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Black, Brown, Poor & Poisoned: Minority Grassroots Environmentalism and the Quest for Eco-Justice

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Poor black and brown people throughout this nation are bearing more than their fair share of the poisonous fruits of industrial production. They live cheek by jowl with waste dumps, incinerators, landfills, smelters, factories, chemical plants, and oil refineries whose operations make them sick and kill them young. They are poisoned by the air they breath, the water they drink, the fish they catch, the vegetables they grow, and, in the case of children, the very ground they play on. Even the residents of some of the most remote, rural minority hamlets of the South and Southwest suffer from the ill-effects of toxins.

A handful of statistical studies lends support to the anecdotal evidence of the correlation between the siting of toxic polluters and race, ethnicity, and poverty. Two of the studies are of especial significance. The seminal investigation was undertaken by the General Accounting Office (GAO) between 1982 and 1983, following an unsuccessful effort to keep a polychlorinated biphenal (PCB) disposal landfill out of predominantly poor and black Warren County, North Carolina. Focusing solely on the eight Southeastern states that comprise the Environmental Protection Agency’s Region IV, the GAO concluded that blacks represented a majority of the population in three of the four communities in which off-site hazardous waste landfills were located. Moreover, "at least 26 percent of the population in all four communities [had] income below the poverty level ...". In 1987 the Commission for Racial Justice of the United Church of Christ reported that three of every five black and Hispanic Americans live in a community with uncontrolled toxic-waste sites. Similarly, a detailed study of toxins and demographics conducted in the Northern California city of Richmond concluded that "[m]inority residents ... bear a disproportionate share of toxic chemical risks because of the high concentration of industrial facilities located in close proximity to predominantly lower income, Black and Hispanic neighborhoods." Industrial activity in Richmond is dominated by petrochemical plants, which emit substantial quantities of pollutants into the air and water. "All of the lower income minority neighborhoods are in the western and southern parts of Richmond where the highest concentration[s] of petrochemical facilities are also located."
The housing and the industry sprung up roughly simultaneously. Whites vacated the housing (but not necessarily the jobs) for better shelter as their socioeconomic status improved, and poorer black and brown folk who enjoy much less residential mobility took their place. In other cases, housing for blacks and Latinos was built in the vicinity of existing industrial operations because the land was cheap and the people were poor. For example, Richmond, California developed downwind from a Chevron oil refinery when blacks migrated to the area to work in shipyards during World War II.

In yet a third pattern, sources of toxic pollution were placed in existing minority communities. The explanations for such sitings are numerous; some of them reflect the impact of racial and ethnic discrimination. The impact, of course, may be attenuated and less than obvious. The most neutral basis for a siting choice is probably the natural characteristics of the land, like the mineral content of the soil. Low population density would appear to be a similar criterion. It has been argued, however, that in the South, a sparse concentration of inhabitants is correlated with poverty which in turn correlated with race. It follows that criteria for siting hazardous waste facilities which include density of population will have the effect of targeting rural black communities that have high rates of poverty.

Likewise, the compatibility of pollution with preexisting land uses might conceivably make some sites more suitable than others for polluting operations. Pollution tends to attract other sources of pollutants, particularly those associated with toxic disposal. For example, Chemical Waste Management, Inc. (Chem Waste) has proposed the construction of a toxic waste incinerator outside of Kettleman City, California, a community composed largely of Latino farmworkers. The company already has a landfill there. According to the company's spokeswoman, Chem Waste placed the landfill in Kettleman City “because of the area’s geological features. Because the nearby landfill handles toxic waste, . . . it is an ideal spot for the incinerator; the tons of toxic ash that the incinerator will generate can be ‘contained and disposed of at the installation’s landfill.’” Having lost out once with the creation of the landfill, the poor minority folks of Kettleman City seem destined to lose out again. Their situation is hardly unique. After reviewing the literature on hazardous waste incineration, one commentator has concluded that “[m]inority communities represent a ‘least cost’ option for waste incineration . . . because much of the waste to be incinerated is already in these communities.” Despite its apparent neutrality, then, siting based on compatibility may be related to racial and ethnic discrimination, particularly if such discrimination influenced the siting of preexisting sources of pollution.

Polluters know that communities comprised of low-income and working class people with no more than a high school education are not as effective at marshalling opposition as communities of middle or upper income people. Poor minority citizens have traditionally had less clout with which to check legislative and executive abuse or to challenge regulatory laxity. Private corporations, moreover, can have a powerful effect on the behavior of public officials. Poor minority people wind up the losers to them both.

Poor minority citizens are traditionally more likely than others to tolerate pollution generating commercial development in the hope that economic benefits will inure to the community in the form of jobs, increased taxes, and civic improvements. Once the benefits start to flow, the community may be reluctant to forego them even when they are accompanied by poisonous spills or emissions. This was said to be the case in Emelle, Sumter County, Alabama, site of the nation’s largest hazardous waste landfill. Sumter County’s population is roughly seventy percent black and thirty percent of its inhabitants fall below the poverty line. Although the landfill was apparently leaking, it was difficult to rally support against the plant among black politicians because its operations contributed an estimated $15.9 million to the local economy in the form of wages, local purchases of goods and services, and per ton landfill user fees.

Of course, the benefits do not always materialize after the polluter begins operations. For example, West Harlem was supposed to receive, as a tradeoff for accepting New York City’s largest sewage-treatment plant, an elaborate state park to be built on the roof of the facility. The plant is functioning, fouling the air with emissions of hydrogen sulfide, and promoting an infestation of rats and mosquitoes. The park, however, has yet to be completed, the tennis courts have been removed from the plan completely, and the “first rate” restaurant has been downscaled to a pizza parlor.

