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**Social Mobilization Strategies in Response to
Environmental Justice Conflicts: A Kinder, Gentler *Art of War***

By: Michael Brunetti, B.A.

**A thesis submitted to
The Faculty of Graduate Studies and Research
In partial fulfilment of
The requirements for the degree of**

Master of Arts

**Department of Law
Carleton University
Ottawa, Ontario
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Environmental Justice Conflicts:
*A Kinder, Gentler Art of War***

Submitted by

Michael Brunetti, B. A. Hons.

**in partial fulfilment of the requirements for
the degree of Master of Arts**

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**Carleton University
September 2001**

Table of Contents

Abstract	1
Introduction	2
Chapter 1: Environmental Justice, Injustice and Community Mobilization	7
<u>I. Defining Environmental Justice and Injustice</u>	8
I A. The Environmental Justice Movement: What is Environmental Justice?	9
<u>II. Social Dynamics: Disempowered and Empowered Groups</u>	16
II A. Empowered Groups	16
II B. Disempowered Groups	17
II C. Conflicting Interests, and the Struggle for Power and Influence	19
<u>III. Methods of Empowerment: Social Mobilization Strategies (SMS) A Grassroots Approach to Mobilization and Community Organization</u>	23
<u>IV. The Role of SMS in Environmental Justice</u>	30
<u>V. Synthesis</u>	33
Chapter 2: The Abstract Principles of Social Mobilization Strategies	36
<u>I. The Abstract Principles of SMS: Sun Tzu's Five Fundamental Factors</u>	37
I A. Moral Influence	38
I B. Weather and Terrain	40
I C. Doctrine	42
I D. Command	43
I E. Synthesis	44
<u>II. Contemporary Adaptations of Sun Tzu's Art of War</u>	44
II A. Reinterpreting Sun Tzu in a Corporate Environment	45

II B. Moral Influence and its Effect in the Corporate World	45
II C. The Factors of Weather and Terrain: How They Can Be Employed In Business Management and Planning	46
II D. The Use of Doctrine in Corporate Strategizing and Organization	47
II E. Utilizing the Factors of Command for Corporate Leaders	49
II F. Synthesis	49
<u>III. Sun Tzu's Abstract Principles in an Environmental Justice Frame</u>	51
III A. Conceptualizing Sun Tzu in an Environmental Justice Frame	52
III B. Developing Group Autonomy and Identity Using Sun Tzu's Five Fundamental Factors	53
<u>IV. Reinterpreting Sun Tzu in the Context of Environmental Justice</u>	55
IV A. Moral Influence: Motivation	56
IV B. Weather and Terrain: Knowledge of Situation and Circumstance	59
IV C. Doctrine: Organizing and Planning	63
IV D. Command: Leadership and General Qualities of the Group	65
<u>V. Synthesis</u>	69
 Chapter 3: Legal Mobilization: The Use of Litigation as a Practical Method of Social Mobilization	 72
<u>I. What is a Strategy of Litigation?</u>	72
I A. Different Types of Litigative Strategies	75
I B. Aggressive Strategies: Using the Law in a Political Strategy	75
I C. Defensive Strategy: Employing Existing Laws to Protect the Interests Of Disempowered Groups	77
I D. The Affects of Political and Legal Strategies	78

<u>II. Effective Use of Sun Tzu's Reinterpreted Factors in Legal Mobilization</u>	81
II A. The Reinterpreted Factors and Their Potential Effects on Legal Mobilization	82
II B. Developing Autonomy in Litigation Strategies By Employing The Reinterpreted Factors of Sun Tzu	85
II C. Developing Identity Through Legal Mobilization: How Litigation Can Reflect the Leadership and General Qualities of the Group	87
<u>III. Synthesis</u>	88
 Chapter 4: Creating Networks and Alliances: A Grassroots Approach To Practical Social Mobilization	91
<u>I. The Role of Networks and Alliances</u>	92
I A. Understanding the Conflict: How Networks and Alliances Can Assist Groups in Developing the Reinterpreted Factors of Sun Tzu	98
I B. Utilizing Networks and Alliances to Develop Autonomy	99
I C. The Role Networks and Alliances Can Play in Developing Group Identity	103
I D. Synthesis	106
<u>II. Environmental Poverty Law: Creating Alliances With Legal Actors and an Alternative Form of Legal Mobilization</u>	107
II A. How EPL Can Assist in Developing the Reinterpreted Factors of Sun Tzu	109
II B. Developing Autonomy Through EPL	110
II C. Developing the Group's Identity Through EPL	114
II D. Synthesis	114
<u>III. Synthesis</u>	115

Conclusion	117
I. Social Mobilization Strategies: An Interpretation of the Walkerton, Ontario Incident	122
II. Synthesis	129
Bibliography	

Abstract

The exclusion of marginalized groups from the formal administrative processes that determine environmental decisions and policies is an issue that the environmental justice movement has given much attention to. Advocates of the movement argue that excluding marginalized groups leads to the creation of environmental policies and decisions that do not reflect the interests of those who will be subjected to them. This leaves many marginalized communities bearing the brunt of environmental hazards.

In this thesis I will examine what I have termed *social mobilization strategies*, to demonstrate the potential they have to provide a diverse manner of defining what marginalized groups need to do to mobilize themselves effectively. I will do so by examining the five fundamental factors of waging war that are taken from the work of the ancient Chinese general/philosopher Sun Tzu, *The Art of War*. By reinterpreting these factors I will demonstrate how they can be used to assist groups plan and organize for collective action in response to environmental justice conflicts. I will also examine how existing methods of mobilization, can contribute to a new and different understanding of the necessary steps in planning and preparing for collective action.

Introduction

This thesis will focus on methods by which marginalized groups can organize themselves for effective mobilization in response to environmental justice conflicts. The exclusion of marginalized communities and groups from the formal processes that govern local environmental affairs, is an issue that the environmental justice movement is seeking to resolve. Exclusion may lead to marginalized groups and communities being subjected to policy, practices and decisions that do not reflect the interests of their communities. Environmental justice advocates have expressed that one of their main objectives is to increase the participation of marginalized groups within formal processes, and address the reasons why the exclusion of these groups continues to exist. By including marginalized groups, the environmental justice movement and advocates argue that policy and decisions made regarding local environmental affairs, will be reflective of all those involved and those subject to new decisions and policy. Overcoming the exclusion that marginalized groups experience is the central problem that will be discussed in the thesis.

The main reason that marginalized groups have been excluded from these formal processes is because they lack several key resources and the experience that is a crucial part of participating in these processes. These resources include information, financial, technical, organizational and expert resources. Without resources and experience it may be difficult for groups and communities to participate in voicing their interests and concerns when policy and decisions are being made, as well as protect their local environments.

Marginalized groups may need to find methods in which they can build and develop their resources as well as their overall capability to act on their own behalf, so that the problem of exclusion may be redressed. The main purpose of this thesis is to look at what I have termed *Social Mobilization Strategies*, and how they can enhance the ability of marginalized groups to

build their resources and participate in the processes that determine local environmental policy and decision-making. I will argue that *Social Mobilization Strategies* can be utilized by marginalized groups to contribute to their overall capability to access resources, understand their conflict, and organize themselves to better protect and voice their own interests.

Chapter one of this thesis will give an in depth illustration of the key issues, as well as define what environmental justice and injustice are. The chapter will illustrate why the exclusion of marginalized groups exists. This will be accomplished by looking at the dynamics of what I have termed *empowered* and *disempowered* groups. By illustrating the ability of both groups to influence the formal processes that govern local environmental affairs, it will clarify why inequalities and the exclusion of marginalized groups continues. Chapter one will also suggest a solution to the problem of exclusion, and how marginalized groups may go about addressing and resolving this problem. The solution is what I have termed *Social Mobilization Strategies*.

Chapter two will focus on defining and interpreting the abstract principles of mobilization. These are the fundamental principles that have the potential to contribute to a new understanding of what groups and/or communities must focus on to facilitate effective collective action. The philosophy from which these principles are taken, is Sun Tzu's manual on waging war entitled, *The Art of War*.¹ Examining this philosophy will illustrate how its five fundamental factors of military mobilization can be employed in several different arenas or circumstances. By focusing on these five factors, groups will be in a better position to understand their conflict, their position as a group, and what can be done to address the problem. By applying these five factors groups can appraise the general factors that will assist them to plan and organize themselves for collective

¹ Sun Tzu, *The Art of War*. (London: Oxford University Press, 1963).

action in response to environmental justice struggles. To demonstrate the utility of this philosophy, the chapter will also look at how Sun Tzu's five fundamental factors have been reinterpreted and used in a theatre other than war. To demonstrate this, I will use the work of Mark McNeilly, *Sun Tzu, the Art of Business*, which shows how these principles have been interpreted and employed within the realm of corporate and business management.

The chapter will then focus on how the factors can be reinterpreted to reflect situations of environmental justice. In this section of the chapter, I will give my own unique interpretation of Sun Tzu's factors and how they can be applied by marginalized groups and communities which find themselves in environmental justice struggles. I will argue that my reinterpretation can assist groups in focusing on the factors that can be utilized to facilitate effective collective action. My reinterpretation will also assist the group to conceptualize the conflict and what can be done to resolve it. This can lead to developing plans of action that groups are capable of accomplishing and participating in, because they have a well versed understanding of the conflict and their position in it. I will also argue that my reinterpreted factors can assist groups struggling for environmental justice to develop their autonomy and identity as a group. This will be demonstrated by my reinterpretation of Sun Tzu's five fundamental factors of waging war.

Chapter three will focus on the practical method of mobilization called legal mobilization. It will define and describe what legal mobilization is, as well as show how it may be used by marginalized groups, to protect their interests and concerns. This will be demonstrated by defining and illustrating the different types of legal strategies that can be employed, and how the law can be employed as either a political/proactive tool, or a preventative/defensive tool. The

chapter will then demonstrate how my reinterpretation of Sun Tzu's five fundamental factors can contribute to legal mobilization. In particular, I will demonstrate how an understanding of the reinterpreted factors can assist groups to overcome the potential problem of relying heavily on representatives (lawyers) in the court of law. It will do so by illustrating how focusing on each individual factor can, contribute to legal mobilization, and the creation of legal strategies in response to environmental justice conflicts. By demonstrating how my reinterpreted factors can be applied to contribute to legal mobilization, it will show the utility of the factors and the potential they have to assist groups in developing their own legal claims and strategies. The chapter will also demonstrate how the reinterpreted factors may allow a group or community to participate in this particular formal process, and build their identity and autonomy.

Chapter four will focus on two practical methods of mobilization that can assist marginalized groups to develop their resources and identity. The two methods are creating networks and alliances, and Environmental Poverty Law (EPL). The chapter will look at each method separately, and demonstrate how they can be utilized by groups at a greater disadvantage to develop their resources and capabilities to act autonomously. Defining what networks, alliances, and EPL are, and illustrating how they may assist marginalized groups in accessing more resources, will demonstrate how they may enable groups to understand their conflict and its elements, and what course of action can be taken to resolve it. This can lead to the creation of strategies of action that will allow them to participate and protect their interests and concerns. In this chapter I will argue that these practical methods have the capability of imparting resources that are necessary for groups to mobilize themselves. These resources may assist groups in developing an understanding of my reinterpreted factors of Sun Tzu, which are essentially the fundamental factors that are crucial for collective action.

The concluding chapter will look at how groups have utilized these methods effectively in a recent example of social mobilization in response to environmental justice struggles. The chapter will do so by studying and examining the incident, which occurred in Walkerton, Ontario. The Walkerton incident will show the utility of Social Mobilization Strategies in action, based on my interpretation of the events and proceedings of the Walkerton Inquiry. By demonstrating how these principles have been applied by community groups, it will support the effectiveness of both the abstract principles (reinterpreted factors of Sun Tzu) and practical methods of mobilization.

Chapter 1: Environmental Justice, Injustice, and Community Mobilization

In North America and around the globe, there are obstacles that prevent local communities and groups from participating in the decisions affecting local environmental affairs. The issues and problems being faced by groups include social justice issues, such as stratification of groups based on race, gender, economic status, and the imbalance of power and influence amongst the different groups within society. These social justice issues lead to the exclusion of groups in the decision and policy making processes. In turn, many such groups and communities find themselves subject to environmental policies, decisions and practices that have the potential to damage the state of their urban and natural environments.

These issues and problems have received the attention and concern of several advocates and supporters of the *environmental justice movement*. The main objectives behind this grassroots-style movement are: to create awareness of these issues that create problems for certain groups and communities, understanding the issues that continue to contribute to these problems, and find a means by which groups experiencing these problems can take action and resolve them.² In doing so, supporters and advocates of the environmental justice movement seek to empower groups struggling against these issues, so they may be in a better position to participate in arenas of local governance and decision-making processes that may have a direct effect on their communities and their well being.

² Stella Capek, "The "Environmental Justice" Frame: A Conceptual Discussion and an Application" (1993) 40:1 *Social Problems* 5 at 5-8.

Marc Pilisuk *et al.*, "Coming Together for Action: The Challenge of Contemporary Grassroots Community Organization" (1996) 52 *Journal of Social Issues* 1, at 15-18.

The main purpose of this chapter is defining the key terms and illustrating some of the issues and problems faced by certain marginalized groups within our society. The first section of the chapter will illustrate and define what constitutes environmental justice and injustice. These terms are important to note because they will assist in describing the issues and concerns at the core of environmental justice movement. The chapter will then focus on why environmental justice issues and injustices exist. By studying the social dynamics of the groups and actors usually involved in environmental justice struggles, we will begin to see why issues and injustice arise, and continue to exist. The groups will be defined as *empowered* and *disempowered groups*.

The chapter will then briefly describe and define a potential solution for disempowered groups that find themselves in environmental justice struggles. The potential solution has been termed *social mobilization strategies* (SMS). The chapter will briefly discuss what SMS are, and describe the two central elements within them, the *abstract principles of mobilization* and the *practical methods of mobilization*. This will assist in giving a brief description of what the essence of SMS are, and what role they can play in terms of assisting groups in environmental justice struggles.

I. Defining Environmental Justice and Injustice

In order to understand the core issues and dilemmas that will be discussed in the thesis, it is important to understand what environmental justice and injustice are. A better understanding of the terms can elucidate the inherent problems, issues, and possible solutions with regards to the two. Clarifying environmental justice will facilitate a better understanding of the ideology, values, and purpose behind this movement. It will also describe what many groups and communities

across North America are struggling for and against. Defining what constitutes environmental injustice will assist in illustrating the types of situations, difficulties and issues that groups in North America are experiencing. These same difficulties and issues that are being faced by these groups, reflect the issues that the environmental justice movement is seeking to address and resolve. To better conceptualize what constitutes an injustice, defining the goals, values, and issues that are central to the environmental justice movement will assist in developing this conceptualization.

IA) The Environmental Justice Movement: What is Environmental Justice?

Before understanding what environmental justice is, and what the objectives of the environmental justice movement are, it is important to understand what constitutes an environmental injustice. This will assist in defining and illustrating environmental justice. Environmental injustice, “refers to the fact that poor and racial communities are disproportionately harmed by pollution and environmental risks that corporations and governments, whether intentionally or not, site in their communities.”³ This can be attributed to the to the well documented fact that local governments and corporations have excluded minority/low income communities from the process of environmental planning.⁴ These issues of social justice and marginalization are the same issues that the environmental justice movement

³ Ruth Rosen, “Who Gets Polluted? The Movement For Environmental Justice” (1994) *Spring Dissent* 223 at 224.

⁴ Rosen, supra note 3 at 224.

seeks to address. Injustice can therefore be equated with excluding these communities from the processes that decide the local administration of environmental affairs and practices.⁵

Having examined what constitutes an injustice, defining what environmental justice is requires a diverse and unique conceptualization of particular situations. The environmental justice movement can be understood as bottom up (local and grassroots groups discovering a pattern to their grievances) and top down (national organizations conveying the terms to local groups) conceptual construction.⁶ In this sense, the experiences of local and grassroots groups play a role in developing an understanding of their problems and concerns regarding their community, its environment, and the effect the two have on residents' quality of life, health and safety.⁷ It is the personal experiences faced by communities and groups that are often studied and analyzed to illustrate the issues that are at the core of environmental justice struggles and conflicts.

⁵ KRWG (2000) "Chapparal, New Mexico, Not In My Backyard: Environmental Injustice". Retrieved November 18th, 2000 from the World Wide Web: http://krwg-tv.org/lanfill_news_22/environmentalinjustice.htm In Chaparral, New Mexico, a landfill application is taking place. Rhino Solid Waste Inc. has applied for a permit to operate a municipal landfill site that will accept municipal waste, construction waste, waste water treatment plant sludge, and other special wastes from within and outside the state of New Mexico. What makes this a good example of environmental injustice are the specifics of that particular community. First and foremost, the residents of Chaparral are predominately low-income, Latino families. Secondly, there are already two problematic facilities in their community. The fact that there are already two problematic facilities in a low-income Latino community, and that the state of New Mexico is in talks to place a third facility in that community, against the will of the people, depicts the injustice faced by many groups like the community of Chaparral. There is no regard for the community's interests, the residents of the community are unable to participate and voice their concerns, and there is an over burden of environmental risks within the vicinity of one small community. Should the application be accepted, there would be three facilities in one community, that already has issues and concerns with the two facilities already located there.

⁶ Capek, *supra* note 2 at 5.

⁷ Richard Hofrichter, Toxic Struggles: Theory and Practice of Environmental Justice. (BC: New Society Publishers, 1993) at 6.

It also includes how national groups such as environmental justice advocate agencies, and non-government organizations play a role in conveying an understanding of the situation to local groups. National groups have the ability to assist local and grassroots groups and communities in developing and defining their grievances. As an example, an environmental justice advocacy group may assist in making a community group aware of a planned waste disposal site project and the potential consequences it may have on a community. In this sense, it is a top down approach that will assist in defining and elucidating the terms of the grievances being experienced by a particular community or group.

The conceptual frame of the environmental justice movement is founded in a grassroots tradition. It attempts to unite local and grassroots groups in order to share their resources, for the purpose of understanding and resolving political, social justice and environmental issues.⁸ This is accomplished by developing organizational frameworks that can assist in making decisions, taking action, and creating binding relationships with other groups that can share support resources such as information, organizational, financial, legal resources and expertise.

What makes the environmental justice movement unique to other social movements, are the principles and ideology behind it. Inherent in most of the situations experienced by local and community groups, are the experiences they share and face. These experiences are the core of what the environmental justice movement is seeking to address and are different from the mainstream environmental movement's focus on the protection of non-human nature.⁹ Instead,

⁸ Pilisuk *et al.*, supra note 2 at 17.

⁹ Manuel Castells, The Power of Identity, (Malden: Blackwell Publishing Inc., 1997) at 112-113.

the environmental justice movement seeks to address and create awareness of the social justice issues that may lead to environmental issues.

The social justice issues that contribute to the marginalization of certain groups and communities stem from having less access to political, financial, expert, organizational and legal resources, in turn making it difficult for marginalized groups to actively participate in the processes that determine local environmental policy and decisions.¹⁰ These issues include: the stratification of certain actors and groups based on race, class, and gender; the uneven distribution of power between groups; lack of resources; and the unequal access to formal policy and decision-making processes.¹¹

The exclusion of local and community groups in policy and decision-making forums regarding local environmental affairs, may result in decisions and policy that reflect the interests of the groups that are able to participate such as government agencies and corporate groups. When marginalized groups are unable to participate and voice their interests, the likelihood of their communities' being subject to decisions and policy that do not reflect their interests and concerns increases.

The environmental justice movement has tried to address these problems by linking environmental problems to the rhetoric and dialogue of previous social justice movements, such as

¹⁰ Laura Pulido, "Restructuring and the contraction and expansion of environmental rights in the United States" (1994) 26 *Environment and Planning* 915 at 922.

¹¹ Capek, *supra* note 2 at 5

the civil rights movement and the feminist movement.¹² The movement has done so by creating a direct connection between the environment and other issues such as housing, employment, quality of urban life, health and safety, and policies/decisions regarding the environment, and the effects the two have on lifestyle and quality of life in general.¹³ If the state of the environment can contribute to the improvement or deterioration of quality of life and health it should become an issue of protecting the natural environment. It becomes an issue of protecting individuals and communities from environmental harms and risks. If social justice issues contribute to the probability that marginalized communities will be hosts to environmental risks, then the situation must be conceptualized as one that involves both social justice and environmental elements. By doing so, local and grassroots that are being affected by decisions and policy regarding their local environments, can see their problems as more than just an issue regarding the state of the environment.

The American Environmental Protection Agency (EPA) has stated that environmental justice ensures that all people regardless of race, national origin or income, are protected from disproportionate impacts of environmental hazards.¹⁴ This aspect of protecting individuals and groups regardless of their race, and economic status can be attributed to the social justice issues

¹² Capek, supra note 2 at 8.

¹³ Hofrichter, supra note 7 at 6.

¹⁴ Environmental Protection Agency (2000) Retrieved October 16th, 2000 from the World Wide Web: <http://es.epa.gov/oeca/main/ej/faq.html/> at 1.

that lead to the marginalization of racial minorities and low income communities.¹⁵

Environmental justice agencies and advocates state that protecting suburban and urban communities, the natural environment, work safety and health issues, as well as upholding the environmental rights of individuals are central to the movement and the concept of environmental justice.¹⁶

Another aspect of the environmental justice movement that links social justice issues with environmental concerns, is the notion of environmental rights. Environmental rights discourse includes provisions that call for people having the right to freedom from pollution, environmental degradation and activities that adversely affect the environment, threaten their quality of life, health, livelihood, and well-being.¹⁷ The ideology behind environmental rights suggests: "All persons have the right to information concerning the environment. This includes information, howsoever compiled, on actions and courses of conduct that may affect the environment and information necessary to enable effective public participation in environmental decision-making."¹⁸ This dimension of environmental rights places a strong emphasis on allowing groups to participate in democratic processes, that will allow them to develop the policies and decisions

¹⁵ Capek, supra note 2 at 5.

¹⁶ Environmental Protection Agency, supra note 14 at 1

¹⁷ Pulido, supra note 10 at 919.

Yale Education (2000) "The 1994 Draft Declaration of Principles on Human Rights and The Environment". Retrieved October 26th, 2000 from the World Wide Web:
[Http://diana.law.yale.edu/diana/db/33198-11.html](http://diana.law.yale.edu/diana/db/33198-11.html) at 3.

¹⁸ Yale Education, supra note 17 at 4.

that they will be subject to. Therefore, environmental rights can be conceptualized to link civil rights concepts, such as the right to a decent quality of life, with environmental issues. The main premise, is that the impact of environmental hazards can infringe on certain civil rights and liberties. If the social justice issues that have been discussed in this section are included in the equation, then we can begin to see the scope of environmental rights and the environmental justice movement.

