

Civil Society, Pollution and the Wentworth Oil Refinery*

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This article aims to historicise post-apartheid civic mobilisation against pollution associated with oil refining in south Durban. There has been a tendency to mythologise this mobilisation, seeing it as the embodiment of a new local resistance to globalization and the ANC government's adoption of what has been characterised as "neo-liberal" economic policies.¹ Certainly, south Durban represents an important test case for post-apartheid South Africa, juxtaposing major multinational petrochemical industries and residential neighbourhoods with histories of forced removals during apartheid.² The continued experience of pollution associated in particular with the "big 3" industrial complexes in the area (Mondi, Sapref and Engen), has led to increasing frustration and anger amongst residents about perceived political complicity with environmental abuses by oil companies.³

* My thanks to participants in the History and African Studies Seminar in the Department of Historical Studies at the University of KwaZulu-Natal, Howard College Campus for comments on an earlier version of this article. The opening section of the article is a heavily condensed précis of an argument elaborated in Stephen Sparks' "'Stink, maar uit die verkeerde rigting': Pollution, Politics and Petroleum Refining in South Africa, 1948-1960". MA dissertation, University of KwaZulu-Natal, Howard College, 2004. Because of its complicated history of ownership and name changes (see footnote 11), in this article I sometimes refer to the oil refinery currently operated by the Engen Petroleum Refining Company (Pty) Ltd in south Durban as the "Wentworth oil refinery". This has the added benefit of rooting the plant in its geographic location as well as being suggestive of the relationship between it and the adjacent residential community of Wentworth.

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1. For a critique of this tendency with specific reference to Wentworth, see A. Moolman, "Living up to the myth: Community engagement for social change", *Centre for Civil Society*, 2004, available at www.ukzn.ac.za/ccs.
2. For a valuable account of post-apartheid mobilisations against pollution in south Durban, see D. Wiley, C. Root and S. Peek, "Contesting the urban industrial environment in south Durban in a period of democratization and globalization", in B. Freund and V. Padayachee (eds), *(D)urban Vortex: South African City in Transition* (University of Natal Press, Pietermaritzburg, 2002).
3. These have been compounded by tensions caused by high levels of unemployment, the increase of itinerant subcontract labour and labour

This article begins by showing that mobilisations against refinery pollution in south Durban have much longer histories than recent debates in South Africa about “neo-liberalism” and “environmental justice”, and that these histories contain valuable lessons for present struggles, which have tended to be suppressed by “environmental racism” discourses deployed by contemporary activists, civic organisations and academic accounts.⁴ My critique does not challenge the general contours of the arguments which have been made about the iniquitous effects of “environmental racism” in South African history and the present, but rather argues that we need to be alert to the lessons contained in the histories which simplistic “environmental racism” discourses (whether employed by activists or academics) have tended to suppress.

The article weaves together the histories of civic mobilisation against refinery pollution among three historically segregated communities in south Durban (see Figure 1). The article focuses on the mobilisations centring on South Africa’s first oil refinery established at Wentworth in the 1950s. The article draws largely on State and company archival records, together with accounts produced by key civic organisations in the area. One of the consequences of this is that the article does not generally reflect some of the more informal everyday struggles by residents living in communities affected by refinery pollution. The sources I use do however provide invaluable insights into the ways in which municipal officials and the refinery viewed civic mobilisations against pollution. The article tries to draw a connecting line between earlier and later mobilisations (though not in an attempt to equate them) for the historical contexts and motivations behind the

brokering associated with the local refineries. For an excellent study of some of the civic responses to these pressures in Wentworth and Merebank, see S. Chari, “Political Work: The Holy Spirit and the Labours of Activism in the Shadows of Durban’s Refineries - Research Report 30”, *From Local Processes to Global Forces* (Centre for Civil Society Research Reports), 1, 2005, pp 2-3.

4. For allusions to the role of “environmental racism” in South African history, see for instance The groundWork Report 2004, “The Balance of Rights – Constitutional promises and struggles for environmental justice”, p 41, available at <http://www.groundwork.org.za>. See also D. Scott, “‘Creative Destruction’ – Early Modernist Planning in the South Durban Industrial Zone, South Africa”, in *Journal of Southern African Studies*, 29, 1, March 2003, p 258; G. Ruiters, “Environmental racism and justice in South Africa’s transition”, *Politikon*, 28, 1, 2001, pp 95-103. For an overview of South Africa’s nascent “environmental justice” movement see J. Cock, “Connecting the red, brown and green: The environmental justice movement in South Africa”, available at www.ukzn.ac.za/ccs.

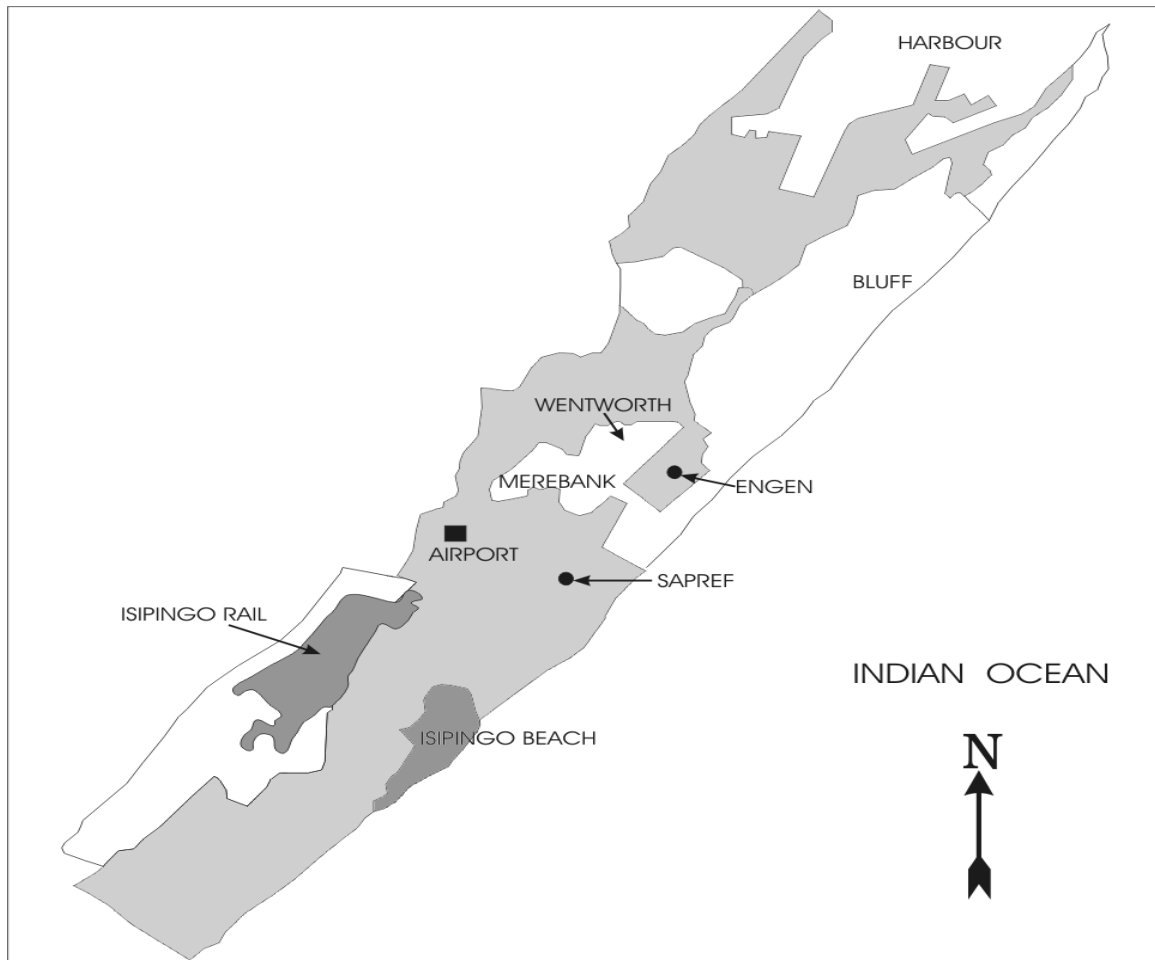
protests, despite similarities, are very different. Landowner interests have played an important part in mobilisations against pollution in the formerly white residential neighbourhood of the Bluff and in the wealthier parts of the largely Indian neighbourhood of Merebank, while mobilisations among chiefly coloured residents of Wentworth appear to be more unambiguously rooted in grievances related to the perceived persistence of environmental injustice in a post-apartheid context. I argue that environmental racism and its iniquitous effects in south Durban did not merely arise out of official and corporate indifference, but was in fact a by-product of the power of a white civic culture itself concerned with the polluting effects of oil refining in the area. It thus illustrates the negative consequences of South Africa's legacy of racialised civil society. This history would also leave its mark in what I characterise as the bureaucratisation of environmental politics in South Africa and the development of a weak localised system of environmental regulation which has only recently begun to be reformed. The article argues for an appreciation of the productive, ontological *and* suppressive power of the various (landowner, layman, technocratic, community, environmental racism) discourses which have been employed by the State, petro-capital, civic organisations and activists in relation to pollution in south Durban throughout the last half-century.

