Riding the Momentum of Smart Growth: The Promise of Eco-Development and Environmental Democracy

Rose A. Kob*

I. INTRODUCTION

The issue of suburban sprawl has captured the imagination of America at the beginning of the twenty-first century. A broad and varied coalition of Americans, including environmentalists, social justice advocates, farmers, business leaders, architects, urban planners, and suburbanites, has rallied against the hypersuburbanization of the last twenty years. This coalition decries air pollution caused by massive suburban traffic jams, farmland and wilderness turned into condominium complexes, deteriorating and abandoned urban cores, and metropolitan

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regions that are unpleasant and inefficient. The antisprawl movement supports eco-development, development in keeping with the limits of the natural ecosystems.

The rhetoric of eco-development embraces the interconnected nature of metropolitan regions, praises intergovernmental coordination, and stresses the possibility of major social change with a united effort of many different groups of people.[1] This rhetoric, along with the large and diverse group of people who have become enthusiastic about the movement, is very exciting. There is a sense of almost revolutionary fervor in the literature of eco-development. But it remains to be seen if this language of inclusion and community will be borne out in the actual policies enacted.

This Article is a reflection on the eco-development movement and its potential for social change. My argument is in two parts. First, I argue that eco-development programs will achieve their environmental and developmental goals only if they incorporate the public into their decision-making structures. People need to feel personally invested in policies such as these before the law can make a difference in behavior and preferences. Second, I argue that if eco-development programs are rooted in large-scale public participation, they can achieve success beyond the physical landscape. The public energy and enthusiasm behind eco-development policies offer the country a chance to mend the racial, economic, and social rifts created by the fragmentation of our metropolitan regions, but the opportunity can easily be wasted if eco-development betrays its roots and becomes yet another top-down government program. In making these arguments, I look to the environmental justice movement, a movement that puts people and communities at the center of its work and vision. Following the lead of William Shutkin, I call such participatory models of development "environmental democracy."[2] Throughout the Article, I use the example of Atlanta, Georgia and that region's antisprawl program to demonstrate how the opportunities of in eco-development can be squandered.

In Part II of this Article, I describe sprawl and the type of governmental structure that has created the fragmentation of metropolitan regions and explore the negative environmental, social, and political effects of sprawl. In Part III, I discuss the reaction against sprawl, the origin and ideology of the eco-development movement, and the implementation of its policies. In Part IV, I consider the potential of

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1. *See generally* William A. Shutkin, *Realizing the Promise of the New Environmental Law*, 33 NEW ENG. L. REV. 691 (1999).

2. *See generally* WILLIAM A. SHUTKIN, THE LAND THAT COULD BE, ENVIRONMENTALISM AND DEMOCRACY IN THE TWENTY-FIRST CENTURY at xiv (2000).

the eco-development movement and suggest that the environmental justice movement's focus on public participation holds an important lesson for the antisprawl forces. In Part V, I present the concept of environmental democracy as a way to bring together the goals of eco-development and environmental justice.

II. AN OVERVIEW OF SUBURBAN SPRAWL

A. Sprawl and the Local Autonomy Model of Power

Americans have been moving out of cities and into suburbs since the founding of the country, but the suburbs truly exploded as a destination of white middle class families after World War II.[3] This suburbanization has occurred in a pattern that resembles ever-enlarging rings.[4] As a result of a complex mix of interwoven government subsidy, racism, and personal preferences, people moved out of cities and into immediately surrounding areas that promised cleaner air, better schools, and more open space.[5] Eventually, these areas filled with people, cars, over-development, and "urban" problems. Residents who were unhappy and could afford to leave moved again, this time to a ring of development still further out from the center. But it was not long before this ring also became crowded with people, cars, over-development, and "urban" problems. Those who could afford to move did so again.[6] Suburbanization is like a race that no one will ever win. Each move out from the center will inevitably be unsatisfying and require another move.

The character of suburban development has changed recently. Whereas previously the ring cycles took a generation or two to complete, they now occur nearly every year.[7] The move outwards from urban centers has accelerated, and development rings are expanding into previously undeveloped farmland and wilderness. Housing, shopping, and office developments are covering more and more land that was previously undeveloped and remote.[8] In the next decade, four-fifths of the country's growth will occur in the outer reaches of our metropolitan areas.[9]

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3. *See* PETER CALTHORPE, THE NEXT AMERICAN METROPOLIS: ECOLOGY, COMMUNITY AND THE AMERICAN DREAM 15 (1993).

4. *See* MYRON ORFIELD, METROPOLITICS: A REGIONAL AGENDA FOR COMMUNITY AND STABILITY 9 (1997).

5. *See id.* at 15.

6. F. Kaid Benfield, *Once There Were Greenfields*, FORUM FOR APPLIED RES. & PUB. POL'Y Oct. 1, 1999, at 6.

7. *See id.* ("Since 1980, suburban populations have grown a staggering 10 times faster than central-city populations in our largest metro areas.").