Social justice issues may have the potential to bring about environmental problems. Exclusion of local residents may lead to environmental risks being placed in a community against their will. In turn, environmental hazards may also have the potential to diminish the quality of life within a community environment, and increase health and safety problems. The environmental problems brought about by the social justice issues, can infringe on peoples' civil rights and liberties that have already been defined and included in laws, and human rights charters. Protecting the civil rights and liberties of local communities and groups, and better environmental protection all could be better achieved if all groups had a means by which they could voice their interests, and have them included when creating the decisions and policies regarding their environment.

Environmental justice advocates argue that individuals, groups and communities should play an active role in environmental planning. This includes where environmental risks will be distributed, as well as what policies and practices are best for local community environment. The inclusion of affected parties will facilitate the development of policy and the distribution of environmental risks that are reflective of those who would be affected. This inclusion of marginalized groups may resolve the social justice issues that contribute to a disproportionate distribution of environmental risks and hazards within marginalized communities. The

assumptions behind the environmental justice movement and environmental rights are intended to create new boundaries and definitions for what constitutes justice and injustice with regards to the environment and our relationship to it.

II. Social Dynamics: Disempowered and Empowered Groups

In modern North American society, it is evident that neither the principles behind environmental justice and environmental rights are easily upheld. In North America, there is a struggle that has been consistent for the environmental justice movement. It is a struggle between conflicting interests and actors. The interests of one group are being included, while the interests of the other are not. By understanding the differences between the groups involved, it will become clearer as to why these procedural problems continue to occur, and how they can be perceived as issues of environmental justice. An examination of the social dynamics of the groups will illustrate why some groups are able to thrive and participate in the creation of policy and decisions regarding the environment. This examination will also demonstrate the obstacles faced by other groups that make participation and equity all the more difficult to achieve. Finally, studying the dynamics of the groups, will illustrate and support the solution that will be suggested later in this chapter.

IIA) Empowered Groups

The first of the two groups are those that actively participate and determine the outcome of environmental policies and decisions. These groups will be termed as *empowered groups*. They are empowered because they have been able to attain political influence, by affiliation to political parties or as a result of their economic power. They also have access to a vast network of resources with other groups like themselves such as industry associations. These networks

enable these groups to communicate amongst themselves, lobby government agencies and representatives, therefore affecting the formal processes that determine environmental policy. Empowered groups, such as corporations also have employed many public relations techniques and types of information technology to raise money, to build coalitions, manipulate public opinion, lobby politicians and attack environmentalists,¹⁹ in order to further their interests. and have them realized. The techniques used by these groups, such as media campaigns, lobbying politicians and government agencies, are facilitated by the amount of resources they can access and utilize. These techniques include the use of medical and scientific experts, media and awareness campaigns, and lobbying support from other corporate and/or industrial groups. These groups are empowered in the sense that they can use these resources and techniques to create plans of action and meet their goals and objectives. When groups are capable of representing their interests and concerns autonomously, and have access to actors and agencies that create and develop policy they have a greater probability of having their objectives met.

These aspects of empowered group dynamics place them in an advantageous position, because they give these groups the ability to communicate with others like themselves, influence the public, and access politicians and formal processes. Their success can be attributed to their ability to employ resources effectively, and the amount of resources they have to employ.

IIB) Disempowered Groups

The second type of group is unable to participate in the procedures that determine policy and distribution of environmental risks because they lack political influence, resources, and organization. They are *disempowered groups* that find themselves in a position where they are

¹⁹ Sharon Beder, "Manipulating Public Knowledge" (1998) 7:1 *Metascience* 132 at 134.

unable to voice their concerns and interests regarding environmental and community affairs. due to the asymmetries of power that have evolved between the two groups. Disempowered groups may not have the capability of organizing themselves as a group, developing a platform and position on certain issues, and taking action autonomously. This can be attributed to their lack of educational and informative resources to develop an understanding of their situation and the issues. Another factor, is the inability to access legal, expert, organizational and financial resources that can assist them with their struggles.

The lack of power on the part of marginalized groups makes them more susceptible to being subjected to policy, practices and decisions that can harm them. In North America, the groups that are unable to participate are usually the poor, low-income communities, and minority groups. Environmental justice activists argue that, "poor people bear the brunt of environmental dangers - from pesticides to air pollution, toxins to occupational hazards - and their negative effects on human health and safety. At the same time, poor people have the fewest resources to cope with these dangers, legally, medically or politically."²⁰

There are several studies that all demonstrate the same results.²¹ A resounding amount of environmental hazards are disproportionately distributed to low-income, minority communities

²⁰ Luke W. Cole, "Empowerment as the Key to Environmental Protection: The Need for Environmental Poverty Law" (1992) 19 *Ecology Law Quarterly* 619 at 620.

²¹ To give an example of a study that demonstrates what has been referred to above, the California Department of Health Services reported in its Draft Status Report on Hazardous Waste Management In California (1990) that minority and low-income communities bear the brunt of environmental risks in California. For example; the city of Buttonwillow is 52% Latino and 11% African American; Kettleman City is 95% Latino; and the city of Westmoreland is 72% Latino. This is one particular report, and cannot be reflective of every state, region and city in North America. However, the findings found in this report illustrate a common trend that other reports have demonstrated as well. When groups are excluded from voicing their interests in local forums, they may subject to hazards that can adversely affect their communities.

because they are excluded from the local administrative forums that decide on environmental affairs. Apart from the social dynamics and differences between the groups, there are other issues and problems that increase the tension within environmental justice struggles.

II C) Conflicting Interests, and the Struggle for Influence and Power

Environmental justice activists have argued that many interrelated factors contribute to today's situation including industry's tendency to seek inexpensive land in low income neighborhoods as well as poor peoples' lack of political and economic power in resisting intrusions.²² Disempowered groups become the targets of industries seeking to maximize profits, and reduce spending costs²³ They are unable to withstand the influence that these empowered groups wield.

They are easy targets, because unlike other communities that have some ability to organize it is difficult to conduct campaigns to challenge policy and decisions regarding the environment. They lack political influence, resources and the organization, which makes it extremely difficult for them to withstand the imposition of policy, practices and decisions regarding their environment.²⁴ Activists argue that management groups, industry and corporate interest groups

²² Cole, supra note 20 at 628.

²³ Daniel Faber & James O'Conner, "Capitalism and the Crisis of Environmentalism" in Richard Hofrichter, ed., Toxic Struggles: Theory and Practice of Environmental Justice (BC: New Society Publishers, 1993) at 15.

²⁴ R.L. Fisher, "On the Road From Environmental Racism to Environmental Justice" (1994) 5:2 *Villanova Environmental Law Journal* 1 at 3.

are concerned with maximizing profits, and look to disempowered communities because the land value is often low, the cost is cheap, and there is little resistance from the residents regarding the plans they have.²⁵

Some companies and states are beginning to confront environmental justice issues and are developing or have established programs that reach out to the residents living near industrial plants or that involve them in the talks leading up to the siting of a new facility.²⁶ In these programs, community groups are asked to participate in the discussions and debates prior to the creation of policy and/or decisions regarding the local environment.²⁷ Although the initiatives taken by some industrial groups to include residents is a step in the right direction, the fact that they (industry and the state) have chosen to include residential groups, illustrates the imbalance of influence and power. If industrial groups, state agencies and states decided not to create and participate in these programs, they would not exist. The fact that empowered groups decide when and why they want to have disempowered groups participate in the formal processes, clearly illustrates how influential these groups are in determining environmental policy and decisions. Empowered groups can decide what groups will be included, how they will be included, and to what extent the claims made by other groups will be considered when deciding on policy issues.

Environmental justice advocates and literature which discuss the issues and dynamics of empowered and disempowered groups, continually point to the same imbalance of influence and

²⁵ Fisher, *supra* note 24 at 3-4.

²⁶ Catherine Cooney, "Still Searching For Environmental Justice" (1999) 33:9 *Environmental Science and Technology* 200 at 201.

power as a cause of environmental injustice. Empowered groups seem to control the processes that determine policy and decisions regarding the environment. It is for this same reason, that there is a constant tension engulfing environmental justice. Many disempowered groups are able to see this happening, but are lost in procedural gaps and deficits that keep them on the outside, constantly looking in. Unless they are asked by empowered groups to participate, disempowered groups are often excluded. Even when they are asked to participate, their concerns and interests are subject to the will and objectives of empowered groups.

Low-income and minority groups are often excluded from participating in the forums which decide environmental policy, practices and decisions. This leads to these disempowered groups being subjected to many environmental hazards and risks. The reasons why they bear the brunt of these burdens are contestable, depending on the arguments made by advocates and experts of both groups.²⁸ However, research and information has shown that a resounding number of poor, low-income and minority communities have the majority of environmental risks in their community. This can be attributed to the fact that they are often excluded from the local administrative forums which decide on environmental matters.

²⁷ Cooney, supra note 26 at 201.

²⁸ Martin W. Lewis. (1999) "Environmental Activism". Retrieved October 16th, 2000 from the World Wide Web: http://nap.edu/issues/15.31/br_lewis.htm at 3. Christopher H. Foreman Jr., a senior fellow at the Brookings Institution, states in *The Promise and Peril of Environmental Justice*, that there are other reasons and causes that low-income and minority families are situated in these areas. "The infamous "cancer alley" in southern Louisiana, where poor, mostly African American residents are said to be assaulted by mutagenic effluent of dozens of petrochemical plants is, a figment of the environmental imagination." Foreman states that, "most kinds of cancer are actually less prevalent in this area than would be expected. Investigations showing distinct cancer and other disease cluster in poor heavily polluted neighborhoods have not adequately weighed behavioral factors (such as smoking) and have not paid enough attention to how the data are geographically aggregated." Another argument suggested that low-income/minority groups migrate to these already polluted areas, for the same reasons corporate groups do, "low land price and proximity to transportation routes."

In North America there is an issue regarding the exclusion of disadvantaged groups, and who decides how policy and practices regarding the environment will be administered. Both groups have specific interests and concerns regarding policy and decision-making, yet one group has the greater say in the formal processes. This can be attributed to the nature of North American society. In capitalist societies a great emphasis is placed on economic growth and prosperity. Industrial and corporate groups seek a deregulation and reprivatization of the economy and business practices, with the hopes of facilitating economic growth, stability and ensuring corporate profits, in turn boosting the national economy and prosperity.²⁹ This is one of the central reasons industrial and corporate groups wield so much power in society and politics, and why they are usually the ones included in policy and decision making processes. What concerns corporate and industrial groups, may concern the state, its agencies and society in general. This shared common interest can be attributed to the importance that a good business climate can have on strengthening the economy.

Disempowered groups must find ways in which they can balance out the inequities between the groups, and address the environmental justice issues that they face. What is needed are effective means by which groups can understand the issues inherent in their situation, attain political influence and autonomy, and organize themselves in a manner that will allow them to focus on their own strengths and attributes, in order to better challenge the environmental injustices that plague them.

²⁹ Faber *et al.*, supra note 23 at 16.

III. Methods of Empowerment: Social Mobilization Strategies (SMS) - A Grassroots

Approach to Mobilization and Community Organization

When groups have little in terms of resources, it is difficult for them to develop the autonomy that is necessary to voice concerns, organize themselves and take action. If disempowered groups are incapable of acting on their own behalf to address their special needs and concerns, then it may be difficult to create laws, practices, policies and decisions regarding local environmental affairs, that will include the interests of all affected parties. If the formal processes and actors tend to favor empowered groups, then disempowered groups either have to appeal to different processes and actors, or develop their own influence, autonomy and capability to participate. Disempowered groups must attempt to find methods by which they can build and attain resources, organize themselves, and develop the autonomy to take action and voice their own interest.

In many cases, the best approach for disempowered groups to take is a grassroots approach to organizing and planning for action because of its emphasis on a bottom-up method of organization and planning. This approach takes into account the special needs of the marginalized and disadvantaged, and assists in developing the autonomy of these groups to take action for themselves.³⁰ A grassroots approach will focus on social action,³¹ locality development,³² and

³⁰ Pilisuk *et al.*, supra note 2 at 15-20.

³¹ Pilisuk *et al.*, supra note 2 at 16. Social action is action that is grassroots based, and is oriented toward conflictual rather than consensual strategies. It is focused on direct action that is aimed at organizing disadvantaged or aggrieved people to take action of their own behalf. Direct action refers to plans of action such as protesting and letter writing campaigns, the use of court room litigation, lobbying politicians and creating dialogues with opponents. These plans of action, may allow groups to participate in voicing their interests and concerns to different parties and may directly affect the issues that contribute to their problems. This type of action can be facilitated by focusing on local development.

social planning.³³ All three are important to building plans of action in which groups can act autonomously to voice and protect their rights, values, interests and concerns.

Locality development, the ability to take action, and social planning can be accomplished through resource mobilization. Resource mobilization entails looking outward for resources and tools that can be utilized for developing tactics of collective action.³⁴ Resources can be attained by creating alliances with networks that share resources to develop the capability of disempowered groups to act on their own behalf. Non-government organizations that specifically deal with environmental and social justice issues, such as Greenpeace and the Sierra Club, are examples of networks that share resources with disempowered groups.

³² Pilisuk *et al.*, *supra* note 2 at 17. Locality development is a process in which a web of continuing relationships is made, so that people may come together and share their supportive resources, and experience a sense of belonging. This is accomplished by developing organizational frameworks that can assist in making decisions and taking action, creating binding relationships with other groups that can share support resources, and developing leadership and learning skills so groups can take action on a particular issue. By focusing on local development in terms of building on resources, learning and the education of the community, and creating relationships with other groups that share similar values and goals, disempowered groups are developing the necessary tools, resources and autonomy crucial for effective community organization and mobilization.

³³ Pilisuk *et al.*, *supra* note 2 at 16-17. Social planning is the thought put into developing a strategy or plan of action that will allow groups to use what they have learned, and the resources they've developed, to influence the course of action they will take. Social planning will assist the groups in better using their resources and intelligence to address the problems they are experiencing, and develop solutions to address these problems. Essentially, it means planning for action based on knowledge and understanding.

³⁴ Mayer N. Zald, "Looking Backward to Look Forward: Reflections on the Past and Future of Resource Mobilization Research Program" in *Frontiers in Social Movement Theory*, ed. Aldon Morris & Carol McClurg Mueller (London: Yale University Press, 1992) at 333.

David A. Snow & Robert D. Benford, "Master Frames and Cycles of Protest" in *Frontiers in Social Movement Theory*, ed. Aldon Morris & Carol McClurg Mueller (London: Yale University Press, 1992) at 333. Collective action refers to Collective to group action and initiatives to punctuate or single out some existing social condition or aspect of life and define it as unjust, intolerable and deserving of corrective action.

Several social movements such as the feminist movement, have used resource mobilization to develop strategies of collective action that challenged perspectives and practices that the movements felt contributed to the marginalization of women.³⁵ By developing resources the movement was able to develop strategies of collective action that targeted the institutions and parties that were at the forefront of creating policy and decisions regarding women's rights and gender equality.³⁶ Groups struggling for environmental justice can mobilize resources in a similar manner to develop collective action in response to their grievances.

A grassroots approach may be an effective way for disempowered groups to develop a sense of autonomy, and develop plans of action that will facilitate their participation in voicing their own interests and concerns. The central premise of such an approach is finding methods by which groups can build their own autonomy to act in their own interest. This development of autonomy is achieved when groups have the knowledge and the resources necessary to take action, develop strategies of action, develop and substantiate claims, and understand the issues and problems that plague their communities.

It is my contention that what I have termed *social mobilization strategies* (SMS), can be used effectively to develop grassroots strategies for group/community collective action. SMS have two separate elements. The two elements are the abstract principles of mobilization, and the practical methods of mobilization. The abstract principles of mobilization are key fundamental factors that will assist groups in developing an understanding of their situation and what can be

³⁵ Myra Marx Ferree, "The political Context of Rationality: Rational Choice Theory" in *Frontiers in Social Movement Theory*, ed. Aldon Morris & Carol McClurg Mueller (London: Yale University Press, 1992) at 43.

done to resolve it. These abstract principles focus on factors such as: the motivation which cause individuals to unite as a group; organization; education and learning; and development of group characteristics and objectives.³⁷ Essentially, the abstract principles allow groups to focus on, and utilize the fundamental factors that are necessary for effective collective action. Once these principles have been developed, groups may be in better position to act autonomously and develop plans of action, and solutions to address their problems. Developing the abstract principles means understanding the above factors and how they relate to a group's situation.

The second aspect of SMS is the practical methods of mobilization. Some of these practical methods include: networking and creating alliances with other groups that can share resources; the use of legal mobilization strategies; public protest; lobbying to voice issues to politicians and publicly, and awareness campaigns. Certain practical methods of mobilization such as litigation, can allow groups to employ their understanding of the abstract principles to create effective plans of action. A group that has an understanding of its conflict may be able to employ its understanding of the abstract principles to develop a plan of action that will allow them to use their knowledge and resources to act autonomously. Other practical methods of mobilization such as networking and creating alliances, may assist groups in developing the resources and knowledge they need to effectively use the abstract principles. For those groups that do not yet have a complete understanding of the issues and situation they are facing, and do not have the

³⁶ Myra Marx Ferree, *supra* note 35 at 42 – 44. Resource mobilization amongst groups empowered feminist groups by providing them with tools, and shared skills gained through experience to plan protests, lobby political institutions, and create awareness regarding specific issues.

³⁷ Irving Spergel, (1992) "Community Mobilization: QJJD Manual". Retrieved November 3rd, 2000 from the World Wide Web: <http://ncjrs.org/txtfiles/d0015.txt> at 3.

resources required to act autonomously, practical methods such as networking and creating alliances, can assist them in mobilizing resources to accomplish their objectives.³⁸

The abstract principles and practical methods of mobilization are both important factors in SMS. Both the elements of SMS are a means by which groups can develop a grassroots style approach (bottom-up and top-down) to understanding their situation, building autonomy, and organizing themselves to take collective action, while taking their special interests into account. Central to SMS is the emphasis placed in focusing on the abstract principles of mobilization. By developing a deep understanding of key elements of the situation such as issues and information, resources available, potential resolutions, the objectives of the group, and the other parties involved, disempowered groups may be able to increase their capabilities of understanding their conflict and acting autonomously. What makes my interpretation of SMS unique from already existing methods of mobilization, is the philosophy used to develop an understanding of environmental justice conflict.

The philosophy used in this thesis to develop an understanding of the situation is found in the work of Chinese philosopher/general Sun Tzu, *The Art of War*.³⁹ It is this unique philosophy that can provide new insight as to how a group defines its situation, what can be done to resolve it, and how groups can develop sound strategies of grassroots mobilization. It is a philosophy that looks at developing motivation, knowledge, organization, and group characteristics, by allowing groups to study their situation and the elements within it. In many cases disempowered

³⁸ This will be demonstrated in greater detail in chapter 4 of the thesis.

³⁹ Sun Tzu, *supra* note 1.

groups need to mobilize resources to attain an understanding of their situation as well as what can be done to redress their grievances. Therefore, Sun Tzu's philosophy can coincide with the principles and practice of resource mobilization as well.

There has been a long-standing tradition of social activism and collective action theory. One of the most prominent works regarding collective action and community organization, is the approach developed by Saul Alinsky in *Rules for Radicals: A Practical Primer for Realistic Radicals*.⁴⁰ Alinsky's work focuses on inspiring and organizing urban protest, and popular organization to empower the grassroots and obtain more democracy and social justice.⁴¹ Alinsky's basic approach is to provide poor and powerless people with resources that will build their capability to organize, strengthen their voice in decision making forums, and build on the group's ability to take collective action.⁴² The Alinsky model's main goal is addressing the insensitivity of political institutions towards powerless groups who were excluded by beaurocratization, centralization, corruption, and manipulation of information.⁴³ This is accomplished by mobilizing resources and building the group's ability to take collective action. The Alinsky tradition sees community organization as a political tool by which people can identify

⁴⁰ Saul Alinsky, Rules for Radicals: A Practical Primer for Realistic Radicals. (New York: Vintage Books, 1989)

⁴¹ Manual Castells, "The City and the Grassroots" in Cities and People in a Historical Perspective, ed. Edward Arnold (Berkley: The University of California Press, 1983).

⁴² Castells, supra note 41 at 61.

⁴³ Castells, supra note 41 at 61.

issues of concerns and challenge their opponents, with the objective of redressing their grievances.⁴⁴

Central to the Alinsky model and the process of community organization is “the organizer”.⁴⁵ The organizer’s role is to assist the group to develop a plan of organization that will lead to collective action. Without the organizer community organization and collective action is difficult to accomplish. It is the organizer’s skills, experience and training that will facilitate effective community organizing.⁴⁶

The Alinsky model can be applied to collective action in response to environmental justice conflicts, and has proven effective in several social movements.⁴⁷ While this model has proven its potential in situations of social activism, I believe the same results can be achieved by utilizing Sun Tzu’s philosophy. As previously stated the Alinsky model relies heavily on the organizer and his/her abilities to organize a group. I believe that using a reinterpretation of Sun Tzu’s philosophy can allow groups to develop plans of collective action, without relying heavily on an outside organizer. Disempowered groups can employ resources that are attained through resource mobilization, to develop their own strategies of collective action if the reinterpreted factors of Sun Tzu are understood. While certain groups may choose to employ the use of an

⁴⁴ Castells, supra note 41 at 62.

⁴⁵ Castells, supra note 41 at 63. Alinsky describes the role of the organizer throughout the process of community organization. The organizer is an outsider, a professional, devoted to the community but external to its interests. The organizer must be called upon by the community and must leave as soon as organization has been established, and the community has chosen elected representatives. Another aspect is that the organizer is paid by the community through funds raised by the community.

⁴⁶ Castells, supra note 41 at 62.

organizer, it is not a necessary element of community organization in the contexts of SMS. SMS can also provide a different type of insight as to what aspects of its conflict the group needs to focus on to develop strategies of collective action and resource mobilization.

IV. The Role of SMS in Environmental Justice

If we look at the history of the environmental justice movement, we can see that grassroots mobilization was a crucial factor in assisting the movement in gaining support and influence. The objectives of the environmental justice movement are to question and target:

“On the one hand, the bias of location of undesirable materials or activities toward low-income communities and minority inhabited areas; on the other hand, the lack of transparency and participation in decision-making about the use of space. Thus citizens call for extended local democracy, for responsible city planning, and for fairness in sharing the burdens of urban/industrial development, while avoiding exposure to hazardous dumping or utilities.”⁴⁸

While the environmental justice movement seeks to raise questions and address these issues ideologically, there is another element to grassroots mobilization that must be understood. That is the practical element or course of actions taken by disempowered groups to address the issues being questioned.