The article suggests that in spite of some of the more cynical recent critiques of post-apartheid, “neo-liberal” South Africa, there have been some very real *positive* changes in south Durban in terms of the political configuration of relationships between residents, petro-capital and the (local and central) State.⁵ Through vigilant and determined civic mobilisation and activism, those who previously enjoyed little or no purchase on the bureaucrats and politicians in city hall and Pretoria have seized the opportunities presented by the end of apartheid, demanding a

5. There is an increasingly voluminous literature addressing the reasons for the apparent persistence of inequality and injustice in post-apartheid South Africa and the associated rise of “social movements” mobilising in response to this. The bulk of the accounts have blamed the ANC government's adoption of the Growth, Employment and Redistribution Strategy (GEAR) which they characterise as a “neo-liberal” policy, serving the interests of international and domestic capital over and above those of the poor and working classes in South Africa. A selection of key texts include: A. Desai, *We Are the Poor's: Community Struggles in Post-Apartheid South Africa* (Monthly Review Press, New York, 2002); P. Bond, *Talk Left Walk Right* (University of KwaZulu-Natal Press, Pietermaritzburg, 2004); P. Bond, *Elite Transition. From Apartheid to Neoliberalism in South Africa* (University of Natal Press, Pietermaritzburg, 2000). A number of other important contributions to this literature can be found at www.ukzn.ac.za/ccs.

translation of the promises of constitutionally embedded “environmental” rights into tangible improvements such as emission reductions. As Jacklyn Cock has argued, this kind of post-apartheid “environmental justice” campaigning is less about “the environment” than it is about health and rights more generally.⁶ As we will see, in south Durban, petro-capital has been forced to take notice.

Figure 1: Map of south Durban showing current location of Engen & Sapref refineries



Civic beginnings ...

From the close of the nineteenth century, some of the wealthier white and Indian landowners living in south Durban mobilised civic organisations employing often racialised public health discourses, targeted at indigent Indians and Africans who were regarded as a threat in this “insanitary” space on Durban’s periphery. These conditions represented one of the chief justifications for the incorporation of large parts of south Durban

6. Cock, “Connecting the red, brown and green”, p 2.

into the municipal boundaries in 1932, though the Durban municipality's overriding concern was undoubtedly acquiring the power to shape industrial development in the area.⁷

The succeeding decades would see the creation of a racially segmented residential landscape in the area, together with the intensive development of contiguous petrochemical industry. Local civil society in south Durban would also reflect this racial division. The Durban municipality's fixation with "slum" conditions, coupled with the desire for the reproduction of cheap, semi-skilled labour in the area, lay behind initial "slum" clearances and land expropriations. "Re-housing" in housing schemes began in the 1940s, accelerating in the 1950s with Group Areas removals, through to their completion in the early 1970s.⁸

From the late 1940s, Indians living at Merebank and Wentworth waged civic battles with the municipality over land expropriation, housing and the payment of rates for services which rarely materialised. Newspaper accounts and a handful of letters written by some of these landowners indicate increasing cynicism towards the municipality's interventions in south Durban.⁹ Expropriation of land and demolition of homes in the name of new housing and healthier living conditions came to be seen as a cover for industrial expansion in the area.¹⁰ The establishment of South Africa's first oil refinery at Wentworth in 1954 by the Standard Vacuum Oil Refinery (Stanvac) became a symbol of the negligence of the Durban City Council amongst Indians living at Merebank and Wentworth.¹¹ It was against this backdrop that Indian

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7. S. Sparks, "'Playing at Public Health': The Search for Control in South Durban, 1860-1932", *Journal of Natal and Zulu History*, 20, 2002.
 8. D. Scott, "Communal Space Construction: The rise and fall of Clairwood and District." PhD thesis, University of Natal, 1994.
 9. "Dismay at Demolitions", *The Leader*, 15 April 1954; "Merebank Meeting: Expropriation Fears", *The Leader*, 12 October 1956; "Objection to New Industry: Merewent has had enough of unpleasant odours", *The Leader*, 16 October 1964; Durban Archives Repository (hereafter TBD): Durban Town Clerk Files, (3/DBN), 4/1/4/130, volume 2, 39, C.P. Raidoo (Honorary Secretary of the Durban Combined Indian Ratepayers Association) - Town Clerk, Durban, 27 February 1952.
 10. "Merebank Meeting: Expropriation Fears", *The Leader*, 12 October 1956; "Objection to New Industry: Merewent has had enough of unpleasant odours", *The Leader*, 16 October 1964.
 11. "Indian homes demolished", *The Leader*, 5 March 1954. The Wentworth refinery was built by the Standard Vacuum Oil Company, which was a product of the U.S Supreme Court anti-trust action of 1911, which splintered the original Rockefeller oil empire – the Vacuum Oil Company – into a series of different (but similarly named) companies. The company was jointly owned

landowners in the area attempted (unsuccessfully) to resist the attempts by the Standard Vacuum Oil Company of South Africa (Pty) Ltd to get control of land in south Durban for its refinery.¹²

Already hemmed in by Stanvac and the recently completed Sapref refinery at Reunion, residents of the Merebank and Wentworth housing schemes objected in the mid-1960s to the establishment of a third major industry by Mondi. The Merewent Ratepayers Association (MRA) took up the issue with the municipality.¹³ The MRA became the chief civic body in Merebank after a dispute with its rival, the old Merebank Indian

by the Standard Vacuum Oil Company of New Jersey and the Socony-Vacuum Oil Company. Jersey-Standard had developed crude production and refining capacity in Indonesia, but had no marketing facilities in the Far East, while Socony had an existing marketing infrastructure in the area, but no refining or production facilities. With time, the Standard Vacuum Oil Company became responsible for overseeing the joint interests of Jersey and Socony's shareholders in the Far East, South and South-East Asia, and South and Eastern Africa. The refinery was initially operated by the Standard Vacuum Oil Refining Company (Stanvac), a company specially registered in South Africa in the 1950s to operate the refinery. At the end of 1960, Stanvac's parent company shareholders decided to dissolve the company. The reorganisation of assets which resulted from this meant that all Stanvac assets in Southern Africa were transferred in early 1962 to the New York-based Mobil Petroleum Company – which itself had been formed by Socony-Mobil (formerly Socony-Vacuum) to operate the Stanvac facilities allocated to it by the reorganisation. The refining company which operated the Wentworth refinery became known as the Mobil Refining Company of Southern Africa. In 1989, after sustained pressure from anti-apartheid campaigners, Mobil belatedly withdrew from South Africa, selling its assets to Gencor, a largely Afrikaans-owned company, who duly established Engen Petroleum Ltd as the inheritor of Mobil's assets in post-apartheid South Africa. In mid-1996, Petronas, the Malaysian state oil company purchased a 30 per cent controlling share in Engen, finally becoming the sole owner in 1999. The Petronas take-over, symptomatic of the massive injection of Malaysian capital in South Africa since the end of apartheid, seems to have had the overt support of the ANC government, which has historic links with the Malaysian government stretching back to the anti-apartheid struggle.

12. TBD: 3/DBN, 4/1/4/130, 39C, volume 1, Proposed Oil Refinery at Wentworth: H.A. Smith (City and Water Engineer) – Durban Town Clerk, 23 November 1950. See also TBD: 3/DBN, 4/1/4/130, 39C, volume 1, R.G. Pomeroy – Durban Town Clerk, 11 October 1951. TBD: 3/DBN, 4/1/4/130, volume 2, 39C, P. Raidoo (Honorary Secretary of the Durban Combined Indian Ratepayers Association) – Durban Town Clerk, 27 February 1952.
13. “Objection to New Industry: Merewent has had enough of unpleasant odours”, *The Leader*, 16 October 1964; “Merewent Ratepayers Bodies Clash”, *The Leader*, 10 April 1964.

Ratepayers Association (MIRA) over what I term the “right to speak for” the interests of Indians in the area.¹⁴ The MRA’s opposition to the construction of the Mondi paper-mill would prove unsuccessful and the politics of industrial consent may help to explain why. Two years previously, the MRA had officially approached Sapref, pleading with it to fill a reported 2 000 vacancies at its new refinery, citing the “alarming unemployment” among Indians in Durban and the apartheid government’s “restrictive and repressive” job reservation legislation. The MRA offered its assistance in helping Sapref obtain workers from amongst Indian residents at Merebank.¹⁵

The Legacies of Bluff Mobilisation

Earlier civic mobilisations around public health and civic amenities by white landowners on the Bluff found newer, more powerful expressions in the 1950s with the establishment of Stanvac. Landowner interests, founded on a conception of the Bluff as a neighbourhood with an attractive “natural” character, conducive to comfortable living, leisure and a high standard of civic amenities, informed the character of mobilisations from the beginning, though health concerns (still vaguely articulated) became increasingly prominent.¹⁶ This civic culture also had traces of a critique of corporate greed and powerful layman discourses which betrayed its roots among white railway and municipal workers on the Bluff.

