Scale frames and counter-scale frames: constructing the problem of environmental injustice

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Abstract

The concept of environmental injustice raises difficult questions about on how best to measure and address environmental inequities across space, and environmental justice politics are permeated by considerable debate over the nature and spatial extent of both problem and possible solutions. This paper theorizes the politics of environmental justice as a politics of scale in order to explore how environmental justice activists respond to the scalar ambiguity inherent in the political concept of environmental justice. With a case study of a controversy over a proposed polyvinylchloride production facility in rural Convent, Louisiana, I develop the concept of scale frames and counter-scale frames as strategic discursive representations of a social grievance that do the work of naming, blaming, and claiming, with meaningful reference to particular geographic scales. The significance of scale is expressed alternatively within these frames as an analytical spatial category, as scales of regulation, as territorial framework(s) for cultural legitimacy, and as a means of inclusion, exclusion and legitimation.

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Keywords: Politics of scale; Environmental justice; Louisiana politics

Introduction

In the two decades since residential chemical exposure in Love Canal drew widespread attention to the perils of industrial waste, activists across the country have fostered an increasingly visible movement for environmental justice. Re-inscribing environmental protection in public discourse as an instrument of social justice (Di Chiro, 1996), the concept of environmental justice (EJ) suggests that people of
color and/or people of low income bear a disproportionate burden of pollution that is unfair and in need of change (Bullard, 1990; Harvey, 1996; Pulido, 1996). The notion of an inequitable distribution raises difficult questions on how best to measure and address environmental inequities across space (Zimmerman, 1994), and environmental equity studies indicate racial disparities at some scales of resolution and analysis, and class-based disparities at others (Bowen, Salling, Haynes, & Cyran, 1995; Cutter, Clark, & Holm, 1996; McMaster, Leitner, & Sheppard, 1997; Tiefenbacher & Hagelman, 1999). With the problem of environmental inequity thus characterized by spatial ambiguity and with no indisputable rationale for favoring one scale of resolution and analysis over another, environmental justice politics are permeated by considerable debate over the nature and spatial extent of both problem and possible solutions (Holifield, 2001a; Williams, 1999).

Recent work on the politics of scale offers insight into the political implications of such spatial ambiguity in the construction of a social grievance. Focusing attention beyond traditional geographic scales of analysis (urban, regional, national), scale theorists investigate the ways in which the social construction of scale shapes and is shaped by political and economic processes (Delaney & Leitner, 1997; Herod, 1991, 1997; Jonas, 1994; Smith, 1984, 1992). Encapsulating a focus in this literature on political struggle, Delaney and Leitner (1997: p. 93) outline the political construction of scale as a theoretical project in which geographic scale is conceptualized as socially constructed versus ontologically pre-given, and geographic scales constructed are themselves implicated in the constitution of social economic and political processes.

This paper theorizes the politics of environmental justice as a politics of scale in order to explore how both environmental justice activists and their opponents respond to the spatial ambiguity inherent in the social grievance of environmental injustice. Rather than confining the issue of geographic scale to the scales of analysis by which environmental injustice is measured and regulated, I examine the multiple ways in which environmental justice activists invoke geographic scale(s) to negotiate the meaning and extent of environmental injustice, both among themselves and for the benefit of government decision-makers.

After reviewing how scale has been conceptualized in relation to environmental justice and environmental justice activism, I offer a conceptual framework for examining the politics of environmental justice as a politics of scale. Drawing on 4 months of fieldwork in Louisiana, I use the concept of scale frame and counter-scale frames in an analysis of the environmental justice controversy that revolved around a proposal to locate an integrated polyvinylchloride production facility in Convent, Louisiana. The final section evaluates the insight on both the politics of environmental justice and the politics of scale derived from this discussion.

**Geographic perspectives on environmental inequity/injustice**

The problem of spatial scale percolates through geographic engagement with environmental inequity and injustice in two main bodies of literature. In the first,
spatial analyses of environmental inequity measure the distributional pattern of environmental hazards among different demographic groups at different spatial scales. In the second, the social processes that foster environmental disparities are theorized in order to link local conditions of pollution to practices operating at broader spatial scales. While geographic scale figures in each of these research agendas, scale itself, and its role in shaping responses to environmental justice, is not problematized.

Contradictory findings among environmental equity studies indicate that the spatial distribution of noxious facilities among vulnerable populations is susceptible to the modifiable areal unit problem (Openshaw, 1983), and point to racial disparities at some scales of resolution and analysis, and class-based disparities at others (see Anderton et al., 1994; Bowen et al., 1995; Cutter & Solecki, 1996; Glickman, 1994; Greenberg, 1993; Hird, 1993; McMaster et al., 1997). Such divergent results pose a central challenge for would-be environmental justice activists. As Pulido (1996) notes, political redress or legal recourse for racially disparate effects can be sought under civil rights legislation, while no such recourse is readily available when disparate environmental impacts are based on class differences (see also Yuval-Davis, 1997). Hence, equity studies demonstrate that qualitatively different social grievances, framed as social problems in the context of different political discourses (e.g., anti-racist, anti-capitalist), can be quantitatively evidenced from the same set of socio-spatial conditions. While environmental equity debates raise important questions about the role of scale as an analytical category in conceptualizing environmental disparities (Bowen et al., 1995; Cutter et al., 1996; McMaster et al., 1997), their methodological focus says little about how multiple scale lenses for measuring environmental inequity play out in political struggle over environmental justice.

Spatial patterns of pollution derive from myriad social processes, and another body of work hints at the multiple ways in which geographic scale inflects the problem of environmental injustice and activists’ response to it. Scholars posit linkages between the concentration of pollution among vulnerable populations and social processes operative at range of spatial scales, including federal hazardous waste regulation (Heiman, 1996; Lake & Disch, 1992), labor and workplace organizing (Lake & Johns, 1990; Gardner & Greer, 1996), and urban divisions of labor (Pulido, Sidawi, & Vos, 1996). Pulido et al. (1996), for example, argue that to look for evidence of environmental racism in particular siting conflicts is to miss the larger context in which urban areas are racialized according to divisions of labor, and then gutted in the process of de-industrialization. Similarly, Lake and Disch (1992) argue that local siting conflicts are the tip of an iceberg in which hazardous waste

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1 The modifiable areal unit problem is a form of ecological fallacy, in which different statistical relationships among spatially aggregated data can be derived using different spatial units of analysis. Two parts to the problem are the scale effect and the aggregation effect. The scale effect refers to the tendency for results to differ when data is aggregated at different scales of resolution. The aggregation effect derives, not from a different in size of spatial units, but from variation in the ways units of a given size are themselves grouped or aggregated.
regulation strategically delays public participation until the waste management problem has been defined as a conflict around a particular siting location. Doing so deflects attention from the role of capital interests in creating the hazardous waste problem to begin with, and positions the state as a neutral arbiter between localized interests. Groups opposing hazardous waste sites confront the localized version of the problem that has been presented to them, and are to some degree obstructed from more systemic opposition. Williams (1999) echoes this analysis, suggesting that the market-based explanations of environmental inequities mask a range of structural processes fostering environmental inequality, and “ignore, even de-legitimize the extra-local scales implicated in the creation of the problems” (68).