To better understand the meaning of grassroots mobilization and how it has been used in environmental justice struggles, it is important to analyze the two major events that were catalysts for the environmental justice movement. Love Canal, and Warren County, demonstrate the importance of mobilization in gaining influence and participating in governance. Love Canal

⁴⁷ Castells, *supra* note 41 at 61. Alinsky used this model to organize workers unions, and community organizations in the 1960s.

refers to the first and best publicized of such incidents, as communities across the country increasingly came to realize that they were directly affected by toxic waste.⁴⁹ Warren County, NC, was a key event in shaping the environmental justice movement, in the sense that it prompted residents to realize that racial-ethnic minorities were disproportionately bearing the brunt of environmental burdens.⁵⁰ In this case, the issue was placing contaminated soil in Warren County. In both cases there are similar issues of unwanted environmental hazards being located within the disempowered communities. It is the approach both communities took to address the issues that is important to note.

In both cases, the main issue is social equity and justice, and the right to participation.⁵¹ Both the cases of Warren County and Love Canal demonstrate the effective mobilization of community groups, and how collective action and resource mobilization assisted the groups in terms of participation, understanding their concerns, and voicing their interests. Both groups created support networks that shared information and resources. These networks allowed groups to conceptualize their problems as environmental justice issues. They allowed groups to develop their resources which lead to the organization of community groups, and the creation of plans of action to address the issues they were experiencing. They also assisted in educating the groups, in

⁴⁸ Castells, supra note 9 at 115.

⁴⁹ N. Feudenberg, NOT In Our Backyards. (New York: Monthly Review Press, 1984) at 89.

⁵⁰ C. Lee, "Toxic waste and race in the United States" in B. Bryant and P. Mohai eds., Race and the Incidence of Environmental Hazards, (CO: Westview Press, 1992) at 113.

terms of the issues and specifics of their cases. These support networks would later go on to help other communities that were struggling against the same types of injustice.⁵²

With regards to environmental justice, grassroots mobilization includes sharing information to better educate others that are trying to make sense of their struggles, creating effective plans of mobilization that may include legal mobilization, lobbying politicians, networking, use of public demonstrations, and finding ways that facilitate participation of communities in local governance and/or dialogue. Collective action within the public sphere allowed groups that were experiencing the same struggles to network amongst themselves and create self support networks, as well as finding a foothold by which they could participate. In essence, it is a bottom-up approach to politics and justice. It is the mobilization of local communities in defense of their space, against the intrusion of undesirable uses, that constitutes the fastest-growing form of environmental action, and the one that perhaps most directly links people's immediate concerns to broader issues of environmental deterioration.⁵³ The two cases and activism of the groups resulted in expanding formal environmental justice,⁵⁴ and addressing social differences through procedural justice. This expansion was accomplished by facilitating community participation in decisions and policy-making processes regarding their local

⁵¹ Pulido, supra note 10 at 918.

⁵² Pulido, supra note 10 at 918.

⁵³ Castells, supra note 9 at 115.

⁵⁴ Pulido, supra note 10 at 919.

community environments and the decisions regarding the management of local environmental affairs.

SMS relates to environmental justice grassroots mobilization, because it is a means by which disempowered groups can use the bottom-up approach to facilitate group participation and activism. The abstract principles can assist groups in focusing on the factors that will allow them to develop a necessary understanding of their situation, and enable them to formulate their own claims, positions and mobilization strategies regarding certain issues. The two examples used above demonstrate the potential benefits of attaining knowledge and resources and how they can assist groups in the process of collective action. The practical methods such as networking and creating alliances, are a means by which groups can use a grassroots approach to develop resources that will assist them in focusing on the abstract principles.

The practical methods of mobilization can also be used when groups have established their capability to act autonomously to directly affect the issues and interests of the group. In this sense, when groups have developed their resources, they can focus on the abstract principles of mobilization, and use them to develop a plan of action to address their problems and issues. The contention is that both elements of SMS can facilitate the development of a grassroots approach and strategy, by allowing groups to either develop or utilize their understanding of the abstract principles of SMS.

V. Synthesis

With regards to struggles for environmental justice, SMS can play a central role in assisting disempowered groups in environmental justice struggles. SMS can assist disempowered groups to empower themselves by focusing on education, organization, and strategic planning that

leads to a more effective course of action. This can result in groups developing a grassroots style approach to addressing the environmental injustices they face. Disempowered groups that are trying to protect their communities need to have a platform on which they can voice their interests and clarify their identity, their purpose, and their objectives. This is why the dynamics of SMS need to be well thought out and understood.

In order to do so, people need to be educated on the issues facing them, and understand how they relate to their situation. In many cases the onus will be placed on individuals, groups and communities to gather information, educate, organize and participate in collective action. The end result may be that groups are in a better position to voice their concerns because they have been able to formulate their own position, without relying on the information, expertise and assistance of their opponents which are often skewed to reflect the position of the opponent.

According to Iris Marion Young, “redistributing environmental burdens will not empower communities, but empowered communities will be better able to achieve a redistribution of environmental burdens.”⁵⁵ The statement elucidates a need for systemic change to truly empower groups, yet it also states that groups capable of empowering themselves are more likely able to participate or affect the decisions and policy regarding the environment. In environmental justice struggles, disempowered groups must find alternative methods that would allow them to empower themselves and participate. *Social Mobilization Strategies* are an alternative means by which disempowered groups can actively participate in developing an understanding of their situation, as well using their knowledge to create grassroots strategies of mobilization.

⁵⁵ Iris Marion Young as quoted in Robert Lake, “Volunteers, Nimbys, and Environmental Justice Dilemmas of Democratic Practice” (1996) 28:2 *Antipode* 160 at 170.

Collective action is a process that requires planning, educating and organizing before action takes place. In order to effectively participate in a course of action, groups need to understand the elements of their situation, and what their objectives are as a group. The abstract principles of SMS can assist groups in focusing on the elements they will need to know, to facilitate effective strategies of collective action. The next chapter will illustrate and define the abstract principles of mobilization as found in Sun Tzu's five fundamental factors, and show how focusing on these principles can facilitate the development of group knowledge, understanding and action with regards to environmental justice.

Chapter 2: The Abstract Principles of Social Mobilization Strategies

The main focus of this chapter will be defining and illustrating the underlying principles that groups should focus on to facilitate effective collective action. This chapter will examine what I have termed the *abstract principles of social mobilization strategies*. It will do so by analyzing and interpreting a particular philosophy of strategy and organization created by the Chinese general/philosopher Sun Tzu in *The Art of War*.⁵⁶ The chapter will then look at the work of Mark McNeilly who in *Sun Tzu and the Art of Business* has applied Sun Tzu's philosophy within the contemporary setting of corporate management and planning. By analyzing and comparing the use of Sun Tzu's five fundamental factors of waging war to McNeilly's work, the chapter will demonstrate the versatility and utility of Sun Tzu's philosophy in contexts other than war. By clarifying and interpreting Sun Tzu's five fundamental factors, it will become evident as to why and how these principles can assist disempowered groups in understanding their conflict and developing effective strategies of collective action.

Finally, this chapter will conceptualize how and why Sun Tzu's philosophy can be employed in situations of environmental injustice and the struggle for environmental justice. Along with a conceptualization of how Sun Tzu's philosophy can be employed in an environmental justice frame, the chapter will also give a reinterpretation of the five fundamental factors. The reinterpretation will demonstrate how these principles can contribute to building a group's autonomy and identity.

⁵⁶ Sun Tzu, *supra* note 1.

I. The Abstract Principles of SMS : Sun Tzu's Five Fundamental Factors

There are many works that illustrate what groups need to do to organize themselves. One in particular, are the philosophical writings of the Chinese general/philosopher Sun Tzu. The work of Sun Tzu (*The Art of War*, 2500 B.C.), illustrates the essential elements needed in group education, organization, management and mobilization. Although the original writings of Sun Tzu were intended for the purpose of war and waging war, insightful research and interpretations of his works have shown the philosophy can be applied to situations where there is conflict of any kind.⁵⁷ Sun Tzu himself states that, "to win one hundred victories in one hundred battles is not the acme of skill. To subdue the enemy without fighting is the acme of skill."⁴⁷⁵⁸ Accordingly, war and conflict need not always be resolved with violence and destruction. Instead, attaining insight and a complete understanding of a conflict and situation can facilitate strategies that are more effective, use fewer resources, and need not focus on violence to achieve the desired objectives. Sun Tzu's work is a philosophy that encourages and promotes understanding and knowledge as the central aspects of conflicts and conflict resolution.

"The Art of War is an analysis of the autonomy of organizations in conflict. It applies to conflict in general, on virtually every level from interpersonal to international. The aim of this manual is to promote invincibility, attain

⁵⁷ Wing, R.L., *The Art of Strategy*, (Toronto: Main Street Books, 1988), discusses the use of Sun Tzu's principles in planning and strategizing for corporate business plans and projects.

Wee, Chow Hoo, and Lee, Khai-Sheng, *Sun Tzu: War and Management* (Toronto: Addison-Wesley, 1996), relates business management and organization to warfare, and demonstrates how Sun Tzu's principles can apply to both arenas.

Schnarr, Grant, *The Art of Spiritual Warfare: A Guide to Lasting Inner Peace Based on Sun Tzu's Art of War*, (New York: Prentice Hall, 1997), discusses the use of Sun Tzu's factors and how they can assist in working through conflicts and problems in life and relationships.

⁵⁸ Sun Tzu, *supra* note 1 at 77.

victory without battle, and to develop incontestable strength through comprehension of physics, politics and psychology of conflicts. It is a means for understanding the subtleties of conflict and resolution.”⁵⁹

While invincibility as a goal may be both unattainable and undesirable, a better understanding of the situations and the conflict itself can assist a group to achieve a better resolution to the conflict. There are five fundamental factors in Sun Tzu's philosophy that must be understood if an understanding of the conflict and/or the situation is to be achieved. They are; *moral influence, weather, terrain, doctrine and command*.⁶⁰ The five fundamental factors can be divided to focus on two separate aspects essential in planning for effective collective action. The first three factors of *moral influence, weather and terrain*, focus on motivation and attaining knowledge regarding the situation and/or the issues. They also include understanding the dynamics of the groups involved in the conflict. The final two factors of *command and doctrine* deal more with organization, group identity, management and strategy based on the first three factors. To better understand these factors and how they can be interpreted, they will be analyzed individually throughout this section of the chapter.

IA) Moral Influence

The first of Sun Tzu's fundamental factors is that of *moral influence*. When Sun Tzu wrote of *moral influence*, he was referring to the issue, cause, and/or incident that would foster unification amongst individuals, to achieve a common goal or purpose.

⁵⁹Brent Evans-Campbell, (1999) "The Art of Strategy". Retrieved September 5th, 2000 from the World Wide Web: <http://langara.bc.ca/prm/1999/strategy.html> at 1.

⁶⁰Sun Tzu, *supra* note 1 at 63.

“By moral influence I mean that which causes the people to be in harmony with their leaders, so they will accompany them in life and unto death without fear of mortal peril. When one treats people with benevolence, justice and righteousness, and reposes confidence in them, the army will be united in mind and all will be happy to serve.”⁶¹

Sun Tzu refers to that which creates unity within a group. *Moral influence* in this context can be a political goal, common values or shared beliefs. Mao-Tse-tung, who has also written works regarding the application of Sun Tzu's philosophy to group organization and political action (guerrilla warfare), agrees with Sun Tzu in this aspect. Groups must have some common objective or goal to unify them. “A political goal is fundamental in motivating people to action. Without a political goal, guerrilla warfare must fail, as it must if its political objectives do not coincide with the aspirations of the people and their sympathy, co-operation, and assistance cannot be gained.”⁶² Both Sun Tzu and Mao-Tse-tung elucidate the need for unification amongst the struggling group. Without unification and common objectives, groups may have no real purpose or cause to unite. Groups that have a common motivating factor, whether it be political, ideological or physical, have a clearer understanding of what it is they are challenging and/or organizing against. This motivating factor creates solidarity within the group.

In every challenge there is a moral element. This moral element comes from the aspirations and the will of the group. Without group solidarity and a common purpose, the group may not know what their objectives are. If a group does not have motivation then it will be difficult to apply the other fundamental factors of action.

⁶¹ Sun Tzu, supra note 1 at 64.

⁶² Encyclopaedia Britannica, The New Encyclopaedia Britannica Volume 8. (Chicago: Encyclopaedia Britannica Inc., 1998) at 458.

IB) Weather and Terrain

The next factors that Sun Tzu takes into consideration in his philosophy are *weather* and *terrain*. Sun Tzu describes the factor of *weather* as, “the interaction of natural forces, the effects of winter's cold and summer's heat and the conduct of military operations according to the seasons.”⁶³ *Terrain*, as defined by Sun Tzu means the, “distances, whether it is open or constricted, and the chances of life or death.”⁶⁴ For Sun Tzu, this means having a better understanding of one's surroundings and circumstances, before thinking of a strategy of action. These are important factors when planning for military action. *Terrain* refers to the topography of the region in which the battle will be fought. This includes factors such as plant life, whether the area has hills or mountains, valleys, waterways and fjords. *Weather*, differs from terrain in the sense that it refers to the natural elements such as climate, winds and precipitation in the region. In the context of war and waging war, Sun Tzu was referring to a complete understanding of the topography and natural forces within the area in which a battle would be fought. This knowledge would assist a general in organizing an army according to these factors, and creating a plan of attack or defence that takes into account the elements of nature, and the lay of the land.

Essentially, Sun Tzu is stating that groups should be aware of the "terrain" and "weather" in which they are operating. Groups must be aware of the issues they are facing, the opponents they will be up against, and the information surrounding the issue(s) they will be challenging.

⁶³ Sun Tzu, supra note 1 at 64.

⁶⁴ Sun Tzu, supra note 1 at 64.

Groups who are capable of attaining this type of knowledge can then employ it to their benefit when organizing and planning for collective action.

In Sun Tzu's philosophy, attaining information and knowledge regarding the *weather*, *terrain* and capabilities of the enemy, were crucial to mounting a successful campaign.⁶⁵ The aspect of "knowing the enemy" is another important aspect of attaining information and knowledge of the scenario for Sun Tzu. It is not enough to know the topography and climate of a certain region. If a group wants to be successful, they must also attain information and facts regarding their capabilities and that of their opponent. Sun Tzu states: "Know the enemy and know yourself; in a hundred battles you will never be in peril. When you are ignorant of the enemy but know yourself, your chances of winning and losing are equal. If you are ignorant both of your enemy and of yourself, you are certain in every battle to be in peril."⁶⁶ Knowledge of the enemy falls under both *terrain and weather*. In order to take the effects of *weather and terrain* into consideration, understanding the enemy's capabilities are crucial. This includes their numbers, their ranks, cavalry, and artillery. Without understanding the opponent and your own capabilities, an important part of strategizing and planning is left out. To plan effectively these factors must be included in the strategizing and organizing of a campaign. When groups and/or armies do not understand their own strengths and weaknesses as well as those of their opponents, they may not organize and plan according to these dynamics.

⁶⁵ Sun Tzu, supra note 1 at 65.

⁶⁶ Sun Tzu, supra note 1 at 84.

IC) Doctrine

The factor of *doctrine* is defined by Sun Tzu as, “organization, control, assignment of appropriate ranks to officers, regulation of supply routes, and the provisions of principal items used by the army.”⁶⁷ Sun Tzu is referring to the organization of a group. A group must attempt to organize itself while taking into account the knowledge it has regarding the situation and circumstances. If groups are to use their resources effectively, they must organize themselves according to their strengths and weaknesses. They must also take into consideration the capabilities of their opponents as well as the factors of *terrain and weather* when organizing their ranks. An organization of the ranks according to the information attained leads to a more effective and well planned strategy of action. If an army knows an opponent's weakness, it can employ more troops to attack that weakness. If there are hills nearby, an army with fewer soldiers may set up a defensive base on the top of the hill, making it difficult for an attacking force to reach the hills summit. Sun Tzu states, “With many calculations, one can win; with few one cannot.”⁶⁸ By understanding the situation and the capabilities of the opponent, groups can target their efforts to areas in which they are strong, and their opponents are weak. “Therefore, determine the enemy's plans and you will know which strategy will be successful and which will be not.”⁶⁹

⁶⁷ Sun Tzu, supra note 1 at 65.

⁶⁸ Sun Tzu, supra note 1 at 71.

⁶⁹ Sun Tzu, supra note 1 at 100.

When groups have attained knowledge regarding the opponent, as well as the situation and circumstances they are facing, they can begin to organize their ranks to reflect this knowledge in a plan of action that takes these important factors into consideration. The main point to note is that the plan of action, should reflect the motivation and will of the people and the goals of the group, while taking into consideration the knowledge and information they have attained regarding the situation, the enemy and themselves.

ID) Command

The fifth and final factor that Sun Tzu refers to is *command*. Command is "a general's qualities of wisdom, sincerity, humanity, courage and strictness."⁷⁰ For a general to motivate his army and gain support in the public sphere he must possess these qualities. Sun Tzu makes reference to why generals must possess these qualities. He states: "The *Tao* is the way of humanity and justice, 'laws' are regulations and institutions. Those who excel in war must first cultivate their own humanity and justice and maintain their laws and institutions. By these means they make their governments invincible."⁷¹ Sun Tzu has elaborated on the factor of command by stating that those who participate in war must first create their own principles and values to maintain throughout the conflict. By adhering to these principles and values of humanity and justice, they make their position and faction stronger. Their ranks are made stronger because they

⁷⁰Sun Tzu, supra note 1 at 65.

⁷¹Sun Tzu, supra note 1 at 88.

are united in purpose, and they understand what they stand for and what they are challenging.⁷²

In order to lead the troops into battle and to create public support for the effort, the general must uphold the values, platforms and principles of their faction throughout the conflict to gain support and remain unified.

IE) Synthesis

The principles set out by Sun Tzu are certainly meant for war and waging war, yet there also is something that can be gained from them for other objectives. If the element of war is stripped from the works of Sun Tzu, what is left is a model for organization and planning in situations of conflict in general. To illustrate the use of this philosophy the next section of the chapter will focus on contemporary works that have used Sun Tzu's philosophy in a context other than war. The next section will also draw parallels between Sun Tzu's philosophy and a contemporary model of mobilization that uses the same principles in organizing groups for collective action.

II. Contemporary Adaptations of Sun Tzu's Art of War

It can be argued that perhaps Sun Tzu's philosophy is outdated and thus unable to work in a situation that does not require violence or battle. On the contrary, many contemporary models of management, psychology, sociology and social work make use of the same elements that have been stated by Sun Tzu. To illustrate the use of Sun Tzu's philosophy in a contemporary setting, this section will demonstrate how his philosophy has been employed in the realm of business and corporate management. In particular, the work of Mark McNeilly will be examined.

⁷²Sun Tzu, supra note 1 at 83.

IIA) Reinterpreting Sun Tzu in a Corporate Environment

The work of Mark McNeilly, *Sun Tzu and the Art of Business* demonstrates how Sun Tzu's philosophy can be interpreted in a contemporary context,⁷³ and used by the constituencies that disempowered groups often find themselves pitted against. Understanding this can give disempowered groups some insight as to how corporate and business groups think and act, in terms of planning, organizing and formulating strategies. McNeilly illustrates the five fundamental factors defined by Sun Tzu and gives insight as to how they can be used effectively in the corporate business world.

IIB) Moral Influence and Its Effect in the Corporate World

McNeilly starts by stressing the importance of *moral influence* in the business world. He states that even corporations need to motivate their ranks, whether employees are given material rewards such as a raise and/or a yearly bonus, or rewards of recognition such as promotions, and/or delegated responsibility, the best way to ensure business success is by having a unified group of employees working towards the same goal, and motivated by the same factors.⁷⁴ Corporate strategies of motivation may entail creating a sense of pride or purpose in what the employees are doing and how the corporation they are working for is adding to the greater good.⁷⁵ Essentially, McNeilly has stated two different reasons for motivating corporate

⁷³ McNeilly, Mark, Sun Tzu and the Art of Business: Six Strategic Principles For Managers, discusses the use of Sun Tzu's principles and how they can be used by corporate, project, and marketing managers to create effective business plans and organize their workers according to these plans. □

⁷⁴ McNeilly, supra note 62 at 128-135.

⁷⁵ McNeilly, supra note 62 at 129.

employees. The first is to have them united and working as a whole (group), to achieve a common objective. The second is to use personal rewards as a motivating factor. Both these reasons are targeted to motivate the employees to work diligently and energetically for the corporation.

IIC) The Factors of Weather and Terrain: How They Can Be Employed in Business Management and Planning

McNeilly also describes the importance of knowing the facts about the situation and circumstances. “In addition to knowing the strengths and weaknesses of yourself and your competitor, you must know the ‘terrain’ on which you will be fighting, the business environment in which you will operate.”⁷⁶ McNeilly refers to having a complete understanding of the situation facing a corporation. For McNeilly, *weather* and *terrain* are defined together as the target market or demographic, the business environment you will be operating in, marketing and sales reports and data, trend analysis, the size of the market and how fast it is growing.⁷⁷ He also states the importance of knowing the capabilities of your opponent and your own group. In order to be successful in the business world, foreknowledge is essential. McNeilly states; “As Sun Tzu states, to defeat the competition and achieve your goals you must have ‘foreknowledge’...Foreknowledge is not projecting the future based on the past, it is not simple trend analysis. Foreknowledge is

⁷⁶ McNeilly, supra note 62 at 49.

⁷⁷ McNeilly, supra note 62 at 49-50.

firsthand insight and a deep understanding of what your competitor is about: its strengths, its weaknesses, its plan, its people.”⁷⁸

This reiterates Sun Tzu's point of “knowing the enemy”. Although attaining facts and information regarding the *terrain* and *weather* are necessary for effective strategizing and collective action, more is required. Corporate managers and strategists must go deeper, and try to determine the competitor's strategy, and plans. It is also important to learn as much as possible about your opponent's mindset, culture and practices (usually corporate culture), and the basis of its platform.⁷⁹ When corporate managers and strategists take into consideration the *terrain*, *weather* and capabilities of themselves and their opponents, they will have a complete understanding of the environment in which they are competing. By understanding this a more effective business plan can be created, taking into consideration the nature, competitiveness, trends and target demographic within that environment.

IID) Use of Doctrine In Corporate Strategizing and Organization

The factor of *doctrine* is perhaps the most crucial factor to McNeilly. Similarly to Sun Tzu, he states that; “To understand and defeat your competition, you must do a very deep level of research and analysis. It must not lack in detail.”⁸⁰ An in depth level of research and analysis

⁷⁸ McNeilly, supra note 62 at 40.

⁷⁹ McNeilly, supra note 62 at 43.

⁸⁰ McNeilly, supra note 62 at 41.

leads to an effective plan of action. Without an in depth level of research and analysis it will be difficult to organize and mobilize your resources.