After Stanvac started operating early in 1954, the municipal bureaucracy received many letters written by members of the Bluff’s white landowning class, describing being woken up (“choking”) in the early hours of the morning by an “obnoxious” and “evil-smelling stench.”¹⁷ Many (including a significant proportion written by women) employed language rich with metaphoric references to the invasion of the space of the home by smells and to the negative effect of these “nuisances” on children and expectant mothers. Mounting anxiety

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14. “Walk-out at Merebank Meeting: Sectionalism alleged”, *The Leader*, 26 July 1963. See also “Lively meeting at Merebank expected”, *The Leader*, 5 July 1963; “Merewent Ratepayers Bodies Clash”, *The Leader*, 10 April 1964; “Merebank reject advisory body”, *The Leader*, 1 May 1964.
 15. “Refinery Jobs for Indians Plea by Ratepayers”, *The Leader*, 27 April 1962.
 16. “Oil Pipeline will not spoil beauty of roads”, *Bluff News Letter*, 13 June 1952.
 17. Central Archives Repository (hereafter SAB): Department of Commerce and Industries (HEN), 718, Power, Spirits and Oil Industry: Standard Vacuum Oil Refinery, Wentworth, Durban. Complaints Investigation; G.E. McGilvray – Acting City Medical Officer of Health, 17 February, 1954.

culminated in a meeting of the various local white ratepayers associations out of which the umbrella organisation, the Bluff Amenities Protection Association (BAPA), was formed. Continued complaints that the pollution was causing irritation, coughing, as well as bouts of nausea and vomiting amongst Bluff residents, set the municipal machinery turning at an unusually rapid pace, with the City Council giving the refinery an ultimatum to stop pollution, or face a court interdict ordering its closure. Civic mobilisation on the Bluff had developed a momentum which, for a time at least, drove the course of events because of the pressure it placed on Durban municipality.

Ultimately, however, the Bluff's mobilisation against pollution was short-circuited by the intervention of the national Department of Commerce and Industries (DCI), which took the form of the deployment of expert knowledge.¹⁸ The DCI invited a panel of "independent overseas experts" to investigate the refinery's design.¹⁹ This would set an important precedent for the future. Technocratic interventions, through experts and technological plant modifications, would be prioritised in pollution abatement. The privileging of expert discourses at this time in

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18. "Bluff 'Smell'— in the end they agreed", *Daily News*, 22 April 1954; "Durban's 'Little Abadan' over: Compromise agreed on", *E.P. Herald*, 23 April 1954; "The Refinery Dispute", *Sunday Tribune*, 25 April 1954. See TBD: 3/DBN, 4/1/4/132, volume 5, G.E. McGilvray – Durban Town Clerk, 7 May 1954. A 24-hour pollution complaints hotline was also instituted, which continued operating until 1955. Later in the article I discuss Engen's reinstatement of the complaints hotline in the 1990s.
 19. The panel included Liverpoolian H.G. Howson, who interestingly spent the first few years of his career working in the chemical industry in South Africa, before returning to England, where he worked in the petroleum industry, before joining the staff of the Alkali Inspectorate (the British body responsible for controlling industrial pollution) in 1929 until his retirement in November 1953. He had considerable experience of dealing with air pollution from oil refineries; the large Stanlow refinery in Cheshire, the Manchester oil refineries and other petrochemical plants fell under his control in the Alkali system. He was joined by Professor F.H. Garner, the Director of the Department of Chemical Engineering at Birmingham University, which had a reputation as the leading department of its kind in the United Kingdom. He had lengthy experience from working for the Anglo-American Oil Company and the ESSO Laboratories (which coincidentally was affiliated to Stanvac's parent company) before leaving the oil industry for academia. The third member of the panel was E.S. Sellers, the least experienced of the three, who lectured chemical engineering at Cambridge University after spending a few years in the petroleum refining industry in the United Kingdom. It is worth noting that at least one of the leading young South African chemical engineers employed at the Wentworth refinery at the time of the investigation had been taught by Sellers at Cambridge.

discussions about pollution was reflected in the DCI's insistence that a dossier prepared for the expert panel about complaints should *not* be made available to the BAPA because the investigation should "be kept on specialist level without possible interference from layman [sic]".²⁰ Significantly, one of the consequences of the DCI's deployment of technocratic discourses, was the BAPA's attempt to solidify claims about pollution through the formation of a "Technical Sub-Committee". This body employed the language of science, chemistry and meteorology to support its argument that the appeals by Bluff residents did not "arise from hysteria" as had been alleged by Stanvac but "from honest and real complaints".²¹ In a similar vein, the association also strove to bolster complaints by drawing on the medical opinion of a local doctor.²²

The DCI's view of local politics on the Bluff was marked by a deep cynicism about the severity and veracity of pollution complaints. In its rendition, the Bluff's residents had been "captivated" by the "agitation" and "rabble rousing" of a "small minority" of desperate political has-beens – Labour Party ideologues, trade unionists and an insecure mayor, Percy Osborne – who had tried to make political capital out of the controversy. The refinery "and its tastes and smells", were "a gift from the gods."²³ Complaints were based on "grossly exaggerated evidence" and were simply reflective of the "nuisance" psychological effects of smells, rather than being based on any real negative health impacts. For its part, Stanvac initially admitted that it was experiencing problems before adopting an increasingly stubborn stance as the controversy deepened, claiming that there were "a small hard core of complainers" on the Bluff responsible for "two-thirds of the complaints" and that the refinery "had become a great bogey ... a Frankenstein" in the minds of many residents on the Bluff and served as a "whipping stone".

20. TBD: 3/DBN, 4/1/3/132, volume 5, Telegram to Durban Town Clerk, 14 August 1954.

21. TBD: 3/DBN, 4/1/4/132, volume 5, Statement by Technical Sub-Committee of Bluff Amenities Protection Association, 21 August 1954.

22. TBD: 3/DBN, 4/1/4/132, volume 5, A Short Criticism of the Smell from the Refinery (Stanvac) approved from the Medical Viewpoint.

23. SAB: HEN 715, volume 5, Power Spirits and Oil Industry. Establishment of Industry. Standard Vacuum – Oil Refinery. Wentworth, Natal: "Politieke agtergrond waarteen die gebeure tussen die Stadsraad van Durban en die Standard Vacuum Oil Company gedurende Maart/April 1954 afgespeel het." My thanks to Catherine and Gys Dubbeld for translating the original document.

Media reporting could literally *produce* pollution: “... if you hammer it home, it builds up a belief that something is happening ...”²⁴

The purchase of the civic culture on the Bluff in the 1950s and 1960s was partly premised upon the heightened prestige of white citizens (and landowners) during apartheid. It also depended upon the sensitivity of key members of the Durban City Council to white working-class interests on the Bluff, but this did not exclude the Bluff from the more pernicious effects of the interactions between bureaucrats, experts and petro-capital. With the removal of deliberations about refinery pollution to the realm of experts and municipal bureaucrats, the BAPA initially opposed the granting of Stanvac’s operating licence, fearing, correctly, that once it was granted, central government could be expected to wash its hands of the issue, so that responsibility for pollution control would devolve to the Durban municipality, whose reputation had deteriorated amongst many Bluff residents since it had agreed to the expert investigation.²⁵ The BAPA withdrew its opposition after assurances that the plant modifications recommended by the experts would be carried out by Stanvac.²⁶ In this way, the promise of technocratic solutions, which ultimately failed to eradicate pollution problems completely, operated to (temporarily) dampen civic pressures on the Bluff.²⁷

The enduring power of the civic culture on the Bluff is striking. In 1958, when Shell announced its plans to build a refinery in the Durban bay at the northern tip of the Bluff, alarmed residents employed many of the same discourses which had previously provided a descriptive fuel to pollution complaints against the Wentworth refinery. Others however employed a modernising discourse arguing for the prioritisation of the Bluff’s “real complaints” – the eradication of mosquitoes, improved roads and drainage – and a new refinery to “improve the workingman’s conditions”.²⁸ But the weight of pollution experiences at Wentworth in

24. TBD: 3/DBN, 4/1/4/951, volume 2, Special Meeting of Works Committee, 28 February 1958.

25. “Licence to refinery opposed”, *Daily News*, 15 July 1954.

26. Significantly, this assurance was given by H.G. Howson, the leading member of the team of experts which had investigated the refinery in 1954.

27. I do not have space here to go into detail about some of these interventions. Suffice it to say there were a number of plant modifications, buttressed by expert knowledge, aimed at bringing about pollution abatement throughout the second half of the 1950s by Stanvac in addition to a series of return visits by international and local experts. Some brought about significant improvements, while many others failed. Pollution problems persisted, as they still do.

28. “Refinery and ‘Real Bluff Complaints’” (letter to the Editor), *Daily News*, 26 May 1958. For similar divergent views see also “The new refinery,

the 1950s, the concerted opposition of many of the Bluff's residents and the municipality's new reluctance to accept expert assurances on pollution at face value, led to it being pushed away from the most densely populated sections of the Bluff and Durban itself. Crucially, however, the new site at Reunion (the current site of the Sapref refinery) was in close proximity to the newly constructed Indian and coloured housing schemes at Merebank and Wentworth. Thus, one of the most profound legacies of the Bluff's mobilisation would be the displacement of the environmental costs of Durban's second oil refinery onto the Indian and Coloured residents in south Durban.

The practical exercise of environmental regulation

Despite the protection that refineries were undoubtedly afforded because of their strategic importance during apartheid, these industries were hardly left to pollute at will.²⁹ Though pollution standards were unquestionably lax, it was precisely because of the histories of the Bluff's experiences and these concerns about pollution in the 1950s and 1960s, that the refineries were not, or could not be given completely free reign. Instead, the persistence of refinery pollution, in the face of unsuccessful technocratic efforts at eliminating pollution, led to a shift towards the bureaucratisation of pollution; the emergence of a regulatory regime, however flawed, whose chief purpose became the minimisation of petroleum refinery pollution. This bureaucratisation process gradually removed discussions about refinery pollution from their previous public prominence, into the offices of the city's bureaucracy, and at the same time, paradoxically, was marked by close personal interaction between officials of the municipality's City Engineer's Office and the refineries concerned. This was a by-product of the municipality's negotiation of its financial imperatives (the refineries were lucrative contributors to the city's coffers) and populist pressures, and also a reflection of the municipality's attempts to bridge the city's self-styled dual identity as an

mosquitoes and Bayhead Road" (letter to the Editor), *Daily News*, 11 September 1958; "Bad Publicity" (letter to the Editor), *Natal Mercury*, 2 November 1957.