8. *See id.*

9. *Id.*

All across the country, the landmass that we consider part of individual metropolitan areas has grown enormously. For example, the Chicago metropolitan area has grown eleven times faster than the region's population in the last twenty years.[10] In that same time period, Chicago's consumption of land grew seventy-four percent, eighteen times faster than its population.[11] Nearly two-thirds of the nation's office space is now located along outer suburban highways.[12] An amazing ninety-five percent of all jobs created in the 1980s were located in the outlying suburbs.[13] These suburbs now account for the vast majority of residential land use in the United States. Author Joel Garreau described how metropolitan regions once composed of a city and surrounding suburbs have transformed into regions of many suburbs-turned cities.[14] These "edge cities" have gained prominence, and often supremacy, in metropolitan regions, and many residents spend their lives traveling among them, never approaching the once dominant city.[15] As the metropolitan region has spread out, it has lost its center and previous orientation.[16]

The cities and towns in the outer reaches of metropolitan areas are typically organized as separate governmental units and have minimal interaction with each other. Local government laws have been set up to give suburban governments the illusion that they can operate independently of other governments.[17] The laws allow suburban communities to turn away from the concerns of the larger region and focus instead on themselves.[18] States give suburban communities the power to tax themselves, and use the tax money in their own narrow area.[19] In his new book, Professor Gerald Frug writes about this local autonomy model of government:

> Prosperous suburbs have been able to enrich themselves at the expense of their neighbors because they have been empowered to defend their borders through autonomy-enhancing local government law rules, such as exclusionary zoning, protections against annexation, and the allocation of property tax revenues solely to those who live within the city borders.[20]

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10. *Id.*
11. *Id.*
12. *Id.*
13. *Id.*
14. *See* JOEL GARREAU, EDGE CITY: LIFE ON THE NEW FRONTIER 4 (1988).
15. *See id.* at 5.
16. *See id.* at 4.
17. *See* GERALD E. FRUG, CITY MAKING: BUILDING COMMUNITIES WITHOUT BUILDING WALLS 7-8 (1999).
18. *See id.* at 6-7.
19. *See id.* at 4.
20. *Id.*

Professor Frug demonstrates how suburbs have withdrawn from regional concerns and created self-taxing and self-ruling enclaves that ignore regional issues.[21]

These suburbs present a privatized view of government: government as a method of satisfying and protecting narrow self-interest. Suburban governments are seen as protecting family, property values, and privacy.[22] As Professor Frug says, "[t]his privatized picture of suburban life not only has helped convince the states to grant these cities significant power over zoning, education, and resource allocation but has helped persuade the courts to defend their power against attacks by insiders and outsiders alike."[23]

The physical environment created by these individual government units, all fighting for the right to develop, or not develop, their land as they wish, has created a metropolitan region that is chaotic and completely disorganized. No governmental unit has overseen the autonomous suburban governments and considered what action will benefit the entire region.[24] Professor Richard Briffault noted that "[l]ocal autonomy fragments states into hundreds of jurisdictions, each focused narrowly on the well-being of the constituency within its boundaries rather than on the state or region as a whole, each struggling with its neighbors for the resources it needs to satisfy its constituents' demands."[25] Suburbs have been left alone to make selfish and destructive decisions, and the resulting sprawl has created a myriad of environmental, social, and political problems.

B. The Effects of Sprawl on the Country

The fragmentation in suburban regions has created sprawl and its associated problems. According to one commentator, the costs of sprawl include "air pollution, costly delivery of government services, increased commuting times and traffic congestion, destruction of previously exurban green and agricultural areas, and abandonment of urban centers that would benefit from 'infill' efforts . . . ."[26] The Environmental Protection Agency has been tracking several characteristics of sprawl, and reported that the two major indicators of sprawl are "an increase in dwellings, particularly single-family dwellings, in the suburbs and

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21. *See id.* at 7.
22. *See id.*
23. *Id.*
24. Richard Briffault, *A Government for Our Time?*, 99 COLUM. L. REV. 365, 374 (1999).
25. *See id.*
26. William W. Buzbee, *Urban Sprawl, Federalism, and the Problem of Institutional Complexity*, 68 FORDHAM L. REV. 57, 63 (1999).

beyond, and an increase in vehicle miles traveled as people commute longer distances."[27] Some have called these new sprawl developments "mushburbs" in honor of their complete lack of planning and coherence, resulting in "a shortage of affordable housing, a lack of educational, cultural, and aesthetic amenities, and an absence of civic traditions and a sense of community."[28]

This new environment prompted writer James Howard Kunstler to comment dramatically:

> We drive up and down the gruesome, tragic suburban boulevards of commerce, and we are overwhelmed at the fantastic, awesome, stupefying ugliness of absolutely everything in sight . . . as though the whole thing had been designed by some diabolical force bent on making human beings miserable. And naturally, this experience can make us feel glum about the nature and future of our civilization.[29]

The bleakness of this image of America is also reflected in another writer's description: "[C]ommercial strips, big boxes, scattershot home sites strung out along highways. Single-entry, look-alike, cul-de-sac subdivisions that virtually guarantee pockets of congestion. An asphalt-bedecked, flood-prone world. Lots of wasted, empty land. But a shortage of community centers and shared space."[30]

A major consequence of our new decentralized environment is the dramatic increase in automobile use, and its serious effects on air quality. Between 1970 and 1990, motor vehicle use in America has doubled, from one trillion to two trillion miles a year.[31] In Maryland, the number of annual vehicle miles traveled in the state rose from twelve million in 1970, to twenty-eight million in 1990.[32] This sprawl-induced automobile use has spawned huge increases in energy consumption, greenhouse gas emissions, and unhealthy air pollution.[33]

Atlanta, Georgia is often used as an example of the embodiment of all the evils of sprawl. In the last fifty years, the Atlanta region's population has boomed and sprawled out over a huge area around the Atlanta urban core.[34] Atlanta's regional population was less than

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27. Williams et al., *Urban Sprawl Initiative: Environmental Regulation or Social Direction?*, 6 No. 10 VA. ENVTL. COMPLIANCE UPDATE (Apr. 1999), WL 6 no. 10 SMVAENVCU 6.

28. Benfield, *supra* note 6.

29. James Howard Kunstler, *Home from Nowhere*, ATLANTIC MONTHLY, Sept. 1996, at 43, *available at* http://www.theatlantic.com/issues.