“If you hope to be successful, you must prepare. You must build a strategic plan that looks at the strengths and weaknesses of your company and understands those of your competitors, studies and trends in the marketplace, factors in new technologies, and takes into account what customers are looking for...Once you know these things, once you have foreknowledge, you can plan where to strike. decide how you will utilize deception, and think through how you will deploy your resources.”⁸¹

Attaining knowledge and facts are useless if they can not be used to create an effective plan of action. It is for this reason that the information and facts that have been attained must play a role in the organization of a new business plan. The information attained will assist in shaping the plan, how to allocate resources, and what areas to target. Without effective organization based on corporate intelligence, an effective plan of action may be difficult to develop. Even a corporation with few resources can be productive and efficient if their resources are allocated properly. “Great resources may even be a hindrance to creative strategy. What is critical, especially if you have limited resources, is that you apply the right amount of resources at just the right spot.”⁸² Therefore, it can be said that organization is an important step in creating a plan of action because it allows a corporation to determine the course of action they will take based on the intelligence they have acquired, as well as how to use their resources.

⁸¹ McNeilly, supra note 62 at 80.

⁸² McNeilly, supra note 62 at 35.

III E) Utilizing the Factor of Command for Corporate Leaders

The final factor that McNeilly refers to is that of command. He states the importance of the qualities that a leader must possess, and why these qualities are essential for a good leader.

He states:

“In business there are many unknowns. Therefore, wisdom is important, for it allows a leader to clearly divine the company's strengths, weaknesses, and opportunities to build a strategy. Courage is essential because, without it, a leader cannot take advantage of wisdom with bold action when the time requires it. Sincerity and humanity are crucial because, at the heart of it, leading a team, department, division, or company means accomplishing success through other human beings. Discipline is necessary, for it is required to ensure that strategy is executed successfully. All these traits are a manifestation of a strong, positive, and well-developed character.”⁸³

If a leader wants to have effective results and ensure the support of his/her workers, developing these qualities is crucial to their success as a leader. Without these characteristics it may be difficult to realize a strategy and have the support of one's employees, all of whom are crucial to the success of a plan of action.

III F) Synthesis

McNeilly's work demonstrates the versatility and diversity of Sun Tzu's five fundamental factors. It illustrates an adaptation of Sun Tzu's philosophy in the modern context of corporate strategizing and planning. Corporate strategizing requires a complete understanding of the environment that a corporation is working in. This includes trends analysis, sales statistics, target demographics, marketing strategies, employable technologies, and the strengths and weaknesses

⁸³ McNeilly, supra note 62 at 118.

of your corporation and the opponent. This will assist the corporation in developing plans of action that will reflect the knowledge they have of the environment in which they work.

In order to use this knowledge effectively, corporate groups must strategize and organize themselves taking into consideration the knowledge and business intelligence they have attained. This will allow the corporate group to focus their resources and efforts more efficiently in a plan of action. Without having attained this information and the insight to utilize it in a plan of action, corporations may misallocate resources, time and effort in a strategy that will not allow them to meet their objectives.

There is also the element of unity and motivation, in terms of realizing a plan of action. In order to do so, corporations must use incentives to motivate their employees to work diligently, so they may achieve their goals and objectives. Without the diligent effort of its employees, a corporation's business plan will fail. This can be attributed to the importance and necessity of having those involved working towards the same ends. To ensure this, the leaders of the corporation must themselves be motivated in terms of projecting a vision to the employees, having them believe in it, and working to realize the projected vision. This example of a contemporary application of Sun Tzu's philosophy demonstrates that the philosophy has a purpose and that the fundamental factors behind *The Art of War* can be used in several types of situations in which there is conflict and the need for resolutions.

In terms of mobilizing groups in environmental justice struggles, the same principles apply. There is a need for groups to understand their situation and the elements within their conflict. This is necessary in terms of educating the group regarding the conflict and potential solutions. Groups must also find ways in which to organize themselves so they can use their resources and knowledge efficiently in a plan of action, in order to realize their objectives. It is also crucial that

the group find a common objective that will solidify their purpose for uniting and acting as a group. The common objective will inspire unity amongst the group itself, as well as with other groups that are working towards the same objectives. The next section of this chapter will illustrate how Sun Tzu's principles can be conceptualized and utilized within an environmental justice frame, in particular by disempowered groups that have the desire to organize themselves and take action against an environmental injustice.

III. Sun Tzu's Abstract Principles in an Environmental Justice Frame

The contemporary example and interpretation of Sun Tzu's philosophy provides a demonstration of how the philosophy can be employed in the contemporary context of business management and corporate strategizing. The underlying theme in the example is the ability to target specified education and learning, so that a course of action can be developed that reflects an understanding of the facts and information pertaining to the conflict. Environmental justice struggles are no different than the example discussed above, in terms of what needs to be done to understand the conflict and apply this knowledge to create effective plans of action. The only difference in environmental justice struggles, is the situation of disempowered groups.

Whereas, corporations are already in positions of power due to the political, economic and social influence they possess, many disempowered groups need to develop power and influence for empowerment to occur. This means that disempowered groups and communities need to find a means that will assist them in meeting their special needs such as having fewer resources, and being disenfranchised and unorganized.

Consequently it is my argument that Sun Tzu's factors can play a role in assisting disempowered groups in defining their conflicts and can contribute to creating strategies of

collective action. This can be accomplished because the factors allow groups to focus on several key aspects of their struggles. By doing so, the group will have a better understanding of the situation, and can decipher a resolution based on this understanding. To understand how Sun Tzu's five fundamental factors can assist in creating effective *social mobilization strategies* for environmental justice struggles, they must be conceptualized and interpreted within an environmental justice frame.

IIIA) Conceptualizing Sun Tzu in an Environmental Justice Frame

The five fundamental factors as stated and defined by Sun Tzu can be employed in environmental justice struggles, if the nature of these struggles is understood. If the general conditions of environmental justice struggles are broken down analytically, it is easier to conceptualize how Sun Tzu's five fundamental factors can be interpreted within an environmental justice frame.

There are many examples of communities and residents that face structural obstacles that prevent them from actively participating and protecting their communities from environmental risks.⁸⁴ The structural obstacles include the deficiencies in the current processes and practices that determine environmental policy and decision-making. More specifically, the deficiencies refer to the social justice issues that create barriers and make it difficult for such groups to access these processes. The notion of participation in decision-making, and protection from environmental risks is central to the environmental justice movement and to expanding the principles of individual environmental rights.⁸⁵ When those that live in the community are excluded from

⁸⁴ Capek, *supra* note 2 at 7.

⁸⁵ Environmental Protection Agency, *supra* note 14 at 1.

environmental decision-making, conflict arises. One party has a commanding presence in the formal processes and has its interests realized, while the other is being overlooked.

The interests of disempowered and empowered groups are often in conflict. Conflicts often occur between fostering good business climate, and increasing revenues and environmental health and social justice issues.⁸⁶ If many of these situations are understood to be conflicts between groups and/or opposing interests, then the works of Sun Tzu can play a role in assisting disempowered groups to better grasp the elements of their situations and focusing on the elements that can facilitate effective mobilization. This may be achieved through a better understanding of the conflict, and what measures can be taken to resolve it.

By focusing on the factors within Sun Tzu's philosophy, groups can utilize them to shape their courses of action. This can lead to the group creating its own identity and developing its own autonomy. These are two central aspects of effective collective action. The first aspect of collective action is developing the capability to act autonomously to address injustices. The second aspect is the group's identity, in terms of what it seeks to achieve, its position on the matter at hand, and its ideology or logic.

IIIB) Developing Group Autonomy and Identity Using Sun Tzu's Five Fundamental Factors

Sun Tzu's *The Art of War* is an analysis of the autonomy of organizations in conflict. This concept of autonomy refers to the group's ability to work independently in order to direct its actions to reflect its political and personal aspirations and objectives, by managing and organizing

⁸⁶ Cooney, supra note 26 at 204.

itself. In situations of environmental justice struggles, autonomy can be equated with the ability to voice interests and concerns, and developing plans of action that can lead to group participation in the processes that determine the administration and development of policy and decisions regarding the local environment. Groups that can develop autonomy may be in a better position to voice their concerns and protect their interests.

The Art of War applies to conflict in general, on virtually every level from interpersonal to international. The purpose of this philosophy is to assist in developing strength and autonomy through the comprehension of politics and psychology of conflicts, and is a means for understanding the subtleties of conflict and resolution.⁸⁷ Using Sun Tzu's fundamental factors to focus on the elements within a conflict, may lead to a new understanding of what groups need to focus on in order to challenge injustice whether it be at the political (participation) and/or physical level (protection from environmental hazards). A reinterpretation of Sun Tzu's five fundamental principles can provide a new means by which groups can develop an understanding of the elements in their conflict, and how this understanding can contribute to creating plans of action.

A plan of action that enables the group to participate in the protection of its interests may also facilitate group autonomy. In environmental justice struggles, groups that are challenging existing policies and practices such as the siting of environmental risks need to develop plans of action that will allow them to voice their interests. They must also find ways to voice and protect their interests, either in the formal processes or publicly. Sun Tzu's factors can be employed by groups when planning for action. By focusing on the elements that Sun Tzu suggests are crucial

⁸⁷ Evan-Campbells, supra note 48.

to planning for mobilization of any kind, groups may also begin to understand their conflict and conceptualize their place within it.

Apart from conceptualizing the conflict and creating plans of action, the factors can also assist in developing the group's identity. By looking at the motivating factor behind mobilization, as well as the facts and information surrounding the key issues, groups can begin to understand the environment they are in. Understanding the facts and information may illustrate several key problems being faced by marginalized groups, such as environmental injustice issues that they often face. Attaining knowledge may also assist the group to develop its personal position on several of the key issues in that particular environment. It is through education and understanding that groups will begin to see how the conflict relates to them, and what their opinions, beliefs and platforms are regarding the issues inherent in their conflict. This is accomplished by using the factors to assist in clarifying and defining the conflict, and how it relates to the group or community in general. In order to demonstrate the effectiveness of Sun Tzu's principles in environmental justice struggles, they must be reinterpreted within an environmental justice frame.

IV) Reinterpreting Sun Tzu In the Context of Environmental Justice

As illustrated by McNeilly, the underlying principles and scope of Sun Tzu's works can be employed in several different situations. In the context of environmental justice, the principles can be interpreted to reflect a non-violent approach to understanding conflicts and taking action, based on disempowered groups' special needs and understanding of the conflict. To further facilitate a better understanding of Sun Tzu's principles within an environmental justice frame, they will need to be reinterpreted and redefined. This reinterpretation will show how Sun Tzu's

philosophy can be employed by disempowered groups to facilitate effective mobilization through a better understanding of their conflicts.

IVA) Moral Influence: Motivation

In terms of environmental justice, *moral influence* can be interpreted as the *motivation* or the motivating factor which causes individuals to unite and form a group. In essence, the *motivation* for groups to unite and organize themselves and other groups seeking environmental justice is a central aspect of effective grass roots mobilization. The *moral influence/motivation*, which inspires collective action can be values and/or objectives that members of the group share. Regarding environmental justice, these shared values include challenging the environmental justice issues that foster injustice.⁸⁸

For groups taking action against environmental injustices, individuals within communities must have some reason to unite as a group and formulate a challenge. It is this shared notion of solidarity and purpose (*motivation*) which allows the group to see themselves as a community,⁸⁹ working towards the same goal or objective. This shared notion of solidarity and purpose is similar to what Sun Tzu refers to as, "that which unifies"⁹⁰ and what McNeilly defines as, "working toward the same goal, and being motivated by the same factors."⁹¹

⁸⁸ Capek, supra note 2 at 5.

⁸⁹ Capek, supra note 2 at 8.

⁹⁰ Sun Tzu, supra note 1 at 40.

⁹¹ McNeilly, supra note 62 at 126-150.

For the environmental justice and rights movement, solidarity and purpose are developed by understanding and accepting the underlying issues that the movement seeks to advocate, address and remedy. These issues include conceptualizing and fusing social justice and environmental issues together. Understanding that a group's situation is brought about by social justice and environmental issues allows the group to become part of a larger community that has shared experiences and issues regarding environmental justice.

This shared notion of solidarity and *motivation* resides in how groups conceptualize their conflicts. Many disempowered groups usually experience the same types of social justice issues that contribute to their problems. Disempowered groups that usually experience these issues also have a high probability of being low-income and/or minority groups.⁹² The social justice issues make it difficult for these groups to access the administrative processes that determine local environmental policy and decision-making. This may lead to poor, minority and disenfranchised communities and groups bearing the brunt of environmental risks within their communities against their will.⁹³

Conceptualizing the situation in this manner, allows groups to define their conflicts as environmental justice struggles. The fusion of social justice issues and environmental issues creates the concept of environmental justice, and allows groups to reconceptualize their situation as one of cause and effect. In essence, it is because of the social justice issues and problems that

⁹² Cole, *supra* note 20 at 623-624.

⁹³ Cole, *supra* note 20 at 620.

the environmental issues and problems arise. When groups can begin to understand that the social justice issues they experience result in them being subject to environmental problems such as pollution, environmental degradation, and health risks, they are more likely to take action to address the social justice issues, in particular exclusion from local administrative affairs.

Therefore, the *motivation* of disempowered groups is to challenge and question the social issues that lead to environmental issues. This creates solidarity amongst the individuals within a community, based on the shared environmental justice issues that are experienced by those that live within the community. It also extends the creation of networks and alliances with other groups, communities and organizations that conceptualize the problem as being one that encompasses social justice and environmental issues. This is where the notion of "nation-wide" solidarity or community can also be developed. Regardless of the geographic area a group is located in, conceptualizing situations as environmental justice issues allows for a greater scope for strategic alliances. It is the concept of seeing the issue as one of both social and environmental disparity, that creates links to other groups and organizations that have conceptualized their conflict as an environmental justice struggle.

The *motivation* is also that which is at the core of the arguments and claims that the group formulates. It can be that which they are proposing or protesting against. The *motivation* may be of a political nature, such as expanding the principles of environmental rights and justice. It may be of a practical or physical nature, such as protesting an incinerator site within the community or in its periphery. In environmental justice cases, the *motivation* usually comes from a perceived threat or harm located in or about a community. In many cases the motivator can be both political and fear of harm from environmental hazards.

What is important to note is that the *motivation* usually becomes the issue on which the mobilization is based. It also serves as a focal point for attaining information and developing arguments and claims. If groups know what they are uniting and organizing against, it will focus their attention and facilitate the next two factors of *terrain and weather*.

IVB) Weather and Terrain: Knowledge of the Circumstance and Situation

When groups have a better understanding of what the reason or issue behind their mobilization is, it is much easier to target their intelligence and learning. This means that once groups have a better understanding of what their *motivation* is, they can search for facts, resources, information, and scientific data that will assist them in formulating their claims and their arguments. In terms of environmental justice, *weather and terrain* may or may not be taken literally. They refer to understanding the issues, concerns, and information regarding the conflict. It may also refer to understanding the specifics about the natural environment such as the climate changes in a certain area, and/or the quality of the air, water and soil within a specific region. In this sense groups must literally know attain facts regarding the weather and terrain they are situated in. In essence, they can be interpreted as *knowledge of the circumstance and situation*.

Similarly to the way in which their opponents use foreknowledge to gather business intelligence, groups must find out the particulars about the *circumstances*. Knowledge of *circumstance* refers to understanding what is at the core of the issue. In environmental justice struggles, focusing on the *circumstance* means understanding the environmental justice issues that are inherent in their conflict. To better understand the social justice and environmental issues that they face, groups must utilize scientific data and information, academic studies and research, as well as the personal experiences and local knowledge of the group to better understand their conflict and what can be done to resolve it.

Knowledge of circumstance also includes groups actively seeking more information that will assist them in their mobilization. This includes information regarding possible funding and information resources for their enterprise.⁹⁴ This will allow them to develop knowledge that can be employed in the action phases of collective action .

In environmental justice struggles, the difficulty is not so much whether the public can voice their interests. Rather, it is whether or not the questions and objections will be ignored and brushed aside, and whether the public will be taken seriously.⁹⁵ This can be prevented by groups substantiating their claims with solid and well documented information, facts and scientific analysis. Information regarding the *circumstance* can lead to the creation of counter arguments and claims based on well documented information and experience. This is a crucial factor in making claims and challenges, because the more groups struggling for environmental justice know about the *circumstances* the more successful they will be in creating serious and legitimate claims that reflect their interests. For example, if a group becomes aware of a toxic waste disposal site project (*motivation*), they can target their research and efforts to that particular issue. The group can gather intelligence regarding the effects that toxic waste disposal sites have on health, plant and animal life, the surrounding environment and public safety, increased traffic due to transportation of waste, thus attaining information on the *circumstances*. With this information, they can create well founded claims of their own.

⁹⁴ NGOs, such as The Sierra Club (www.sierraclub.com), WFP (www.witnessforpeace.org), Greenpeace (www.greenpeace.com), have "toolkits" that allow activists to access information for funding, organizing activist groups, using the media, effective letter writing, organizing protests, and up to date information regarding environmental justice issues.

⁹⁵ Mary Richardson et al., Winning Back The Words: Confronting experts in an environmental public hearing.

By developing their own claims based on *knowledge of circumstance*, disempowered groups/communities can challenge the claims of their opponents. The claims that are formulated by the group itself will better reflect the interests and concerns of the group. Therefore, it increases the capability of the group to act autonomously in the creation of their own claims and arguments. In many cases, both empowered and disempowered groups rely on the same scientific data, and expert interpretation of information and statistics to develop their claims.⁹⁶ Claims made by a well informed group may strongly outweigh the claims of their opponent. This is based on a group's interpretation of the information and how a reinterpretation can often illustrate flaws and weaknesses in the opponent's claims.⁹⁷ This can prove useful for disempowered groups because they may be able to dispel many of the claims made and accepted by their opponents. For example, by using *knowledge of circumstance* a group can dispel an opponent's claim that a pulp and paper mill can solve employment problems in a particular community, by demonstrating that those same jobs that are created are themselves causes of on-site health and safety problems for the workers.⁹⁸ It is true that jobs may be created, but these jobs themselves may harm the community and its residents in the long term.

(Toronto: Garamond Press, 1993) at 12.

⁹⁶ Lewis, supra note 28 at 2.

⁹⁷ Richardson *et al.*, supra note 84 at 136.

⁹⁸ Richardson *et al.*, supra note 84 at 136.

Groups can also rely on the significance of "local knowledge" to strengthen their claims and arguments. Local knowledge refers to the detailed accounts of those that know the area well enough to determine how an object (waste facility), commodity (chemicals) and/or practice (storing waste in barrels) can affect or already has affected the environment.⁹⁹ In this sense local knowledge can be utilized to determine how environmental policies, decisions and practices effect the weather, terrain and environment within that region. Local knowledge can also be used to refute the claims of opponents and scientific experts.¹⁰⁰ Essentially, local knowledge is gathering local experience and knowledge of those that live within a certain community, and using that knowledge to formulate claims and arguments based on a local understanding of the environment, as opposed to a an understanding based on scientific data and data analysis.

Not only is it crucial for groups to understand the *circumstances* and issues at hand, groups hoping to take action and mobilize themselves must have an awareness of the *situation*. I have interpreted *situation* to mean the position the group is in, in terms of its dynamics. This entails understanding the resources available to the group, and its strengths and weaknesses.

Regarding the *situation* there are two aspects that the group must be aware of. First, it must be aware of its capabilities as a group. This includes its numbers, its financial resources, and what its strengths and weaknesses are. This is important to note because without understanding

⁹⁹ Richardson *et al.*, supra note 84 at 106.

¹⁰⁰ Ricahrdson *et al.*, supra note 84 at 109. In response to a claim made by an Alpac expert using a CLI (Canada Land Inventory) classification emphasizing the poor quality of land and soil of farmland in Athabasca county, to facilitate the location of a paper mill, farmers used their local knowledge to refute these claims. "I wish to bring to the attention of the panel our production averages for the past three years-on our major crops and compare them to the regional averages based on data obtained from the Alberta Hail and Crop Insurance records. Our production for wheat, 50 bushels per acre, Alberta Hail and Crop average 30 bushels per acre. Our production average for barley, 75 bushels per acre, Alberta Hail and Crop average 45 bushels per acre...Do these figures sound like the soil

its nature and dynamics as a group, it may not be able to apply its knowledge to decipher the most effective plan of action. The second aspect that groups must be aware of in terms of *situation* is the capabilities of their opponents. For the same reasons that it is important to know their own strengths and weaknesses, they must understand that of their opponent. When a group is capable of understanding its opponent's situation, it will be better able to devise a plan of action that will allow it to employ their resources as effectively as possible as well as utilize its strengths to attack its opponents weaknesses.

By focusing a group's attention to the *circumstances and situation*, groups will be in a better position to develop their own arguments, claims, solutions, platforms and concerns regarding particular issues. This can assist the group in developing its autonomy and identity, by utilizing the attained information to educate the group. Once groups are aware of the relevant information they can begin to form opinions, claims, and resolutions to problems. Groups that are capable of forming their own understanding of the conflict and the way it relates to them, can develop their own voice, in terms of the injustices and issues they feel they are experiencing and what can be done to resolve them. The two factors of *circumstances and situation* will also assist groups to focus on Sun Tzu's factor of *doctrine*.

IVC) Doctrine: Organizing and Planning

The factor of *doctrine* can be interpreted as the *organization and planning* that groups undergo while selecting a plan of action. *Organizing and planning* can assist groups in selecting and determining the best course of action for their situation. By focusing on *organizing and planning* in accordance with the information and facts the group has attained regarding their *circumstance and situation*, they may have a better understanding of what needs to be done to

find a resolution. Selecting resolutions can be enhanced if the *circumstances and situation* are understood. This can be attributed to the potential contribution knowledge has in developing plans of action that effectively address the key issues, develop group capabilities to participate, and deploy resources.

For example, if a group does not have an abundance of financial resources, but it has much in terms of human resources, it may choose an alternative to costly court room litigation. The group may be better off employing its human resources in a campaign to create awareness of its conflict and the injustice it faces. This in turn may lead to increased support from the public and actors within the political sphere, thus increasing the influence of the disempowered group in terms of creating pressure on its opponents. Many corporations have affiliations with the political sphere and business arena.¹⁰¹ For example, in Canada, the state has vested interests in petroleum and natural gas industries (i.e. Petro Canada), hydro electricity (i.e. Ontario Hydro), and profit from the success of these two industries. Therefore, it may not be effective to target these parties immediately because of the affiliations and vested interests they have with the opponent. Corporations, the state and its agencies, often work together on projects and the administration of policy and decision-making, because of their vested interests. If groups experiencing injustice can start by amassing support in other spheres, such as the public sphere, they may gain influence and power thus creating pressure on their opponents who often overlook the importance of the public's support in terms of gaining political influence. This is one scenario of how understanding the factor of *organization and planning* can assist groups in developing a plan of action that reflects their strengths and weaknesses.