In other cases, there is no net profit to distribute among the people. The new jobs created by the poisonous enterprises are “filled by highly skilled labor from outside the community,” while the increased tax revenues go, not to “social services or other community development projects, but . . . toward expanding the infrastructure to better serve the industry.”

Once a polluter has begun operations, the victims’ options are limited. The task of mobilizing a community against an existing polluter is more difficult than organizing opposition to a proposed toxic-producing activity. Resignation sets in and the resources for attacking on-going pollution are not as numerous, and the tactics not as potent, as those available.
during the proposal stage. Furthermore, though some individuals are able to escape toxic poisoning by moving out of the area, the flight of others will be blocked by limited incomes, housing discrimination, and restrictive land use regulations.

Although the events that brought poor minority people into proximity with toxic pollution vary, in many communities the poisoning of poor minority people continues because of substantial governmental indifference or ineptitude and corporate callousness. One of the most blatant instances of this involves the operation of three lead smelters in the predominately black and Latino West Dallas and East Oak Cliff sections of Dallas. In 1972 Dallas officials were given test results that indicated that black children living in the vicinity of the smelters had high levels of lead in their blood. The emissions continued virtually unabated as the city attempted to enforce its emission standards without much vigor or results. In February of 1981, the Environmental Protection Agency (EPA) received the results of a commissioned study that revealed high levels of lead in the bloodstream of children living near the smelters. No immediate clean-up was undertaken. In fact, a local EPA administrator scrapped a voluntary plan proposed by one of the smelter operators in favor of another health study which excluded the children most at risk. A tort action was brought on behalf of 370 children, most of them residents of a public housing project, against RSR Corporation. It resulted in a multimillion dollar settlement; a second suit is still pending. The state sued the smelter operators, while zoning authorities required the installation of pollution devices. RSR was forced to close its smelter and the Federal Trade Commission, alleging antitrust violations, required the company to sell it. The new owner won the right to continue operations to recoup its investment, but the smelter never reopened. A second smelter owned by Dixie Metals was allowed to operate until December 31, 1990, also for the purpose of recoupment. According to news reports, Dixie Metals offered to pay $1 million to rehabilitate the surrounding neighborhood if it were allowed to continue operating. Residents were divided on the issue. In August of 1990, following a hearing at which the competing views were voiced, the Dallas City Council voted (nine to two) to deny Dixie Metals the right to operate the smelter beyond the end of that year.

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From Barrios to Backwaters: A Normative Portrait of the Minority Grassroots Environmental Movement

It would be misleading to dwell exclusively on the suffering pollution is causing poor minority people in this country or to portray them as purely passive victims. Pollution is no longer accepted as an unalterable consequence of living in the "bottom" (the least pleasant, poorest area minorities occupy) by those on the bottom of the status hierarchy. Like anybody else, poor minority people are distressed by accidental toxic spills and explosions and inexplicable patterns of miscarriages and cancers. and they are beginning to fight back. To be sure, poor minority communities face some fairly high barriers to effective mobilization against toxic threats, such as limited time and money; lack of access to technical, medical, or legal expertise; relatively weak influence in political or media circles; and cultural and ideological indifference or hostility to environmental issues. Limited fluency in English and fear of immigration authorities will keep some of those affected, especially Hispanics, quiet. Yet, despite the odds, poor minority people are responding to their poisoning with a grassroots movement of their own.

Groups and associations of black and brown people are waging grassroots environmental campaigns all over the country. Though only informally connected, these campaigns reflect certain shared characteristics and goals. The activity is indicative of a minority grassroots movement that occupies a distinctive position relative to both the mainstream movement and the white grassroots environmental movement. The minority movement is anti-bourgeois and anti-racist. It capitalizes on the social and cultural differences of people of color as it cautiously builds alliances with whites and persons of the middle class. It is both fiercely environmental and conscious of the need for economic development in poor minority communities. Most distinctive of all, the minority grassroots movement has been extremely outspoken in challenging the integrity and bona fides of mainstream establishment environmental organizations.

Putting class and race on the environmental agenda

Black and brown citizens have not been mobilized to join grassroots environmental campaigns because of their general concern for the environment. Characterizing a problem as
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being “environmental” may carry weight in some circles, but it has much less impact among poor minority people. It is not that poor minority people are uninterested in the environment—a suggestion the grassroots activists find insulting. In fact, they are more likely to be concerned about pollution than people who are wealthier and white. Rather, in the view of many minority people, environmentalism is associated with the preservation of wildlife and wilderness, which is simply not more important than the survival of people and the communities in which they live: thus, the mainstream movement has its priorities screwed up.

The mainstream movement, so the critique goes, embodies white, bourgeois values, values that are foreign to poor minority people. Environmental sociologist Dorceta Taylor has characterized the motivations of those who make donations to mainstream organizations as follows:

[In part, the] motivation to contribute is derived from traditional Romantic and Transcendental ideals—the idea of helping to conserve or preserve land and nature for one’s own present and future use, or for future generations. Such use involves the ability to get away from it all; to transcend earthly worries, to escape, to commune with nature. The possibility of having a transcendental experience is strongly linked to the desire to save the places where such experiences are likely to occur.