30. Neal Pierce & Curtis Johnson, *Stepping Up to Stop Sprawl*, THE TENNESSEAN, Oct. 10, 1999, at 21A, *available at* 1999 WL 23940123.

31. *See* Kunstler, *supra* note 29.

32. *See* John W. Frece & Andrea Leahy-Frucheck, *Smart Growth and Neighborhood Conservation*, 13 NAT. RESOURCES & ENV'T 319, 320 (1998).

33. *See* Kunstler, *supra* note 29.

34. Benfield, *supra* note 6.

500,000 in 1950, and is now over three million.[35] This growth has made Atlanta residents proud, and they showed off a new world class city during the 1996 Olympics.

But the rapid growth has not been entirely beneficial for Atlanta. Housing developments are spread out in a huge area around the urban center, connected by roads that cannot accommodate rush hour traffic.[36] Traffic congestion has gotten to crisis levels and the air quality is below federal clean air standards.[37] Atlanta metropolitan area residents have the longest commute in the country, an average of thirty-five miles a day.[38]

The media has begun to question Atlanta's previously glowing reputation and the city is now primarily seen as the poster child for urban sprawl and its associated problems.[39] As a result of some prominent national media coverage of the pollution and congestion in Atlanta, the Atlanta business community has begun to fear that Atlanta's reputation as a pleasant place to live and do business is slipping. As one observer noted, "[w]hat [the real estate people] fear is that sprawl and the accompanying gridlock will ultimately make growth impossible and choke off the industry's future."[40] This concern for an economic slide has motivated Atlanta into an examination of its growth patterns. The situation in Atlanta is so serious that even the city's largest real estate developer has become disgusted with Atlanta's sprawl.[41] John A. Williams, a man who was responsible for developing much of the rural area around the urban core, has become one of the city's greatest critics and is working with the governor to reorganize the city.[42]

Although sprawl is physically a suburban issue, and has wreaked havoc on the outlying environment, economy, and social structure, it has also devastated the inner urban core. By its very definition, sprawl is the relocation of resources from a more concentrated area in cities and the immediately surrounding region to a diffuse area over traditionally undeveloped or scarcely developed land.[43] This relocation means that new jobs, new housing, and new opportunities are being created in the far outlying areas, but not in the inner urban core of metropolitan areas,

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35. Tom Arrandale, *The Eastern Water Wars*, GOVERNING, Aug. 1999, at 30.

36. *See generally* Alan Ehrenhalt, *The Czar of Gridlock*, GOVERNING, May 1999, at 20 (discussing the difficulty of and the time spent commuting within the Atlanta metropolitan region).

37. *See* Katheryn Hayes Tucker, *Saying Goodbye to the 'Burbs'*, N.Y. TIMES, Mar. 5, 2000, at 3:1.

38. *See id.*

39. *See id.* (citing Atlanta as "a symbol of urban sprawl bursting out of control").

40. Ehrenhalt, *supra* note 36, at 26.

41. *See* Tucker, *supra* note 37, at 3:1.

42. *See id.*

43. *See* SHUTKIN, *supra* note 2, at 53.

where poor and minority populations are desperate for an infusion of capital and resource investment. To further aggravate the situation, the sprawl development is occurring in an area physically so far removed from these communities that they have no hope of benefiting from the growth.

Baltimore, Maryland, is a good example of a city being destroyed by sprawling suburbs. "[W]hile the distant suburbs boomed, older cities, towns, and suburbs rapidly lost residents. Baltimore, once with a population of nearly one million, dropped to 650,000 and the exodus continued."[44] The population of Baltimore is dwindling, and those left tend to be the poor and minority residents who cannot afford to move.[45] As Baltimore suffered, the population of the entire state grew from four million in 1970, to five million in 1996, and is projected to reach six million in 2020.[46] Because of the local autonomy structure of suburban government, the exodus of wealthy city residents to the suburbs caused a major reduction in property taxes for the city, and the state budget prioritized expenditures for high-cost suburban roads to support the new development over redevelopment money for the city in crisis.[47]

The development of outer areas to the exclusion of cities is wasteful. Cities have infrastructure, unused land, people, and location advantages that are not being exploited with sprawl development. Instead of concentrating on segments of a region that have a severe need for development, and can be ready for such development with some cleanup, preparation, and investment, developers have turned to a part of the region where they must start from scratch. Local governments have set up a development system in which it is cheaper for new investment to occur in rural areas that require new roads, imported population, and new physical structures, instead of urban areas that can be transformed with some assistance. This system cheats poor and minority communities twice, first by denying them the resources they need, and second by placing those resources far out of reach.

Sprawl development almost never includes plans for public transportation. The real estate and development interests who build in this decentralized way demand that local governments build new highways and complex road systems, but never public transit.[48] This omission from the planning process means that urban residents can only

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44. Frece & Leahy-Frucheck, *supra* note 32, at 320.
45. *See id.*
46. *Id.*
47. *See id.*
48. *See* ORFIELD, *supra* note 4, at 7.

reach the sprawl development with a car.[49] This commute might be too far and long for them, or more often than not, they might not own a car, and therefore any new jobs or opportunities are unavailable. This problem has been referred to as the "push and pull" of regional polarization.[50] As explained by Myron Orfield, an expert in metropolitan regions, the concentrated poverty of the urban core "creates social repercussions far greater than the sum of its parts," while the concentrated resources of the outer communities use their advantages to diminish the wealth and production capacity from the remainder of the region.[51] This mismatch in social resources and capital means that "everywhere social needs are present and substantial, governmental resources are comparatively small and growing slowly, stagnating, or declining."[52] Conversely, "everywhere governmental resources are large and rapidly growing, social needs are small and growing slowly, holding stable, or declining."[53]

The negative effects on the metropolitan environment are serious, and must be addressed, but the rampant hyper-suburbanization of America mirrors a deeper problem: the decline of the public sphere. Americans are not just moving into suburban sprawl environments, they are also moving into the private sphere. New sprawl development is typically composed of gated communities, office parks, malls with private security, and high-speed highways. Sprawl does not make space available for the public sphere. As the dominant mode of living becomes sprawl, most middle and upper-class Americans have never had the experience of playing in a public park, walking down a public street, or even joining a public organization.[54] As these Americans stop living in public spaces, they stop being involved in the public life of our country.