29. Environmental regulation of oil refining in South Africa during apartheid has generally been portrayed as ineffectual and poorly enforced. See The groundWork Report of 2002: "Corporate Accountability in South Africa – The Petrochemical Industry and air pollution", pp 8-11; P. Lazarus, et al, "The legislative framework: Environmental law, investment and industrial practice", in L. Bethlehem and M. Goldblatt, *The Bottom Line: Industry and the Environment in South Africa* (University of Cape Town Press, Rondebosch & Ottawa, 1997).

industrial port city and a growing tourist resort after the Second World War.

In time, with the passing of the Atmospheric Pollution Prevention Act of 1965, these relationships would be formalised, elaborated and supplemented by expertise sourced from the government affiliated Council for Scientific and Industrial Research (CSIR) and effluent monitoring by the Department of Water Affairs. It was in this space of city politics that environmental regulation became a practical necessity, though the system was powerfully skewed by the racial politics of apartheid to be more responsive to white pollution complaints.³⁰ The toothless character of regulation of refinery pollution during apartheid, is perhaps best captured in a note written by the refinery's environmental officer, Mike Antonizzi, after an "informal" meeting with Neville Burgess from the City Engineer's Pollution Department in October 1979:

...in all my dealings with Neville Burgess I have always found him helpful and co-operative. I believe we are indeed fortunate to be able to sit down and discuss the subject of pollution with an official who is appreciative of the problems faced by the industry. Mr Burgess stressed that on occasions when we have contravened the by-laws he has always opted for the "please explain letter." He has two other options, these being, "regard this as a warning" or "you are hereby fined." His attitude is that he wishes to eliminate contraventions by co-operation and not legislation.³¹

The limitations of this regulatory system were apparent throughout apartheid in the persistence of pollution problems.

Shifting ground ...

In the late 1980s, the refinery became increasingly wary of the global rise of environmentalist ideologies and the move towards tighter pollution controls which had emerged in Europe and North America, fearing that these trends would be reflected in a post-apartheid South African context.³² Indeed, from the mid-1980s, some of these fears began to be

30. Engen Refinery Library (hereafter ERL): Flue Gas Scrubbing. This file refers to "the Bluff environmental problem", suggestive of the prioritization of the interests of white residents on the Bluff with respect to pollution during apartheid.

31. ERL: Environment Files, M. Antonizzi – G.S. Hodgetts, 17 October 1979.

32. ERL: "Environmental Assumptions – 1989 to Early 21st Century", Mobil Report, September 1988.

confirmed with a marked increase in the number of pollution complaints being received by the refinery and the municipality from the Merebank area, resulting in the re-establishment of the refinery's toll-free line, which had been inoperative since the 1950s.³³

In the mid-1980s, Merebank residents threatened what the company called "community action" because of the "unusual sounds ... during all hours of the day and especially the night" at the southern end of the refinery. In response to these complaints and wary of the detrimental affect this might have on its image, the refinery belatedly undertook noise abatement measures in 1985.³⁴ Early in 1987, Merebank residents by-passed conventional complaint channels which funnelled complaints through the municipality and instead complained directly to the national government about pollution. Soon after these complaints were made, the municipality noted that Mobil had been specifically mentioned in newspaper reports and was "getting a bad name". The residents claimed that the storm-water canal had become "an open sewer" for industrial waste from the refinery.³⁵ It was against this backdrop that M.H. Kathrada, the coordinator of the refinery's Pollution Control Group, undertook a number of campaigns aimed at fostering a "pollution control culture" within the refinery. At this stage, these primarily took the form of gimmicky posters and stickers, but important changes had undoubtedly begun to be felt within the refinery's gates. Kathrada wrote the following in March 1985:

As the world-wide anti-pollution campaigns have gained momentum, the refinery has monitored a sharp uptrend in both the frequency and intensity of pollution related complaints. A very significant portion of these complaints have been noise-related, emanating from people living along the south fence of the refinery [Merebank]. These have resulted in numerous time

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33. ERL: Minutes of Meeting of the Wentworth/Merebank Area Sulphur Dioxide Committee, 31 October, 1989; CAER Consultants Report, Meeting with Merewent Ratepayers Association, Merebank Community Centre, 26 October 1994; Minutes of Meeting of the Wentworth/Merebank Area Sulphur Dioxide Committee, 11 November 1987; Sulphur Dioxide Survey Reports, 1987-1995; Report for Sulphur Dioxide Survey Committee: Wentworth/Merebank Area for period October 1987 to September 1988.
 34. ERL: Pollution Control Report, 12 February 1985; ERL: SAFOR Noise Abatement Modifications, 12 March 1985.
 35. ERL: Minutes of a special meeting on Environmental Control between representatives of the Durban Corporation and Mobil Refining Company, 8 January 1987.

consuming negotiations between refinery personnel, City Engineer's representatives and the public ...³⁶

In 1989, after years of sustained pressure from the anti-apartheid movement, Mobil divested from South Africa, selling its assets to Gencor, a local mining conglomerate group. There was little immediate change in personnel or management at the refinery. In April 1990, the MRA undertook a "pollution survey" aimed at "assessing how the community felt" about pollution in the area. The results, culled from a total of 107 households, suggested atmospheric pollution associated with the refinery was responsible for the reported high occurrence of "respiratory ill health" in the area.³⁷ In line with technocratic discourses employed by the State and the company, the survey's key aim was to produce quantitative scientific data which would indicate the extent of the concern and suffering caused by the refinery's pollution. But like Bluff letter-writing in the 1950s, the survey also emphasised the discomfort and social embarrassment experienced in many Merebank households because of pollution:

... people commonly complained that: "they felt 'nauseous' and bilious"; family and friends would not visit because of the smells, it was embarrassing to have visitors around, they had to close windows and doors to prevent the smell from coming into the house, it affected people's appetites and made meal times unpleasant."³⁸

The MRA outlined what it termed a "pollution crisis"; describing "the escalation of the problem of pollution" because of Merebank's position as "an island in a sea of industries". The organisation had forged links with newly formed national non-governmental organisation Earthlife Africa, carrying out "in loco" inspections of the Stanvac canal running along the boundary of Merebank which had long been a source of "offensive" odours.³⁹ There were signs that the refinery and local authorities had begun to take notice of Merebank's complaints. But the MRA's pollution survey met with a brick-wall of officially sanctioned "scientific evidence." A Municipal Health Department study had found no difference in the distribution of illnesses between Chatsworth and Merebank. The Health Department had therefore concluded that

36. ERL: SAFOR Noise Abatement Modifications: Memo by M.H Kathrada, March 1985 (brackets author's addition).

37. ERL: Report on Merewent Ratepayers Association Pollution Survey.

38. ERL: Report on Merewent Ratepayers Association Pollution Survey, 1991.

39. ERL: Memorandum: Pollution Problems Encountered with Genref Oil Refinery.

Merebank “had no excess diseases associated with air pollution i.e. claims to the contrary are exaggerated.”⁴⁰

The MRA severely criticised the municipal study’s methodology (in fact very similar to its own, with the exception of the addition of a “control group”), maintaining that 58 per cent of “the community” suffered from respiratory illnesses. The MRA demanded that the refinery fund a study “to determine the health of the community”, suggesting that Reservoir Hills (a higher-income Indian residential area) be used as a “control group” instead of Chatsworth. If a discrepancy in disease distribution was revealed, the refinery would be “responsible for the difference” and would have to “pay for all medical treatment and pay compensation”. The refinery rejected the MRA’s demands, arguing that this was an “industry/urbanisation” problem which could not be solely attributable to the refinery. Having rebuffed the MRA on this occasion, the company braced itself for the likelihood that it would “receive further demands” along these lines.⁴¹

Increasingly aware of pressures for the release of “environmental information” to the public by the likes of Earthlife Africa, the refinery’s environmental officer, Jim Frew began in 1991 to push for the refinery to “consider ways of educating the public, so that it could cope with this new information”. He believed that this would counter “disinformation”. At this stage however, “education” would be limited to a biannual issue of a “glossy colour” newsletter to the refinery’s neighbours “informing” residents of “the good things being done by the refinery environmentally”. This, it was hoped, would “positively affect perceptions, and avoid the accusation that the refinery is non-caring, and does very little with regard to environmental issues”.⁴²

In early 1992, the refinery played a key role in initiating the Bluff Valley Model Project, which was designed to facilitate integrated informed weather monitoring, which would enable prediction of weather conditions that might exacerbate severe atmospheric pollution in south Durban. This theoretically meant that the “big 3” industrial complexes in the area could reduce SO₂ emission concentrations in

40. ERL: Minutes of Meeting of Wentworth/Merebank Area Sulphur Dioxide Liaison Committee, 12 September 1990.

41. ERL: Internal Electronic Communication, 20 August 1990.

42. ERL: “The Impact of the Environmental Movement on the Chemical Industry” – Seminar of 23 April 1991; Report on Release of “Environmental Information” to the Public by Jim Frew, 2 May 1991; NACA Conference-Air Pollution & the Environment. Report by Jim Frew, 12 December 1991.

anticipation of “nasty weather”.⁴³ As we will see, the refinery’s preference for the Bluff Valley Model (a narrowly technocratic approach to pollution abatement) over meaningful emission reductions, would become a major source of tension during civic mobilisations in the mid-1990s.