Even the more engaged environmentalists, those whose involvement includes participation in demonstrations and boycotts, are thought to be imbued with romantic and transcendental notions that favor nature over society and the individual’s experience of the natural realm over the collective experience.

There are a number of reasons why poor minority people might not share such feelings. Their prospects for transcendental communion with nature are restricted. Parks and recreational areas have been closed to them because of discrimination, inaccessibility, cost, their lack of specialized skills or equipment, and residency requirements for admission. They must find their recreation close to home. Harm to the environment caused by industrial development is not really their responsibility because they have relatively little economic power or control over the exploitation of natural resources. Since rich, white people messed it up, rich, white people ought to clean it up. In any event, the emphasis on the environment in the abstract diverts attention and resources from the pressing concrete problems poor minority citizens confront everyday.

Nonetheless, poor minority communities have addressed environmental problems that directly threaten them on and in their own terms. The narrowness of the mainstream movement, which appears to be more interested in endangered animal (nonhuman) species and pristine undeveloped land than at-risk humans, makes poor minority people think that their concerns are not “environmental.” Cognizant of this misconception and eschewing terminology that artificially compartmentalizes people’s troubles, minority grassroots environmental activists take a multidimensional approach to pollution problems. Thus, the sickening, poisonous odors emitted by landfills and sewage plants are considered matters of public health or governmental accountability, while workplace contamination is a labor issue and lead-based paint in public housing projects, a landlord-tenant problem.

The very names of some of the organizations and the goals they espouse belie the primacy of their environmental concerns. The SouthWest Organizing Project of Albuquerque (SWOP) has been very successful in mobilizing people around issues of water pollution and workplace contamination. For example, SWOP fought for the rollback of charges levied against a group of homeowners who were forced to hook up with a municipal water system because nitroglycerine had contaminated private wells. SWOP then campaigned to make the federal government assume responsibility for the pollution, which was attributed to operations at a nearby military installation. Yet, in a briefing paper entitled “Major National Environmental Organizations and the Problem of the ‘Environmental Movement,’” SWOP described itself as follows:

SWOP does not consider itself an “environmental” organization but rather a community-based organization which addresses toxics issues as part of a broader agenda of action to realize social, racial and economic justice. We do not single out the environment as necessarily having a special place above all other issues: rather, we recognize that issues of toxic contamination fit within an agenda which can (and in our practical day-to-day work, does) include employment, education, housing, health care, and other issues of social, racial and economic justice.

In some ways, minority grassroots environmentalism reflects the inter-relationship between various forms of subordination about which Daniel Zwerdling wrote in an early attack on the parochialism of the mainstream environmental movement:
Pollution, poverty and worker insecurity reflect three different ways that American corporations express themselves as they exploit people and resources for maximum profits. When corporations need raw materials, they strip them from public lands as cheaply as possible and leave behind great scars on the earth. When they need labor, they hire workers as cheaply as possible and leave behind women and men broken by industrial injuries, diseases, and debt. When corporations produce their goods they use the cheapest and fastest methods available and leave behind vast quantities of waste. The corporations dump the wastes in the poorest and most powerless parts of town. And when they earn their profits, the corporations divide them up among company executives and investors, leaving behind poor people who cannot afford medical care or food or decent homes.44

Ordinary, plain-speaking people who are the casualties of toxic poisoning articulate the critique somewhat more pointedly. As Cancer Alley resident Amos Favorite put it:

"We are the victims... Not just blacks. Whites are in this thing, too. We're all victimized by a system that puts the dollar before everything else. That's the way it was in the old days when the dogs and whips were masters; and that's the way it is today when we got stuff in the water and air we can't even see that can kill us deader than we ever thought we could die."45

In the estimation of the grassroots folks, however, race and ethnicity surpass class as explanations for the undue toxic burden heaped on the minority poor. Of course, it is hard to prove that racial discrimination is responsible for siting choices and governmental inaction in the environmental area, particularly in a court of law. There are few reported cases challenging siting decisions based on racial discrimination, and plaintiffs prevailed in none them.46 Bean v. Southwestern Waste Management47 demonstrates the limited utility of current anti-discrimination doctrine in redressing the plight of poisoned minority communities. The claimants in Bean contested the decision of the Texas Department of Health (TDH) to permit operation of a solid waste facility within 1700 feet of a high school lacking air conditioning, in a census tract with a sixty percent minority population. The court concluded that "the plaintiffs must show not just that the decision to grant the permit is objectionable or even wrong, but that it is attributable to an intent to discriminate on the basis of race."48 The plaintiffs' statistical proof did not support the conclusion that the approval was part of a pattern or practice of discriminatory placement or that discrimination was involved in the particular decision. In fact, the court concluded, "minority census tracts have a tiny bit smaller percentage of solid waste sites than one would proportionately expect."49 Even so, the TDH decision did strike the court as being erroneous:

"It simply does not make sense to put a solid waste site so close to a high school, particularly one with no air conditioning. Nor does it make sense to put the land site so close to a residential neighborhood. But I am not TDH and for all I know, TDH may regularly approve of solid waste sites located near schools and residential areas, as illogical as that may seem."50

Though the placement was "unfortunate and misguided," it was not, however, proven to be "motivated by purposeful racial discrimination."51