Iris Young has written very convincingly about the necessity and desirability of public space and "publicity" in democratic society.[55] She contends that public spaces are essential for a country's political culture and society.[56] Young explains:

> Politics, the critical activity of raising issues and deciding how institutional and social relations should be organized, crucially depends on the existence of spaces and forums to which everyone has access. In such public spaces

49. *See id.*
50. *Id.* at 2.
51. *Id.* at 3.
52. *Id.* at 8.
53. *Id.*
54. *See generally* IRIS YOUNG, JUSTICE AND THE POLITICS OF DIFFERENCE 240 (1990).
55. *Id.* at 234-41.
56. *See id.* at 240.

> people encounter other people, meanings, expressions, issues, which they may not understand or with which they do not identify.[57]

If we are to encourage a public discussion and debate, and reinvigorate politics, we must have public space.

When Alexis de Tocqueville visited America nearly 150 years ago, he saw a country where the citizens enjoyed participating in politics, and people learned about themselves through their involvement in politics.[58] Tocqueville saw a country where "if an American should be reduced to occupying himself with his own affairs, at that moment half his existence would be snatched from him; he would feel it as a vast void in his life and would become incredibly unhappy."[59] But today, a recent article in *The Nation* seems more accurate to describe America's interest in public affairs.[60] "As American electoral participation continues its decline, democratic government increasingly becomes something of a shelf item that people assume will be there if they need it."[61]

Robert Reich has famously called the retreat from the public sphere "the secession of the successful."[62] His now classic *New York Times* essay describes the many ways in which the top fifth of Americans are "quietly seceding from the rest of the nation."[63] He notes the rise of residential communities, condominium complexes, private parks, office parks, and exclusionary suburbs, and claims that this retreat from the rest of society and social obligations by the wealthy "raises fundamental questions about the future of American society."[64]

The results of this retreat from public life may be viewed all around us: abysmally low voter turnouts, a news media that is only concerned with Hollywood and celebrities, and the near extinction of voluntary associations. This withdrawal from public life can also be seen in the retreat from public responsibilities; social welfare policies are being eroded and charitable giving is less now in a time of supposed prosperity than it was during previous recessions.[65]

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57. *Id.*
58. *See* ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 242-43 (J.P. Mayer ed., 1969).
59. *Id.* at 243.
60. *See* Tom Gallagher, *Trespasser on Main St.: You!*, 261 THE NATION 787 (1995).
61. *Id.* at 790.
62. Robert B. Reich, *Secession of the Successful*, N.Y. TIMES, Jan. 20, 1991, at 16.
63. *Id.*
64. *Id.*
65. *See* Peter Kilborn, *Charity for the Poor Lags Behind Need*, N.Y. TIMES, Dec. 12, 1999, at A1.

C. The Defenders of Sprawl

Sprawling suburbs have numerous negative effects on the country's metropolitan regions. As one commentator puts it, "[sprawl] gobbles up good farmland and other valued green spaces; degrades the environment; uses infrastructure (schools, roads, sewers, and so on), public services, and natural resources inefficiently; increases traffic congestion and air pollution; precludes neighborliness; hollows out central cities; and exacerbates racial segregation and economic inequity."[66]

These objections to sprawl are not universally shared. As sprawl has received increasing media and public attention, conservative scholars and commentators have begun to speak out in defense of sprawl.[67] These critics, especially Peter Gordon and Harry Richardson, argue that urban sprawl is the result of freely made choices and personal preferences.[68] They claim that people choose to arrange themselves in sprawl-type living patterns because it is what they prefer.[69] Americans, they argue, prefer to live in large single-family houses, away from their neighbors.[70] If their neighbors get too close, they will move out of an urbanizing region into a less densely populated area.[71] Americans will always choose to drive in cars because car travel is so much more convenient than mass transit.[72] These critics oppose any smart growth plan that tries to change people's behavior as an infringement of their property rights and freedom.[73]

Further, Gordon and Richardson argue that antisprawl concerns about threatened farmland, increasing traffic congestion, and public transportation are "illusions."[74] They reference the fact that land used for farming has been decreasing steadily since 1930.[75] The authors scoff at claims of commuting nightmares, citing statistics that the average speed driven in a commute is increasing to show that although people are driving longer distances to work, they are getting there at the same time

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66. D.W. Miller, *Searching for Common Ground in the Debate Over Urban Sprawl*, CHRON. HIGHER EDUC., May 21, 1999, at A15, *available at* http://chronicle.com/weekly/145/:37/37a01501.htm.

67. *See, e.g.*, Peter Gordon & Harry W. Richardson, *Prove It: The Costs and Benefits of Urban Sprawl*, BROOKINGS REV., Fall 1998, at 23 (arguing that sprawl reflects the economic preferences of the public at large).

68. *See id.*

69. *See id.*

70. *See* Peter Gordon & Harry W. Richardson, *Defending Suburban Sprawl*, PUB. INTEREST, Mar. 22, 2000, at 65, 2000 WL 10456100.

71. *See id.*

72. *See* Gordon & Richardson, *supra* note 67, at 24.

73. *See id.* at 25.

74. *See id.* at 23-24.