CAER – “One Community, One People”

After South Africa’s first democratic election in 1994, the refinery’s awareness of the changing political circumstances in which it operated, led to the launching of the Community Awareness and Emergency Response (CAER) initiative in late 1994. CAER was modelled on industry-community liaison committees which had been formed by large petrochemical companies in the United States of America and Western Europe in the late 1980s and early 1990s. It was designed to overcome public mistrust by providing residents around the refinery with information about the dangers associated with its operation.⁴⁴ When the refinery’s specially appointed consultants first met with the MRA to discuss the initiative, there was considerable scepticism that CAER would be “yet another committee”; little more than “another talking forum”. The rhetoric surrounding CAER emphasised its “community driven” thrust. The refinery hoped that giving its consultants control over the CAER process and emphasising their “impartiality” would secure the MRA’s support. Significantly, the MRA was concerned that the formation of a CAER committee “representing all communities around the refinery” would “dilute” the “bilateral contact” which it had developed with the refinery. This was one of the reasons why the refinery preferred the formation of a committee made up of “community members in their personal capacity” rather than official representatives of local civic organisations.⁴⁵

In contrast to the MRA, the newly formed Wentworth Development Forum (WDF), which had emerged in response to local concern about housing issues, demanded the expansion of the CAER committee to incorporate “mandated representatives” from local civics.⁴⁶ The question of what constituted a “mandated” representative, became a

43. ERL: Bluff Valley Model: Background Proposal & Justification – Memorandum by Jim Frew, 14 December 1993.

44. ERL: CAER Consultants Report, Meeting with Merewent Ratepayers Association, Merebank Community Centre, 26 October 1994.

45. ERL: CAER Consultants Report, Meeting with Merewent Ratepayers Association, Merebank Community Centre, 26 October 1994.

46. ERL: Facsimile: Wentworth Development Forum – Engen, 9 March 1995.

major source of contention during the negotiations.⁴⁷ One of the WDF's leading activists, Bobby Peek, has portrayed these contestations as part of Engen's repeated attempts to "divide the community debate".⁴⁸ Further tensions centred on the differing conceptions of CAER's purpose. Engen envisaged CAER as a voluntary initiative, aimed at placating public pressures and serving as a bridge towards further discussions. However, WDF activists like Peek hoped to extract specific targeted pollution reductions from the refinery in the form of a legally binding agreement.⁴⁹

Crucially, the civics had already begun shaping CAER in important ways, sidelining the refinery's consultants by insisting on setting meeting agendas, nominating (instead of the refinery inviting) representatives and electing a chairperson – Bobby Peek. Drawing on North American precedents from struggles for environmental justice, and supported by the Legal Resources Centre, the WDF developed a Good Neighbourly Agreement (GNA). The draft version of the agreement made a series of demands of Engen, including that the company reduce its SO₂ emissions to "industrial nation" levels and pay for medical treatment of residents suffering illnesses "caused, accentuated, or precipitated" by emissions. Just as the MRA had first suggested in the early 1990s, the refinery would also have to fund a ten year "socio-medical study" of emission-related illness in the communities.⁵⁰ The refinery's response to these clauses took the form of a standard reiteration of its view that it was not the only polluter in the south Durban basin.

"A Major Fishing Expedition into the Past"

The refinery regarded the civics' GNA as "one-sided", planning to "negotiate out" binding language on emissions. Demands for access to information about past emission levels were viewed by the refinery as "a major fishing expedition into the past."⁵¹ CAER's rhetoric may have

47. ERL: Minutes of Meeting of the CAER Committee held on 28 February 1995.

48. Wiley, Root & Peek, "Contesting the urban industrial environment", p 239; B. Peek, "Conflict and Co-operation in Durban's Petrochemical Basin", pp 8, 13 (article no longer available on Internet – copy of article in possession of author).

49. ERL: "The Community" [Merebank, Austerville and Bluff) – Engen Refinery, undated letter re the response to a request by Engen and the further development of the CAER process. See also Wiley, Root & Peek, "Contesting the urban industrial environment", p 239; Peek, "Conflict and Co-operation", p 14.

50. ERL: Agreement between Engen Petroleum Ltd and the Representatives of the People of Merebank, Austerville and Bluff Communities of Durban.

51. ERL: Engen comments on Engen-Community Agreement.

been about “informing the public” and “access to information”, but this clearly would only be done on the company’s terms, in small “understandable doses”.⁵² Engen’s reluctance to commit itself to a legally binding emission agreement, would become the defining issue of the relationship between the refinery and the civics. The refinery was insistent on:

.... no outside arbitration or legal intervention ... the agreement is a co-operation charter between Engen and the community ... It should not be a legal document and does not require majority votes ...⁵³

President Mandela’s ribbon-cutting visit in late March 1995 to dedicate the new expansion of the refinery, was a watershed in the controversy. He was greeted at the gates by a protest organised by the WDF. Mandela stopped to speak with them, and refinery pollution was thrust onto the national stage in a way that had not occurred since the 1950s. Three days later, a government delegation, led by Mandela, met with leaders of the area’s civic organisations and the refinery’s management.

The Deputy Minister of Environment and Tourism (DEAT), Bantu Holomisa, was tasked by Mandela to convene a “multi-stakeholder” indaba in May. The meetings between the civics and the refinery which followed the national government’s intervention were characterised by lengthy discussions about what the refinery’s consultant negotiators termed “the representation problem”. They repeatedly questioned the WDF’s right to speak for local residents, claiming that its presence on the CAER committee did not necessarily secure the “inclusivity” which it had been accused of neglecting before Mandela’s visit. And yet, simultaneously, it argued that contestations over representation *within* communities inhibited the CAER process.⁵⁴

It is, however, important to recognise that “community divisions” were not entirely the refinery’s invention. During these discussions, there were signs of the development of a power-play between the WDF and the MRA. The WDF endeavoured to occupy the political high-ground and to take credit for bringing the pollution question to a head. It had developed a formidable reputation in its short period of existence and much to the refinery’s irritation had taken to turning up at meetings with large groups

52. ERL: Engen comments on Engen-Community Agreement.

53. ERL: Engen comments on Engen-Community Agreement.

54. ERL: Minutes of a meeting between the Community and Engen, 11 April 1995; Minutes of the CAER Committee Meeting, 16 May 1995.

of community supporters, engaging in “inconsiderable posturing”.⁵⁵ At a CAER committee meeting on 20 June 1995, Engen had read out a letter it had received from the ANC’s Wentworth branch which claimed that “the people of Wentworth” were not “fully aware of what the WDF are doing.” The ANC demanded its own representative on the Committee and Bobby Peek endeavoured to bring it (and the local RDP Health civic) under the WDF’s wing. Similar contestations developed on the Bluff, between the Bluff Ratepayers Association and the Bluff Conservancy.⁵⁶

Civics merged with each other under pressure to present a united front, new civics formed (and quickly fell away or merged with existing bodies) in response to the new spaces which had emerged with national government intervention and the refinery’s (ultimately divisive) emphasis on inclusivity in community representation.⁵⁷ The WDF in particular took the lead, demanding an “unequivocal commitment to reduce SO₂ emissions” to “Californian standards”. Engen’s opposition to this reduction persisted. It explained that complying would require an investment of R2-billion which would lead to an increase in the cost of petroleum products in South Africa. It stuck by the technocratic *status quo*, which it noted had the backing of the DEAT and the Durban Municipality, through initiatives like the Bluff Valley Model, which it claimed would ensure that emissions would not exceed the SO₂ guidelines of the World Health Organisation (WHO).⁵⁸

In late 1995, the stalemate in the CAER process prompted the refinery to ask its new consultants to put together a proposal for a new community relations programme. The consultants argued that “the community” and Engen held “ideological standpoints” which were “diametrically opposed” and therefore were not conducive to “some form of compromise” on emissions. Like the consultants responsible for the CAER process, they trumpeted a “new approach” which would develop “environmental objectives in a participatory fashion.” Such discourses of public participation became an increasing feature of environmental public relations campaigning by the refinery during the 1990s. Concomitant with this has been a continued privileging of “third party expertise”, now

55. ERL: Internal memorandum, 12 May 1995.

56. ERL: CAER Committee Minutes, 20 June 1995.

57. ERL: Minutes of the CAER Committee Meeting, 27 July 1995; Minutes of CAER Committee Meeting, 24 August 1995; Minutes of the CAER Committee Meeting, 19 October 1995; Minutes of CAER Committee Meeting, 27 November 1995.