An informed and well devised strategy based on knowledge of *circumstance and situation*, as well as *organizing and planning*, can assist groups in challenging more affluent opponents, because they allow the group to create plans of action and challenges that reflect their capabilities and strengths as a group, thus building on their autonomy to act on their own behalf. It is for this reason that groups must learn to organize, assign tasks to group members, plan on how to deploy resources and integrate intelligence. Without the factor of *organizing and planning*, groups may find it difficult to develop a strategy that focuses on their capabilities and strengths as a group.

If groups can create a plan of action that factors in the attained information, their objectives as a group, as well as their capabilities in terms of resources, they will be more likely to select a plan that they can carry out. Therefore, *organizing and planning* plays a role in assisting to develop the group's autonomy, in the sense that it facilitates the development of a plan that can be accomplished by the group. *Organizing and planning* will allow the group to focus on the strengths and weaknesses of its opponents and itself, the knowledge it has attained regarding the issues and the situation it faces, and how it can be employed to create a plan reflective of the group's objectives.

IVD) Command: Leadership and General Qualities of the Group

By focusing on the first four fundamental factors, groups are also developing their identity, purpose and their objectives. This is similar to the factor of *command*. As stated by Sun Tzu, there are certain characteristics a general should have to be an effective leader.¹⁰² Social

¹⁰¹ Cooney, supra note 26 at 200.

groups are no different. For groups to be seen as proactive, sincere, and effective advocates of a greater cause, they must have those same elements. The factor of *command* (wisdom, sincerity, humanity, courage, and strictness) is very important factor in developing the group's image and identity. It can be interpreted as the *leadership and general qualities* a group portrays to the public and its opponents.

In terms of wisdom, sincerity, humanity, courage and strictness, there is much to be gained by groups who display these qualities in their actions and claims. One of the most important factors in social activism is having the public's support. Public support is a very influential force that can add momentum to social movements and create pressure on the opponents of the movement. If a group is sincere in its claims and demonstrates a humanistic appeal and morality (i.e. preserving the environment and protecting its communities), then the public usually notices. In this sense, it is the group's initiatives to challenge certain environmental justice issues and problems, that portray its leadership characteristics to other groups doing the same. Groups that participate in environmental justice struggles demonstrate their ability to lead initiatives, and advocate potential solutions to the problems they are facing. It demonstrates both the courage and discipline a group has, by illustrating the injustice faced by the group, and its initiative to challenge that injustice.

For those that are experiencing the same injustices and/or are sympathetic to their cause, these *leadership and general qualities* can portray the group's identity, purpose and objectives. The *leadership and general qualities* a group portrays are crucial to effective grassroots mobilization because they allow others to understand the group as a part of a larger "community"

¹⁰² Sun Tzu, supra note 1 at 65.

that transcends racial, geographic and economic barriers.¹⁰³ It creates a connection to other groups, organizations and individuals who are also struggling for and/or supporting the environmental justice movement at the local level or internationally. This connection to other groups and supporters can increase the support for a particular group amongst the public sphere.

The history of social movements and grassroots mobilization such as the Civil Rights Movement, Feminist Movement and the Environmental Justice Movement, clearly demonstrates that it was not until the public was made aware of the issues that more people affiliated themselves with particular movements. This is not to say that a small community in North America need appeal to the entire international community for support, but appealing to the community that immediately surrounds it, or connecting with similarly situated communities can be beneficial. This can occur through defining the injustice in such a way as to allow other groups to recognize that they share similar injustices or visions of justice. In order to fortify one's own position and weaken the position of the opponent or competitor, alliances are essential.¹⁰⁴ Those in the public that share the group's concerns and interests add to its numbers, in terms of creating networks that share information and knowledge. This is where a group's characteristics can work for its benefit.

The public can also create political pressure on those that are able to affect the policy and decision making process. NGOs may act in similar ways. Involving domestic actors allows NGOs to put pressure on states internally, based on domestic representation and legitimacy,

¹⁰³ Capek, supra note 2 at 8.

¹⁰⁴ McNeilly, supra note 62 at 104.

humanitarian principles and generalized public opinion.¹⁰⁵ By attaining the support of those that share their concerns and others in the public sphere, disempowered groups begin to empower themselves by increasing their numbers and by creating public pressure on the actors and processes that determine policy and decisions regarding the environment. Public support and appealing to this broader “community” that shares the same *leadership and general qualities* may even out some of the discrepancies between empowered and disempowered groups in terms of influence and political pressure. If the public does not trust, respect and admire these empowered groups, they may jeopardize their influence, and tarnish their image in the public sphere. Alliances with groups sharing the same objectives and values also have the potential to increase political pressure on influential parties that are responsible for administrative and policy initiatives.

The final element of *command* is attaining respect for the group. If social activist groups develop their case to the point where they have public support, strong counter arguments to the claims of the opponent, and are consistently willing to challenge their opponents, the opponent may develop a sense of respect for the group. If the opponent respects the group because of the actions it has taken, or is concerned and worried about some of the claims the group has made, and the potential effects it may have on its public image, it may be forced into rethinking its position and including the needs and interests of the group. In a sense it is power politics. Force the opposition to respect your claims and arguments, based on the influence and support you are able to attain for your position.

¹⁰⁵ M.A. Clark, “Non-Government Organizations and Their Influence on International Society” (1993) 48 *Journal of International Affairs* at 512.

For groups that do not have any real political influence, some of the influence and power needs to be taken back. Gaining the opponent's respect and having them appreciate the group's capabilities works to empower disadvantaged groups. By effectively finding ways to develop and communicate the *leadership and general qualities* of the group, the group may begin to attain influence and the support of those like itself, thus increasing the support for its position and forcing the opponent to respect its interests and concerns. Therefore, understanding the factor of *leadership and general qualities* is essential in creating alliances.

V. Synthesis

The five fundamental factors of Sun Tzu's work can be effectively employed in situations of environmental justice struggles when reinterpreted in an environmental justice frame.

Reinterpreting the five fundamental factors to *motivation, knowledge of circumstance and situation, organization and planning* and *leadership and general characteristics of the group*, demonstrates how they can be used in practice. The main purposes of the reinterpreted factors are: i) to allow groups to focus on the key elements that will assist them in planning for mobilization; ii) to develop an understanding of their conflict; iii) to develop strategies that will build the group's autonomy and identity, so they may protect and voice their interests while participating in collective action.

Essentially, focusing on the reinterpreted factors will allow groups to understand the inherent elements of their conflict. This can result in the group incorporating this understanding of the reinterpreted factors to better conceptualize their situation and what can be done to resolve their issues. It can also result in the creation of plans of action that reflect the group's understanding of the conflict, as well as their capabilities to address the issues. This has the

potential to foster group autonomy, by allowing the group to use their knowledge to decipher their course of action.

The reinterpreted factors can also assist the group in developing its identity. They do so by assisting the group to develop its position on certain issues by advocating that groups focus on the facts of their conflict. When groups have conceptualized their situation as one that includes environmental justice issues, they can begin to develop their values and platforms. In essence, they begin to form their *leadership and general qualities*. This allows the group to shape and project its ideologies, goals and values, based on what it understands the *motivation* to be, in conjunction with the knowledge of the facts of the issue, and the social justice and environmental issues that are involved. By attaining information surrounding the issue at hand, groups can develop their own sense of morality, claims, and platforms on certain issues. These become part of the identity of the group, and what it stands for.

By understanding the scope of the conflict, groups can better understand and define their struggles. When all the aspects of the conflict have been studied and analyzed, disempowered communities and groups can then use their understanding of the reinterpreted factors to facilitate the creation of a plan of action. By focusing on the elements of the conflict the group can employ the most effective strategy of collective action, and tailor that strategy to reflect their strengths, weaknesses, and what they seek to accomplish.

Using certain practical methods available within contemporary North American society, groups can employ their understanding of the reinterpreted factors to shape the course of action they will take. In order to utilize these methods, groups must already be in a position to employ the reinterpreted factors. This means that groups must already understand the conflict, how it relates to them, what can be done to resolve the conflict, and their capabilities as a group to

accomplish a potential resolution. For groups that have greater difficulty in understanding the conflict, other practical methods of mobilization can assist groups in focusing on the reinterpreted factors and understanding their conflict.

It is important to note that groups select or employ a strategy that reflects its situation. Groups that are struggling to attain the necessary resources required to initiate collective action and understand the elements of their conflicts, may choose to select a practical method of mobilization that will assist them in developing their resources and understanding the issues. These types of practical methods that can assist groups in developing their resources and understanding the conflict include creating networks and alliances, and environmental poverty law (EPL). By using practices that already exist, groups can develop their understanding of the conflict and resources to take action. These practices can also contribute to understanding the reinterpreted factors.

If groups have progressed to a stage where they have already developed an understanding of the conflict and its elements, and the potential solution(s) that can be employed to resolve it, they may select a strategy of collective action that will allow them to use the reinterpreted factors to shape a plan of action. An example of a practical method which can employ the reinterpreted factors, is litigation in the courts of law.

The next chapter will focus on how the reinterpreted principles of Sun Tzu can assist groups in creating legal mobilization strategies in the courts of law. The chapter will also demonstrate how utilizing the reinterpreted principles can foster group participation, autonomy and identity within the formal process of courtroom litigation.

Chapter 3: Legal Mobilization: The Use of Litigation as a Practical Method of Social Mobilization

The purpose of this chapter is to define and examine the use of legal mobilization strategies, as potential practical methods of collective action, in particular the use of litigation in the courts of law. The chapter will demonstrate how understanding the reinterpreted factors of Sun Tzu can assist groups struggling for environmental justice, in developing a litigative strategy of mobilization, as well as building on their autonomy and identity. This can be accomplished by focusing on each individual factor to better understand the situation and plan for action.

The section on litigation will illustrate how groups that have already started, or have an understanding of the conflict, can employ Sun Tzu's reinterpreted factors to devise effective strategy for litigation in the courts of law. Groups that have developed an understanding of their conflict may be in a better position to participate and develop a strategy for litigation with legal actors and services, based on an understanding of all the elements in their conflict. This can assist groups in developing their own legal claims, selecting how to employ the law, and what type of litigative strategy will be used.

The chapter will also illustrate how utilizing Sun Tzu's reinterpreted factors, can assist disempowered groups to develop their autonomy and identity within the context of courtroom litigation. It is first important to understand the scope of litigation, how it can be used, and to what extent it can assist groups in their struggles for environmental justice.

I. What is a Strategy of Litigation?

A strategy of litigation is one of the practical methods of legal mobilization that groups can employ in environmental justice struggles. Litigation as a legal mobilization strategy, refers to

utilizing the law when an aspiration is translated into a legal demand or an assertion of rights.¹⁰⁶

In this sense, the law is used to challenge or protect the interests and the rights of the parties involved. This approach to legal mobilization and employing the law also sees the role that the law can have as a cultural convention,¹⁰⁷ which shapes and facilitates practical social interaction.

Legal conventions, such as civil rights, environmental regulatory statutes such as *The Canadian Environmental Protection Act* are then used to negotiate relations, whether conflictual or co-operative, between the claimant, other citizens or groups, and the state.¹⁰⁸

Central to the deployment of the law in litigation are the legal claims formulated by the claimant(s) and the defendant. The interests, concerns and ideals that are being expressed through legal claims can encompass several different issues and interests, such as protecting a community from environmental degradation, conserving an adequate quality of life, protecting other civil liberties and rights, advocating the inclusion of groups in administrative decision making, and expanding the principles of environmental rights and justice. The main premise is that the law can

¹⁰⁶ Michael W. McCann, and Helena Silverstein, "Social Movements And The American State: Legal Mobilization As A Strategy For Democratization" in Leo Panitch et al. eds., *A Different Kind of State*, (1993) at 133.

¹⁰⁷ Gordon Marshall, *The Concise Oxford Dictionary of Sociology*. (New York: Oxford University Press, 1994) at 105. Cultural conventions refers to the realm of ideas, values, beliefs and customs, that are shared amongst a particular culture, and develops their sense of culture by adapting to them.

¹⁰⁸ McCann and Silverstein, *supra* note 95 at 133.

be adapted and employed to assist many groups within society to protect their interest and rights.¹⁰⁹

In many cases, the law can also be deployed as a political tool, to challenge existing conventions and practices that may not include the interests and rights of some within society. In this sense, the law can be used to expand on societal and cultural conventions, express future political vision and challenge issues pertaining to social justice such as the marginalization of some groups based on race and economic background.

The distinction between legal and political strategies of litigation are important to note because of the nature in which the strategies can be employed. A political strategy can be termed an "aggressive" strategy of litigation.¹¹⁰ A legal strategy can be termed as a "defensive" strategy of litigation.¹¹¹ In both cases, the law is a resource/tool that can be used in practical social mobilization.¹¹² By employing the law in a manner that will reflect the objectives and interests of the group, an "aggressive" or "defensive" strategy can be developed. This aspect of legal

¹⁰⁹ McCann and Silverstein, supra note 95 at 133.

¹¹⁰ Cary Coglianese, (2000) " Legal Change at the Margins: Revisiting the Political Disadvantage Theory". Retrieved January 9th, 2001 from the World Wide Web: <http://www.ksg.harvard.edu/prg/cary/legal.htm>
John F. Kennedy School of Government Harvard University at 6.

¹¹¹ Coglianese, supra note 99 at 5.

¹¹² Michael W. McCann, Rights At Work: Pay Equity Reform and the Politics of Legal Mobilization. (Chicago: University of Chicago Press, 1994) at 10.

mobilization has been demonstrated by the use of aggressive and defensive legal tactics by social reform movements in the United States such as those for women's rights, civil rights, environmental reform, and consumer rights to open up closed processes, to win rights for citizen participation, to dramatize issues in the public sphere, and in providing leverage against dominant groups in struggles over policy and decisions.¹¹³

The next section will define and illustrate how aggressive and defensive strategies can be employed in a mobilization plan, and for what reasons.

IA) Different Types of Litigative Strategies

There are different ways in which groups can employ the law as a resource for social reform and activism. In particular, there are two methods by which the law can be utilized in legal strategies. Groups can deploy the law in either an aggressive or defensive strategy.¹¹⁴ It is important to note and decipher the will and objectives of a group in order to determine which strategy is most appropriate for that group.

IB) Aggressive Strategies: Using the Law in a Political Strategy

An aggressive or political strategy of litigation deploys the law to challenge unfavourable constitutional provisions, regulatory policies, cultural conventions and practices.¹¹⁵ This legal strategy may call for a reinterpretation of existing laws, policy and practices. From an

¹¹³ McCann and Silverstein, supra note 95 at 131-132.

¹¹⁴ Coglianese, supra note 99 at 6.

¹¹⁵ Richard C. Cortner, "Strategies and Tactics of Litigants in Constitutional Cases" (1968) 17 *Journal of Public Law* 287 at 288.

instrumental perspective, legal challenges brought through lawsuits can directly overturn or modify the existing meanings of certain laws and legal procedures.¹¹⁶ In this sense, the law may be a powerful resource/tool to achieve social, political and legal reform. Reform is a possibility because successful lawsuits can redefine the current definitions and boundaries of the law, as well as shift the current perceptions and ideals within the law, policy and practice. This can be attributed to the law's ability to shape cultural conventions and facilitate social change.¹¹⁷

Groups seeking to expand the notion of environmental rights, may choose to challenge policies and practices that exclude them from participating in the administration of local environmental affairs. This may entail formulating a legal claim that challenges the local administrative processes that determine local environmental policy and decision-making on the basis that they do not allow democratic participation in the development of policies and decisions. The exclusion of certain groups results in them having their right to a decent quality of life infringed upon. This can be attributed to the potential risks and hazards faced by the groups as a result of policies and decisions that are made without the consideration of their interests.

Exclusion from participating can also be seen as a perceived democratic injustice, in which the perceived participatory rights of the individual(s) are being overlooked. If a group feels that it has a right to participate, or wishes to expand on this notion of participatory rights, it may choose to challenge a current practice or policy that results in its exclusion. It may argue that the policies and decisions to which it will be subject do not reflect its interests, and have the potential to harm

¹¹⁶ Helena Silverstein, Unleashing Rights. (Michigan: University of Michigan Press, 1996) at 125.

its local environment. Therefore, the policies and practices adhered to by local administrators are unjust, because they do not take into consideration the effects they may have on the public.

In this sense, the law may be employed to address the social justice issues for which the environmental justice movement is seeking redress. The law can also be used as a political and social tool for reform to expand the notion of environmental rights. This makes employing the law a political tactic. The law can be incorporated with the interests and rights of the group, to reflect their desire to change laws and practices that are currently in existence and practiced. Rights are expanded when courts of law recognize existing rights and/or develop these rights to include new conceptions and rights ideologies.

If groups can create legal claims that reflect their political platform, such as inclusionary rights in local environmental affairs, then the law can be used aggressively, to challenge existing practices and conventions that exclude disempowered groups from participating and voicing their concerns. Political and social reform can be inspired by effective legal claims and litigation in the courts of law. The main premise in this argument is that the law can shape cultural conventions and norms, to reflect the ideals, will and objectives of the public and society in general. The law can also be used to expand existing legal rights, by using the language of law to make claims for new rights that have yet to be recognized.

IC) Defensive Strategies: Employing Existing Laws to Protect the Interests of Disempowered Groups

A defensive or legal strategy of litigation refers to invoking the location of an already existing legal boundary.¹¹⁷ This refers to using an existing law, statutory provision, or policy

¹¹⁷ McCann and Silverstein, supra note 95 at 133.

initiative to protect the interests and/or rights of a group, without challenging the provision being used by the group. In this situation the 'law on the books' is applied to a certain case with hopes that the application can protect the interests and/or rights of the individual or group. Therefore, the decision of the group to file a lawsuit is also a strategic one. It is not a strategy that questions the current policies and legislation in practice. Rather, it questions the desirability of filing a specific lawsuit to achieve a specific goal.¹¹⁹

In this sense, it is not the existing laws, practices, and conventions that are being challenged, as in a political strategy. If a certain statute or provision that already exists within a statute can be applied effectively to protect the interests and rights of the claimant, then the law is being used in a defensive manner as opposed to an aggressive manner.¹²⁰ Accordingly, the law is deployed to protect the already institutionalized rights, conventions and ideals to prevent injustice from occurring.

ID) The Affects of Political and Legal Strategies

The positive effects of these different strategies are twofold. On one hand, there have been significant gains made for poor, disempowered groups in terms of increased participation.

¹¹⁸ Coglianese, supra note 99 at 6.

¹¹⁹ Coglianese, supra note 99 at 4.

¹²⁰ A defensive strategy can be defined as, using an already existing regulatory statute that prohibits the unsafe storage of toxic waste, to prosecute a waste facility that is polluting a community environment by not adhering to the provisions within that statute.

security, and freedom from being harassed and victimized.¹²¹ These gains come in the form of groups winning legal claims in the courts of law by utilizing both legal strategies, and by being included in the policy and decision making processes regarding their environment.

A victory in a court of law asserts the group's rights and interests through interpreting the law. Political strategies indirectly construct meaning beyond the realm of legal rules, and expands vocabularies, conventions and practices currently in use.¹²² For groups that are concerned with expanding the notion of environmental rights and environmental justice, this is a beneficial attribute of employing a strategy of litigation for the purposes of collective action. If the legal claims and lawsuits of the group are met with success in the courts of law, there is potential for reforming policy and practices that do not uphold the values and ideals of environmental justice and rights. On the other hand, victory in the court room is not always necessary for success. "Mere uncertainty about how the courts might rule can invest threats of legal action with considerable power, while defeats in court can provide considerable publicity for policy disputes and credibility for new rights claims."¹²³

Strategies of litigation can have benefits in victory, uncertainty and defeat. Winning claims and challenges can express new political vision, protect existing rights, affirm a group's humanity

¹²¹ Gary Bellow, "Turning Solutions Into Problems: The Legal Aid Experience" (1977) 34:4 *NLADA Briefcase* 1 at 2.

¹²² Silverstein, *supra* note 105 at 125.

¹²³ McCann and Silverstein, *supra* note 95 at 134.

and contribute in the collective political development of social and/or political movements.¹²⁴

Mere uncertainty about how the courts may rule, might lead to negotiations between groups and their opponents. In this case, negotiations may stem from a group's opponents not wanting to have a lawsuit work against them. In defeat, groups may be able to use the ruling or the decision made by the courts to increase the momentum of their cause, because if there is enough publicity through media coverage of the case and the ruling, the public can be made aware of the unjust and unfair decisions that courts often make. Again, this can increase the support and momentum of a movement.

Litigation also has an important role in educating. It can be used to educate the public, government officials, judges, lawyers, and others. Based on the facts and the information that groups attain throughout the course of mobilization and formulating lawsuits, groups can influence public perception.¹²⁵ This is accomplished by creating awareness of the situation and the need for new vocabularies, practices, conventions and meanings. It may also entail adhering to and upholding existing practices, convention and meanings to protect and ensure public safety. Putting forth information to encourage transformation in popular attitudes and beliefs also constitutes the first step in gaining public support.¹²⁶

¹²⁴ Elizabeth M. Schnieder, 'The Dialectic of Rights and Politics: Perspectives from the Women's Movement' (1986) 61 *New York University Law Review* 554 at 590.

¹²⁵ Silverstein, supra note 105 at 163.

II) Effective Use of Sun Tzu's Reinterpreted Factors In Legal Mobilization

One of the key elements in the two possible strategies of litigation is creating legal claims. If we understand that these claims will serve as negotiating tools for the parties involved, then creating legal claims is an important aspect of litigation. Formulating a legal claim and deciding on what type of strategic approach would serve the claimant's best interests becomes a crucial part in planning for collective action. It is for this reason that adapting the reinterpreted factors can play an important role in developing a strategy of this nature.

The reinterpreted factors may contribute to the effectiveness of litigation. They may assist the group/community to actively participate in the formal processes of litigation by allowing them to create their own legal claims and strategies. In order to successfully employ the reinterpreted factors, groups must have already analyzed, studied and learned about their conflict. Groups that have reached a stage where they have begun to understand their conflict, may be in a better position to employ the reinterpreted factors to develop a strategy of collective action. This means groups will have already begun to educate themselves regarding the environmental justice issues inherent in their conflict. This also means groups should have started attaining information regarding their opponents, resources for mobilization, and organizing themselves as a group.