Scale and environmental justice activism

Social movements scholarship highlights ways in which scale inflects environmental justice activism, and recent work in geography on the scaled politics of environmental justice activism lays important groundwork for closer examination of the practices that comprise a politics of scale. Social movements scholars demonstrate that environmental justice activists reject the localization of their grievances and the aspersions of NIMBYism that come with it, and have constructed a politically resonant social grievance in which local pollution becomes a social problem by virtue of being part of a broader spatial pattern (Buell, 2001; Capek, 1993; Szasz, 1994; Sandweiss, 1998). Szasz (1994) illustrates that anti-toxics activists share such an understanding, illustrating how, while the early manifestations of anti-toxics activism were NIMBYesque in nature, movement participants developed an increasingly radical response to the pervasive experience of pollution, aimed at source reduction. “[A]n untroubled eclecticism” (81) within the movement that is used to legitimate different positions of radical critique in which localized struggles are informed by broader visions of a more just society. Buell (2001) identifies a “politics of elasticity” in which a common sense of place and identity can be used to encompass either self-identified entities (neighborhoods, towns, townships) or bureaucratically imposed statistical districts such as zip codes. By extension, the language of populism, community, and grassroots resistance contains the possibility of forging networks of allied anti-toxics activists that extend beyond single locales.

Capek (1993), Sandweiss (1998), and Taylor (2000) underscore that for many anti-toxics or environmental justice activists, the vision of a just society is explicitly linked to a history of civil rights struggle, and that the rhetorical force of environmental justice arguments derives from extending the master frame of the civil rights movement to encompass environmental concerns (Snow & Benford, 1992). Capek (1993) argues that the rhetoric of full citizenship forged in the civil rights movement shapes environmental justice activist’s claims to rights to accurate information, to unbiased hearing of claims about contamination, to democratic participation in decisions about contamination, and to compensation from offending parties. In addition,
The theme of solidarity, although not present in all contaminated communities (Kroll-Smith & Couch, 1990, 1991), implies a nationwide movement ‘community’ transcending racial, geographic and economic barriers and resting on the claim that no community’s solution should become another community’s problem. (Capek 1993: p. 8)

Williams (1999) and Towers (2000) look directly at the way geographic scale inflects the politics of environmental justice, drawing on a growing body of work on the politics of scale to do so. Williams (1999: p. 56) illustrates that the politics of scale originate in a divergence between the “scale of a societal problem and its political resolution”. From a disjuncture between the geographic scale(s) at which a problem is experienced, and the scale(s) at which it can politically be addressed, arises the need to build linkages between grievance events at one scale and possibilities for recourse at another—to bridge the “vast political space” (Towers 2000: p. 23) between local and national or international (political) scales. It is readily apparent that the very concept of environmental injustice precipitates a politics of scale, as the locally experienced problem of burdensome pollution can hardly be resolved at the local scale, whether by capital or the state, when it originates in political and economic relationships that extend well beyond the scale of the locality.

Towers (2000) concurs that the environmental justice movement is “defined by scale”, or more specifically by a tension between local scale(s) at which grassroots protest over unwanted pollution takes place, and the broader geographic scales at which the discourse of environmental justice is directed. He argues convincingly that appeals for environmental justice are often made as a strategic response to the opportunities and constraints of regulatory procedure. In an analysis of tactics deployed within a politics of scale, Towers draws on Brenner (1997) to hinge a conceptual framework for the politics of scale on the interplay between “scales of meaning” and “scales of regulation”. Scales of meaning refer to the scales at which a problem is experienced and framed in political discourse and might “range from individual landscape features to the imaginable extent of the landscape” (Towers, 2000: p. 26). Scales of regulation “define landscapes administered by distinct decision-making bodies” (ibid), and refer to the overlapping scales of decision-making or regulatory processes implemented by either the public or the private sector. In Towers’ formulation, scales of meaning are strategically invoked to take advantage of regulatory criteria and political circumstances at different scales of regulation. An abbreviated discussion of scales of meaning, however, overlooks the social complexity of meaning-making processes in a context in which activists construct a grievance based on myriad socially differentiated experiences of environment and environmental quality (Taylor, 2000). The further implication that there is one “scale of environmental justice” also seems to overlook the extraordinary diversity of the political perspectives subsumed within the loosely-structured environmental justice movement.
Complicating the problem of environmental injustice

Elsewhere, scholars and advocates debate the empowering and dis-empowering implications of such diversity of experience and perspectives. Whereas some scholars celebrate the EJM’s “eclectic blend of old-time American civil religion, 1960-era civil rights guarantees, Native American spirituality, and preservationist ethics” (Buell, 2001: p. 643), Harvey (1996) argues that the plurality of perspectives on social justice embedded in the movement cripples the movement’s broader political potential, noting that

[A]s a movement embedded in multiple ‘militant particularisms’ [the environmental justice movement] has to find a way to cross that problematic divide between action that is deeply embedded in place, in local experience, power conditions and social relations to a much more general movement (emphasis in original) (Harvey 1996: p. 399).

Yet, while Harvey expresses concern on the limitations of place-based particularism, some might argue that the environmental justice movement has, in its rhetoric, transcended place-based militant particularism through its central emphasis on racial disparities in environmental quality, and its critique of institutional racism. Indeed, the national leadership of the environmental justice movement fought to move away from place-based disputes and position environmental justice as a national civil rights issue based on racial disparities in the distribution of pollution. At the same time, however, some scholars suggest that a narrow focus on racism is a strategic miscalculation on the part of the environmental justice movement national leadership. Goldman (1996: p. 131), for example, notes that “single issue social movements appear ill-equipped for tackling the multi-headed monster of increasing inequality”. Pulido (1996: p. 148) argues that simplifying “an inherently complex and contradictory ideology and set of practices (racism) into an either/or situation” has adverse implications for environmental justice activism, as it creates ample opportunity for racism to be contained, grossly oversimplified, and refuted.

The challenge facing environmental justice activists, then, is to grapple not only with place-based particularism, but also with multiple particularisms that prioritize one single issue above all others, whether it be racial, ethnic, class, age or gender disparities in environmental inequity. Attempts to conceptually and politically link local conditions to larger-than-local social practices are complicated by multiple axes of disadvantage experienced by those bearing the burden of industrial pollution. In order to understand the potential of the environmental justice movement to effect social change of any kind, it is important to ask how do grassroots activists involved in environmental justice disputes contend with the social complexity and spatial ambiguity inherent in the concept of environmental justice, when the social grievance takes on different social and spatial characteristics at different geographical scales of analysis, and can be experienced along multiple axes of social disadvantage.
Scale frames and counter-scale frames

It is helpful here to approach geographic scale here not as ontologically given, but as an epistemology (Jones, 1998), as a way of knowing the world. In response to the tremendous flux in recent decades in the scales at which states, supranational organizations, and multi-national corporations are being organized and re-organized, geographers have questioned concepts of geographical, political and analytical scale to ask where notions of scale come from, how particular scales become entrenched in social science research, and how processes operating at overlapping scales shape social life (Jones, 1998; Smith, 1992; Swyngedouw, 1997). Encapsulating a focus in this research on political struggle, Herod (1997: p. 147) observes that

[r]ecognizing that scale is itself socially constructed opens possibilities for political action because it acknowledges that geographic scales are materially constrained by social actors, and that there is a politics to this constitution. The questions geographers should therefore ask, perhaps, is not how scale orders social processes but, rather, how social actors create geographic scales through their activities.

This paper examines both how scale orders the process of environmental justice activism and the practices by which environmental justice activists create and re-negotiate geographic scales. The politics of scale are conceptualized as a process. The focus here is to examine local activist’s strategic responses to the experience of disproportionate industrial pollution in their everyday lives, conceptualizing a dispute over whether to add a ninth petrochemical production facility to a rural Louisiana parish as

a process of scaling though which multiple spatial units are established, differentiated, hierarchized and, under certain conditions, rejigged, reorganized and recalibrated in relation to one another. Here, then, geographical scale is understood primarily as a modality of hierarchization and rehierarchization through which processes of sociospatial differentiation unfold both material and discursively (Brenner 2000: p. 600, emphasis in original).