The burden of proof, then, is quite substantial. There are a few pending suits in which race discrimination claims have been asserted,52 The most innovative of them was brought on behalf of, inter alia, El Pueblo Para el Aire y Agua Limpio (which translates as "People for Clean Air and Water"), an organization comprised predominantly of Latino farmworkers residing in or near Kettleman City, California. The suit, brought against the state, Kings County, the county board of supervisors, and two waste management concerns, seeks to enjoin the construction of what would be California's first toxic waste incinerator.53 Kettleman City's population is eighty-five percent Latino and roughly thirty-eight percent mono-lingual Spanish-speaking.54 Drawing on national data, the plaintiffs accuse one of the defendants, Chemical Waste Management, "of making a pattern of singling out poor, minority communities as incinerator sites."55 According to the complaint, Chem Waste is currently operating toxic waste incinerators in Chicago, where the surrounding neighborhood is seventy-two percent black and eleven percent Latino; Sauget, Illinois, where the area is seventy-three percent black; and Port Arthur, Texas, which is forty percent black and six percent Latino. In addition to the Kettleman City dump, Chem Waste operates the dump in Emelle, Alabama that is discussed above,56 and a toxic waste injection well in Corpus Christi where the surrounding area is fifty-seven percent Latino.57 The plaintiffs in the El Pueblo lawsuit also charge "that Spanish language materials and interpreters were not made available to residents during the environmental review process. More than 3,000 pages of environmental impact reports were published, but only eight pages were translated.
into Spanish.” It is further alleged that the “use of highly technical language unreadable by the vast majority of affected persons” deprived plaintiffs of their rights under the due process clause.

The minority grassroots environmental movement draws a good deal of its inspiration from the black civil rights movement of the 1960s. That movement was advanced by hard-won Supreme Court decisions. The minority grassroots organizers hope that a civil rights victory in the environmental area will validate their charges of environmental racism, help to flesh out the concept of environmental equity, serve as a catalyst for further activism, and just possibly force polluters to reconsider siting in poor minority communities.

Capitalizing on the resources of common culture

For poor minority folks, social and cultural differences like language are not handicaps, but the communal resources that facilitate mobilization around issues like toxic poisoning. As members of the same race, ethnicity, gender, and even age cadre, the would-be participants share cultural traditions, modes, and mores that encourage cooperation and unity. Minority residents may be more responsive to organizing efforts than whites because they already have experience with collective action through community groups and institutions like churches, PTAs, and town watches or informal social networks. Shared criticisms of racism, a distrust of corporate power, and little expectation that government will be responsive to their complaints are common sentiments in minority communities and support the call to action around environmental concerns. Minority grassroots environmentalism is also fostered by notions that the undue toxic burden heaped on the minority poor.

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The group’s name and some of its tactics were inspired by Las Madres de la Plaza de Mayo of Argentina. Like the Argentine “Mothers of the Disappeared,” MELA conducted nightly candlelight marches from their homes to the proposed prison site. The media eventually caught on and the women’s cause got attention. According to sociologist Mary Pardo, the women of MELA effectively combined pre-existing networks that were based on women’s traditional oversight of their children’s educations and the safety of the surrounding community into a viable grassroots coalition. The women of MELA “expanded the boundaries of ‘motherhood’ to include social and political community activism and redefined the word to include women who are not biological ‘mothers.’” Although females assumed the public spotlight, they acknowledged the involvement and contribution of male family members and saw themselves as fighting on behalf of the family units. Uncowed by class and proud that they did the tedious work of organizing for themselves, they demanded that the more affluent people who wished to coalesce with them meet with them directly on equal terms, not through representatives like lobbyists. Pardo concludes that “[t]he existence and activities of ‘Mothers of East Los Angeles’ attest to the dynamic nature of the participatory democracy, as well as to the dynamic nature of our gender, class, and ethnic identity.”

Similarly, the Lumbee Indians of Robeson County, North Carolina, who attached spiritual significance to a river that would have been polluted by a proposed GSX Corporation hazardous waste facility, waged a campaign against the facility on the ground of cultural genocide. Throughout the campaign, “Native American dance, music, and regalia were used at every major public hearing. Local Lumbee churches provided convenient meeting locations for GSX planning sessions. Leaflet distribution at these churches reached significant minority populations in every pocket of the county’s nearly 1,000 square miles.” Consider, finally, the Toxic Avengers of El Puente, a group of environmental organizers based in the Williamsburg section of Brooklyn, New York. The name is taken from the title of a horror movie. The group attacks not only environmental racism, but adulthood (adult superiority and privilege) as well. The members, whose ages range between nine and twenty-eight,


The importance of culture in the minority movement seems not to have produced the kind of distrust and misgivings that might impede interaction with white working-class and middle-class groups engaged in grassroots environmental activism. There are numerous examples of minority group associations working in coalitions with each other, with majority group associations, and with organizations from the mainstream. There are also localities in which the antagonism and suspicion that are the legacy of white supremacist rule have kept whites and blacks from uniting against a common toxic enemy. The linkage between the minority groups and the majority groups seems grounded in material exchange, not ideological fellowship. The white groups attacking toxins at the grassroots level have been useful sources of financial assistance and information about tactics and goals.

The primacy of hands-on tactics
Participation through direct action is crucial to the minority grassroots environmental movement, just as it is for its white counterpart. Direct action includes a panoply of extralegal activities such as circulating petitions; holding demonstrations, marches, and sit-ins; conducting candidate and agency accountability sessions during which panels of prepared community members conduct the quizzes; and picketing shareholders’ meetings. The commitment to maximum participation may of course represent a matter of necessity for persons without disposable income, but it also seems to be a matter of belief. Again, as stated by Amos Favorite: “The ordinary person who works the fields and walks the streets, who has to live everyday with this mess, he’s the warrior of the future. He’s got the power to save the world. He’s the real environmentalist.”