In formal processes such as court room litigation, representatives of the claimant (lawyers) may be required to create claims and choose a legal strategy for the claimants. Rather than placing their interests entirely in the hands of a representative and having them formulate legal claims, the group can work with these actors to create legal claims that take into account their personal experiences, interests and objectives. It is to the group's/community's advantage to

¹²⁶ Silverstein, *supra* note 105 at 58.

work with the representative because in many cases their interests and concerns may often be overlooked by the representative in the formal processes.¹²⁷ This can be attributed to a lack of understanding by the group regarding their conflict, and understanding their options in terms of what legal strategies are available to them.¹²⁸ Groups that have begun to understand the environmental justice issues, the dynamics of the groups involved, and have begun to organize themselves, are in a better position to participate in this process. Groups that do not have an understanding of the conflict, may be forced into relying solely on legal actors and services to represent their interests entirely in the formal process. This may result in low group autonomy in the process. Determining how the reinterpreted factors can enhance strategies of litigation is essential, if we are to understand how they can assist groups in participating and utilizing this practical method of mobilization.

IIA) The Reinterpreted Factors and Their Potential Effects on Legal Mobilization

The first important aspect is determining the cause or reason for legal mobilization. By defining the key issues and cause for taking action (*motivation*), groups can target their legal claims specifically to reflect and address these issues. In environmental justice conflicts, groups need to determine what their objectives and purpose are. This will assist them in focusing on the nature of their claim (i.e. political and/or preventative), and assist them in selecting what type of legal strategy they can use, depending on what they are seeking to accomplish. In this sense, conceptualizing the conflict and the inherent environmental justice issues in it, will assist the group to focus their attention on a strategy that will target these issues.

¹²⁷ Bellow, supra note 110 at 4.

If the group's goal is to address social justice issues such as the exclusion of marginalized groups from policy and decision making processes, they may choose an aggressive legal strategy that may have the potential of redefining the current practices and policy. This would be in the best interests of the group because it is a current practice or policy that is causing their grievances. Therefore, the best approach would be to attempt to reform these policies and/or practices. It is important to understand the *motivation* behind legal mobilization, because it can determine the course of action and strategy the group will select. By doing so, the other factors are more easily employed.

Defining the key issues and objectives (*motivation*) for taking action can assist groups in *organizing and planning* an effective legal strategy. This is accomplished by using the group's knowledge to create a plan of action that attempts to meet the objectives set out by the group. For example, if a group feels that a waste treatment facility in their community is not adhering to regulatory statutes and provisions, they may plan in accordance with a defensive legal strategy, and invoke an already existing legal provision to protect their interests and rights. In this case, there is no need to challenge an existing law and provision. Instead, employing the current laws will assist the group in protecting their interests and concerns.

Organizing and planning for action determines the course the group will take. Therefore, a group will need to plan in accordance with the strategy it has selected. This means assessing resources, determining the strengths and weaknesses of the selected strategy, and determining its capability of successfully carrying out that course of action. It also includes determining how it will deploy the law, in terms of whether it will use it as a political and/or defensive tool/resource.

¹²⁸ Bellow, *supra* note 110 at 4.

Therefore, groups must also understand the reaches of the law and how the law can be employed to serve their purposes.

Even when litigation advances democratic causes, there are a number of financial, organizational, and ideological burdens on groups, making the evaluation process crucial when deciding whether or not to use this strategy.¹²⁹ Disempowered groups need to take these issues into account if they are planning to employ this strategy. It is difficult for disempowered groups to match the financial, social and technical resources their opponents have. Large organizations, such as corporations, use litigation more frequently than disempowered groups and may have resources and experience to fund long arduous legal campaigns.¹³⁰ This aspect of litigation makes *organizing and planning* all the more important in developing a legal strategy. If disempowered groups have a limited amount of financial resources, they may not be in a position to fund a long and arduous legal campaign. However, *organizing and planning* can assist groups in developing a strategy of litigation that attempts to accomplish their goals, while at the same time considering their funding. This can be attributed to the assessment groups must take of their resources, and planning how these resources can be used effectively. Thus it means that they must carefully choose when to litigate.

Identifying the *motivation* can also target the *knowledge of the circumstances and situation* that a group needs to attain to formulate their legal claims. If the legal claims made by a group reflect their interests and concerns, they will have more weight if substantiated by evidence.

¹²⁹ McCann and Silverstein, supra note 95 at 134.

¹³⁰ K.L. Scheppelle et al., Mobilizing Interest Groups in America: Patrons, Professions and Social Movements. (Ann Arbor: University of Michigan

Attaining knowledge, information and data regarding the *circumstances and situation* faced by a group in their conflict, will assist them in substantiating their legal claims. The legal claims can be substantiated based on the scientific and academic facts and data, as well as the personal experiences and local knowledge the group puts forth. The process of litigation requires the parties to demonstrate the truth or accuracy of their claims, by substantiating them with evidence. Using self knowledge and acquired knowledge may also address some of the problems that may be encountered with legal mobilization, in terms of representation.

IIB) Developing Autonomy in Litigation Strategies By Employing the Reinterpreted Factors of Sun Tzu

When groups bring their claims to court, a "legal expert" is needed to be the group's voice and representation. This may result in low client autonomy. The definitions of the client's problems, and the "best" available solutions are often not mutually explored and elaborated; they are imposed by the lawyer's view of the situation and what is possible within it.¹³¹ Groups often think they are having their issues and claims resolved by apolitical parties when in fact courts, judges and lawyers are often driven by their political convictions and personal aspirations.¹³² By focusing their attention to *knowledge of the circumstances and situation*, groups can attain the information needed to participate in formulating their own legal claims and incorporating their personal experiences and objectives within those claims. Understanding the conflict and the elements within it, can facilitate the creation of legal claims that voice the specific interests of the

Press, 1991) at 170-173.

¹³¹ Bellow, supra note 110 at 4.

¹³² Bellow, supra note 110 at 4.

group. It also allows them to use their specified knowledge to question and challenge the claims of their opponents based on their unique understanding of the conflict. Groups that have not yet developed this knowledge, may need to rely on the claims and strategy that their legal representation chooses for them. This may result in representatives developing group claims, based on how they interpret the situation. This may lead to a potential problem because often the interpretations of the representative may not coincide with those of the group. Therefore, a group that is capable of understanding its conflict can participate in the creation of claims that reflect its interests. This will diminish the need for relying solely on legal representatives to formulate the group's concerns and interests in the court of law.

Understanding the *circumstances and situation* also play a role in *organizing and planning*. By understanding what the issues inspiring collective action are, and conceptualizing the problem as an issue of environmental justice, groups can use their knowledge to select a legal strategy. Understanding the reaches and scope of a particular legal strategy can also determine how a group will choose to deploy the law. By organizing according to the facts and information the group has developed, groups can select either a defensive or aggressive strategy of legal mobilization, depending on what their objectives are. When groups are capable of framing the issue(s) in terms of how they perceive the problem, they can select a strategy that seeks to resolve the problem(s) based on how they have interpreted it.

In this sense, it is the *knowledge of the circumstances and situation* that will play a role in assisting the group to develop its own strategy and claims and organize to carry that strategy out. A legal mobilization strategy and claims created by the group, can build the group's autonomy in two ways. First, it allows the group to voice its interests and concerns as it perceives them. In this sense, the group creates its own voice in the courts of law by creating and substantiating its

claims with their *knowledge of the circumstances and situation*. This may prevent groups having to rely solely on the ideas and interpretations of their legal counsel. Second, it allows the group to develop insight as to how it can go about addressing the issues it is facing, by selecting a legal strategy that focuses on the issues and their objectives. Groups that can participate in developing its claims and strategies of litigation are more likely to act autonomously in the formal process of courtroom litigation. By presenting its claims and objectives to its representatives, it can work in conjunction with legal actors to develop a plan of action. This is a considerable achievement in developing group autonomy within a formal process, if the general nature of the process is understood (i.e. lawyers often create and select strategies for their clients).

IIC) Developing Identity Through Legal Mobilization: How Litigation Can Reflect The Leadership and General Qualities of the Group

The legal strategy the group chooses to employ will also reflect its *general leadership and characteristics*. One of the characteristics of a strategy of litigation is that it serves as a tool that educates those within society. Public perception is often based on substantiated information and increased awareness. By developing claims that reflect their interests and concerns, groups can also influence actors outside the formal processes of the law. This is accomplished by demonstrating the nature of their legal claims to others.

Groups that create legal claims that attempt to address environmental justice and rights issues, develop their identity as advocates of environmental justice and rights, based on these claims. Their identity is developed by challenging and advocating the issues that are central to the environmental justice and rights movement. The challenges and legal claims that the group makes support its position and advocacy. If a group's objective is to win rights or develop practices that include community residents' interests in local environmental affairs, the claims it articulates will

form part of its voice in negotiations. The claims and objectives the group develops, will reflect their interests, concerns, ideologies and platforms. This is achieved by defining the issues and resolutions the group is challenging and advocating.

This may also assist a group in appealing to other groups and actors within the community of environmental justice and rights advocates that share and support their platform and position. In this sense, litigation can project the *general characteristics and qualities* of the group to the larger-scale community of environmental justice and rights advocates. This is beneficial because it may assist the group in creating alliances and gaining influence and support amongst the greater community.

III) Synthesis

This chapter has focused on how legal mobilization, in particular litigation in the courts of law, can effectively employ an understanding of the reinterpreted principles of Sun Tzu to shape a litigation strategy. Understanding what legal mobilization is, is part of understanding what measures can be taken to resolve a problem. Therefore, groups must know the potential uses of the law and how it can be utilized to achieve their objectives. This requires research and understanding by the group regarding this practical method. For groups that have developed an understanding of their conflict, its elements, and legal mobilization, litigation may result in effective collective action that allows groups to participate within the formal litigation process. Groups that have developed an understanding of the conflict and its elements, are more likely to develop a strategy of legal mobilization that they can participate in and carry out.

Legal mobilization may also be an avenue that can create support and alliances with other groups. This is achieved by forming legal claims that seek to advocate and challenge the

environmental justice and rights issues that are advocated by the environmental justice community. By applying the information and knowledge the group has attained to develop their ideologies, interests and platform, the legal strategy and claims developed by the group will be reflective of their principles and objectives.

Therefore, applying the reinterpreted factors of Sun Tzu can assist disempowered groups participating in legal mobilization by allowing them to: (i) determine the issue(s) they are facing (*motivation*); (ii) gather information regarding the issues (*knowledge of circumstances and situation*), and apply that information to create legal claims and strategies reflective of their objectives (*organizing and planning*); and (iii) develop and project their identity within the formal process of litigation and outside it, to the public sphere (*leaderships qualities and general characteristics*). In this sense, the reinterpreted factors of Sun Tzu can be employed to develop an understanding of the conflict and the group's position regarding the conflict (identity). The reinterpreted factors may also assist groups to overcome the obstacle of misrepresentation in the formal process of courtroom litigation. This is achieved when the group is in a better position to create its own claims, and rely less on the claims and strategies created for them by their representatives. Being able to do so develops the group's autonomy because it is the group that is developing its own claims and strategies.

For groups to be able to employ the reinterpreted factors effectively, they must have already developed certain resources. These include information, organizational, legal, expert, and financial resources that will assist the group in developing its claims and strategy of action. Before the reinterpreted factors can be applied effectively, groups need to develop an understanding of the elements within the conflict. Groups must find a means by which they can develop the reinterpreted factors, so they can employ them effectively to contribute to a plan of

action. This may cause a problem for groups that have greater difficulty in accessing legal information, financial, and other resources that will assist them in planning for collective action.

This is not to say that groups experiencing these difficulties will never be in a position to utilize the reinterpreted factors of Sun Tzu. For these groups, another practical method of mobilization may be necessary to assist the group in attaining essential resources. Groups at a greater disadvantage may benefit from using a practical method that works to build on the group's knowledge, and capabilities to access resources. This may also assist the group in effectively mobilizing itself, and developing its identity and autonomy.

The next chapter will focus on another *practical method of mobilization* that can assist groups in developing an understanding of the conflict and its elements, as well as developing its autonomy and identity as a group. This practical method is termed creating networks and alliances.

Chapter 4: Creating Networks and Alliances: A Grassroots Approach to Practical Social Mobilization

This chapter will focus on the practical mobilization strategy of creating networks and alliances. It will illustrate how networks and alliances can assist groups in understanding and developing the reinterpreted factors of Sun Tzu. This chapter will demonstrate how existing methods of resource mobilization can assist groups in focusing on understanding the reinterpreted factors of Sun Tzu. Demonstrating how networks and alliances can assist disempowered groups to develop the reinterpreted factors may also provide a new and diverse means by which we can define how the two work to empower groups.

In order to do so, the chapter will define what a network is. It will also show how networks can create alliances that can assist disempowered groups to empower themselves by providing them with the necessary resources to understand their conflict and act autonomously. The contention in this chapter is that networks and resource mobilization practices such as resource sharing can assist groups in developing resources and conceptualizing their conflict. The knowledge that groups develop with the assistance of networks and alliances can also contribute to a better understanding of the reinterpreted factors of Sun Tzu, and how they can be utilized in social mobilization.

The second section in this chapter will look at another practical method of mobilization that can assist groups in creating an alliance with actors and/or organizations capable of assisting them in planning for collective action. Environmental poverty law (EPL), is an alternative form of legal mobilization that works to empower groups by using legal actors to assist groups in collective action. This section will define and illustrate what EPL is, and how it can assist disempowered groups to develop an understanding of the conflict and thus to use the

reinterpreted factors of Sun Tzu. It will also illustrate the methods in which groups can develop their resources, and develop a plan of action using EPL.

It is important to understand exactly what networks and alliances are, and how they work to assist disempowered groups. The following section will define and examine what a network is and how they work. In order to understand the role networks and alliances can play in assisting groups to organize themselves and develop the reinterpreted factors, we must understand what they are, and how they work to empower groups.

I. The Role of Networks and Alliances

Networking and creating alliances are two of the most effective and useful practical methods of resource mobilization a group can employ. The term “network” refers to “individuals who are linked together by one or more social relationships, thus forming a social network.”¹³³ By this definition, it is understood that individuals are linked by relations of some sort, that creates a network amongst several individuals based on this relation. In terms of environmental justice, a network refers to a group of individuals and organizations that are linked together for the common purpose of protecting the environment, asserting or expanding the notion of environmental rights, and addressing the social justice issues that contribute to environmental injustice. The values that the groups and organizations share link them together. Essentially, it is the belief and advocacy of environmental justice and right that can potentially create a relation

¹³³ Marshall, supra note 96 at 353.

between groups. Therefore, it is through this shared value and the advocating of this value that a network relationship can be established.

Networking in this sense refers to groups sharing their resources and support to assist other groups struggling for or advocating environmental justice and rights. The social relation is founded in this shared belief in values, and is realized when groups physically begin assisting and lending their support to each other.¹³⁴

The organizations, groups and individuals that are advocates for environmental justice and rights, serve as support and resource sharing networks that can assist groups in planning for collective action. These networks can assist the group to understand their situation and develop their autonomy, through the sharing of personal and local experiences gained by other individuals and groups that have been involved in struggles for environmental justice.¹³⁵ Networks also impart knowledge and lend resources that can assist disempowered groups in organizing themselves for collective action.¹³⁶

¹³⁴ Marshall, supra note 96 at 353.

¹³⁵ Capek, supra note 2 at 13.

¹³⁶ Clark, supra note 94 at 507. Networks can assist groups in accessing, scientific and academic records and information that will assist groups in understanding the issues and potential problems within their communities, such as environmental and social justice issues. Networks can also provide groups with financial, legal, and organizational resources, that will assist them in mobilizing themselves.

American Land Rights Association, "Organize Effective Demonstrations and Effective Media Tools". Retrieved January 4th, 2001 from the World Wide Web: <http://www.landrights.org/demos.htm> at 1; and Sierra Club, "Tips for Effective Activism". Retrieved February 22nd, 2001 from the World Wide Web: <http://www.sieraclub.com/sctividtips.html> at 1. These networks can also provide "how to" tools for writing effective letters, organizing for protests, how to fill out press releases to invite the press to certain events for publicity, contacting Ministers of Parliament or Congressmen.

In a sense, disempowered groups are creating a form of local governance amongst themselves and others like them.¹³⁷ This is achieved by sharing knowledge and resources with groups like themselves regarding environmental justice issues that shape and influence the political vision of the group and its members. This develops strength by building on shared cultural conventions and trends that may assist in the determination of municipal organization and planning.¹³⁸ For groups that are marginalized and excluded from the processes that determine environmental decisions and policy, developing influence outside these processes may empower groups, and assist them in appealing to these processes later on. Rather than appealing to actors and processes that contribute to their marginalization, disempowered groups focus their efforts to attaining the support of groups that share their values and ideals. By attaining the support and resources that networks and alliances share amongst themselves, disempowered groups may develop their autonomy and influence as a group, and be better able to participate and influence the formal processes that currently exclude them.

With regards to collective action, groups need a considerable amount of information and resources if they are to mount effective campaigns.¹³⁹ These types of networks allow groups to

¹³⁷ Markku Sotara, "In Search of New Approaches on Community Governance: Towards New Models and Softer Strategies" (2000) 22:4 *Quarterly of Finnish Local Governance Studies* 386 at 388.

¹³⁸ Sotara, *supra* note 126 at 389.

¹³⁹ J.H. Turner *et al.*, "Intelligent Urban Development: An Introduction to a Participatory Approach" (2000) 37:10 *Urban Studies* 1723 at 1724.

communicate and create knowledge amongst themselves and share resources.¹⁴⁰ This shared knowledge that groups develop through their activism and experiences, can assist other disempowered groups to understand their conflict, and access resources that can assist them in organizing against the conflict. It is the information and resources that groups attain through networking and creating alliances, that will allow them to focus on several of the key issues and questions surrounding their conflict, such as identity, the adversary and the goals of the particular struggle.¹⁴¹

Networks and resources can provide groups with scientific information and data to substantiate their claims and prove that a perceived environmental hazard, is in fact capable of harming their health, safety, and environment. They also provide groups with academic material that can assist them in understanding the elements of their struggle to include social justice and environmental issues. Networks and alliances can also provide disempowered groups with financial, organizational, expert and legal resources that will assist them in developing their campaign and challenging the positions of their opponents.

An example of a network and networking amongst groups that share information are NGOs, in particular environmental NGOs like Greenpeace and the Sierra Club. These NGOs act as information and resource banks for the government, government agencies, private groups, and local groups. and are often in a better position to deal with human rights and environmental justice

¹⁴⁰ P. Healey, "Planning Through Debate: the Communicative Turn in Theory" (1992) 63:2 *Town Planning Review* 143 at 153.

¹⁴¹ Castells, *supra* note 9 at 113.
Coglianese, *supra* note 99 at 8.

issues than many government bodies and organizations.¹⁴² This can be attributed to the expertise these groups have gained with time and experience. In a sense, by focusing their time and effort on a particular area, NGOs become "experts" in their field or area of choice. NGOs have extensive information regarding a particular area or field. Environmental NGOs, such as Greenpeace and the Sierra Club have information regarding the environment, environmental justice and environmental rights. NGOs share the information they have with local, national, and transnational groups, and attain much of their information from these same groups. The experiences and situations shared by several groups may be similar, and can contribute to a growing network of information and resources.

There are examples of International NGOs that have used their resources and alliances to create awareness and challenge particular issues or projects that may have a detrimental effect on the environment.¹⁴³ Local groups need not appeal to international actors, but appealing to those within their community or local environment can provide support and pressure local political actors. Creating networks and alliances can assist groups in developing influence and support for their cause. Therefore, networks and alliances have the potential to provide disempowered groups with resources necessary for taking collective action, as well as the support to develop political influence.

¹⁴²Clark, supra note 94 at 507.

¹⁴³ Ulrich Beck, "World Risk Society as Cosmopolitan Society? Ecological Questions in a Framework of manufactured Uncertainties" (1996) 13:4 *Theory, Culture and Society* 1 at 18-19. In 1995, Greenpeace succeeded in getting Shell to dispose of one of its obsolete oil rigs (the Brent Spar Shell) on land rather than at sea. Greenpeace was able to inform and mobilize supporters in a public boycott of Shell product, by televising world wide indictments of the multinational oil company. They were able to attain the support of political actors, such as German Chancellor Helmut Kohl, as well as the support of car drivers that supported the boycott. In the end, the pressure was too much for the Shell to overlook.

Creating networks and alliances can also coincide or lead to legal mobilization. The two can interact because of the resources networks and alliances can impart to disempowered groups. To utilize legal mobilization, groups need access to legal services and actors. In some cases, a network and/or alliance with an organization that specialize in environmental justice issues, such as Greenpeace or the Sierra Club, can be the first step in accessing legal services. These organizations may have contacts for legal representation that specializes in assisting marginalized groups in environmental justice conflicts. There are several groups and actors within the public sphere that have been or are currently involved in environmental justice struggles. These groups may have extensive knowledge and experience in dealing with environmental justice issues, facts, and community organization. This knowledge is not pre formulated but is specifically created anew through communication and new experiences amongst these actors and groups.¹⁴⁴

The creation of resource sharing networks and alliances can impart the necessary resources and tools to disempowered groups that will allow them to understand their situation, and strengthen their autonomy as a group.

International NGOs such as Greenpeace, are successful at creating networks and sharing information with others like them because they have access to the technology such as the Internet and telecommunications, that can facilitate resource sharing.¹⁴⁵ This technology makes the relaying of information across the globe easier, and gives groups greater access to the information

¹⁴⁴ Healey, supra note 129 at 153.

¹⁴⁵ Castells, supra note 9 at 129.

they need.¹⁴⁶ It also helps groups achieve a level of empowerment through knowledge of facts, situations and possibilities.¹⁴⁷ However, obstacles such as equipment cost may prevent the disempowered from gaining access to community networks and the Internet.¹⁴⁸ As complex as these problems may be, there are solutions which can assist disempowered groups in gaining access to networks, via the Internet.¹⁴⁹

I A) Understanding the Conflict: How Networks and Alliances Can Assist Groups in Developing the Reinterpreted Factors of Sun Tzu

Some groups may have the advantage of being aware of an injustice, or have the ability to access legal or social resources to assist them in the process of planning for collective action. However, many disempowered groups/communities may have a suspicion that something is

¹⁴⁶ Robert Martin, "Stateless Monies, Global Financial Integration and National Economics Autonomy: End of Geography?" (1996) 49 *Journal of International Affairs* 254 at 262.

¹⁴⁷ Jonathan Lillie, (2000) "Possible Roles for Electronic Community Networks and Participatory Development in Access Programs for Poor Neighbourhoods". Retrieved November 17th, 2000 from the World Wide Web: <http://www.unc.edu/~jlillie/3ld.html> University of North Carolina at 3.

¹⁴⁸ Lillie, *supra* note 136 at 2. The privatization of Internet services and access, for example, means that access costs and user fees may be far too costly for most poor families. Also, the technology that facilitates the creation of networks (computer technology) can be costly. This aspect of networking and creating information sharing alliances makes it difficult for many disempowered groups to actively participate, and use the network to its potential.