While hierarchization entails the exercise of power, it is not exclusively the power of a state apparatus, but the discursive power of multiple actors to shape the terms of political debate, establish their own authority and legitimate material courses of action. Power is both discursive and material; as Leitner (2003) notes,

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2 Important work on the production of scale theorizes the shifting scales of economic organization under processes of globalization (e.g. Smith & Dennis, 1987). While the complexly structured global capital networks that focus petrochemical production along the Mississippi river in south Louisiana, and that precipitated the conflict discussed in this paper, could be fruitfully examined in terms of the political economy of scale, this case study draws on work on the social construction of scale, and focuses on the ways in which activists framed the social consequences of such a concentration of pollution-intensive petrochemical production.
[c]entral to the politics of scale is the manipulation of power and authority by actors and institutions operating and situating themselves at different spatial scales. This process is highly contested, involving numerous negotiations and struggles between different actors as they attempt to reshape the spatiality of power and authority (manuscript p. 2).

Analytically, I foreground discursive processes by which socio-spatial differentiation is effected. Indeed, contributors to the scale literature highlight the role of political discourse in the politics of scale, suggesting that scale is not pre-given but a way of framing conceptions of political-spatiality (Jones, 1998; Delaney & Leitner, 1997). I examine how local activists leverage a discourse of environmental justice to differentiate and hierarchialize a social landscape, legitimizing both discursive and material political strategies as they do so.

Here, work on the politics of scale intersects with the social constructionist tradition in social movements research. Frame analysis as such has been widely employed in social movements research since Goffman (1974) seminally defined frames as “schemata of interpretation” by which individuals understand and respond to elements and conditions in their world. Snow and Benford (1988) developed the narrower concept of collective action frames as sets of beliefs that justify or legitimate social movement activities and campaigns. A central focus in social movements’ research is to understand why people participate in social movements, and the concept of collective action frames offers an important alternative to the rather more mechanistic resource mobilization and political process approaches to social movements research. Whereas these other approaches tend to take the existence of movement grievances for granted, and look for structural or social-psychological determinants of social movement participation, framing research emphasizes that social movement grievances do not simply exist a priori, but are socially constructed and interpreted by social movement organizations as problems worthy of response. Collective action frames serve three integrated purposes: they (a) construct a social grievance by defining an existing condition as unjust (name), (b) attribute blame for the grievance, identifying a target of collective response (blame), and (c) suggest responses or solutions to the grievance (claim) (Snow & Benford, 1988).

I conceptualize scale frames as a type of collective action frame (Benford, 1997) that relies for its meaning and effectiveness on linking social relations organized at particular scales. Scale frames are the discursive practices that construct meaningful (and actionable) linkages between the scale at which a social problem is experienced and the scale(s) at which it could be politically addressed or resolved. Here, with a focus on the discursive strategies used to frame the problem of environmental injustice and to legitimate activists’ courses of action, I examine the way scale frames are developed around three “scale idioms” that are deployed discursively with material implications: scale as scale of regulation (Brenner, 1997; Towers, 2000); means of inclusion/exclusion (Herod, 1997); and analytical category (McMaster et al., 1997). By the term idioms, I mean to suggest specific means of invoking scaled relationships that are characteristic of politics of scale, and further,
that comprise a syntax for a politics of scale, structuring the way scaled relationships are invoked or deployed.

In differentiating different idioms of scale, I am trying to tease out multiple ways in which scale shapes political struggle. Significantly, none of these scale idioms fully account for the role of scale in the politics of environmental justice. Rather, they overlap and inform one another in the construction of scale frames used to articulate the meaning, extent and implications of environmental injustice.

First, scale frames can invoke geographic scale as scale of regulation, by appealing to different tiers and agencies of government for recourse. Political debate over the principles according to which government authority should be exercised is inflected with competing visions about the territorial scale at which a given set of governmental controls should be administered (Leitner, 1997). As in other forms of activism, both activists and their targets can be seen attempting to “force struggles to the geographical scale at which political opportunity structures seemed most favorable to them at the time” (Miller 1994: p. 404; see also Miller, 1997, 2000). Environmental justice activism is critically shaped by the opportunities and constraints of a mosaic of scales of regulations, in other words, by the existing legal and regulatory frameworks for civil rights and environmental protection instantiated at different scales of government.

Second, scale frames can discursively construct scale as a means of legitimating inclusion and exclusion in political debate (Herod, 1991, 1997). Legitimating inclusion, local groups can “reshap[e] the discourse in which their struggles are constituted” by discursively re-presenting their local grievance as part of a global struggle (Jones 1998: p. 26). Legitimating exclusion, a political group can construct a social grievance so as to circumscribe the aggrieved population. Many times, such a device of inclusion and exclusion can adhere to the existing political or administrative boundaries—referred to here as territorial frameworks for cultural legitimacy. In other instances, the spatial boundaries may be less clearly drawn—as in the invocation of “the African-American community”. Indeed, the politics of environmental justice revolve around establishing the existence and demographic characteristics of populations that are disparately affected by industrial pollution, and any given characterization of the impacted population includes some people while excluding others, based on both social and spatial criteria.

Third, scale frames can invoke scale as an analytical category through the practices of both academic and bureaucratic spatial analysis. As noted above, environmental equity studies underscore the relevance of scale as an analytical category to debates over the existence, extent and severity of environmental inequity and injustice (Bowen et al., 1995; Cutter et al., 1996; McMaster et al., 1997). Spatial units of analysis are nearly always involved in describing the aggrieved population, and different measures of spatial extent of the impacted population from the same point

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3 Elsewhere, I have referred to these discursive elements of politics of scale as “expressions of scale”; I turn to the notion of idioms to suggest an internal organization to discursive practices in a politics of scale, and to circumscribe the nature of these practices.
source will tend to include some people and exclude others in the aggrieved population.

While scale is familiar to us largely through existing administrative units (e.g. city, county, parish), scale frames may invoke a familiar administrative unit for different purposes, in which case I attribute its usage to a different idiom of scale. A parish, for instance, may be invoked as a means of scaling up from a more localized exposure to toxic emissions, and used as a means of legitimating inclusion in an aggrieved population; a parish may also be invoked as a scale at which demographics and emissions should be studied, and hence used as an analytical category; or, parish officials may be appealed to for action, in which case a parish is being invoked as a scale of regulation.

Whereas scale frames formulate politically meaningful linkages between social problems and their possible solutions, I refer to efforts to contest scale frames as counter-scale frames—discursive strategies directed at undermining one or more elements of the scale-oriented collective action frames. Anticipating the deployment of counter-scale frames suggests that scale frames will be redefined and recast in the back-and-forth of political struggle, both in response to internal contradictions among the frame-wielding activists, and in defensive response to the deployment of counter-scale frames. The following sections examine the deployment of scale frames and counter-scale frames over the course of the Shintech siting controversy that waged in Louisiana from 1996 to 1998.

This discussion is based on fieldwork conducted from June to September of 1998. During this time, I conducted semi-structured interviews with over 30 participants in the dispute, attended and observed rallies, organizational meetings and public meetings related to the controversy. Primary archival data included formal documentation of the case in the form of legal petitions, responses to legal petitions, regulatory records of decision, and research reports; and organizational newsletters, fact sheets and position papers that pertained to the Shintech case. Secondary data included government reports and fact sheets, organizational newsletters and fact sheets, news articles, commentaries and editorials.