Legal expertise is decidedly de-emphasized. The grassroots folk spend a good deal of their time battling experts—bureaucrats, engineers, epidemiologists, lawyers—in an effort to make questions of risk distribution not simply a matter of science and technology, but also a matter of politics and social responsibility. They have reason to be wary of undue reliance on their own experts. The stress placed on direct action means that the law and access to legal forums are more important to grassroots environmentalists than are lawyers themselves. Regulation of toxic producers is quite varied and extensive. The permits, licenses, zoning variances, and reporting requirements demanded of polluting concerns all represent openings for activism; lawyers are not invariably required for aggrieved people to take advantage of them. Lawyers still have a role to play, however. They facilitate the release of demonstrators from police custody; secure protection of protestors’ first amendment rights; represent complainants before regulatory agencies; and accompany activists to meetings and conferences where the other side is sure to be represented by counsel. Lawyers clarify the power of government agencies to do what the activists are demanding and assist in the assessment of the available strategies to determine which will have the most impact on the polluter.

Both community organizers and lawyers have a certain skepticism about the efficacy of litigation in advancing the goals of minority grassroots environmentalism. Citizen suits and tort actions are not wholly missing from the list of tactics employed by those involved in the minority grassroots environmental movement. Plaintiffs do sometimes prevail, and even when they do not, their suits at least perform an educational function. They serve notice to the larger community that there is a problem and people are upset about it. At the same time, however, litigation requires resources and takes a long time to complete. Losses in court can be demoralizing if too much hope is pinned upon achieving legal victories. As activist Richard Moore contends, the judicial system is after all not “ours.” According to Moore, keeping an organization going for the extended campaigns needed to produce results requires a creative mixing of means and methods.

Direct action tactics can work. How poor minority people come to be powerful is not entirely clear. According to activist Ellie Goodwin, minority grassroots groups win concessions when they have a clear agenda, dogged determination, and a stubborn resistance to buy-offs and side deals that spell co-optation. The extension of voting rights has increased the number of local and state public officials who are from minority groups or are responsive to complaints...
coming from poor minority citizens. The grassroots movement is also riding on the coattails of the mainstream movement’s triumph. The general interest in environmental problems makes industry susceptible to embarrassment and governmental authorities shy about ignoring environmental complaints. Although the media is generally accused of paying too little attention to protests in low-income minority communities, environmentalism there as elsewhere is attracting a readership.

Roadblocks to relief
The success of grassroots approaches to environmental problems should be judged by whether they produce the desired remedial results. The aspirations of the participants in the minority grassroots environmental movement parallel those of whites—compensation, restoration of the land, water, or air: inspection of the polluter’s facilities; and pollution reduction and prevention. The minority folks, however, must grapple with circumstances that make the achievement of their goals either more difficult or more imperative.

Limited power can turn victories into disappointments. For example, grassroots environmentalists in general seem to agree that one of the most desirable concessions they can extract from a polluter is the right to inspect its facility and to monitor its operations. Inspections require direct participation by the community and may result in a reduction of pollution or the risk of harm. It interjects the community into the company’s business. At least two of the attempts poor minority communities have made to undertake inspections have been frustrated. After agreeing to an inspection in the wake of a chemical spill at its inner-city Philadelphia plant, the Welsh Chemical Company reneged because no accommodation could be reached regarding the distribution of the information that would have been acquired. Similarly, Chevron attempted to turn an inspection of one of its Richmond, California facilities into a one-day “tour.” Nonetheless, with the assistance of an industrial hygienist, the inspection team produced a list of concerns and released the information to the media. The company objected and broke off dialogue with the community. The minority people in these cases apparently lacked sufficient clout with which to demand greater access.

The right to inspect is clearly an area where policy reform is needed.

Poor minority folks have also been handicapped in redressing their pollution-related injuries through tort actions. People whose land and water have been contaminated and whose health has been impaired by toxic poisoning want to be compensated for the harm that has been done to them. Compensation is one goal as to which race, ethnicity, and class clearly do matter. Toxic tort litigation can be quite costly and poor minority people may encounter difficulties with finding and negotiating a deal with attorneys who are both experienced in handling toxic tort cases and capable of advancing the necessary expenses.

Establishing a claim or entitlement depends on documenting the harm the claimants have experienced or proving a link between the polluter’s toxic emissions and the symptoms about which complaint is made. Poor minority people may be at a disadvantage in this regard because their access to medical care is often limited. Building a record may even be difficult when the victims are organized, their health complaints are ongoing, and the medical intervention is timely. For example, within days of a sooty, foul smelling spill at a chemical plant in the Kensington/Richmond section of Philadelphia, some of the residents and an environmental organizer who worked with them suffered extensive skin rashes. Residents held a sit-in at the health commissioner’s office and demanded clinical monitoring to determine the source of the problem. Certain hours were set aside at a public clinic, not in the community, for investigation of the problem, and arrangements were made to get folks there. But the logistics proved to be too onerous and some residents thought that they had accomplished as much as they could: so the scheme broke down.

