfortably alongside one another.

The complex relationship between local, national and transnational SMOs in this network is at the heart of the systematic conflict of interpretations between social movement actors and corporate and state representatives over the validity of activist strategies. For example, Local ward councillors have, for the most part, a negative perspective on SDCEA's activism, although this in part reflects their own difficulties in engaging with new, re-drawn districts combining previously divided communities. Councillors have also often been much more closely involved with corporate investment programmes in the SIB. Initiatives by business to address environmental concerns of communities affected by pollution have consistently run up against the diverging assumptions of business representatives that community-based organisations can speak for and decide on behalf of local communities, and those organisations' own understanding that any discussions in such forums are only one aspect of broader caucusing with local communities. This is itself an indication of the sensitivity towards the charge that SDCEA in particular has its strongest linkages in just two localities, Merebank and Wentworth (SAPREF, 'Notes of Community Liaison Forum Meeting', 6th November 2003). Social movement activists are keenly aware of the danger of being 'steamrollered' into agreeing to decisions in institutional contexts in which they are relatively disadvantaged. But in turn, their insistence on 'caucusing' outside of

stakeholder forums is interpreted by business as recalcitrance and obstruction (SAPREF, 'Invitation to Community Liaison Forum (CLF) Meeting', 16th April 2004).

The local government official with lead responsibility for environmental management systems in the Municipality acknowledges the role of community organisations in the changing agenda of environmental governance in the decade since 1994, but regrets what she sees as a lack of positive contribution: "I think they have played a key role, I suppose the question is that key role has largely been through protest politics which has really quite a negative sense". (Debra Roberts, Interview, Durban, 30th July 2003). This construal reflects a model of environmental governance in which civil society actors are seen as primary playing a supporting role to enable environmental administrators to promote a green, conservation-led environmental agenda within local government. Likewise, provincial officials involved in administering EIA procedures also express their frustration at the difficulty of aligning the different imperatives and time-scales that dictate how business and SMOs from South Durban approach the EIA system. They see SMOs unrelentingly negative in their attitude to proposals for expansion of existing industrial operations: "It is a big problem that you have there, you know, they are not even willing to sit down and try and talk about it" (Timothy Fasheun, KZN Department of Environment and Agricultural Affairs, Interview, Pietermaritzburg, 13th February 2004). And the City Manager also sees SDCEA as a source of trouble:

> "I think that the difficulties has been that the community leaders, have often, even though they remain signatories in that plan [the MPP], I think at times have not understood that at times they have got to give a degree of leadership and saying listen, we have accepted this, it's not our plan, it's a mediated solution." (Mike

Sutcliffe, Interview, Durban, 4th August 2003).

This set of observations by administrators and officials are indicative of a broadly shared frame of reference amongst state officials, business leaders, and ANC politicians. Formal, deliberative environmental governance in South Africa puts a premium on norms of participation, conciliation, and consensus. Any departure from these norms is looked on as obstructive, and even as an index of the lack of legitimacy of SMOs who adopt such adversarial activism.

These post-apartheid norms govern the dramaturgy and objectives of public forums in the city (cf. Hajer 2005). But when these procedural norms come up against fundamental disagreement over substantive goals, SMOs are driven to adopt more contentious forms of engagement. This underlies the imperative for SMOs in South Durban to juggle deliberative and activist repertoires. Those involved in this network of environmental justice organisations are well aware of how this dual imperative is prone to misinterpretation, but they identify a failure amongst state officials and business leaders to appreciate the demands that determine these strategies:

> "The reaction was to say they are deliberately trying to frustrate the process, they are anti-development, they are not trying to participate in a meaningful and positive good faith way, so Ja, leave them out of it, we are now going to just proceed without them. Some of the tactics I have seen employed I can see how they can give rise to those perceptions, but at the same time the government and the consultants clearly have no understanding of the huge pressures that community groupings are working under" (Adrian Pole, Legal Resources Centre, Interview, Durban, 12th February 2004).

In turn, the recourse to adversarial activist strategies makes the efforts of SMOs to be included in more deliberative participatory forums that much more difficult:

> "I know the city is not too happy you know, you don't want someone that's up you all the time, you know writing letters, sending you e-mails: 'This is what's wrong. That's what's wrong. What are you doing about this? What are you doing about that?' They don't want those sorts of people, they want nice guys, people that can sit down with them and have a decent conversation: 'We don't want to talk to people like you rebels'". (Des D'Sa, Interview, Durban, 11th February 2003).