Case context

Louisiana’s economy has suffered from a historical dependence on tax revenues from oil and natural gas extraction (Venable, 1998), and recent economic development strategies are designed to attract new manufacturing facilities to diversify the state’s economy and tax base. In a state where annual per capita income in 1995 was $18,981—82% of the nationwide figure of $23,208 and ranking 40th among the 50 states (OPB, 1997: p. 21)—manufacturing jobs earn relatively high annual wages of approximately $30,000. Nine percent of the state’s labor force is employed in manufacturing industry (OPB, 1996), and the chemical industry is the single largest manufacturing employer, with 30,000 wage and salary employees (Scott 1996: p. 12). At $53,000 per year, the average chemical industry wage was 70% higher than
average wages for the manufacturing sector as a whole in 1996\textsuperscript{4}. In addition, the highest value added in Louisiana’s manufacturing sector comes from manufacturing in chemicals and allied products (Scott, 1996)\textsuperscript{5}. (See Fig. 1).

Efforts to bring more manufacturing facilities to the state include improving the business climate for such facilities, and the Louisiana Department of Economic Development (LDED) identifies non-adversarial environmental procedures and “toxic tort reform” (limiting corporate liabilities) among efforts to do so (LDED, 1998). Republican Governor M.J. Mike Foster has played a central role in these changes.\textsuperscript{6}; the trade press reports that:

Manufacturing firms across the state...report that the state’s business environment continues to get better, thanks to the decidedly pro-business attitude that starts with the governor’s office and permeates government agencies” (Venable, 1998: p. 3; emphasis added).

The two government agencies most directly implicated in the “pro-business attitude” are the Department of Economic Development (LDED) and the Department

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{value_added_louisiana.png}
\caption{Value Added in Louisiana Manufacturing Industries 1992.}
\end{figure}

\textsuperscript{4} At $14.60/h, Louisiana manufacturing production workers earn a higher hourly wage than workers in equivalent jobs in all other southern states (Louisiana Association of Business and Industry, 1998).

\textsuperscript{5} The reference is to chemical and allied products as included in Standard Industrial Classification [SIC] 28.

\textsuperscript{6} A multi-millionaire who built his fortune in the construction industry, Governor Foster adopted the motto “Louisiana, The State Run by a Businessman” upon being elected to office. This motto appears on official state documents as well in trade press advertising and elsewhere.
of Environmental Quality (LDEQ). The LDED is responsible for acting as a liaison between potentially incoming manufacturers and other state agencies; the Louisiana Department of Environmental Quality is the primary environmental permitting agency. Two influential trade groups represent business interests, the Louisiana Chemical Association (LCA) and the Louisiana Association of Business and Industry (LABI). LABI, in particular, is forthright about “representing the general interests of the business community through active involvement in the political, legislative judicial and regulatory process” (LABI, 1998: p. 1).

As shown in Fig. 2, the chemical industry (SIC 28) in Louisiana is clustered primarily along the Mississippi river between Baton Rouge and New Orleans, with a secondary concentration in southwestern Louisiana in Lake Charles (Scott, 1996: 898).

Fig. 2. Louisiana’s Mississippi River Industrial Corridor.

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7 It should be noted that the Louisiana Department of Economic Development is not a regulatory agency per se, but is nonetheless implicated in the balance of environmental protection with economic development.
The 84-mile Mississippi River Industrial Corridor between Baton Rouge and New Orleans boasts ready access to raw materials, well-developed transportation networks, and economies of agglomeration. One-hundred and thirty-seven petrochemical facilities are located along the corridor, and produce primarily chemical feedstocks (Scott, 1996: p. 4). Louisiana boasts the third highest overall chemical production in the country, second to Texas and New Jersey (OPB, 1996; Scott, 1996).

The concentration of 137 petrochemical facilities along the Mississippi River Industrial Corridor is largely responsible for Louisiana’s third place rank on the EPA’s Toxic Release Inventory (TRI). Louisiana’s 1996 TRI reports 182,362,169 pounds of toxic releases, which refers to on-site discharges to air, water, land or underground injection wells. Nearly half of total toxic releases, or 83,798,709 pounds in 1996, were emissions to the air, including (but not limited to) chemicals such as ethylene dichloride, chlorine, ammonia, and benzene. In addition, the TRI reports 80,217,373 total pounds of toxic transfers, which refers to chemicals sent off-site for treatment or disposal (LDEQ, 1996). Environmental degradation in this area has taken the most obvious form of degraded soil and plant life, polluted waterways, and noxious hazes; anecdotal evidence points to the wizening of fruit and nut trees in the river parishes and reduced numbers of fish in the waterways. Although direct causation has been notoriously elusive in toxicological research, numerous health studies have documented elevated rates of cancers, respiratory ailments and illnesses, and reproductive disorders in populations with high exposure to toxic emissions of the sort experienced in the river parishes, hence the inclusion of these chemicals on the federal Toxic Release Inventory (see Thompson, 1997; United States Environmental Protection Agency, 1994a, b).

St. James Parish is located at the center of Louisiana’s 84-mile Mississippi River Industrial Corridor, halfway between Baton Rouge and New Orleans. As seen in Fig. 3, residential settlement and existing industrial facilities are clustered along a relatively narrow strip of land along the river. Housing is modest and settlement is nestled between eight petrochemical facilities, a sugar refinery, and an ironworks. Non-industrial commercial uses are limited, and tend to be located along the state

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8 Twelve parishes are routinely included in the Corridor designation, although the Corridor has no official planning or zoning status as such (interview LDED officials). These are West Feliciana, West Baton Rouge, East Baton Rouge, Iberville, Ascension, St. James, St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard and Plaquemines.

9 Raw materials abound within or nearby the Corridor, including petroleum (11% of US reserves), natural gas (19% of US reserves), water (400 billion gallons flowing daily for processing) (LDED, 1998: p. 3) and salt, naturally occurring in salt domes that dot the Mississippi river’s natural levees. Deepwater draft (up to 45 ft) extends upriver to Baton Rouge, the state is served by six Class 1 railroads, five Interstate highways, and seven commercial airports (LDED, 1998). Three Louisiana river ports rank among the top ten US ports in waterborne foreign commercial tonnage in 1995 (measured in total US short tons): the Port of South Louisiana (1st), The Port of New Orleans (6th) and the Port of Baton Rouge (7th) (OPB, 1997: p. 41).

10 State and federal data from 1995 to 1996 were the most currently available data to stakeholders in the Shintech dispute at the time it took place.
highways. Sugarcane fields and the occasional historic plantations stretch along the river roads.

With over 16.5 million pounds of total toxic emissions (to land, air and water), St. James ranks third on Louisiana’s Toxic Release Inventory. Ascension Parish, adjacent to and upwind of St. James, ranks first, and Jefferson Parish, near New Orleans, ranks second. Air emissions include (but are not limited to) chemicals such ethylene, carbon tetrachloride, chloroethane, chlorine, dioxins, methanol and
ammonia. St. James ranks first in toxic emissions to water, and is the source of 40% of toxic water releases in entire state (LDEQ, 1996).

Such a concentration of chemical emissions in St. James Parish and places like it gives rise to concern about both routine emissions and chemical accidents. In the event of chemical accidents, evacuations are organized by the parish government; more frequently, parish residents are instructed to “Shelter-in-Place”, remaining indoors with doors and windows closed for the duration of a hazardous chemical release.