58. ERL: “Durban South” brief prepared by Engen and Lowe Bell & Mann for the meeting with Minister Pallo Jordan in Pretoria on 10 January 1997.

chiefly occurring through private consultants such as these, reflecting a trend of expert interventions in political conflicts related to refinery pollution in south Durban over the last half-century.⁵⁹

The refinery's obstinacy was undermined when it emerged that the local industry-wide SO₂ monitoring system was under-reading SO₂ levels and that these emissions were "ten times over" pollution levels at comparable refineries in the United States of America.⁶⁰ Crucial to these mini-victories, which were essentially about proving the negligence of the refinery, were the important links the civics in south Durban had begun to forge through local and international networks. These included relationships with other environmental organisations, sympathetic NGO's like the Legal Resources Centre (LRC) in Cape Town and, significantly, individuals with important scientific and refining expertise.⁶¹ Engen tried to persuade national government that "the communities" were misrepresenting the refinery's stance in the negotiations, insisting that it had agreed to all the demands made by the civics, except on SO₂.⁶² However, this was precisely the point. At a CAER committee meeting in February 1996, Engen set out to prove that its emissions remained within legal limits by citing SO₂ ambient data, taken at the Wentworth monitoring station during the previous month. It was a disingenuous technocratic ploy, and it did not work. The low concentrations of SO₂ for January were immediately dismissed by the civics, who knew full well that dispersal conditions during the summer were vastly superior to those during the winter months, when temperature inversions in the Bluff Valley trapped polluted air. Engen had clearly failed to appreciate that it was now dealing with civics and activists that were far better informed about the "complexities of refinery pollution" than some of their predecessors.⁶³

There were few signs of movement. The civics implored Bantu Holomisa to fulfil the government's "constitutional responsibility" to "protect the people" by establishing a "national task force" which would set stricter pollution standards. Holomisa instructed the DEAT to investigate stricter emission standards, clearly wary of a complete breakdown occurring in the relationship between the civics and the

59. ERL: Community Relations Programme and Environmental Audit: A Proposal for discussion to Engen Refinery-Durban by International Risk Control Africa, 14 December 1995.

60. ERL: "The Pollution War Zone" by Bobby Peek.

61. Peek, "Conflict and Co-operation", p 9.

62. Peek, "Conflict and Co-operation", p 10.

63. Peek, "Conflict and Co-operation", p 11.

refinery.⁶⁴ In a meeting with Holomisa in May 1996, Rob Angel (Engen's CEO) tried a semantic argument, claiming that his statement, made in the presence of President Mandela the previous year, that Engen had the "resources" to deal with the pollution problem had not been a reference to "financial resources".⁶⁵

"Another Committee of White Consultants"

A deadlock had formed. True to the longstanding preference for technocratic expert interventions in pollution conflicts, Engen called for an "independent expert panel" which would assess the health effects of emissions together with the emissions of other companies in the area.⁶⁶ Holomisa quickly agreed with the idea, pledging DEAT's financial support for the inclusion on the panel of "one representative or expert for the community". The WDF also agreed, though Peek insists that it did so "reluctantly" because of its general suspicion of "academic technical consultants" who invariably sided with the refinery. One of the civic leaders summed up this frustration by dismissing the latest expert incarnation as "another committee of White consultants".⁶⁷ Of course, the mere fact of expert intervention does not mean that an outcome favourable to capital becomes inevitable.⁶⁸ It is the actual content and nature of officially sanctioned expert knowledge (narrowly technocratic in its focus and execution) coupled with factors such as the class composition of expert panels and State affiliated institutions like the CSIR and the bias produced through tendering and commissioning processes which determine its character.⁶⁹

The panel, however, never materialised. Bantu Holomisa had become embroiled in a bitter dispute with President Mandela, sparked by his allegations of high-level ANC corruption, and was fired from his post

64. Peek, "Conflict and Co-operation", p 12.

65. ERL: "Wentworth – The Pollution War Zone" by Bobby Peek.

66. ERL: "Durban South" brief prepared by Engen and Lowe Bell & Mann for the meeting with Minister Pallo Jordan in Pretoria on 10 January 1997.

67. Cited in Peek, "Conflict and Co-operation", p 12.

68. Indeed in the late 1950s the refinery became increasingly resistant to investigations by "foreign experts", preferring to draw on intra-company expertise and local officials from the City Engineer's Department, with whom it had established a close working relationship.

69. For a discussion of the often naïvely fervent faith in technocratic interventions by high-modernist states in the twentieth century, see J.C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (Yale University Press, New Haven, 1998).

in the DEAT in July 1996.⁷⁰ This led to a period of confusion in the unfolding of events, as Holomisa's initiatives were effectively beached. The amount of leverage possessed by Holomisa and the DEAT within the ANC government in terms of its power to act decisively on pollution in south Durban is likely to have been limited by high-level negotiations in 1996 which led to Petronas, Malaysia's state-owned oil giant, buying a 30 per cent controlling interest in Engen – the single biggest foreign investment deal in post-apartheid South Africa – at some US \$436-million.⁷¹

The limbo period after Holomisa's dismissal may have been a blow to the civics, but crucially, it also saw the formation of the South Durban Community Environmental Alliance (SDCEA), an umbrella body incorporating the key civic organisations from the residential areas surrounding the refinery. Peek characterised this as resulting from the WDF's resolve, against the background of Engen's divisive tactics, to avoid the development of "possible further divisions within the community ranks". Peek hailed its formation as signifying that south Durban's civics "liased under a common agreed-upon mandate" for the first time.⁷²

"Turning Adversity to Advantage"

In October 1996, Engen commissioned its latest communications consultants to develop a "communications strategy and community relations programme" for the company's refinery in Durban, in the light of it becoming "the central target" in the controversy about SO₂ emissions in south Durban. The consultant's report described a crisis – "well informed and articulate" activists were "ranged against" the company and the media was "sensationalising the issues". President Mandela's "personal intervention" the previous year had "raised the stakes." The consultants starkly warned that "the risk was that the issue would escalate to national political and public interest, threaten Engen's operations in Durban and damage the reputation of the company as a whole." The

70. "Holomisa refused Mandela's appeal", *Mail & Guardian*, 2 August 1996; "The ANC and the Bantu who caused all the trouble", *Mail & Guardian*, 24 December 1996.

71. The Petronas-Engen deal appears to have been the product of the close relationship between the Malaysian government and the ANC-in-exile during apartheid. See "Petronas: a well-oiled money machine", *Far Eastern Economic Review*, 13 March 2003; "Mbeki Seeks to Capitalize on Thaw in Malaysian Politics", *Business Day*, 5 September 2003.

72. Peek, "Conflict and Co-operation", p 13.

refinery's goals were therefore to prevent "unhelpful intervention from on high ... to shift the issue from the national level ... to provincial/municipal authorities" and lastly, "sidelining the civics".⁷³

The consultant's recommendations were couched in the sort of conciliatory language typical of community relations programmes in the 1990s, but were also unmistakably confrontational, aimed at forcing the WDF onto the defensive by portraying it as a "spoiler", to the detriment of "the community". The consultants listed a dastardly, wide-ranging list of charges against the WDF:

The key question here is: how to prevent the WDF – Engen's principal antagonist – from shaping the agenda to their own ends, driving the debate and effectively holding Engen's efforts to assist the community to ransom? As things stand, the WDF has thwarted the signing of a Good Neighbourly Agreement, put an effective halt to Engen's plans to open the adjacent training centre, sought to gain control of the labour brokers, positioned itself as the single conduit for social investment spending, provoked unrest outside the refinery gates and lobbied Government directly to intervene on the grounds that Engen is dragging its feet over environmental compliance ...⁷⁴

The refinery had made the mistake of letting the WDF (and in particular Bobby Peek) "disrupt and hijack" the CAER process, with its demand that Engen reduce its emissions to "first World" levels. The WDF had been "allowed" to depict Engen as: "uncompromising on emissions, manipulative in its employment of divide and rule tactics, and uncaring in the area of social investments." As a result, the consultants argued that "the vast majority of the community" was "unsighted as to the facts, receptive to the feeding of misinformation and half-truth, and manipulated into feelings of frustration and antagonism directed at Engen".⁷⁵ There is no question that the consultant's depiction of the WDF reflected Engen's own.

73. ERL: A Communications Strategy for Turning Adversity to Advantage by Lowe Bell & Mann, February 1997.

74. ERL: A Communications Strategy for Turning Adversity to Advantage by Lowe Bell & Mann, February 1997.

75. ERL: A Communications Strategy for Turning Adversity to Advantage by Lowe Bell & Mann, February 1997.

“A Strategy for Fighting Back”

The consultants argued that the answer to Engen’s problems was for it to “stop playing the game by the oppositions rules” and to “choose ground” which would work to its advantage. In practice this meant that the consultants recommended that Engen stick to its guns over its compliance with existing SO₂ guidelines. By adopting “a more accommodating position and tone of voice”, the refinery would prevent “the polarisation of attitudes” which it argued “so often intrudes on an otherwise friendly exchange.” So, instead of denying that it was at fault, the refinery should acknowledge that it “has contributed” to levels of pollution “afflicting Durban South”, but that “independent leading edge research” had “conclusively demonstrated that it is not emissions from the refinery which pose a risk to health”. Engen’s management regarded the first recommendation (an admittance of guilt) as “too definite” and exposing it to legal action.⁷⁶

One of the most interesting features of the report was the way in which the consultants contrasted the character of the WDF and MRA. The MRA, in its view, had a “long history of stable leadership and wider community support” whereas the WDF was a new trouble-maker with no mandate.⁷⁷ The consultants reported that civic activists were “by and large, winning the local media battle” by “playing to” the “traditional news theme of outraged citizens powerless in the face of uncaring big business.” Ill-informed and alarmist reporting was to blame. A “proactive media relations programme” would help the refinery “gain a measure of control over the media agenda”. This would entail “cultivating a handful of key correspondents” [the “informed circle”] through “informal lunches” every couple of months. This circle would be fed “good news events” and be invited to visit the refinery, just as had occurred in the 1950s.⁷⁸

The roots of this crisis appear to have been the company’s unsuccessful adaptation to the changed political configurations of post-apartheid South Africa. There is little doubt that the refinery would almost certainly have been able to count on the ANC government’s

76. ERL: A Communications Strategy for Turning Adversity to Advantage by Lowe Bell & Mann, February 1997.

77. This view of Merebank and Wentworth’s civics conforms to Sharad Chari’s depiction of the former as “relatively quiescent” and the later as “a hotbed of political activism”. Chari, “Political Work”, pp 2-3.