The lifestyles of poor minority people may affect their ability to link their health problems to toxin exposure and may also provide a defense to their claims. Many of them consume diets consisting mainly of junk food, soul food, or processed food, all of which are cheap, but high in fat, salt, and sugar. Minors’ consumption of cigarettes, alcoholic beverages, and illicit drugs tends either to be greater than that of the white population or to have more serious health consequences. To compound the causation puzzle, available statistics indicate that poor, minority workers are
disproportionately exposed to toxins on the job.\textsuperscript{53} All of these activities are correlated with the same sorts of disorders (cancer, heart, and lung disease) that environmental pollutants promote.\textsuperscript{81}

In a few cases money settlements in the millions of dollars have been awarded to poor minority victims of toxic poisoning. The aftermath of such settlements has not really been explored. There is a tendency to underestimate the competence of poor minority people to make financial decisions or to handle substantial sums of money like those involved in court settlements. At the same time, it is likely that poor minority people have fewer local financial institutions or private service organizations (banks, rehabilitation facilities, training programs) interested in meeting their needs. The post-settlement experience needs systematic study and is an area with which lawyers should be concerned.

Compensation may be paid in lieu of restoration of the land and prevention of future harm. For those hard pressed by immediate perils, restoration and prevention, which require a longer time frame, may be impossible goals. Some poor people may have such strong social or cultural reasons for wanting to preserve the integrity of their communities that they are prepared to hold on and hold out, but it seems likely that resolve is related to resources.

To create a buffer zone around a petrochemical plant, Dow Chemical bought the town of Morrisonville, Louisiana by offering landowners \$20,000 an acre, homeowners between \$50,000 and \$200,000, and tenants \$10,000 for resettlement.\textsuperscript{54} Dow “built a subdivision four miles down river where some of Morrisonville’s families could move into new brick homes and establish another community.”\textsuperscript{76} Georgia Guff has done the same thing in Reveille town, Louisiana. These buy-out programs have been attacked by environmentalists because buffer zones do not decrease accidents or pollution, though the buffer zones may reduce the direct harm toxins will cause. This criticism seems more justified when directed at the companies responsible for the pollution than at the residents who accept the companies’ buy-out offers. It is difficult to criticize the compromises people make when they have spent their lives in toxic danger and have few financial resources.

Compensation can have a more disruptive impact on communal life than other forms of relief. Individual monetary settlements can threaten communal solidarity, and there is no precedent for pursuing claims of harm to an entire group qua group\textsuperscript{57} or for treating compensation payments as a group asset to be invested for the benefit of the group. These are matters that will likely be of concern to the minority grassroots environmentalists.

The breakdown in the communitarian ethos with regard to compensation is very likely attributable to dichotomies in the law. In the environmental area, there is a real separation between common law and statutory law, equitable relief and legal remedies, suits brought by organized groups and class actions initiated by representative individuals, and even between toxic tort litigators and environmental regulatory attorneys. For example, a common law nuisance is easy for ordinary people to detect and prove, and plaintiffs are not obligated to notify the polluter prior to bringing suit.\textsuperscript{58} Unfortunately, there is no provision in the common law for attorney’s fees: restoration and rehabilitation of the environment may be unavailable options unless they are cheaper than compensation; and the deterrent effect of damages is attenuated. Actions based on public law tend not to have such limitations, but there is generally no provision in the statutes for damage recoveries. Legal policy analysts should consider whether it is possible to combine in one cause of action the strengths of both common law and statutory claims. Furthermore, there should be additional inquiry into the viability of communal rights of action.

Against the Tide: The Minority Grassroots Attack on the Environmental Mainstream

At the same time that the minority grassroots environmental movement is battling polluters, it is engaged on another front in a struggle with the organizations of the mainstream. There are several substantive points of disagreement between the minority grassroots groups and the traditional environmental organizations. First, poor minority communities are tired of shouldering the fallout from environmental regulation. A letter sent to ten mainstream environmental organizations by the SouthWest Organizing Project and numerous minority activists engaged in the grassroots environmental struggle illustrates the level of exasperation:

Your organizations continue to support and promote policies which emphasize the clean-up and preservation of the environment on the backs of working people in general and people of color in particular. In the name of eliminating environmental hazards at any cost, across the country industrial and other economic activities which employ us are being shut down, curtailed or prevented while our survival needs and cultures are ignored. We suffer the end results of these actions, but are never full participants in the decision-making which leads to them.\textsuperscript{81}
Although the indictment standing alone seems fairly broad, it is backed up with specific illustrations of the adverse impact mainstream environmentalism has had on poor minority people. In response to pressure from environmentalists concerned about saving wildlife and protecting the health of the general population, pesticides of great persistence, but low acute toxicity (like DDT and chlordane) have been restricted or banned. They have been replaced by pesticides that degrade rapidly, but are more acutely toxic (like parathion). The substitutes, of course, pose a greater risk to farmworkers and their offspring, who are for the most part people of color. Baldemar Valasquez of the Farm Labor Organizing Committee characterizes the mainstream’s failings in regard to pesticides as follows:

"[T]he environmental groups are not responding to try to right the wrongs or change the motivation of industry, which is greed and profit at the expense of everyone. When you start dealing with that issue, you’re dealing with structural change in terms of how decisions are made and who benefits from them. The agenda of the environmental movement seems to be focused on getting rid of a particular chemical. This is not enough, because they’ll replace it with something else that’s worse...."[90]

Another threat to poor minority communities is the growing popularity of “NIMBY” (Not in My Backyard) groups. Poor minority people have much to fear from these groups because minority communities are the ones most likely to lose the contests to keep the toxins out. The grassroots environmentalists argue that, rather than trying to bar polluters who will simply locate elsewhere, energies should be directed at bringing the amount of pollution down to zero. In lieu of “NIMBY,” mainstream environmentalists should be preaching “NIABY” (Not in Anyone’s Backyard).[92]