75. *See id.* at 23.

as always because of less busy roads.[76] Furthermore, they complain that mass transit is declining because people simply prefer to drive in their cars.[77] Peter Gordon calls sprawl "the expression of people's desires and wants as they vote in the marketplace."[78]

Conservative proponents of sprawl ignore the fact that the government has almost always been a dominant force in land use, interfering with the free market. The home mortgage federal tax deduction, enormously subsidized highway programs, community zoning laws and land use regulations all impact the supposed "free" choices of consumers.[79] It seems odd that people who are satisfied with their ability to live out their preferences would vote in such large numbers for the policies to limit sprawl that have been presented to the electorate.[80] The popularity of politicians and policies denouncing sprawl seems to negate Gordon and Richardson's view that people prefer their current choices of living arrangements.[81]

III. THE MOVEMENT AGAINST SPRAWL

Social justice advocates have long criticized suburbanization for the social inequities it allows and promotes, but recently for the first time, a large and very public coalition has joined together to change the nature of suburban development.[82] A growing group of people who are dissatisfied with the environment have blamed sprawl. This coalition has gained a national voice in the past few years, garnered a great deal of media attention, and even won political battles. The movement reached a climatic moment in September 1998, when Vice President Al Gore traveled to Portland, Oregon to make a speech decrying the effects of suburban sprawl and supporting smart growth initiatives including growth boundaries, clean public transportation, and mixed land uses.[83] The speech put sprawl on the national agenda, and Gore made it a central issue in his 2000 campaign for President.[84]

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76. *See id.*
77. *See id.* at 24
78. Miller, *supra* note 66, at A16.
79. *See id*.
80. *See id*.
81. *See* Gordon & Richardson, *supra* note 67, at 23.
82. *See* Miller, *supra* note 66, at A15.
83. *See* Gordon & Richardson, *supra* note 70.
84. *Id*. Gore called his plan a "Livable Communities Initiative." It strove to "offer grants and tax benefits to communities that preserve green space, curb water pollution, relieve traffic congestion, and revive abandoned industrial sites." Jodie T. Allen, *Sprawl, from Here to Eternity*, U.S. NEWS & WORLD REP., Sept. 6, 1999, at 22.

A. The Origins and Ideology of the Antisprawl Movement

The antisprawl movement draws interest from traditional environmentalists, environmental justice advocates, urban rights activists, business leaders, disgruntled commuters, farmers, architects, and local governments. Environmentalists and farmers decry the destruction of open spaces for gigantic malls, office parks, and condominiums in formerly open spaces. Environmental justice advocates condemn the abandonment of polluted urban sites in poor and minority neighborhoods with no attempt at cleanup or restitution.[85] Advocates for the urban poor clamor for the development money that is used in outlining areas, but is so desperately needed in the cities.[86] Suburbanites complain about intense traffic and pollution from the over-dependence on the automobile and "quick and dirty" development that results in an ugly "strip mall" look to almost all suburban areas.[87] Architects in the "New Urbanist" school decry our dependence on the automobile and its destruction of community.[88] Even the business community complains about the inefficiency and expense of sprawl.[89]

These people seem to agree with Peter Calthorpe, who notes that the "patterns of growth [over the past twenty years] have become more and more dysfunctional . . . . [T]hey have come to produce environments which often frustrate rather than enhance everyday life."[90] He notes that as the composition of families change, work structures evolve, and environmental concerns become increasingly serious, suburban sprawl no longer makes sense.[91] Sprawl "increases pollution, saps inner-city development, and generates enormous costs—costs which ultimately must be paid by taxpayers, consumers, business, and the environment."[92]

In his new book, William Shutkin describes how "[f]or the first time, environmentalists are addressing issues formerly dismissed or ignored, like the urban environment and working landscapes, and a diverse group of stakeholders—from inner-city activists to suburban municipal officers to rural ranchers—are engaging in environmental protection efforts."[93] The new emphasis has shaken up both the environmental movement and also the various groups it attracts. They

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85. *See* Paul Skanton Kibel, *The Urban Nexus: Open Space, Brownfields, and Justice*, 25 B.C. ENVTL. AFF. L. REV. 589, 589-90 (1998).
86. *See* ORFIELD, *supra* note 4, at 2.
87. *See* Calthorpe, *supra* note 3, at 27-28, 34-35.
88. *See* Gordon & Richardson, *supra* note 67, at 25.
89. *See* Calthorpe, *supra* note 3, at 15.
90. *Id.*
91. *See id.*
92. *Id.*
93. SHUTKIN, *supra* note 2, at xiv.

are all seeking the same thing, an environment that supports people's busy twenty-first century lifestyles, but is also healthy, fair, and enjoyable, and they are looking to make major changes in the way our country works in order to achieve their goals.[94]

Shutkin calls this blend of environmentalism, development, and social justice "eco-development."[95] He explains that eco-development "looks to systems-oriented solutions that address the connections between environmental problems and economic and civic issues such as disinvestment, unemployment, crime, education, and public participation."[96] It is this shift to from a broad perspective that has the most potential. Instead of revising the local autonomy model of governance, eco-development encourages a more public, and more inclusive model.

Eco-development is revolutionary because it views metropolitan regions as part of one system, and it holds that urban and suburban problems require a system-wide solution. It breaks down barriers between several binary juxtapositions that have always seemed natural and necessary: urban versus suburban, government versus business, and development versus environmentalism. As one editorial writer in *The Atlanta Constitution* wrote about suburbs and urban areas: "the two worlds are not separate . . . any line that divides one from the other is purely temporary, purely imaginary and purely destructive."[97] In a campaign speech, Vice-President and 2000 Presidential candidate Al Gore stated:

> We're starting to see that the lives of suburbs and cities are not at odds with one another but closely intertwined . . . . No one in a suburb wants to live on the margins of a dying city. No one in the city wants to be trapped by surrounding rings of parking lots instead of thriving, livable suburban communities. And no one wants to do away with the open spaces and farmland that give food, beauty, and balance to our post-industrial, speeded-up lives.[98]

Vice-President Gore is giving voice to the idea that has spouted all over the country: environmentalism has suddenly moved from being a special interest issue to one that is very real to every American's daily life, and one in which we all have an investment and key interest.[99]

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94. *See id.*

95. *See* Shutkin, *supra* note 1, at 691.