78. ERL: A Communications Strategy for Turning Adversity to Advantage by Lowe Bell & Mann, February 1997.

support if it again found itself in a predicament similar to that which developed in 1954, but the consultants concluded their report by warning Engen that “politicians at every level are increasingly influenced by community issues and public concerns.” This is precisely why the refinery became increasingly anxious from the mid-1990s to ensure that it avoided further interventions by national government after President Mandela’s unanticipated intervention.

Engen may have viewed Holomisa’s demise as presenting it with an opportunity for respite, but SDCEA’s formation gave civic mobilisation renewed energy and clarity. Late in 1997, Engen finally succumbed to the pressure which had been placed on it for years by local civics and indicated that it would reduce its SO₂ emissions.⁷⁹ In March 1998, almost three years after President Mandela had intervened in the dispute, Engen and SDCEA reached “an agreement in principle” for SO₂ reductions. In May 1999, after the DEAT’s prolonged investigation of the legal implications of the agreement, it was formalized through the “Engen Refinery Complex Environmental Improvement Programme”. The agreement was hailed as “the first voluntary agreement [of its kind] between industry and civil society” in South Africa and inserted into the refinery’s new operating permit. The civics had succeeded in putting Engen into a legal bind which at least *theoretically* meant it would be forced to reduce SO₂ emissions.⁸⁰

What took Engen so long?

How can the refusal of Engen to give in to civic pressure for so long be explained? Bobby Peek has argued that the answer lies in the company’s estimation that it could avoid agreeing to an SO₂ reduction because the South African government’s “neo-liberal macro-economic GEAR policy”, like the policies under apartheid, did not require investment in pollution control or internalise the external costs of production. It is, however, very difficult to hold onto the “neo-liberal” argument when explaining Engen’s eventual about-turn on emissions. Taken to its logical conclusion, the refinery could have been expected to continue its resistance of civic pressures for pollution reduction, secure in the knowledge that the South African state would have supported it, but as groundWork’s 2002 Report admitted (almost in spite of its own “anti-neo-liberal” discourse) negative media coverage, civil society pressure and the initiation of emission reduction programmes by other polluters left the refinery “exposed”. The struggle within the refinery, between the likes of the

79. Wiley, Root & Peek, “Contesting the urban industrial environment”, p 237.

80. Wiley, Root & Peek, “Contesting the urban industrial environment”, p 240.

refinery's environmental officer Jim Frew (who might be described as an "ecological modernizer") and the older intransigent managerial style, provided an important backdrop to the decision. The initiation of the CAER programme in 1994 partly reflected Jim Frew's push from the late 1980s for the refinery to be seen to be more responsive (at least in small ways) to public pressure. Management viewed President Mandela's visit as a chance to reposition the refinery politically, but instead events spun out of its control leading to a reassertion of "fortress management" and a consequent refusal to reduce emissions.⁸¹

As we have seen, media coverage has been a major point of leverage for the area's civics during the last half-century, enabling quick and frequently sensational (if not sensationalist) coverage of pollution incidents.⁸² Added to this concern about its corporate image, Peek has argued that signs of the government moving towards deregulation of the oil industry meant that Engen felt confident that its profits would increase, and therefore it could "accede to community demands and invest more easily in cleaner technology".⁸³ The phasing out of fuel with lead and a high sulphur content in South Africa has occurred concomitantly with the Department of Trade and Industry's promotion of an Industrial Development Zone (IDZ) in south Durban, taking the form of a proposed major petrochemical cluster. Sasol's new gas pipeline, tied in with South Africa's development of Mozambican natural gas, has been targeted at servicing these industries, including the refinery. The groundWork Report of 2002 argued that the agreement between Engen and SDCEA was "heavily, though not exclusively dependent" on the refinery's anticipation of this future switch from heavy furnace oil (with a high SO₂ content) to gas fuel.⁸⁴ This (rather tenuous) narrative allows groundWork neatly to close the "neo-liberal" loop, but ironically it also undermines agency. We should not underestimate the extent to which civic pressures for pollution reduction in south Durban since the end of apartheid

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81. The groundWork Report 2002: "Corporate Accountability in South Africa – The Petrochemical Industry and air pollution", available at www.groundwork.org.za.
 82. For more on the role of the media in recent pollution controversies in south Durban, see C. Barnett, "Media transformation and new practices of citizenship: the example of environmental activism in post-apartheid Durban", *Transformation: Critical perspectives on Southern Africa*, 51, 2003.
 83. Wiley, Root & Peek, "Contesting the urban industrial environment", p 242.
 84. The groundWork Report 2002: "Corporate Accountability in South Africa – The Petrochemical Industry and air pollution", available at www.groundwork.org.za.

have rocked Engen's management, nor the refinery's concern about a repeat of national government's intervention from "on high".

Mobilising Communities, Mobilising "Community"

Throughout the last half-century, civic organisations in south Durban have attempted to mobilise local communities against refinery pollution by mobilising discourses of "community". What are, in fact, the voices and opinions of individual activists or particular civic organisations, are clothed rhetorically as the expressed feelings and attitudes of "the community". Together with activists and civics, journalists and even the refineries have relied heavily on the concept of "community". In its narrowest uses as a descriptive term, rather than a concept employed in mobilising communities, it is clearly deficient because of the unity and homogeneity which it implies. As a basic illustration: an entire "community" does not and has never demanded that the Engen refinery relocate (and take desperately needed jobs with it), but a particular civic organisation, a group of activists or residents or an individual activist, might have. The concept papers over the tensions and contestations which are so often a part of attempts at mobilising communities in a context where the target of protests is an industry which, at least until the last decade, has been a major source of income and employment for the communities in the area for much of the last half-century.

Since the end of apartheid, there have been tentative steps towards the fostering of multi-racial "environmentalism" in south Durban through umbrella civic organisations like SDCEA and the incorporation of the residents of Umlazi in environmental justice campaigning through the campaign against the Umlazi toxic dump.⁸⁵ Civic organisations and activists on the Bluff have joined the campaigns which have been initiated by civics from Merebank and Wentworth, though they have generally played second-fiddle for a number of reasons, including the deployment of environmental racism discourses by the likes of groundWork and the WDF. In turn, cooperation between the MRA and WDF has become increasingly evident since the mid-1990s, though the relationship between has been marked by important tensions, as suggested by the hints of rivalry and power-struggles between the two organisations during negotiations with Engen. These tensions appear

85. For an account of the Umlazi dump campaign, see Wiley, Root & Peek, "Contesting the urban industrial environment", pp 232-237; B. Freund, "Brown and Green in Durban: The Evolution of Environmental Policy in a Post-Apartheid City", *International Journal of Urban and Regional Research*, 25, 4, December 2001, pp 725, 729-730.

partly to have their roots in the differential class mobility experienced by members of the two organisations. As Bill Freund has noted, in important ways the MRA's recent environmental activism reflects the interests of "the stratum of homeowners with no stake in the industrial activities of the area" who have risen from "modest origins".⁸⁶ The lead taken by the WDF in disputes with Engen over the last decade has undoubtedly played a key role in defining the generally strident character of civic environmentalism in south Durban and perhaps given it greater resonance. The marginalisation of other voices that results from this must be considered.⁸⁷ With the notable exception of the Umlazi dump case, the fact that Africans living in south Durban have generally not featured prominently in this campaigning, is another cause for concern.⁸⁸

Part of the reason for the success of south Durban's civics appears to have been that they have quickly learnt to push the right buttons in relationships with different levels of government, the media and petro-capital itself. Umbrella bodies like SDCEA and groundWork have proven particularly useful in this regard. As Sharad Chari has argued:

... a persisting strength of the SDCEA/groundWork alliance has been that it can wear many hats – militant and professionalized, grassroots and networked, confrontational and negotiable – and it can work across multiple scales: local, city, provincial, national and international.⁸⁹

Chari correctly points out that SDCEA (and its local subsidiary civics) do not draw on a popular support base. SDCEA has tried to overcome these limitations by exploiting its ability to "pull in a crowd for spectacular event" and by using a "technocratic approach" which "claims to empower residents in community monitoring of pollution levels" (the notorious "bucket-brigade") which carries out DIY pollution sampling. Although, as Chari notes, this may not have "made an army of resident scientists", it has helped the organisation link-up with "important allies in international environmental justice research."⁹⁰

Alongside this civic mobilisation there has recently been a proliferation of consultative bodies concerned with the pollution question

86. Freund, "Brown and Green", p 730.

87. Chari, "Political Work", p 13; R. Tenney, "With All Our Differences We Work Together": A Critical Case Study of Wentworth Civil Society, School for International Training Paper, 2004, footnotes 125 & 156.