Finally, conservation organizations are making “debt-for-nature” swaps throughout the so-called “Third World.” Through swaps, conservation organizations procure ownership of foreign indebtedness (either by gift or by purchase at a reduced rate) and negotiate with foreign governments for the reduction of the debt in exchange for land.[93] Minority grassroots environmentalists complain that these deals, which turn conservation organizations into creditors of so-called “Third World” peoples, legitimate the debt and the exploitation on which it is based.[94]

The positions staked out by the minority grassroots environmentalists regarding the fallout of environmental regulation are consistent with the values ingrained in the rest of the movement’s activities. The fallout critique is not opposed to environmentalism or environmental regulation. In attacking the political conservativism of the mainstream, the minority grassroots environmentalists are not themselves lapsing into environmental conservativism. In fact, the fallout from which poor minority communities suffer can be cured with more, not less environmentalism, provided it is anti-bourgeois, anti-racist, sensitive to the cultural norms and mores of people of color, mindful of the impact of domestic regulation on their brothers and sisters abroad, and cognizant of the substantial need for economic development in poor minority communities.

Unlike the mainstream organizations, those involved in the minority grassroots movement cannot afford to lose sight of the material circumstances of the poor black and brown folks who are their compatriots and constituents. The grassroots activists do not intend to abandon their environmental agenda either. The “eco” in eco-justice stands as much for “economic” as for “ecological.” For many poor minority communities, it is too late for NIMBY. They already have a dump, or a petrochemical plant, or a military base in their neighborhood. They do not necessarily want the polluters “to pack up and move away. That’s not what we’re asking for. We just want them to clean up the mess they’ve made. They can do it. It’s only fair.”[95] What they want is accountability from existing polluters.[96]

The dual environmental-economic agenda of the minority grassroots movement is reflected in two items of the Bill of Rights drafted by the SouthWest Organizing Project’s Community Environmental Program:

Right to Clean Industry: We have the right to clean industry: industry that will contribute to the economic development of our communities and that will enhance the environment and beauty of our
landscape. *We have the right to say “NO” to industries that we feel will be polluters and disrupt our lifestyles and traditions.* We have the right to choose which industries we feel will benefit our communities most, and we have the right to public notice and public hearings to allow us to make these decisions.

**Right to Prevention:** We have the right to participate in the formulation of public policy that prevents toxic pollution from entering our communities. We support technologies that will provide jobs, business opportunities and conservation of valuable resources. As residents and workers, we have the right to safe equipment and safety measures to prevent our exposure in the community and the workplace.

Prevention of toxic accidents and communal participation in risk allocation decisions should be the key components of future negotiations regarding industrial sites in poor minority communities. It is hard to envision a world without tradeoffs, and it is too soon to tell what sort of compromises enlightened minority communities might be willing to make (or more likely feel compelled to make) when presented with proposals from industries that are mostly clean, but a little bit dirty. They might be willing to accept some exposure in exchange, not for cash or credit, but for control. To the extent that communities do not create and carry out their own plans for economic development, their right to reject poisonous enterprises will be limited. Therein lies the next hurdle for minority grassroots activists.

The struggle to contain the poisoning of poor minority communities requires resources, which the grassroots environmentalists do not have and the mainstream environmentalists do. The minority grassroots advocates reject the romantic view of the mainstream and stress that its power is material, not transcendental. As one grassroots activist put it, “They’re going to have to get off the stick of preserving birds and trees and seals and things like that and talk about what’s affecting real people . . . . Organizations of color are forcing the issue.”

In addition to attacking the goals of the mainstream movement, the minority grassroots activists are going after the mainstream for failing to integrate their staffs and boards, for failing to enlarge their agendas to included the concerns of poor minority communities, and for failing to share their bountiful resources with poorer grassroots groups. These attacks strike a nerve in organizations that view themselves as being faithful to the liberalism of the 1960s. Whether their guilt, concern, or embarrassment will translate into greater cooperation between minority environmental groups and the mainstream remains to be seen. The grassroots folks seem to think that if they achieve the second goal they will be closer to achieving the first. They may be fooling themselves. Some consideration should be given to devices for assuring the accountability of minority people who find positions in mainstream organizations as a result of the complaints from the grassroots.

**Conclusion**

The minority grassroots environmental movement in all aspects of its operations is anti-bourgeois, anti-racist, class conscious, populist, and participatory. It attacks environmental problems as being intertwined with other pressing economic, social, and political ills. It capitalizes on the social and cultural strengths of people of color and demands in turn that their lifestyles, traditions, and values be respected by polluters and mainstream environmental organizations alike.

This discussion of the minority grassroots movement has been largely descriptive. The movement is still in its embryonic stages. Its ideology has yet to be fully developed, let alone tested. Moreover, it is too easy for outsiders to criticize the tradeoffs and compromises poor people bearing toxic burdens have made. It is important to understand the movement on its own terms if one hopes to make policy proposals that will be of use to those struggling to save themselves. In keeping with the values of the minority grassroots movement, policy proposals should be aimed at showing poor minority people how they might better achieve what they want and not at plotting strategies for implementing what others think is good for them.
Notes

1. Activist Pat Bryant uses the term “poisoning” in lieu of “pollution” to convey the idea that harm is being caused deliberately with the knowledge and aid of governmental officials. See Pollution, Poison and the Great Toxics March: The Southern Louisiana Movement for Environmental Democracy, E. MAG., March-April 1990, at 38, 39.