Demographically, a large proportion of the Louisiana’s African American population is clustered in the river parishes, and St. James Parish is no exception. The parish’s population is 49% African American, 16% points higher than the statewide proportion of 33% (US Census of Population, 1990). In addition, the parish suffered a higher than state average rate of unemployment, with unemployment between 10 and 14% in the mid-1990s. With its concentration of industry, median income in St. James Parish is $23,000, higher than for the state as a whole, but lower than national average and third lowest in the Mississippi River Industrial Corridor (Tulane Environmental Law Clinic (TELC), 1997a: p. 2).

The Shintech controversy

In July 1996, the residents of St. James Parish learned that Shintech, Inc., planned to build a massive integrated polyvinylchloride (PVC) production facility in the small parish township of Convent. Shintech had been wooed by state economic development officials to the site with sizeable tax incentives and assurance of a non-adversarial regulatory environment. While some parish residents hailed Shintech, Inc.’s proposal as an opportunity to combat high unemployment in the parish, others were concerned that the 2000 temporary construction jobs and 255 permanent jobs (165 technicians and 90 maintenance workers) created by the facility would come at too high a cost to human health and the environment. The proposed facility would add over 600,000 pounds per year in emissions to the existing burden of pollution in the parish, with chemicals including vinyl chloride monomers ethyldichloride, carbon tetrachloride, chloroform, hydrochloric acid, methanol and ammonia (Shintech, 1996). Concerned residents formed a group called St. James Citizens for Jobs and the Environment, and worked in coalition with larger environmental and civil rights organizations for 2 years to oppose the construction of the Shintech facility. The case attracted national attention when the US Environmental Protection Agency took it on as a test case for developing the Agency’s response to environmental justice-related complaints.

Over the course of the Shintech controversy, St. James Citizens for Jobs and the Environment grew from a small core of five into an organization of approximately

11 Louisiana history is marked by several major chemical explosions, and non-explosive accidental releases of chemicals are not uncommon.

12 Shintech, Inc. is the American subsidiary of Japanese Shin-Etsu Corporation.
100 members. The very earliest members of the group were all women, although they worked quickly to expand and diversify broadly according to age, gender, and profession. Two of these women are African American, three are white, and the organization grew to include many more white and black people. Each of the founding members had lived in Convent for a long time, if not all their lives.

In a relatively small community, many of those who joined the protest group either experienced ailments in their own households, or knew of others who did. A shared concern for the health of parish children cemented an overall inclusiveness and racial diversity in the Shintech protest group, and acted as a powerful motivator and social bond for the group’s growing membership. As one of the white women in the group explained:

[All of our children in this community are suffering from [exposure to chemical emissions]. . . . it’s not wrong to put an industry by a school simply because it’s a poor black school, simply because it’s a rich, affluent white school—it’s wrong to put a deadly industry near a school because (pausing to emphasize each word) children go to school there. And we are supposed to be protecting our children. (Member, St. James Citizens for Jobs and Environment, female, 40s)

The Shintech protesters remained consistent in their public stance that the pollution loads in St. James Parish were equally troublesome for people’s health, regardless of the color of their skin. As an African American member of the protest group observed,

Death is not black or white. Death is everybody dying. And this thing, it will not kill me, because I’m black. And say, it’s not what’ll kill you. This thing will kill both of us, because we are exposed at the same time, the same level. We’re more than likely to die at the same time. (Member, St. James Citizens for Jobs and Environment, male, 60s)

In the following sections, I sketch the outlines of scale frames and counter-scale frames that shaped the course of this dispute as different stakeholders attempted garner advantage by locating the conflict at different political scales.

**Scale frame 1: Jobs and Environment for St. James Parish**

The formation of St. James Citizens for Jobs and Environment in August 1996, and the stance it represented is treated here as the initial scale frame of the Shintech dispute, because it shaped the way in which the Shintech protesters articulated the problem at hand, identified an affected community, attributed blame for the problem, and guided a course of action, while successfully moving the scope of the siting dispute beyond the immediate vicinity of the proposed facility. The St. James Citizens for Jobs and Environment were assisted from early on by a prominent

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13 As it was not a dues-paying organization, it was difficult for me to ascertain how many people in the community considered themselves members of the group. I observed on more than one occasion, however, approximately 100 local people attend meetings and public forums organized by the group.
statewide environmental organization called the Louisiana Environmental Action Network (LEAN), a community assistance group called Labor Neighbor Project, and several other community groups who were part of LEAN’s statewide network. LEAN had worked to improve the environmental conditions of the residents of predominantly poor and African-American river parishes for well over a decade when the controversy over the Shintech facility began; as LEAN’s executive director noted, the organization had been working on environmental justice for a long time, they just did not call it by that name. Greenpeace USA also assigned an organizer to work with local residents as they developed their environmental justice protest of the Shintech facility.

By referencing the entire parish in their name, the St. James Citizens drew on a scale idiom as a means of inclusion, inviting participation in the protest that extended beyond the township of Convent and the immediate vicinity of the proposed facility. The founders of the St. James Citizens for Jobs and Environment could have called themselves “Mothers of Convent”, for instance, but they did not. The emphasis on the parish as a whole rather than on the immediate vicinity of the proposed plant underscored the protesters’ view that the adverse impacts of the Shintech facility were not only the direct exposure to toxic industrial emissions, but also the way in which wooing petrochemical industries to the parish precluded more healthful opportunities for employment and economic development.

Emphasizing the adverse health and economic effects on the entire parish, the jobs and environment frame referenced both state and parish as scales of regulation, and located the problem partly in the power of state economic development and regulatory officials to woo such low-labor facilities to the state in the first place, and partly in the cumulative practices of the environmental protection officials who oversaw Louisiana’s “non-adversarial” (Venable, 1998) regulatory environment. As one of the protesters exclaimed,

[The thing that angers me no end, and I hear our economic development people at the local level, and at the state level, and now even at the national level, saying—environmental justice is going to cost jobs for the poor! That’s bull! Whoever said that economic development is synonymous with chemical, industrial development?! Nobody, except the State of Louisiana and Texas! (Member, St. James Citizens for Jobs and Environment, female, 40s)]

Within an economic critique that took into account political relationships operative at multiple spatial scales, the Shintech protesters focused on the parish as the territorial framework that should mediate the flow of capital. In particular, they disparaged the practice of hiring out-of-state technicians to staff the plants, and argued that new industries to the parish should generate a pool or flow of money that stayed in the parish by hiring locally. While Shintech was intimating that it would hire locally, many parish residents dismissed that prospect out of hand, noting that most local people lacked the necessary technical expertise and pointing to the dozens of out-of-state license plates in the workers’ lots in the parish’s existing petrochemical facilities.
While the problem was framed at the scale of the parish, the jobs and environment frame located part of the solution in the rights and privileges of citizenship. Invoking scale as a territorial framework for exercising political power as citizens, the St. James Citizens signaled their intention to leverage their citizenship rights beyond the parish if necessary. This stance was predicated on a fundamental belief that citizens should have participatory role in (governmental) decisions affecting their lives, and guided the protesters to make full use of federal provisions for citizen participation written into the environmental permitting process. As they prepared public comments against the facility for insertion in the permitting process, the anti-Shintech coalition argued both that access to healthful jobs at decent wages should not be sacrificed to economic development that benefited few and cost many, and that citizens should participate in decisions about local economic development.