96. *Id.*

97. Jay Bookman, *Suburban, Urban Conflict Destructive to Both Sides*, ATLANTA CONST., Oct. 4, 1999, at B2.

98. Bruce Katz & Jennifer Bradley, *Divided We Sprawl*, ATLANTIC MONTHLY, Dec. 1999, at 39, *available at* http://www.theatlantic.com/issues/99dec/9912katz.htm.

99. *See id.*

This interest in the broader region and broader perspective means that, for the first time, suburban and rural interests are realizing that the devastation of America's urban centers is an issue that affects their lives. Suburbanites might try to secede from the public, into enclosed, gated suburban developments, but they cannot escape the environmental problems caused by ignoring the city. "Americans generally are coming to realize that the key to solving many of today's environmental and social problems lies in resurrecting the country's urban centers."[100] If those urban communities cannot sustain development, they will continue to decline, and new development will have to be placed in suburban and rural areas. As a result of this, "the nation will suffer as population and development pressure . . . continues to produce adverse environmental effects like traffic congestion, loss of habitat, and air pollution, as well as overcrowded schools and racial and economic balkanization."[101]

B. Implementation of Eco-Development

The main manifestation of eco-development has been the creation of "smart growth" laws.[102] Smart growth is an attempt to organize and coordinate growth and development in regions.[103] It does not aim to discourage development, but instead creates incentives and guidelines so the development is done in a way that fits in with a region's environment.[104] Smart growth initiatives come in many different forms, but they generally embody principles such as comprehensive metropolitan planning, redevelopment and infill in urban centers, and suburban development around a town center or village center.[105]

The former mayor of Seattle, Norman Rice, described smart growth by stating the intention is "to create viable urban neighborhoods that address a multitude of community needs in a convenient, cost-effective and environmentally conscious way."[106] In his words, smart growth will create "compact, mixed-use urban development, pedestrian and public-transit friendly neighborhoods, mixed-income communities and open spaces."[107]

When faced with all of the many complicated, intersecting problems related to sprawl, and also the massive coordinated effort

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100. SHUTKIN, *supra* note 2, at 11.
101. *Id.*
102. Norman B. Rice, *Smart Growth: A Catalyst for Public Interest Investment*, 26 FORDHAM URB. L.J. 1417, 1417-18 (1999).
103. *See id.*
104. *See id.* at 1420-21.
105. *See id.*
106. *Id.* at 1417.
107. *Id.*

required to make a growth "smart," some states have created regional agencies with enormous powers and control over government, private investment, and local residents. For example, Georgia has gone this route in an attempt to deal with Atlanta, their crown jewel city that has become a national symbol of out-of-control sprawl.[108] In 1999, in response to concerns that the rampant sprawl around Atlanta was beginning to impact the state's economy, business leaders mobilized and elected Governor Roy Barnes, who ran on a smart growth platform.[109] The Georgia legislature overwhelming voted for Governor Barnes's smart growth plan, called the Georgia Regional Transportation Authority Act (Act).[110] The Act created a mega-agency to deal with sprawl on a metropolitan level.[111] In enacting this law, Georgia has taken one of the most dramatic eco-development steps in the country.

The Act created a public corporation called the Georgia Regional Transportation Authority (GRTA) for the purpose of "managing or causing to be managed land transportation and air quality."[112] The GRTA has the power to plan large-scale regional projects, and because of its superior state authority, these projects will not be held up by local government bureaucracy.[113] The board will coordinate and advise about metropolitan planning and act as a supervisor to all projects.[114] The GRTA is run by a Board of Directors composed of fifteen members.[115] Every member of the Board is appointed by the Governor and can only be removed by the Governor.[116]

The Act represents a huge increase in the powers of the Governor, and in the process cuts power from both the people of Georgia, local governments, and the business community. The Governor is the head and ultimate authority of a super agency that has power over nearly every land use and development decision in the Atlanta area.[117] Thus, the Georgia legislature gave one man control over all development in Atlanta.

Georgia has chosen an extreme route in their attempt to deal with sprawl. This decision demonstrates the seriousness with which states are

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108. *See* Tucker, *supra* note 37, at 3:1.

109. *See* Alan Ehrenhalt, *New Recruits in the War on Sprawl*, N.Y. TIMES, Apr. 13, 1999, at A23.

110. *See* GA. CODE ANN. § 50-32-1 (1999).

111. *See id.* § 50-32.

112. *Id.* § 50-32-3(a).

113. *See id.* § 50-32-11(a)(3)-(4). The GRTA has the express authority to plan public transportation systems and air quality installations. *Id.*

114. *Id.*

115. *Id.* § 50-32-4(a).

116. *Id.*

117. *See id.*

beginning to deal with sprawl, and also the wide public support that eco-development initiatives can receive. With this sort of public energy around the issue, the antisprawl movement seems to be poised to make major changes in America. It is at this moment, as policies are being debated and eco-development experiments are underway, that we must emphasize what is possible with this movement. If eco-development is to truly address the environmental, social, and political problems associated with sprawl, it must live up to its full potential as a democratic, participatory program. The promise of eco-development is described in the next section.