¹⁴⁹ Turner *et al.*, *supra* note 128 at 1730. One solution is the rapid rate of technological development and pressures for firms and educational establishments to upgrade their equipment, resulting in a high volume of redundant equipment which is still serviceable. There has been an expansion of facilities whereby such equipment can be made available at a fraction of the original cost. This can make accessing computer and Internet technology easier for disempowered communities. Other solutions include, public terminals in location such as libraries and the growth of 'free' Internet service providers (ISPs) where advertisers rather than the users pay the service provider, making the user fees considerably less.

wrong, but may not know of the problem and what can be done to resolve it.¹⁵⁰ For these groups, networks and alliances can be the cornerstone of initiating collective action.

As in all cases, establishing the *motivation* for mobilization and forming a group is the first step in the process. Networks and alliances can play a role in assisting a group to determine the problem that is present in its community. Networks and alliances can also assist in determining the environmental justice issues that contribute to the problems being faced by communities. Since many actors and organizations in the environmental justice community's networks have an understanding of the issues, they can assist groups in conceptualizing their situation as one that encompasses a number of social justice and environmental issues. Whether the network/alliance imparts information that can affirm the group's suspicions, or whether it makes the group aware of a potential problem, it can assist the group in developing a reason or *motivation* to organize itself and participate as a group. They provide motivation by illustrating the issues that are inherent in all environmental justice struggles.

IB) Utilizing Networks and Alliances to Develop Autonomy

Information, financial, expert, legal, and organizational resources can assist groups in developing their claims and platforms, plans of action, organizational structure, and carrying out their planned initiatives. Without such resources it may be difficult for groups to employ the reinterpreted factors of Sun Tzu, and/or mobilize themselves at all. Effectively employing the

¹⁵⁰ Capek, *supra* note 2 at 10. In Carver Terrace, Texarkana, residents were aware that a toxic chemical, creosote, was being manufactured, but were unaware of the extent of its presence and the damage it could cause.

Some residents said they had dug up "black stuff" in their backyards, but were told by corporate officials that it had been treated, and it was nothing to worry about. These residents still had a suspicion something wasn't right with the quality of the soil.

In 1991, a study funded by the ATSDR (Agency for Toxic Substances and Disease Registry) found residents of Carver Terrace experienced skin rashes, chronic bronchitis, liver disease, premature birth, and low birth weights in comparison to another study group.

reinterpreted factors requires groups to have knowledge of the conflict, the parties involved, the potential solutions and plans of action. Without this knowledge groups may lose their ability to employ the reinterpreted factors, as well as their ability to act autonomously.

Information resources, such as academic and scientific reports and studies, can assist groups in understanding the issues and problems they are facing. When groups are made aware of a problem and/or the issues contributing to the problem (*motivation*), they need to understand the *circumstances and situation* regarding the problem and conflict. Understanding a problem requires group members to educate themselves regarding the problem and its elements. As I have noted above, networks and alliances, such as NGOs (Greenpeace, The Sierra Club), are information banks that have a great deal of knowledge regarding environmental justice issues and planning for collective action. This knowledge can be imparted to the group to assist them in better understanding their *circumstances and situation*. Disempowered groups may learn to understand the extent of certain environmental issues based on the information and data that networks and alliances can share with them.

Information may also help them to understand the social justice and political issues they are facing. Access to the debates and theory regarding the social justice issues may help to explain why groups are disempowered. Once groups have a better understanding of their *circumstances and situation*, they can begin to organize and determine a course of action that will address the issues and problems they are experiencing.

In this sense, *knowledge of circumstance and situation* can contribute to developing autonomy by allowing groups to develop their own understanding of the conflict. From this understanding groups can begin to form their own claims, positions, and platforms with regards to the issue and problems they are facing and how it relates to them. The ability to take a position

and voice concerns on an issue is crucial to the autonomy of the group. The positions, platforms and voice developed by the group, will be more reflective of the general will and interests of the group with regards to certain issues, problems and potential solutions and will allow the group to actively participate in the voicing of their concerns and interests. Without information on a particular issue, it may be difficult for disempowered groups to develop their own voice and platform.

Networks and alliances can also assist in developing a group's ability to act autonomously, by contributing to *the organizing and planning* of a strategy of collective action. Apart from having extensive information resources, groups in a network may have access to organizational, financial, expert and legal resources that can assist disempowered groups. Environmental justice NGOs can assist groups in organizing their communities to take action. They have specialists or "organizers" that can assist communities and groups in forming activist groups.¹⁵¹ These organizers can assist the group to develop a proactive community organization, as well as organizing for a particular plan of action such as organizing public protests or lobbying.¹⁵² They can also provide groups with contacts for lobbying, advocacy, educational and research information, legal and financial aid.¹⁵³ Understanding the potential uses of these resources also contributes to selecting a plan of action, and how to *organize and plan* accordingly.

¹⁵¹ David Carruthers, (2000) "Environmental Nongovernmental Organizations in the U.S. - Mexican Borderlands". Retrieved March, 1st, 2001 from the World Wide Web: [Http://www.brdercoweb.sdsu.edu/NGOWeb.htm](http://www.brdercoweb.sdsu.edu/NGOWeb.htm). at 2.

¹⁵² Carruthers, *supra* note 140 at 6-7.

¹⁵³ Carruthers, *supra* note 140 at 6-7.

In terms of assisting with legal mobilization, the legal aid that these organizations can recommend are specialists in areas of community mobilization, environmental justice claims, and environmental law. Therefore, depending on the will of the group members and suggestions of the organizer, groups can determine the course of action they wish to take to address the problem.¹⁵⁴ This may result in groups employing strategies of action that reflect their interests. address the concerns they have regarding the problem, and take into account their capabilities as a group.

Networks and alliances may also provide groups with tools, which can facilitate collective action, and can assist in *organizing and planning*. Training in writing letters to politicians, lobbying, organizing demonstrations and writing press releases can be employed by disempowered groups to voice their interests and concerns to other parties. These tools allow groups to communicate their interests to other parties in the public and political realm.

By sharing resources and tools with disempowered groups, networks and alliances can assist them in selecting different courses of action. For example, an alliance with a resource sharing network can provide a group with legal contacts for courtroom litigation, financial aid programs to fund their legal campaigns, expert resources to utilize in a legal campaign, and organizational tools that can assist groups in taking action. By imparting and sharing resources with disempowered groups, networks and alliances broaden the types of strategies and methods of plans for collective action that groups can take.

¹⁵⁴ Carruthers, supra note 140 at 4.

This can assist in developing autonomy as well, because the resources and tools imparted to disempowered groups may allow them to select from a variety of strategies of collective action. This will assist the group in selecting a course of action that better reflects their objectives, capabilities, and strengths as a group. By doing so, groups will be in a better position to develop their own plan of action, and target the issues and concerns they wish to address and challenge.

IC) The Role Networks and Alliances Can Play in Developing Group Identity

Networks and alliances may also assist groups in developing their *general characteristics and qualities*; their identity, values, objectives, and platform. This is done by educating group members to realize that their conflict is one that is a result of environmental justice issues. When groups are made aware that their conflicts include social justice issues, as well as environmental issues, they will be in a better position to develop their own opinions, positions, and values, with regards to the situation. This may result in the group having greater autonomy in formulating their own claims, and voicing these interests to other groups.

When groups are made aware of the diverse issues that may contribute to their conflict, they may go beyond voicing their specific concerns about a perceived environmental hazard in their community to enhance wider claims based on the principles of environmental justice and rights. These claims may include advocating more participatory processes to determine local environmental affairs, improved regulatory measures and action to prevent environmental degradation and ensure public safety. By stating what their objectives and goals are, they may also state the values and ideologies behind their reasoning. It is the *knowledge of circumstances and situation* that networks and alliances can lend to disempowered groups, that may assist in developing their moral and political reasoning and ideologies, as well as appealing to others who share these values.

In terms of social mobilization, public support plays a considerable role in the success of social movements and collective action. Networks and alliances can also assist groups to project this identity to potential allies and supporters. This is accomplished by sharing tools or methods by which the group can organize themselves.

For example, a tool or method by which networks and alliances can assist groups in creating an awareness of the environmental justice issues and concerns to other groups that share similar interests, is the use of organized/ non-violent public protest. Protest and demonstrations can be used to increase public awareness and educate third parties such as individuals within the public sphere, government officials, and other organized groups,¹⁵⁵ on issues regarding a group's struggle, new rights vocabulary, and new boundaries for the law. This assists a group in legal, social and political mobilization by creating a general awareness and support in the public sphere that may create pressure on the courts, politicians and the opponents of disempowered groups.¹⁵⁶ This is accomplished by using this tactic to communicate the group's *general characteristics and qualities* to other groups that may share similar experiences and values.

Protest and demonstration can assist in creating an image of power amongst the group and the public.¹⁵⁷ If an organization is successful in organizing effective demonstrations and protests,

¹⁵⁵ Norman I. Fainstein, and Fainstein Susan S., Urban Political Movements: The Search for Power By Minority Groups in American Cities. (New Jersey: Prentice-Hall, 1974) at 192.

¹⁵⁶ Gary Delgado, Organizing the Movement: The Roots and Growth of ACORN. (Philadelphia: Temple University Press, 1986) at 93.

¹⁵⁷ Harold H. Weissman, " Problems in Maintaining Stability in Low-Income Social Action Organizations" in *Community Development in the Mobilization of Youth Experience*, ed. Harold H. Weissman (New York: Association Press, 1969) 176.

they can actually add to their power.¹⁵⁸ This is accomplished by sustaining an impact on crucial third parties such as the public, government officials, and those who can put pressure on those that have power.¹⁵⁹ By creating awareness amongst the public through physical protest and media use,¹⁶⁰ as well as adding to their numbers and power, disempowered groups may acquire respect, which can create pressure on their opponents.

In essence, the networks and alliances created by disempowered groups can assist them in conceptualizing their conflicts, organizing to address these conflicts, and in attaining the support necessary to develop political influence and pressure. They can also assist groups to project this

¹⁵⁸ Weissman, supra note 146 at 176.

¹⁵⁹ Delgado, supra note 145 at 93.

¹⁶⁰ Gianpietro Mazzolini & Winifred Schulz, "Mediatization of Politics: A Challenge for Democracy?" (1999) 16:3 *Political Communication* 253 at 253. The media is influential in the sense that it can relay information, situations, and events to the public sphere. In many instances, the media becomes an agent of politics by relaying an abundance of information on political, legal, social and private issues to a mass public sphere.

Beck, supra note 132 at 19-22. "The political site of the world risk society is not the street but *television*." Using the media to relay the information of protests and demonstrations, brings the message, values, situation and activities of activist groups to a wider audience. Instead of having to be at the protest or demonstration physically, the public sphere can still see the events that are taking place.

An example of how the media can be used to amass support, and create awareness in the public sphere is the Brent Spar Shell incident, in which Greenpeace used world-wide televised public indictments of the Shell Corporation, who were trying to dispose of an obsolete oil tanker by sinking it in the ocean. By using the media, Greenpeace was able to amass support world-wide, that included private citizens, government officials, and heads of states, in the process thwarting the Shell Corporation's plans.

Richard W. Jenkins, "How Much Is Too Much? Media Attention and Popular Support for an Insurgent Party" (1999) 16:4 *Political Communication* 132 at 138. More importantly, the public can be made aware of why these events are occurring. In the process, the public is being educated on the facts and being made aware of the ideologies and boundaries the groups are defending or challenging. In many cases the media coverage can have a causal impact, especially when the party, group, or candidate is unknown. When the public sphere is made aware of a certain group and/or issue that they previously knew nothing about, the public support and sentiment can increase. The support increases because of the awareness and information relayed by the media, and a group coming out into the public sphere.

identity to allies and supporters by sharing organizational tools and resources that can assist groups in acting to achieve this objective (i.e. use of non-violent public protest).

I D) Synthesis

Creating networks and alliances with other organizations, agencies and groups can assist disempowered groups to develop the reinterpreted factors of Sun Tzu. This is accomplished by utilizing the resources that networks and alliances can impart to disempowered groups. These resources can allow groups to focus on intelligence and education, identity and purpose.

organization and planning for action, as well as lending support for the group based on shared interests and values. These attributes of networks and alliances can assist groups in developing their own capabilities to take collective action, as well as lending political support for disempowered groups. Some organizations and groups with which disempowered groups can create networks and alliances such as Greenpeace and The Sierra Club are at the forefront of political debates and lobbying the government regarding environmental justice issues. These groups make influential allies, because they have the capability and resources to empower groups to take action for themselves, and build their autonomy.

Disempowered groups that do not yet have an understanding of the environmental justice issues in their local conflicts, may find that creating networks and alliances with other groups that share the same ideals and vision, helpful in their efforts. Such alliances can assist disempowered groups in developing an understanding of the elements of their conflict that will assist the group in organizing themselves and selecting a plan of action that will target their special needs.

To further explain how networks and alliances can assist groups at a disadvantage in their efforts to organize themselves, the next section will look at an alternative use of legal actors, environmental poverty lawyers, and how they can assist groups in their efforts. For disempowered groups that have difficulty organizing themselves and developing an understanding of their conflict, environmental poverty law (EPL) is an alternative legal mobilization strategy that can assist them in doing so.

II. Environmental Poverty Law - Creating Alliances with Legal Actors and an Alternative Form of Legal Mobilization

Apart from using litigation as a form of legal mobilization, there are other methods and alternative uses of the law and legal services for the purposes of social mobilization. An example of an alternative use of legal mobilization is environmental poverty law (EPL). EPL is a means by which disempowered groups can develop alliances that will serve to enhance their resources and capabilities to organize themselves and use Sun Tzu's reinterpreted principles, to shape a strategy of collective action. EPL can assist groups in developing the reinterpreted factors that focus on learning, organizing, and taking action.

EPL differs substantially from litigation. It is different in the sense that EPL's central goal is to use legal services and actors to assist groups to empower themselves by building on the capacity of clients to take control over their own decisions affecting their lives.¹⁶¹ This is accomplished by using legal services and actors to organize and educate a group/community, so they may participate in creating their own understanding of the conflict. This method of legal

¹⁶¹ Cole, supra note 20 at 657.

mobilization uses legal services and actors to address the needs of many people rather than using limited time and resources for individual cases.¹⁶² The main differences between litigation and EPL is the way in which they empower groups and communities. Litigation works by formulating legal claims and demands through the law. The legal claims are then used in the courts of law to negotiate the interests of the parties involved. Groups are empowered when their claims and rights are recognized by the courts of law, and when they are able to participate in creating these claims and strategies. EPL empowers groups by facilitating community organization, based on education, planning and the participation of those within the community. It does not necessarily require groups to employ or embark on a litigative campaign to protect their interests and rights.

In EPL, client empowerment occurs when a lawyer's practice helps clients realize and assert greater control over the decisions which affect their lives. This sense of client empowerment and control is achieved during a process which enables individuals to participate in collective efforts to solve common problems.¹⁶³ The process that enables group members to empower themselves and their group includes learning, understanding and organizing around the problem as a group.

EPL empowers groups in two ways. First and foremost, it assists disempowered groups in developing strategies of collective action based on educating, informing and organizing

¹⁶² Cole, supra note 20 at 664.

¹⁶³ Cole, supra note 20 at 661.

disenfranchised communities to take action.¹⁶⁴ Secondly, it empowers groups by giving them the necessary resources such as information, managerial, financial, and organizational to create and employ strategies of collective action. This is accomplished by using legal services to access other organizations and services such as NGOs, lobby groups, and financial support services that can provide or assist in attaining the necessary resources for collective action. Both these aspects of EPL assist groups in organizing and taking action because they focus on the elements that are central to taking effective action, and developing an understanding of their conflict.

The core principle behind EPL is its focus on empowering through educating and organizing groups/communities. For groups that have not yet developed this crucial understanding of the conflict and its key elements, EPL can assist groups in focusing and understanding the reinterpreted factors. In this sense, the legal actors and services can assist groups in developing their own unique knowledge of the conflict, as well as building their autonomy to take collective action as a group.

II A) How EPL Can Assist In Developing the Reinterpreted Elements of Sun Tzu

If the main goal of EPL is to empower groups by developing their knowledge and their ability to act autonomously, then it has the potential in assisting disempowered groups to participate in social mobilization. This is accomplished by groups/communities and legal service actors working together to better understand the conflict, and how it relates to the community. This may lead to groups developing their autonomy to participate in social mobilization, and employ their knowledge of the reinterpreted factors, to choose and develop an effective strategy that meets their special needs.

¹⁶⁴ Cole, supra note 20 at 658.

Legal services actors and communities/groups must first seek to understand the problem they are facing. By defining the issues or problems at the heart of the conflict, groups and legal actors can use this as the *motivation*, or building block for educating the group members, as well as developing a plan of action. This is important for the same reason it is in formal litigation. Once the legal actors and group members can identify the environmental justice and rights issues that are part of their conflict, they can begin to organize and educate themselves to address and take action against these issues.

The general environmental justice and rights issues that serve as the motivating factors for the group, in conjunction with specific and/or local issues, may also determine the type of alliances the group can create with other groups, organizations and agencies that share the same motivating factors.

II B) Developing Autonomy Through EPL

When both the legal actors and the group members have understood what the issues are, they can actively begin seeking and sharing information amongst themselves to better educate the group. This can be interpreted as attaining *knowledge of the circumstance and situation*. For many groups, they must understand the social justice issues, as well as understanding how the technical environmental issues that result from social justice issues can potentially harm their community. When groups are able to share academic/scientific information, personal experiences, and local knowledge amongst themselves, they are participating in the community education process that enables them to see their conflict as one that encompasses the issues and concerns of environmental justice.

Participating in the community education process builds on the group's autonomy because it allows members of the group to discuss issues, problems and solutions amongst themselves.

EPL encourages groups to discuss the issues that are plaguing the community, as well as their personal experiences with regards to how environmental justice issues relate to the individual and community.¹⁶⁵ In this sense, groups are building their autonomy to voice their issues amongst themselves, as well as expressing their personal concerns regarding the issues they are facing. This is facilitated by the process in which EPL seeks to educate communities.

The educating process within EPL, is the process by which the learning phase of organization and planning for collective action takes place. It is in this phase that groups can develop their *knowledge of the situation and circumstance*. The learning phase in EPL is a two-way process, in which the lawyer educates the clients, and the clients educate the lawyer.¹⁶⁶

It is the lawyer's role to educate the group members about the reaches of the law.¹⁶⁷ This includes what types of legal strategies can be used, how to formulate legal claims to reflect the group's interests, and interpreting statutes.¹⁶⁸ It is also the lawyer's role to clarify any pieces of scientific/academic information the group may not understand due to the technical jargon used within the information (e.g. Environmental Impact Reports). This can assist the group members in understanding how environmental hazards relate to their lives and personal experiences by

¹⁶⁵ Cole, supra note 20 at 664.

¹⁶⁶ Lucie E. White, "To Learn and Teach: Lessons from Driefontein on Lawyering and Power" (1988) 699 *Wisconsin Law Review* at 760-64 .

¹⁶⁷ Cole, supra note 20 at 651. Although residents of these communities may be experts in their own rights, due to their personal experiences with environmental justice struggles, they do not have the training in law and science needed to decipher the legal regulations and scientific reports that pertain to the conflict.

demonstrating correlations between scientific/academic data and the events group members may experience (e.g. health and safety issues).

The community/group's role is to educate the lawyer regarding their own problems and personal experiences.¹⁶⁹ The personal experience and local knowledge a group possesses may illustrate the veracity of the scientific/academic evidence, by demonstrating the effects an environmental hazard has on a community and its members. By combining both the legal knowledge and expertise provided by the lawyer, and the local knowledge shared by the community/group, both parties can contribute to developing an understanding of the conflict and what might be done to resolve it. By combining different types of information and experiences, a more complete understanding of the *situation and circumstance* may be developed, one that allows both parties to participate and understand the other as well as to develop a strategy or plan of action. The *knowledge of circumstance and situation* that a group can develop in EPL's learning process serves to empower and develop autonomy because it allows the group to develop its own claims and position regarding its conflict, based on its conceptualization and understanding of the conflict. This can be interpreted as the group developing its voice or platform on certain issues.

When group members and legal actors have begun educating themselves using the two-way process, they can begin *organizing and planning* to facilitate group participation in a plan of action. However, because of the nature of EPL, the *organizing and planning* phase may have already started. When group members and legal actors have already started pooling their

¹⁶⁸ Cole, *supra* note 20 at 664.

resources together, sharing their experiences, and using the two-way learning process to educate the group, some form of organization may have already occurred. For a group to begin sharing and learning from each other, they must have the ability to meet and participate in dialogues, meetings, and community forums.¹⁷⁰ By participating in such activities, groups are educating themselves, while at the same time organizing as a group. This is accomplished by interacting and participating in the activities as a group. It allows the group members and the legal actors involved to illustrate their *situation and circumstance*, and can lead to effective plans of action based on their joint participation and create awareness of the problem.¹⁷¹

If disempowered groups can work to better understand the potential solutions and courses of action, they will be in a better position to choose a strategy that will reflect their objectives in terms of what they see the issues as, and how to resolve them. In this sense, EPL also develops autonomy in terms of selecting a course of action. The role of the lawyer is to explain potential courses of action to the group. Groups can then select a course of action that they feel will meet their interests and objectives.

¹⁶⁹ Cole, supra note 20 at 664.

¹⁷⁰ Cole, supra note 20 at 675-676. In Kettleman City, California, the community group began organizing itself by holding community meetings in which they discussed their issues, asked questions, educated themselves regarding the scientific information (Environmental Impact Reports) about the questioned project, and began writing letters to political bodies (Planning Commission) voicing their concerns. These meetings served as both an educating tool, as well as an organizing method to bring the community together.

¹⁷¹ Cole, supra note 20 at 678. When the Kettleman City residents eventually brought their case to the courts of law, the letters they wrote at the community meetings served as an administrative record, that voiced the concerns of the residents to the County decision makers. This made it difficult for the County decision makers to not address the root of the problem, which was the exclusion of the residents interests throughout the process of environmental decision making.

IIC) Developing the Group's Identity Through EPL

When group members are given the opportunity to communicate their concerns and interests amongst themselves, they are voicing their ideals and values to each other. These ideals and values that the group members may share in common, form the platform and ideology that the group is advocating amongst themselves. These ideals and values are also projected to legal actors, state officials and agencies, opponents, and the broader environmental justice community. The creation of the group's identity is a result of the group members educating and organizing themselves throughout the process as a unit. Working together allows the group to build on the notions of solidarity and purpose, because they may voice the same concerns and interests, which essentially is what identifies them as a group. Determining the ideals, values, and objectives of the group, may also lead to the creation of alliances with other groups that share the same goals, visions, and platforms as the group. Again, this is referring to making alliances with other organizations and groups within the broader environmental justice community.