Significantly, although the St. James Citizens for Jobs and Environment frame signaled the Shintech protesters’ readiness to address the larger-than-local implications of siting the Shintech facility in St. James Parish, the frame also contained a fundamental limitation. The frame constructed the Department of Environmental Quality (LDEQ) officials as both wrong-doers and the decision-makers who might address the St. James Citizens’ concerns. Indeed, the jobs and environment scale frame targeted the combined actions of the state Department of Economic Development and Department of Environmental Quality as well as the support for their actions and policies that emanated from the office of the Governor. Simply put, the LDEQ was responsible for fostering the state’s widely touted non-adversarial regulatory environment, but had no purview over economic development. The jobs and environment frame did not present the permitting agency with a problem it could actually address. Thus, it soon became clear that intervention in the permitting process would be insufficient to obstruct the Shintech facility, and that legal representation would be needed to extend their strategy beyond state-level decision-makers and scale up the scope of the controversy. A revised scale frame would be needed to reconstruct linkages between local conditions of burdensome pollution and extra-local avenues for recourse.

Scale frame 2: The problem of environmental injustice

By the end of 1996, the St. James Citizens began to work with student lawyers and law professors at the Tulane Environmental Law Clinic to scale up the siting dispute, “rehierarchizing” the struggle by taking it before decision-makers in the federal government. Expanding on the argument that they were experiencing a disproportionate cumulative burden, the Shintech protest coalition filed an environmental justice complaint with the Environmental Protection Agency (EPA). As a federal agency, the EPA had been required by President Clinton’s

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14 In a two-pronged strategy, the Shintech protesters also made an unprecedented appeal to the EPA under Title V of the Clean Air Act, to revoke the Louisiana Department of Environmental Quality’s air permits, which did result in limited EPA action later in the controversy.
1994 Executive Order 12898 on environmental justice (Clinton, 1994) to develop protocols for mitigating adverse health and environmental impacts on low income and minority communities. President Clinton issued a memorandum in conjunction with the Executive Order that directed federal agencies to review and enforce existing laws and regulations that would aid in the pursuit of environmental justice. Prominent among those noted was Title VI of the Civil Rights Act of 1964. Title VI mandates that

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance.

In the spring of 1997, the Shintech protesters filed a petition with EPA arguing that the Louisiana Department of Environmental Quality was violating Title VI regulations by issuing environmental permits in such a way as to create a disparate impact of pollution on people of color; permits for the Shintech facility would exacerbate this pattern. The EPA took on the Shintech controversy as a test case with which to develop procedures for addressing environmental justice concerns under Title VI (United States Environmental Protection Agency, 1998). If successful, the Title VI petition would result in revocation of state-issued permits, and possibly in a reprimand of the LDEQ. A successful Title VI petition could set an important precedent and upset the balance of power between federal and state environmental agencies.

The formal environmental justice scale frame differed from the jobs and environment scale frame in several ways, constructing an alternative set of linkages between local conditions and extra-local avenues for recourse. Many of these differences were necessitated by the formal requirements for a Title VI complaint, suggesting ways in which the government interpretations of environmental injustice might trump grassroots interpretations of the concept. The shift between the two frames can be understood in terms of how the two frames invoked scale in each of their component parts.

Problem and affected population

Whereas the jobs and environment frame invoked scale in an inclusive sense to describe the affected population as the residents of St. James Parish, the Title VI petition used scale as an analytical category, by drawing circular buffers of a type already employed by the EPA for exposure analysis, and constructing the impacted community as those people living within a 4-mile radius of the proposed facility. The protesters incorporated EPA’s technical construction of scale as a political strategy—they were not trying to redefine their grievance as a technical problem (Holifield, 2001b). The 4-mile buffer supported the claim that the facility would exacerbate a racially disparate impact, by increasing the percentage of African Amer-

15 Title VI of the Civil Rights Act of 1964 can be found in the federal code at C.F.R. §7.35(c).
icans in the affected population from 49% of the parish population to 81.2% of those living within the buffer\textsuperscript{16}.

In this way, the Title VI petition simultaneously narrowed the spatial scope of the manifestation of the problem and broadened the implications of the grievance at hand, with both inclusive and exclusionary effect. Casting the problem at hand as a problem of environmental racism invoked a social grievance that extended well beyond Louisiana, scaling up the scope of the controversy, and laying the groundwork for strategic alliances with national environmental justice and civil rights organizations. At the same time, by foregrounding the demographics of race, the environmental justice frame overshadowed the jobs and environment frame, and no longer explicitly included the whole of St. James Parish in the aggrieved population.

\textit{Blame for problem and course of action}

The Title VI petition activated a politically-scaled oversight and funding relationship between federal and state environmental agencies. Although the Louisiana Department of Environmental Quality had permitting authority under federal environmental law, the racial impacts of the agency’s decision-making were called into question under Title VI, and Louisiana officials were now required to account for their actions to the EPA\textsuperscript{17}. State officials’ actions became symptomatic of different problems in the different scale frames. While the jobs and environment frame problematized Louisiana state officials’ judgment of how to balance economic development with protection of the environment and public health, the environmental justice frame narrowed the focus on wrong-doing to the actions of the LDEQ with respect to permitting polluting facilities in communities of color, and suggested that this was symptomatic of racially disparate government practices more generally. The environmental justice frame, then, narrowed the scope of public officials’ actions while broadening the implications of those actions.

\textsuperscript{16} The Title VI petition used buffers of 1, 2, and 4-mile radii around existing industrial facilities in St. James and neighboring parishes to argue that environmental permitting agencies (both LDEQ and EPA) should take cumulative emissions into account when considering environmental disparities. Multiple buffers showed that portions or the parish were within the emissions buffers of three or more facilities. This tactic invoked one of the central dilemmas of environmental justice decision-making—what geographic scale should represent the outer threshold of cumulative emissions? How important are administrative boundaries like parishes, counties and census units to this task, in comparison to buffered boundaries? The Title VI petition did not resolve these questions, but suggested instead that new scales of analysis and new analytical techniques needed to be produced and tested by environmental regulators. EPA developed a \textit{Draft Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits} during the Shintech controversy, and used elements of the Shintech case to develop spatial analysis template for future EJ complaints. The EPA came under intense political pressure to satisfy various stakeholders while the agency worked on the analysis template, and seemed to some commentators to delay its decision in the case for political reasons (CITE). The challenges faced by the EPA underscored the limits of relying on pre-given Cartesian units of scale to resolve multiply-scaled political conflicts that are inflected with competing representations of the problem at hand.

\textsuperscript{17} Formal constraints on the EPA’s involvement under Title VI required the petition to target a recipient of federal funds, in this case, the state-level environmental permitting agency.
The counter-scale frames of ‘split the community’

I use the term counter-scale frame to refer to an action frame intended to undermine the resonance and persuasiveness of a given scale frame. Counter-scale frames are discursive practices that draw on the same repertoire of scale idioms to recast the relationship between problem and solution formulated within a given scale frame. Proponents of the Shintech facility—government officials and business organizations alike—used counter-scale frames in an apparent strategy of divide and conquer first to foster racial divisiveness within the protest group, and then to obstruct community groups seeking free legal representation (such as the Shintech protesters), from student law clinics organized to provide such assistance.