IV. THE POTENTIAL OF THE ANTISPRAWL MOVEMENT

The antisprawl movement is very young. Although the ideas of eco-development have been percolating through environmentalism and social activism for decades, they are just now beginning to get the sort of serious attention they deserve. Smart growth initiatives are new and relatively untested. Urban planning scholars and environmentalists have proposed exciting plans, but there is much disagreement about what should be done to ensure ecologically sensible planning and development.[118] At this early stage, it is essential to stress the enormous potential of the movement for positive change. The movement can improve the environment and also increase the country's democratic strength, as will be discussed later. The potential cannot be achieved without a serious commitment to eco-development that includes public participation and democratic decision-making. At a time when the public is energized about this issue, the opportunity to channel that energy must not be wasted. Unfortunately, Georgia's smart growth plan for Atlanta seems to do just that.

Georgia's attempted solution to its sprawl problem has been to take the power away from the public and publicly elected officials. Politicians justify the abdication of powers to one committee by pointing to the severity of the problems in Atlanta, and the inability of the government to act quickly enough to make changes across all the affected jurisdictions.[119] Supporters claim the absolute power of the Governor is such an increase in efficiency that democratic concerns are inconsequential.

Georgia's governor convinced the people of Georgia to vote for the Georgia Regional Transportation Authority as a way to cut through bureaucracy and supply "unbiased" and "expert" assistance to smart

118. *See* Miller, *supra* note 66, at A15.
119. *See* Ehrenhalt, *supra* note 36, at 22-24.

growth plans.[120] But as a result, the public has little control over the authority's decisions. *The Atlantic Journal and Constitution* reported that Clint Austin, the executive director of the Republican Smart Growth Task Force, a group of elected officials created to investigate sprawl, tried to present his group's findings to the GRTA, only to have his views "summarily dismissed."[121] Austin criticized the process, saying, "[t]hese people are sitting up there like high priests, stomping on the wills of elected officials . . . GRTA was sold . . . as something to create regional cooperation, not something that dictated."[122]

Georgia's smart growth plan is a drastic measure, and it may produce short-term results in Atlanta's environment. But from a more long-term perspective, it seems destined to fail at achieving any real gains in environmental protection or any change in the way democracy works in Georgia. The lack of democratic process seriously threatens the program's ultimate success. If the people of Georgia are not invested in the program, it cannot make a real difference, and people will not be invested in a program that is too busy being efficient to listen to citizens. As one commentator noted, "[t]he most notable failures [of state smart growth plans] have proven that a top down, command-and-control approach will not work."[123] These failures have actually made sprawl worse by limiting the approach to regulations of development. By not working with the entire community and region, sprawl in these areas has simply jumped over the regulated area and continued into less regulated areas.[124]

The antisprawl movement must involve public participation and democratic decision-making. In efforts to democratize antisprawl techniques, it is helpful to examine the environmental justice movement. This movement focuses on community involvement and places people at the center of its plans and policies. The movement against sprawl can learn from a study of the basic principles and doctrines of environmental justice.

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120. *See id.*

121. Jim Wooten, *State Needs Open Airing of All Views*, ATLANTA J. & CONST., May 28, 2000, at 5Q.

122. Jim Wooten, *'High Priests' Direct GRTA off Course*, ATLANTA J. & CONST., May 14, 2000, at 5E, *available at* http://stacks.ajc.com.

123. Brent A. Fewell, *Ridge Proposes "Smart Growth" to Counter Urban Sprawl*, LAW. J., July 30, 1999, at 15, WL 1 No. 9 LAWYERSJ 3, at *15.

124. *See id.*, WL 1 No. 9 LAWYERSJ 3, at *15.

A. The Environmental Justice Movement

The environmental justice movement in America is "based on the growing recognition that poor communities and minority populations are subject to disproportionately high health and environmental risks."[125] The movement began as a way to fight environmental practices that are unfair and discriminatory to poor and minority people. The advocacy has typically been reactive; environmental justice groups respond angrily to waste siting decisions, industrial polluting, and contaminated sites in urban neighborhoods.[126] "At the local level, [environmental justice disputes arise because] many people of color and lower income communities believe that they have not been treated fairly regarding the distribution of the environmental benefits and burdens."[127]

The environmental justice movement was started by communities that had been exploited by dominant power groups and wanted to retake control of their neighborhoods.[128] "Communities of color in the United States have begun to question the inequalities that plague their environments. They question why communities of color and the poor breathe dirtier air, have higher blood lead levels, and host undesirable land uses such as landfills and incinerators."[129] These issues led them to fight against further environmental harms and to demand a cleaner environment. In the process, they have redefined what the environment means.[130] Instead of an environment of faraway forests and oceans, these activists see the environment as the place where they live.[131] "By organizing in low-income and/or minority communities, they have broadened the definition of environmentalism to include the quality of life in people's homes, schools, neighborhoods, work, and playgrounds."[132]

Environmental justice activists want the government, business community, and mainstream environmental world to recognize their communities as part of the environment and respect their rights. "The goal of the environmental justice movement is to ensure that

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125. Kibel, *supra* note 85, at 606.

126. *See, e.g.*, Giovanna di Chiro, *Nature as Community: The Convergence of Environmental and Social Justice*, *in* WILLIAM CRONON, UNCOMMON GROUND 303 (1996) (describing early environmental justice demonstrations).

127. Robert R. Kuehn, *A Taxonomy of Environmental Justice*, 30 ENVTL. L. REP. 10681, 10681 (2000).

128. *See* Carita Shanklin, *Pathfinder: Environmental Justice*, 24 ECOLOGY L.Q. 333, 337-38 (1997).

129. *Id.* at 336.

130. *See id.* at 335.