And what divides these interpretative frames is the distinctive understanding of democracy that underwrites the activities of environmental justice SMOs:

> "Now the community is just seen as a bunch of radicals that are aborting development, but that's not what it is you know and if there is to be this, you know, responsible economic and social investment in South Durban then it has to be done with a type of participation that's active and involved". (Michelle Simons, Interview, Durban, 12th February 2004).

In short, the values being enacted in the contestation by SMOs of the parameters of the formal deliberative forums of environmental governance are ones in which oppositional activism is considered not only legitimate, but an essential aspect of the effective realisation of the participatory and representative objectives of those forums.

5). Conclusion: contested future, contested past

Environmental justice activists in South Durban have forged an effective organizational

network that links previously divided communities, and reaches out beyond the city. In the process, South Durban has become a key site in the emergence of an environmental justice movement, embedded in the *scalar* politics of accumulation and social reproduction and a *place*-based history of activism, and connected up with an emergent national and transnational *network* of advocacy focused on issues of industrial pollution, waste, and public health (cf. Bulkeley 2005).

Contentious activist strategies appear to be at the opposite end of the spectrum to the highly formal styles of participation represented by inclusion of civil society representatives in EIA procedures. But the relationship between them is an internal, dynamic one, shaped by the multiple and competing imperatives that a network of environmental activism such as this has to respond to. The limits of inclusive forums, which generate an impulse towards organisational specialisation, generate an ongoing imperative to maintain an activist stance aimed at shifting the parameters under which those inclusive forums are organised. It is in the relationship between these deliberative and activist strategies that one can identify the emergence of an effective space of democratic opposition. We can now returning to the two criteria for assessing the contribution of civil society actors in institutionalising opposition as a legitimate aspect of democratic politics that we identified in Section 1. Firstly, the primary achievement of the environmental justice network we have discussed here is to have established pollution as a significant issue to be taken account of in calculations of development pathways. And secondly, they have succeeded in establishing new structures of accountability, such as the MPP, in which the legitimacy of community organizations as having a voice in the public realm is recognized. Furthermore, this example has many of the characteristics

identified by Dryzek (2005) as criteria of the democratizing potential of effective social movement mobilization in divided societies, in which the balance between consensual deliberation and agonistic activist is always under negotiation: it involves ongoing engagement with a variety of public spheres; it is issue-specific; it is loosely connected to state apparatuses; and it is situated transnationally.

The case of environmental justice politics in and beyond South Durban therefore illustrates that SMOs are able to pursue 'dualistic' strategies combining the strategic rationality of inclusion aimed at gaining reforms from the state (and capital), as well as the discursive politics aimed at changing identities and affiliations in civil and political society (Dryzek 1996, 484). Inclusion in formal procedures of consultation and participation conceal the ways in which structural inequalities skew deliberative practices in favour of powerful actors (Young 2001, 671). This is one reason why SMOs continue to have recourse to more contentious forms of mobilisation outside of deliberative forums. On the other hand, it is unwise to assume that the impact of movements only comes from remaining outside the state and economy and applying external pressure. We have seen that a key dimension of social movement activity in this case is focussed on 'making government work', and this is indicate of an implicit acknowledgement amongst participants in this movement that, as Young (1999, 151) democratically legitimated states "potentially and sometimes actually exhibit uniquely important virtues to support social justice in ways no other social processes do".

The strategies adopted by environmental justice organisations in Durban in the last decade can, then, only be understood in light of the genuine democratization of procedural practices in environmental governance since 1994. These organisations

combine inclusive and deliberative strategies: "We do both, one is that we do activism and we also negotiate". (Des D'Sa, Interview, Durban, 11th February 2003). Combining both of these strategies is a difficult task for activists and campaigners, involving strategic choices concerning when to engage and when to oppose. Inclusion in forums such as the MPP, and participation in EIA management systems, has not fundamentally altered the prevalent economic vision for the future of South Durban. The central focus of environmental organizations in the decade after 1994 focused on establishing pollution as an issue, and in turn on forcing government and business to move seriously towards establishing an evidence base that could establish where responsibility for the causes and alleviation of pollution should lie. But questions of responsibility extend beyond which industries are emitting which toxins, or whether government or businesses carry the primary burden for addressing these emissions. The future of the SIB is also being shaped by contending visions of South Durban's past. Economistic discourses of a new beginning in the democratic South Africa, in which businesses blame bad planning for the harms that communities lay at their door, are countered by claims that capital must be held accountable by government for its past abuses. And between these competing visions of accountability, liability and responsibility there lie fundamentally different understandings of the means and ends of democracy.

Acknowledgements

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