IID) Synthesis

The alternative legal mobilization strategy of EPL may be effective for groups that have not yet understood their conflict and its elements. It assists groups by imparting information and providing access to resources that can assist the group in developing their autonomy to act independently with regards to social mobilization. By allowing group members to participate in the same activities, and by educating them as a whole, it increases the likelihood of groups being able to take control of their own lives and develop solutions to their problems. This is achieved by the group working as a unit as opposed to individuals working for their own purposes. EPL can assist groups in developing and understanding the reinterpreted factors, which can lead to groups creating effective strategies of mobilization. This is accomplished by utilizing legal actors

and services to assist groups in educating themselves regarding the environmental justice issues they are facing, and developing the group's ability to address these problems by itself.

By utilizing legal services and actors to educate, organize and assist groups in selecting courses of action, while at the same time giving the group a role in the process, a better understanding and strategy can be developed. EPL may not consciously employ or seek to develop the factors of Sun Tzu, but it is a means that can foster a better understanding of the reinterpreted factors, so that they may be used to take action.

III. Synthesis

In terms of social mobilization and developing Sun Tzu's reinterpreted factors, there is much that disempowered groups can gain from networks and alliances. Networks and alliances serve to empower groups by providing them with essential resources that will assist in organizing themselves and taking collective action. Information, financial, organizational, and expert resources can be used by groups to educate, organize and develop strategies of action in response to environmental injustices.

By focusing on educating groups regarding the issues and problems they face, as well as what can be done to resolve the problems, networks can assist groups to develop an understanding of the inherent circumstances in their conflict. Education and learning can lead to the group understanding its situation and conflict so it can organize plans of action. These plans may better reflect the group's specific knowledge in terms of how it sees the issues and problems relating to it, and what solutions can address the problems. Education and learning can also facilitate the development of the group's identity in terms of what its values, platform and

objectives are. In environmental justice struggles, education and learning can assist the group to conceptualize its issues and problems that include social justice and environmental issues.

Networks and alliances can also assist the group/community in terms of organizing effective strategies of collective action that take into account the will and interests of the group. They can also assist groups in assessing their capabilities and resources, so the group can choose a strategy of action that reflects its objectives as well as its capabilities to achieve success. The resources that networks and alliances can impart to disempowered groups can also assist it in developing their capabilities to take action, and organize themselves to do so.

For groups at a greater disadvantage in terms of accessing resources, networks and alliances can assist them in developing access to essential resources that will assist them in organizing and their efforts. By assisting groups to develop the reinterpreted factors, networks and alliances can assist groups in conceptualizing their conflict, building their resources, and organizing accordingly. For groups that have not yet developed an understanding of their conflict and what they can do to take action, these aspects of networks and alliances are extremely helpful for disempowered groups.

Conclusion

Throughout the thesis, I have taken the position that *social mobilization strategies* can assist disempowered groups in environmental justice struggles, to understand their conflicts and contribute to developing plans of action to resolve their conflict. The two elements within *social mobilization strategies*, the reinterpreted factors of Sun Tzu and the practical methods of mobilization, can assist groups in: (i) developing an understanding of the issues and elements within the conflict; (ii) developing their autonomy and identity; (iii) developing their resources and capability to take action; and (iv) creating strategies of collective action that focus on the issues faced by the group and their goals and objectives to resolve the conflict.

One of the main issues in environmental justice is finding the means by which groups can act on their own behalf, in response to environmental justice issues. An ideal solution would be a change in the administrative system in which local environmental affairs are decided. Making these processes open to local groups and organizations is one of the mandates for environmental justice advocates. The goal is to open dialogue among local groups, local or state administrators, and other parties involved, to attempt to create policies, laws, and practices that reflect the interests of all those that will be affected by administrative decisions. This is the position that environmental justice advocates are supporting and fighting for. However, we may not see systemic change in the near future. It is for this reason that groups attempt to find methods in which they can participate, to better protect their concerns and interests with regards to local environmental affairs.

This is where the strength of *social mobilization strategies* is found. It utilizes the available resources and tools within modern North American society, to enable groups to understand the issues in their conflict, and what actions can be taken to resolve them. They also

take into consideration the strengths and weaknesses of both the group and their opponents. when selecting a plan of action. By focusing on the reinterpreted factors of Sun Tzu, groups can focus on the key aspects of planning and preparing for collective action. By doing so groups can also conceptualize their conflicts by learning the elements within them. Conceptualizing and understanding the issues and problems and why they exist, also allows groups to develop their identity in terms of what their platform and objectives are. This is achieved through group education and learning the elements in the conflict.

The reinterpreted factors of Sun Tzu can assist groups that understand their conflict and its inherent elements to shape and develop a plan of action that reflects their situation and objectives. This is accomplished by focusing and placing a great deal of attention on; defining and understanding issues, using a group's understanding of the conflict to develop solutions and plans of action, organizing and developing resources to take action, and developing a sense of autonomy and identity that unifies the group.

It is through a deep level of understanding that groups will be able to conceptualize the environmental justice issues inherent in their conflict. Learning and education is crucial in developing a group's position and platform (identity) regarding certain environmental justice issues. It will also assist in determining the course of action a group will take. Depending on what a group sees the main issues to be, and what they would like to do to resolve them, the information and knowledge attained by the group can assist it in the organization of a plan of action. By factoring in such aspects as its situation, in terms of resources, and what issues they would like to address, they can determine a course of action that will allow it to use its resources to target the issues they have selected. A well organized and planned strategy that factors in the

group's knowledge of the conflict will be more likely to allow the group to participate and target its concerns and interests.

The course of action taken by a group can also assist in projecting the group's identity and characteristics to other parties, and that can assist the group in developing support and influence. Usually, when groups take action, their actions are visible to the public sphere, and those within the formal processes. The arguments, claims, positions and platform the group advocates will be projected to these parties, by its actions and the strategy they select. For example, a group that is protesting a proposed waste storage facility in its community may choose to emphasize its exclusion from the administrative processes that are deciding on the project. The group may choose to litigate the matter in the courts of law. Based on its objectives they may choose to use the law as a political tool for change, in terms of opening up closed processes to community residents, so that they may decide on the policies and practices that will affect them. In this sense, the group's identity is being projected by the claims they make in the court room, as well as what it is the group is challenging. In this example, the group is challenging a formal administrative process that excludes them from the administration of local environmental affairs. They may claim that as residents who will be affected by the decision, they should be included in the siting decision of the project.

In this example, the community is projecting one of the fundamental principles fuelling the environmental justice movement, that of inclusion. Other parties that see this may identify the group within the context of the broader environmental justice community. The broader environmental justice community has shared interests and concerns regarding many of the issues that are being faced by local communities and groups. These issues include the social justice issues and environmental issues that result from them. Identifying the group as a potential ally

struggling to realize the principles of environmental justice and rights may facilitate the assistance and support of other groups and organizations. It is also how disempowered groups can create strategic networks and alliances with other groups supporting their position.

While the reinterpreted factors assist the group in developing strategies of collective action and an understanding of the conflict, the practical methods of mobilization are the means by which groups will take action. As demonstrated by the example of creating litigation strategies, there are certain practical methods that can effectively employ the reinterpreted factors when planning for collective action. In the case of litigation, groups can utilize the reinterpreted factors to develop an understanding of their conflict. From this understanding groups can go on to form legal claims that attempt to assert and protect their interests, as well as select a legal strategy that will realize their objectives. By determining the objectives of the group based on how it sees the conflict, groups and their legal representatives can decide on how to employ the law. This entails using the law as a political tool for change and creating awareness in an aggressive legal strategy. It also includes using the law as a preventative measure in a defensive legal strategy that seeks to employ an existing law to protect the interests of the group or community.

Litigation may also project the identity of the group. This can be accomplished when groups voice their claims and interests in the formal process of courtroom litigation. In this regard, the group is projecting its identity to the formal actors within the courtroom process, with others in the public sphere following their initiatives. This can lead to support and the creation of alliances and networks with other groups and/or organizations that have the same ideals, platforms and objectives with regards to environmental justice and rights.

The central aspect of Sun Tzu's reinterpreted factors are developing an understanding of the conflict by focusing on the general elements that will assist a group to plan a strategize for collective action. Although some groups are in a position to utilize the factors to shape and develop effective strategies for mobilization, some groups are at a greater disadvantage. In this sense, certain groups may lack the information, financial, legal, expert and organizational resources to fully understand their conflict and what can be done to resolve it. For these groups another practical method may serve to assist them in developing their autonomy to take action. The creation of networks and alliances, and environmental poverty law, can assist groups in developing an understanding of the general elements that the reinterpreted factors focus on. This is accomplished by mobilizing resources that are essential for collective action. Once disempowered groups begin to attain resources that will assist them in conceptualizing the issues within their struggle, and resources that will build on their ability to act autonomously, they can begin to develop plans of action that reflect their interests and concerns.

Effective collective action requires the group to define and understand the issues it is experiencing, as well as develop solutions that will assist the group in addressing and resolving it issues. *Social mobilization strategies* have the ability to assist groups in developing strategies of collective action that they can participate in, and carry out. Building an understanding of the conflict and resources that will assist the group in planning and carrying out a plan of action also develops a group's autonomy. By understanding the issues and why they exist groups can form their own opinions, ideals, and goals. In a sense it develops the group's "voice" in terms of projecting its position and what they would like to see occur to address the issues. Resources can assist in developing autonomy as well. Through the sharing of information, financial, organizational, and legal resources, groups can develop an understanding of the issues in the

conflict, ways to fund their initiatives, strategies that can allow the group to participate, and the capability of groups to act on their own behalf.

I. Social Mobilization Strategies: An Interpretation of the Walkerton, Ontario Incident

In May, 2000, Walkerton, Ontario experienced a local tragedy that received national attention. In the community of Walkerton, 7 individuals died, and 2,000 individuals became ill, as a result of E-coli contaminated water.¹⁷² While the residents of Walkerton knew little about the contamination when it occurred, the aftermath was devastating to the small community, and created national awareness regarding the matter of clean drinking water. There were several issues that caused the incident to occur. They include the poor construction of the water wells, and inadequate provincial regulatory standards and practices that led to the water supply being contaminated with a string of the E-coli bacteria.¹⁷³

Understanding the events in the Walkerton incident will assist in demonstrating how it is an issue of environmental justice. In Walkerton, it took a tragedy for the residents to realize there was a problem. In this case it was not until several Walkerton residents became ill or died that any attention was given to the matter of the water supply in Walkerton. One of the issues that the environmental justice movement is trying to address is accessing information regarding the local

¹⁷² Canadian Environmental Law Association "What Will It Take For Walkerton?" (2000) 25:3 *Intervenor* 5-6 at 5.

¹⁷³ Canadian Environmental Law Association "The Case for a Safe Drinking Water Law"(2000) 25:2 *Intervenor* 3 at 2-3. In terms of construction, wells # 5 and 6 were constructed too shallow, and as a result became contaminated when surface water runoff, containing manure from local farms, infiltrated the wells. There was also an issue with regulatory and water management laws which dated back to the 1950s (*Ontario Water Resources Act*), and general anti-pollution legislation that dates back to the 1970s (*Environmental Protection Act*) which made several policies, guidelines and objectives difficult to carry out due to the varying vintage of the legislation.

environment. One of the main goals of the environmental justice movement is to ensure that all persons have the right to information concerning the environment.¹⁷⁴ This includes information on actions and courses of conduct that may affect the environment. It also includes information necessary to enable effective public participation in environmental decision-making.¹⁷⁵

The citizens of Walkerton did not have access to any such information, and they were unable to determine the problem that was developing in their community. This issue is important in realizing the objectives of environmental justice. In order for groups to participate in the development of environmental policy and decisions they should have access to information regarding their environment and the state it is in. It is an important issue to note because without such information groups may be subject to risks and hazards that they are unaware of. Such risks may have the potential to cause health and safety issues within the community. They may also damage or destroy urban and natural environments. The Walkerton incident demonstrates the importance of being able to access information, and the consequences that a lack of information may bring.

While the facts of the case are still being determined at the ongoing Walkerton Inquiry, However, at this point the steps the residents have taken to organize themselves is apparent. Residents of Walkerton have organized different citizens' groups in response to the incident. There are certain residents focusing on the claims regarding personal injury, financial loss and the loss of a loved one as a result of the incident. There is also a group, the Concerned Walkerton Citizens, that was formed to address the causes and effects of the incident, as well as the steps

¹⁷⁴ Environmental Protection Agency, supra note 14 at 1.

that can be taken to prevent such an incident from reoccurring.¹⁷⁶ What is interesting and worthwhile to note is the approach the Concerned Walkerton Citizens group has taken to organize itself and participate in collective action.

The Concerned Walkerton Citizen's group was formed in response to the incident. Forming the group required the residents to determine the cause of their grievances and their uniting as a group (*motivation*). The incident itself was cause enough and served as an event which increased the awareness of the clean water issue not only to the community but nationally. It demonstrated the importance of having adequate regulatory standards and practices to insure clean drinking water, and what could happen if the regulation of drinking water lacked in these aspects.

Although the citizens were aware of the E-coli bacteria that caused illness and the deaths of several residents, they did not know exactly how and why it occurred.¹⁷⁷ Community doctors assisted the community in understanding what E-coli was, how it affects humans, and what can be done to destroy the bacteria, in terms of available medication, and boiling drinking water.¹⁷⁸ However, to have a full and complete understanding of the *circumstances and situation* the

¹⁷⁵ Environmental Protection Agency, *supra* note 14 at 1.

¹⁷⁶ Canadian Environmental Law association, *supra* note 162 at 3.

¹⁷⁷ Canadian Environmental Law Association, *supra* note 162 at 3. It is for this reason that the residents' group in Walkerton is attempting to discover and illustrate the contributing factors throughout the inquiry.

¹⁷⁸ *The Ottawa Citizen*, Thursday, June 1, 2000 When E-coli cases started increasing, and Dr. Murray McQuigge was treating more patients, he began instructing his patients to boil their water. He also began performing his own tests to determine whether or not the water was contaminated. When he found out it was, he instructed the community and other residents to do the same.

residents were facing, they needed much more information regarding the incident. The residents sought the assistance of an outside party to assist them in determining the causes of all the problems and what can be done to prevent them. The Concerned Walkerton Citizens group sought the assistance of the Canadian Environmental Law Association (CELA). It was through the creation of this alliance that the resident group obtained the capability of networking with other proactive environmental justice groups and organizations, to attain the information, financial, legal and expert resources they needed to develop their claims, platform and plan of action.

CELA assisted in educating the group regarding the facts of the *circumstance and situation*, such as medical, scientific and regulatory reports.¹⁷⁹ They assisted the residents' group in conceptualizing the problem as an issue of environmental justice. This was achieved by demonstrating how inadequate and closed regulatory and administrative processes led to the incident. These regulatory and administrative processes included the regulation and standards used to run the water works facilities, the construction and upkeep of the water wells, and the diligence of those in charge of the administration of the facilities. Once the citizens of Walkerton became aware of all the inherent issues regarding the incident, they began to form their claims, platform and potential resolutions to prevent a reoccurrence.

CELA also played a crucial role in assisting the resident group in *organizing and planning* for mobilization. For the group to meet one of its objectives, they wanted to participate and voice their interests. To do so they needed to be a recognized party that held official status at the

¹⁷⁹ Canadian Environmental Law Association, *supra* note 161 at 5. There was a resounding amount of evidence that came in the form of technical reports, filled with jargon. Few tools remain for the public to undertake such a goliath project.

Walkerton Inquiry. As stated by the Honourable Dennis R. O'Connor, who is responsible for the proceedings of the inquiry, "in my view the party would not otherwise be able to participate in the Inquiry without such funding."¹⁸⁰ Therefore, the alliance created with CELA gave the residents' group the financial support and funding they needed to organize themselves so they could participate and voice their concerns and interests within the formal process of the inquiry.

Without the assistance of CELA to develop their financial resources, the residents group would not have been able to participate in the inquiry because of the financial burden it would entail.

Therefore, the alliance that was created between the Concerned Walkerton Citizens group and CELA served to strengthen and empower the resident's group. It did so by sharing resources that assisted the group to understand the *circumstances and situation* that caused the incident and that they were still facing. This resulted in the group developing claims, arguments, a platform, and objectives to prevent such an incident from reoccurring. It also assisted the group in *organizing and planning* its plan of action, with regards to the inquiry. While it may seem that placing such a great emphasis on the alliance that was created is not actually developing the group's autonomy, the facts of the case show otherwise. Had an alliance of some sort never been developed, the Walkerton residents would not be involved in the formal process or inquiry that is addressing the incident. This is because of the lack of information, financial, legal and expert resources the group had access to. Therefore, by developing this alliance, the residents' group was able to build its autonomy in terms of attaining official party status in the inquiry, and being present throughout the process to voice and advocate their objectives and interests.

¹⁸⁰ Walkerton Inquiry, "Ruling on Standing and Funding" Retrieved May 6th, 2001 from the

The actions taken by the Concerned Walkerton Citizens group also assisted them in attaining the support of outside parties.¹⁸¹ This was accomplished by projecting their identity and objectives to other groups that shared the same ideals and interests. One of the main issues that the group is addressing is improved regulatory practices and legislation that will insure clean drinking water. This entails challenging the systemic structure of the administration of local and national affairs such as regulatory laws, practices, and inspection. The group is also arguing for the development of a “right to clean drinking water.”¹⁸² Essentially, this would institutionalize the notion that clean drinking water is a right, not a privilege.

As demonstrated by the Walkerton incident, inadequate regulatory provisions and administration can lead to the injury and even the death of citizens that are susceptible to using contaminated water. Therefore, the group and other environmental justice advocates, such as CELA, are arguing that a right to clean drinking water should be institutionalized to protect and ensure the safety of residents and citizens nation wide. They also argue that citizens be permitted to enforce the law to ensure compliance.¹⁸³ They do not however say how this will be accomplished.

World Wide Web: <http://www.walkertoninquiry.com/legalinfo/docs/ruling.html> at 5.

¹⁸¹ Canadian Environmental Law Association, *supra* note 161 at 6. With the organizational resources imparted from CELA, the Concerned Walkerton Citizens threw fund raisers. One of the attendants was Naturalist and Geneticist, David Suzuki. Suzuki introduced the community to the approach known as the environmental footprint, a tool that factors in the worth of ecosystem and the ecosystems carrying capacity into policy and decision-making. Also attending the fundraiser were environmental groups such as Greenpeace, and several individual supporters of the community.

¹⁸² Canadian Environmental Law Association, *supra* note 162 at 3.

¹⁸³ Canadian Environmental Law Association, *supra* note 162 at 3.

The platform and position that the Concerned Walkerton Citizens group has developed reflects their identity and characteristics as a group. The fact that the group is challenging the systemic nature of the administrative processes,¹⁸⁴ as well as their advocating the need for new legislation and boundaries for the law, makes their organizing and taking action both political and preventative. It demonstrates the group's goals to advocate the improvement of regulatory standards and practices to prevent such an incident from reoccurring. By challenging systemic inadequacies such as inadequate regulatory provisions and practices, they are acting both politically and preventatively. The political aspect of this claim is advocating a need for change in regulatory practices and policy. The preventative aspect can be found in the same claim, but deals more with institutionalizing these practices, so they can be called on to protect and ensure public safety. Their platform also demonstrates the unique objective the group has in advocating a new right to ensure safety for citizens nation wide. This can also be interpreted as political mobilization, because the group is attempting to create awareness and expand on this notion for a new right to clean drinking water that will serve to ensure public safety.

Although the citizens of Walkerton were not the first group to develop this notion of a "right to clean drinking water," the incident and their actions have caused national attention and response from organizations and groups that are supporting and advocating the same idea.¹⁸⁵ In this sense, it is the *leadership and general qualities* of the group that have been projected to the nation, through their efforts and actions. By participating in social mobilization, and projecting

¹⁸⁴ This includes the residents exclusion from the decisions regarding the water works facilities and policy regarding drinking water.

¹⁸⁵ Canadian Environmental Law Association, supra note 161 at 6.

the issues and consequences experienced by the group to those abroad, the Concerned Walkerton Citizens group in conjunction with CELA have increased their support and awareness of the matter.

II. Synthesis

It is most certain that the Concerned Walkerton Citizens group did not consciously employ Sun Tzu's reinterpreted factors, or *social mobilization strategies* as defined and illustrated in this thesis, yet there is something that can be taken from the example. The Walkerton incident and response to it demonstrates how the reinterpreted factors of Sun Tzu can be employed in similar situations regarding conflict in environmental justice struggles.

The example of Walkerton demonstrates the utility of the reinterpreted factors in a formal process, similar to litigation such as the Walkerton inquiry. In situations of social mobilization there is a need to educate and teach groups and individuals of the issues and their causes. Once groups have understood the inherent issues in their conflict, they must organize a plan of action that is well planned and takes into consideration the capabilities, objectives and will of the group.

It also demonstrates the efficiency and effectiveness of creating networks and alliances with other groups, in terms of building resources and a group's ability to act autonomously. At times groups may need the assistance of other groups and organizations that share their interests and concerns to develop their knowledge and resources. Groups that are capable of finding a means by which they can do so will be more likely to achieve their goals and objectives.

The goal of *social mobilization strategies* is to promote a means by which disempowered groups can work amongst themselves and with others to build their autonomy and identity as a group. The final result may be that groups are in a position to develop their own plans and

strategies of action. These plans of action may assist disempowered groups in participating in the voicing and protection of their interests and concerns, within the formal political and administrative processes and in the broader public sphere. The onus is placed on the group and the organizations with which they network to develop social mobilization strategies that will attempt to resolve environmental justice struggles.

Disempowered groups and communities that have little in terms of resources and experience in organizing and collective action need not watch idly as their communities are polluted and damaged. By placing the onus on themselves to actively seek ways in which they can challenge existing provisions and practices, as well as expanding the principles of environmental justice, disempowered groups can have an impact on local governance. The philosophy of Sun Tzu can also play a role in assisting groups to achieve their objectives by allowing a group to develop its autonomy, identity, and employ the two to effect their plans of action. As stated by Sun Tzu, “When your weapons are dulled and ardour damped, your strengths exhausted and treasure spent, neighbouring rulers will take advantage of your distress and act.”¹⁸⁶ The more proactive communities and groups become in their efforts to preserve their natural and urban environments, the more likely it is that they will have their interests and voices heard. It may also increase the probability that they may not be subject to or experience injustice. “He who excels at resolving difficulties does so before they arise. He who excels in conquering his enemies triumphs before threat materializes.”¹⁸⁷

¹⁸⁶ Sun Tzu, supra note 1 at 73.

¹⁸⁷ Sun Tzu, supra note 1 at 77.

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