The first counter scale frame derived from the relationship that Governor Foster developed with Mr. Ernest Johnson, the head of the State Chapter of the National Association for the Advancement of Colored Persons (NAACP). The St. James Citizens for Jobs and the Environment had met with Mr. Johnson in June 1997, and felt confident at the time of Mr. Johnson’s personal support and of the state organization’s eventual support for their position. In early August, however, Governor Foster and Mr. Johnson appeared together canvassing support for Shintech in an African-American neighborhood called Freetown, adjacent to the proposed site. After keeping mum on an evaluation of the Shintech project for several weeks, Mr. Johnson spoke out in early September in support of Shintech and the jobs it would bring to the parish, and remarked that in his opinion, the predominantly white groups opposing Shintech had little grounds for an environmental justice complaint (Giordano, 1997). A week later, the Baton Rouge Advocate reported that just before Mr. Johnson’s statement of support, the Secretary of Economic Development had forcefully urged a Foster-appointed panel to approved a $2.5 million loan to Mr. Johnson’s Louisiana Community Development Capital Fund. The capital fund was designed to make loans to small businesses owned by African Americans, and had been denied state funding in the past (Shuler, 1997, September 6). The clear implication of this coverage was that the LDEC funding was used as a strong incentive for Mr. Johnson to speak out in favor of the Shintech facility and its promise of jobs for St. James Parish residents.

As a counter-scale frame, Governor Foster’s apparent attempt to win the support of the head of the State NAACP invoked scale as an idiom of inclusion/exclusion, and as a territorial framework for cultural legitimacy and political (voting) power, to undermine the EJ frame’s construction of an aggrieved population of African Americans. The EJ scale frame had formally constructed an aggrieved population of people of color living within a 4-mile radius of the Shintech site, and conceptually linked that population with people of color suffering environmental injustice across Louisiana and the United States. When Mr. Johnson indicated that not all people of color in the state or the parish opposed the plant, the clear implication was that to exclude some people of color from the protest stance was to undermine the substantive basis for a civil rights complaint on the part of those people who did object to siting the new facility. Mr. Johnson’s position at the head
A Tulane lawyer explained that the governor’s attempt, through Mr. Johnson, “to spin off part of the community, and...split the African American community in the town” (Interview RK, July 1998) was part of a strategy of divide and conquer that fostered division both among the townspeople and within the protest group. This discursive construction was backed by material tactics in which the LDEQ staff played a central role organizing a group of African-American parish residents in support of Shintech’s proposal and secured promises from the company of jobs for African-American parish residents (TELC, 1997b). Not only did the counter-scale frame split the African American community between Shintech protesters and supporters, but also in the assertion that a multi-racial protest group had no business making a civil rights complaint, it sought to split the racially diverse Shintech protest coalition. As an African-American member of the local group observed:

They keep trying to push to make it a black–white thing. As long as the men in power keep the little black and whites fighting each other, he will stay in power. He has control. But as soon as those that black and white down at the bottom realize what’s going on, and they join each other? They will do everything in the world to try and separate them...But the thing about it,—as long as...black and white stick together...they’re going to survive, they’re going to make it.

(Member, St. James Citizens for Jobs and Environment, male, 60s)

Put on the defensive by the Governor’s de-legitimation tactic, the Shintech protesters renewed their efforts to maintain the unity and focus of their group, and to justify the racial diversity of their membership. As part of this effort, they incorporated two slogans into their campaign—“Unity in Diversity” and ‘Human Rights, Not Civil Rights”—and made sure to emphasize those themes whenever possible during the rest of the protest campaign. At the urging of Greenpeace, St. James Citizens began to make plans to join a group in Geneva, Switzerland arguing before the International Commission on Human Rights that environmental injustice in Louisiana amounted to a state violation of human rights. While the human rights angle did not play out in any great detail during the controversy, the international discourse of human rights did offer another potentially compelling scale of regulation at which to frame the environmental justice argument and seek recourse. This scale of regulation may well develop political momentum in future struggles over environmental justice.

The counter-scale frame of “meddling outsiders”

As it became clear during the summer of 1997 that the EPA would take seriously the Shintech protesters’ Title VI complaint, Governor Foster launched a public and deliberate attack against the Tulane Environmental Law Clinic. Deriding the student lawyers and their professors as “outsiders”, “outlaws” and “vigilantes, he implied that Tulane’s tax-exempt status could be revoked, and urged funders of
private Tulane University to cut off funding to the university in order to rein in the
clinic (Gray, 1997, August 3; Daugherty, 1997, July 22; Shuler 1997, September 5). Foster conveyed his threat-laden message in several public forums over the sum-
mer, including Louisiana Public Broadcasting’s State of the State Program, where
he asserted:

I have problems with a major university who gets tax breaks allowing a group
like this to become vigilantes and run off people that the state has worked to
bring in. If we continue to have groups like this that are going to defy the public
will then we are going to lose a bunch of jobs to other states. (Gray 1997)

As a counter-scale frame, the Governor’s rhetoric of insider/outside used a scale
idiom of inclusion/exclusion to cast the Shintech protesters and their Tulane law-
yers as meddling outsiders and misguided vigilantes, working outside of and
against the public will. While this scale frame may seem less obviously spatial than
those reviewed, above, it invoked an explicitly socio-spatial discourse of political
antipathy between Baton Rouge and New Orleans, positioning decision-makers in
the state capital at the center of the discourse and academics and public interest
lawyers in New Orleans beyond the margins of proper public debate. Interestingly,
St. James Parish is almost exactly half way between Baton Rouge and New
Orleans, and Governor Foster’s rhetoric of insider/outside discursively positioned
St. James Parish within the circumference of Baton Rouge influence.

The insider/outside counter-scale frame was troubling to current and would-be
protesters in several ways. First, the way in which the public will was invoked
squeezed out the room for dissent built into democratic government; in this view,
people whose opinions on economic development differed from those of the state
were not so much exercising their rights to free speech and association, as they
were “defy[ing] the public will”. Second, whereas the NAACP tactic attempted to
undermine the legitimacy of the Shintech protesters’ argument before the US
Environmental Protection Agency, the threatened attack on the Law Clinic under-
mined the very access of community protest groups to such decision-making arenas
in the first place. The students and professors in the Clinic had worked for hun-
dreds of hours on the case, and had they been working for a fee, their labor could
never have been afforded by the St. James Citizens for Jobs and the Environment,
nor most other community-based groups in Louisiana. This tactic seemed intended
to severely circumscribe the ability to participate in public debate within the State
of Louisiana.

For their part, the St. James Citizens for Jobs and the Environment recognized
that the implications of the Governor’s threats on the Clinic extended well beyond
the scope of their own struggle. As one of the group’s spokespersons explained to a
reporter from the National Law Journal:

I would hope that the whole legal community would not let that happen. If it
could happen to prestigious institution like Tulane…I if the governor and large
corporate CEOs could have that kind of influence to deny citizens represen-
tation, we’re in very, very serious trouble—and not just over an environmental permit. (Patricia Melancon, quoted in Coyle, 1997, September 8).

“It” did happen, however. In October, several prominent business groups filed an appeal with the Louisiana Supreme Court, requesting that the court narrow the criteria by which the clinic could represent community organizations. The business groups argued that

[D]ue to our belief that the TELC has caused substantial harm to Louisiana’s economy and employment opportunities for all citizens, the suggested amendments to the...Rule are limited in nature and designed only to ensure that TELC plays fair and plays by the rules as they are intended. (Business Groups, 1997: p.1).

The Louisiana Supreme Court made many of the requested changes to Rule XX (Rule 20) in June 1998, with dramatic adverse implications for community groups seeking affordable representation. In the new rule, to be eligible for clinic assistance, groups must provide tax forms as evidence that 75% or more of the membership was indigent (defined as individuals earning less than $10,000 a year and families of two less than $13,000). Law clinics were prohibited from assisting community groups to organize or incorporate in any way, effectively eliminating the community liaison and outreach coordinators. Law students could no longer argue before federal environmental regulators, or pursue any cases into federal court where citizen group’s remedies sometimes lay (Smith, 1998).