3. Id. at 1.


5. Id. at xxiii, 16.


7. BULLARD, ENVIRONMENTAL BLACKMAIL IN MINORITY COMMUNITIES, in RACE AND THE INCIDENCE OF ENVIRONMENTAL HAZARDS, supra note 11, at 60, 64-65.


9. Id. at 163.

10. Id. at 159, 162.

11. Id; BEASLEY, OF POLLUTION AND POVERTY, supra note 7. 8.


15. R. BULLARD, supra note 19, at 54-61.

16. West Dallas Residents to Receive Settlement from Lead Smelter, U.P.I., Dec. 7, 1986. The plaintiffs were required to proceed individually because they were denied class status. RSR Corp. v. Hayes, 673 S.W.2d 926 (Tex. Ct. App. 1984).

17. See RSR Corp. v. FTC, 602 F.2d 1317 (9th Cir. 1979), cert. denied, 445 U.S. 927 (1980); RSR Corp. v. FTC, 656 F.2d 718 (D.C. Cir. 1981) (affirming refusal of FTC to reopen proceeding).


22. See, e.g., Beasley, Of Pollution and Poverty: Reaping America’s Uneasy Harvest, BUZZWORM: THE ENV. J., May-June 1990, at 40 (hereinafter Beasley, Un uneasy Harvest); Beasley, Cancer Alley, supra note 17, at 41.


25. While the literature on the minority grassroots environmental movement is burgeoning, evidence of discussions in legal circles of environmental racism, pollution and poverty, eco-justice, or environmental equity is virtually nonexistent. We acquired a great deal of information about these topics from conversations with community organizers and activists, and lawyers practicing in the
areas of environmental regulation and toxic torts.

The community organizers and activists with whom we spoke are Bradley Angel, Greenpeace (San Francisco); Henry Clark, West County Toxics Coalition (Richmond, California); Pat Bryant, Gulf Coast Tenant Leadership Development Project (New Orleans); Ellie Goodwin, Natural Resources Defense Council (San Francisco); Sulamian Mahdi, Center for Environmental Commerce and Energy (Atlanta); Richard Moore, Southwest Organizing Project (Albuquerque, New Mexico); Greg Schirm, Delaware Valley Toxics Coalition (Philadelphia); and Peggy Shepard, West Harlem Environmental Action (New York, New York).

The attorneys with whom we spoke are Jerry Balter, Public Interest Law Center of Philadelphia; Matthew Chachere, Center for Constitutional Rights (New York, New York); James Childs (Chicago); Luke Colc, California Rural Legal Assistance (San Francisco); Allan Kanner (Philadelphia); Sanford Shepard, National Toxics Campaign Fund (Acton, Massachusetts); Walter Searcy (Nashville, Tennessee); Bob Shields (Atlanta); and Ron Simon, National Clearinghouse for Hazardous Waste (Washington, D.C.). We are indebted to them for their generosity and candor.

39. Taylor, supra note 36, at 35.
40. Id. at 37 (quoting FitzSimmons & Gottlieb, A New Environmental Politics, in Reshaping the U.S. Left: Popular Struggles in the 1980s (1988)).
45. Beasley, Cancer Alley, supra note 17, at 42.
47. 482 F. Supp. 673.
48. Id. at 677.
49. Id. at 679.
50. Id. at 679-80.
51. Id. at 680. The law suit was effective in promoting political responses to the litigants’ complaints. City-owned trucks were prohibited from utilizing the contested site. An ordinance was passed barring the construction of solid-waste facilities near public buildings like schools. Future applicants for landfill permits were required to supply more detailed information. R. Bullard, supra note 19, at 54.
70. See e.g., Bailey & Faupel, supra note 11.

71. Beasley, Cancer Alley, supra note 17, at 45.

72. For summaries of the law ostensibly meant for the lay reader, see Lewis, Federal Statutes in FIGHTING TOXICS: A MANUAL FOR PROTECTING YOUR FAMILY, COMMUNITY, AND WORKPLACE 165 (1990) [hereinafter FIGHTING TOXICS]; Lewis, Your Legal Resource, in FIGHTING TOXICS 209; and Lewis, Local Campaigns and the Law, in FIGHTING TOXICS 234.

73. Lewis, Your Legal Resource, in FIGHTING TOXICS, id. at 210-11.


75. Telephone Interview with Ellie Goodwin of the Natural Resources Defense Council (March 1, 1991).

76. See generally Youngstrom, The Neighborhood Inspection, in FIGHTING TOXICS, supra note 72, at 101-46.

77. Id. at 127; Telephone Interview with Greg Schirm of the Delaware Valley Toxics Coalition (Feb. 26, 1991).

78. Youngstrom, supra note 76, at 126-27; Telephone Interview with Henry Clark of the West County Toxics Coalition (March 28, 1991).


86. Id. at B8, col. 3-4.


89. Letter from SouthWest Organizing Project and others to the mainstream environmental organizations, (March 16, 1990) partially reprinted in Garcia, supra note 42, at 18.


91. D. Alston, supra note 24, at 15.

92. Elson, Dumping on the Poor, Time, Aug. 13, 1990, at 46, 47.


94. Letter from SouthWest Organizing Project supra note 89, at 2-3.

95. Beasley, Cancer Alley, supra note 17, at 45.


97. Southwest Organizing Project Community Envtl. Program Bill of Rights (available from SouthWest Organizing Project, 1114 7th Street N.W., Albuquerque, NM. 87102).