88. Freund, "Brown and Green", p 730.

89. Chari, "Political Work", p 12.

90. Chari, "Political Work", pp 12-13.

in south Durban. At the most superficial level these are partly a reflection of a democratizing trend in South Africa. But these forums have been, by their nature, inherently ambiguous creatures, tending to channel civic protest into tamer bureaucratic and technocratic expressions. The making (and investigation) of pollution complaints remains the chief interface between the refinery and residents. The dynamics of this process – the irate resident’s telephone call to complain, the (often delayed) investigation by a defensive refinery official, the disappearance of the smell which had first caused the complaint, further irritation and the refinery’s denials, admissions and explanations – define this relationship. Behind all of this is the awareness that there are very real *historical* grievances and frustrations at work in south Durban, which the refinery, despite its insistence that external political forces bear responsibility for the juxtaposition of industrial and residential land uses, has become increasingly sensitive to.

History, as the refinery is all too aware, is about right and wrong and the apportioning of blame. Consequently this system of recording and investigating pollution complaints has been greatly elaborated in the last decade. Electronic correspondence is shared between the “big 3” and the municipality. As before, this interaction generally focuses on dealing with pollution problems privately.⁹¹ There is a striking similarity in contemporary descriptions of pollution with those which emerged in the 1950s. The same type of complaint emerges repeatedly, but complaints are stripped of their previous discursive power because they are restricted to short descriptions of the “type of smell” or “sensation” rather than the more detailed, personal and often familial narratives of concern about health and the psychological effects of pollution which letter-writing invariably contained. The introduction of standardised complaint sheets, with compartmentalised categorisations, degrees of severity, tick boxes and space constraints potentially constrain the power of pollution complaints as political drivers. It is organised civic mobilisation, individual environmental activists and newspaper accounts of school evacuations which now fuel change.⁹² Equally important has been the

91. ERL: Electronic Communication by Sandra Redelinghuys (DMWS), 23 October 2000; Caron Larmour – Ian Khathi, 6 August 1997; Pieter Lamprecht – Jim Frew, 27 November 2000; Natie Maphanga – Ashwin Surajpal, 27 November 2000.

92. ERL: Engen Refinery Pollution Investigation Report, 12 October 2000; Internal Electronic Communication by Jim Frew – Alan Munn, 13 October 2000; Electronic Communication by Jim Frew, 23 October 2000; Electronic Communication by Dave Brooks (DMWS), 23 October 2000; Electronic

increasingly conclusive scientific and medical evidence suggesting the deleterious health impacts of refinery pollution has undermined the old argument confining it to psychological and “nuisance” effects.⁹³

By early 2000 the refinery had begun engineering studies “to determine the most cost effective and efficient methods” of achieving the commitments it was now legally required to undertake in terms of the emission reduction agreement.⁹⁴ Negotiations for a second Environmental Improvement Plan have since begun, focusing on a major new expansion in the refinery’s capacity. The implementation of the original Environmental Improvement Plan has not exactly been smooth sailing. In September 2001, an explosion at the Natref refinery in Sasolburg lead to a fuel-crisis which necessitated Engen being granted a temporary permit by the government to increase production and therefore emissions. SDCEA has been forced to make “strategic” compromises. There have been delicate negotiations and tensions surrounding the Environmental Impact Assessment’s (EIA’s) for new refinery expansions, with SDCEA concerned about possible emission increases. As further discussions about the implementation of the original agreement have continued, so old frustrations have re-emerged. As The groundWork Report of 2002 confirms, Engen complied with “most” of the environmental targets ahead of deadline, but the CAER committee was never resuscitated and the refinery was concerned with the persistence of “negative publicity” and a revival of demands for the refinery to be shut down, which it attributed to the activists and civics in the area. The refinery regarded the agreement as imbalanced requiring few reciprocating commitments from “the community”, but SDCEA clearly felt that the refinery was obligated to carry out the reductions after decades of excessive pollution. While there were clearly still tensions, in May 2002 a liaison committee was formed which groundWork characterised as allowing for “very open discussion”.

Communication by Jim Frew, 1 November 2000; Umesh Kalpee – Willem Oosthuizen, 1 June 1997.

93. See Robbins, et al, The Settlers Primary School Health Study, Draft Final Report, produced by the University of Natal Faculty of Medicine, Durban Institute of Technology’s Department of Environmental Health, University of Michigan, 2002; J. Nriagu, T. Robins, L. Gary, G. Liggans, R. Davila, K. Supuwood, C. Harvey, C.C. Jinabhai and R. Naidoo, “Prevalence of asthma and respiratory symptoms in south-central Durban, South Africa”, *European Journal of Epidemiology*, 15, 8, September 1999, pp 747-755.
94. ERL: Draft Engen Refinery, Environmental Impact Assessment In-House Scoping Report Intermediate Expansion Project, 27 March 2000.

In addition to reflecting the very real changes in the post-apartheid political context and global trends in battles for environmental justice, the recent, much belated parliamentary deliberations about the revamping of environmental regulation legislation are partly a testimony to the success of south Durban's civic campaigning against pollution by petro-capital and through this, pressurising authorities at various levels of the State for action on pollution.⁹⁵ Whether these shifts translate into further substantial and lasting changes, remains to be seen, as civics have questioned whether the new regulatory framework will overcome the failings of its predecessor.

The limits and contradictory consequences of civic mobilisation by residents on the Bluff in the first decade of apartheid clearly have relevance to contemporary struggles in post-apartheid South Africa. While they provide ontological power for mobilising, simplistic discourses of environmental racism serve to suppress these histories and their lessons for the present. As residents who previously did not enjoy comparable purchase on the local and central state (or for that matter capital) have begun to flex their civic muscles, we need to be wary of the placatory power of technocratic expert interventions in conflicts such as this, of strategic and economic imperatives in constraining responses of local government and determining interventions by the central state, and in turn their restrictive effects on local civic mobilisation. It is necessary to maintain an appreciation for the complexities of civic mobilisation and the readiness of petro-capital to seize on these. But the story of Engen's emission reduction shows that civil society can effect change through pressures and sustained vigilance.

Abstract

This article analyses the history of the politics of pollution and petroleum refining in South Africa from the first decade of apartheid through to the present. It focuses on the country's first oil refinery, built at Wentworth in south Durban by an American multinational oil company in the 1950s. It traces the origins of the development of environmental regulation in relation to refinery pollution through a process of the bureaucratization of pollution control, and the persistence of pollution problems in the face of failed attempts at pollution abatement through technological and expert interventions throughout the article's time period. The study emphasises

95. "Last gasp for mouldy Act", *Mail & Guardian*, 18 October 2004, available at http://www.mg.co.za/articledirect.aspx?area=mg_flat&articleid=139755.

the role of civic mobilisation against refinery pollution in south Durban throughout the last half-century and delineates the varying responses of local and national government in both apartheid and post-apartheid contexts to this. The article concludes by arguing that significant progress has been made in recent struggles over recognition of the deleterious impact of refinery pollution on communities in south Durban through persistent, vigilant civic activism, but that technocratic discourses and strategic and economic factors which short-circuited earlier civic struggles against refinery pollution during apartheid, remain important constraints on civil society campaigning for enhanced pollution abatement today.

Opsomming

Die Burgerlike Gemeenskap, Besoedeling en die Wentworth Olieraffinadery

Hierdie artikel ontleed die geskiedenis van die politiek van besoedeling en petroleum raffinering in Suid-Afrika van die eerste dekade van apartheid tot die hede. Dit fokus op die land se eerste olieraffinadery, wat in die 1950's by Wentworth in die suide van Durban deur 'n Amerikaanse multinasionale oliemaatskappy opgerig is. Die oorsprong en ontwikkeling van omgewingsregulering in verhouding tot raffinadery besoedeling, deur 'n proses van geburokratiseerde besoedelingsbeheer word nagespeur. Daar word ook gekyk na aanhoudende besoedelingsprobleme en mislukte pogings tot besoedelingsvermindering deur middel van tegnologiese en kundige insette gedurende die totale tydperk wat deur hierdie artikel gedek word. Die studie beklemtoon die rol van burgerlike mobilisasie teen raffinadery besoedeling in die suide van Durban gedurende die afgelope halfeeu en skets die uiteenlopende reaksies van die plaaslike en nasionale owerhede hierop gedurende sowel die apartheid- as die post-apartheid-era. Die artikel sluit af met die argument dat noemenswaardige vordering deur middel van volgehoue, waaksame burgerlike aktivisme gemaak is met die onlangse stryd om erkenning van die nadelige invloed wat raffinadery besoedeling op gemeenskappe in die suide van Durban het, maar dat tegnokratiese diskoerse, asook strategiese en ekonomiese faktore wat vorige burgerlike aksies teen raffinadery besoedeling gedurende die apartheid-era gekortwiek het, steeds belangrike stremmingsfaktore op die burgerlike samelewing se huidige veldtogvoering vir verbeterde besoedelingsbeheer bly.

Key words

Activism; apartheid; civic culture; civil society; environment; environmental justice; environmental racism; environmental regulation; oil; pollution.

Sleutelwoorde

Aktivisme; apartheid; besoedeling; burgerlike gemeenskap; burgerlike kultuur; olie; omgewing; omgewingsrassisme; omgewingsreg; omgewingsregulering.