The court’s actions on Rule XX caused a political uproar in which different sides framed the issue with reference to different geographic scales. Maintaining the state’s economy as his dominant issue, Governor Foster framed the ruling as beneficial to the state, and “applaud[ed] the Supreme Court for taking a reasonable action that [he hoped] will help remove some of the obstacles in the way of creating more jobs for our people” (Foster 1998, June 27). Academics, lawyers, environmental and public interest organizations, as well as countless community groups expressed concern that the State Supreme Court was in the sway of big industry, and that the rule would prevent countless ordinary citizens from obtaining needed legal representation (Houck 1998, June 25; Times-Picayune 1998, June 29). The reading of the ruling from the left was that it inscribed a strategy of divide and conquer at another more pernicious level. Law school officials from Tulane and Loyola Universities issued a joint statement, arguing that “enforcement of the provisions would isolate Louisiana from the mainstream of the American judicial system” (Gray 1998, June 18). Professor Robert Kuehn, the Director of the Tulane Environmental Law Clinic, remarked succinctly on the implications of this turn of events for the larger strategy of divide and conquer:

Finding people who will step forward and put up with the intolerance, the bullying by public officials, when someone takes a stand on environmental or economic issues, will be difficult. Once those individuals step forward, it allows organizations on the other side to contend that this is just the opinion of a few
radical individuals and not a widely held belief. It allows opponents to marginalize them. (Robert Kuehn, quoted in Gray 1998, August 3)

Without the clinic’s cost-free legal representation, the St. James Citizens for Jobs and the Environment, and other organizations like them, would not have access to the procedural expertise necessary to sustain prolonged engagement in industrial siting decisions and other regulatory processes. The Louisiana Supreme Court backstepped almost immediately to change the indigency requirement to 51% of an organization’s membership, and eased the requirement of tax information as proof of their financial status; the rest of the provisions remained intact, and under heated controversy.

While the Tulane Environmental Law Clinic continues to struggle with the implications of Rule XX, the story arc of the St. James Parish controversy came to an abrupt and in September 1998, when Shintech announced that it was withdrawing its permit applications for the St. James site. Shintech’s decision represented a significant and celebrated victory for the St. James Citizens for Jobs and the Environment and their allies in the ongoing protest. Somehow, in a struggle that had been likened to the struggle between David and Goliath, David had prevailed. The Shintech protesters had won, on one level, a war of attrition.

At the same time, two residual elements of the controversy kept the victory from being complete. First, Shintech had not abandoned its plans to locate in Louisiana, it had only turned away from the controversy in St. James Parish. Shintech announced that it would pursue permits for a smaller, less vertically integrated facility in Iberville Parish, 40 miles upriver from St. James Parish, and west of Baton Rouge. The new site was in a predominantly white community, in parish with a smaller proportion of people of color than in St. James, minimizing the likelihood of a successful Title VI complaint on the part of community activists. The smaller facility would produce fewer emissions, and by locating next to Dow Chemicals, would source the most noxious phase of the production process from that existing facility. Second, while the clinic had taken on 31 cases in the 18 months preceding the Rule XX decision, it took on just one case in the 18 months following the decision, and the clinic’s appeal in Federal District Court was dismissed in July 1999 (CBS News 2000, April 12). It appears as though the effort to prevent community groups from obtaining free legal representation through law clinics in Louisiana has been successful.

Conclusion

By the time Shintech pulled out of St. James Parish, what had started as opposition by five local women had been become nationally recognized as an important case of struggle over environmental justice. This paper has shown that as they grew their organization in opposition to Shintech, the St. James Citizens for Jobs and Environment leveraged multiple understandings of scale to move beyond an NIMBY stance and frame their grievance as part of a broader pattern of untenable
permitting practices in Louisiana. Indeed, the St. James Citizens’ victory over Shintech suggests a complex relevance of geographic scale to the politics of environmental justice. Analysis of the controversy through the lens of scale frames and counter-scale frames offers insight into this complexity.

As strategic representations of a controversy, scale frames are structured through different idioms of scale—scale as inclusion, scale of regulation, and scale as an analytical category. Counter-scale frames comprise alternative representations of a controversial issue that recast and thereby undermine one or more scale idioms in a given scale frame. Framing their opposition to Shintech as a critique of permitting practices in Louisiana, the protesters invoked scale as an idiom of inclusion to include the entire parish in the aggrieved population. At the outset, the jobs and environment frame targeted the state as the scale of regulation at which a problem felt across the parish should be addressed. When this scale frame proved insufficient, reframing the issue as environmental racism invoked a broader scale of inclusion, and now targeted the federal state as the scale of regulation at which the problem should be addressed.

Successive scale frames used a combination of scale idioms to gain the oversight of a federal regulatory agency in this siting dispute, and in doing so effected a re-hierarchization of political scales. With EPA poised to revoke LDEQ’s permits, state and federal environmental regulation were (temporarily) recalibrated in relation to one another (Brenner, 2000). Political struggle over such re-hierarchization entailed not only the socio-spatial differentiation of state powers, but differentiation between white people and black people, putative insiders and outsiders, state economic development officials and the multi-national corporation they were trying to woo to the state. Much of that socio-spatial differentiation occurred through the work of counter scale frames, deployed by the proponents of Shintech to undermining the scaled framing of the Shintech opposition. Counter-scale frames first took advantage of the protesters’ civil rights strategy to re-differentiate between white and black parish residents, and foster racial divisiveness within the local community. Subsequently, a counter-scale frame drew discursive lines of exclusion that constructed the Tulane law professors as meddling outsiders, marginalized from public debate and from the “public will” embodied in the stance of the Governor.

This case study draws from and contributes to work on the political construction of scale, answering Delaney and Leitner’s (1997) call to examine the practices comprising politics of scale in more detail. The Shintech case shows that the significance of scale to environmental justice politics extends well beyond the way scale is used in environmental equity studies, and that the social construction and (re)negotiation of scale plays an important role in the politics of environmental justice. Significantly, the political meaning of environmental justice cannot be formulated in the abstract, but must be understood with reference to the discursive strategies and material conditions of grassroots struggle over industrial siting and expansion, and with announced conception of scale which can accommodate localized experienced and conceptions of the grievance of environmental injustice. Although methodological debates over scales of analysis and resolution characterize much geographic
interest in environmental equity and justice, the abstraction of scale as an analytical category is not always very meaningful to people who live with high rates of toxics exposure on a daily basis. Geographic scale partitions and hierarchizes the organization of states; yet, in the experience of daily life and the assignation of membership in communities, geographic scales as such are not always drawn in political discourse with the precision of a cartographer’s pen.

Scale frames and counter-scale frames incorporate a broader and more nuanced formulation of scale, expressed not only as analytical categories, but also as (overlapping) scales of regulation, territorial frameworks for cultural legitimation and less clearly demarcated tropes of inclusion and exclusion. Encompassing multiple idioms of scale, scale frames and counter-scale frames acts as lenses where the racial, economic and political implications of the concept of environmental injustice are refracted, and concretize the practices through which the substantive problem of environmental justice is strategically framed at different (geographic) scales of decision-making by different parties. The interplay of scale frames and counter-scale frames indicates that the spatial ambiguity of environmental injustice is not only a hurdle to be overcome by environmental justice activists, but also a tool to be used to advantage in political struggle over the siting of noxious industrial facilities.

Acknowledgements

My thanks to Christine Haase, Helga Leitner, Deborah Martin, Richard Rayburn and three anonymous reviewers for their feedback on earlier drafts of this paper.

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