131. *See id.*

132. *Id.* at 349.

environmental protection policies benefit all citizens, not just the white and the rich, by empowering disadvantaged communities and educating and pressuring governmental agencies."[133] Thus far in the environmental justice movement, advocates have focused on empowering communities to react to environmental injustice. The movement has taken the form of large-scale litigation, community protests, and political lobbying.[134]

But environmental justice activists do not stop with just a vision of their neighborhood as an environment in need of preservation. They have enlarged the definition further to include the people living in that neighborhood as an essential aspect of the environment. Environmental justice activists place humans at the center of the environmental discourse, arguing that humans, especially those in poor and minority communities, can be the victims of environmental destruction and pollution.[135] Instead of seeing people always as the destroyers of the natural world, their point is that "people are an integral part of what should be understood as the environment."[136] As one long-term activist explained in relation to his work with indigenous and Chicano people, "[w]e feel that many of these communities are just as much endangered species as any animal species."[137]

Because they see the environment as being a broader issue than simply what is commonly thought of as nature, environmental justice advocates also see environmentalism as including more than simply preservation. If environmental justice is about taking care of people's needs in a community, then it must start with clean air and water, but include much more as well. "The grassroots organizations that make up the [environmental justice] movement identify such issues as social justice, local economic sustainability, health, and community governance as falling under the purview of 'environment.'"[138]

In the past few years, evidence is emerging of a shift towards a more proactive form of environmental justice activism: community planning.[139] While environmental justice groups "have become experts at stopping development, they are at a loss when it comes to helping promote and implement the kind of 'green,' job-generating development they seek."[140] Some environmental justice groups are acting to fill this

133. Kibel, *supra* note 85, at 606.
134. *See id.* at 607.
135. *See* di Chiro, *supra* note 126, at 302.
136. *Id.* at 301.
137. *Id.* at 302.
138. *Id.* at 300.
139. *See* Craig Anthony Arnold, *Planning Milagros: Environmental Justice and Land Use Regulation*, 76 DENV. U. L. REV. 1, 10 (1998).
140. SHUTKIN, *supra* note 2, at 11.

gap by getting communities involved in the environmentally friendly development of their area.[141]

By becoming a part of urban planning, community environmental justice activists can influence the physical environment of a neighborhood before a particular use becomes an environmental hazard. They can have a say in the way their area looks, and have their voices heard in the crucial early steps of a development project. Neighborhood residents who "engage in land use planning and develop proposed land use regulations . . . define not only what they do not want in their neighborhood but also what they do want."[142]

Some scholars are skeptical about the prospects of achieving environmental justice through planning tools. One such scholar asks, "[h]ow successful, as a practical matter, will grassroots neighborhood groups be in changing land use patterns in low-income communities and communities of color?"[143] Critics note that land use regulation changes will be resisted by local governments, business owners and industry leaders.[144] They also criticize land use planning in general.[145] But these critics must admit that land use planning theoretically embraces neighborhood-based citizen participation, and it is hard to argue that environmental justice groups will have no impact when they have had such success in gaining power in other areas.

As the environmental justice movement moves slowly into development and planning, it can potentially fit squarely into antisprawl plans. Environmental justice contributes a vision and structure of public participation in decisions about the environment.

B. An Environmental Justice Lesson in Public Participation

The environmental justice movement has a lot to teach the antisprawl movement about how to fight destructive land use patterns of the past fifty years. A study of its tenets and theories illustrates important truths that Atlanta has ignored. First, environmental justice advocates emphasize that people are as much a part of the environment as any other naturally occurring plant, animal, or tree. This tenet of the environmental justice movement has already had a major impact on the antisprawl movement. People have started to see that environmentalism is not just an issue for the rain forests and endangered species, but it is just as relevant to their disadvantaged cities, overcrowded suburbs, and

141. *See* Arnold, *supra* note 139, at 90.
142. *Id.*
143. *Id.* at 132.
144. *See id.* at 132-33.
145. *See id.* at 132.

threatened farmland and wilderness.[146] Second, the environmental justice movement has emphasized the importance of process in environmental decisions. Through its battles against waste facilities and other harmful environmental uses in already overburdened poor and minority communities, the environmental justice movement has shown that disempowered populations must have a voice in decisions about what happens in their neighborhoods. This emphasis on democratic process, the idea that people need to be involved in their environment and decisions relating to it, is something that antisprawl activists, especially those in Atlanta, need to consider. The antisprawl eco-development movement will be stronger and more effective if it learns the lessons taught by environmental justice.

Arguably, the environmental justice movement is incorrectly characterized as solely an environmental movement. It may be better described as a civil rights or social justice movement. Whereas the traditional environmental movement is typically organized by the "Big 10" environmental organizations, including the Sierra Club and the Nature Conservancy, the environmental justice movement is composed of small grass-roots organizations that tend to spring up in reaction to certain issues and then remain a community force.[147] This decentralized structure means that the environmental justice movement has come directly from people in communities, not from elites who believe they know what is best for a population. People in communities have input and control over environmental justice groups, and this reflects one of the premises of the movement: the centrality of people in the environment.

This redefining of the environment, and the role of people in it, is closely related to the movement against sprawl. The antisprawl movement is concerned with creating an environment that is livable and sustainable for people to work, live, and play.[148] The environmental justice movement "conceive[s] of 'nature' and 'environment' as those places and sets of relationships that sustain a local community's way of life."[149] The antisprawl movement has come out of this same expansion of the definition of environmentalism as has the environmental justice movement.

One of the most fundamental aspects of the environmental justice movement is the idea that a poor and minority area must insist on

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146. *See generally* di Chiro, *supra* note 126.

147. *See* Shanklin, *supra* note 128, at 349.

148. *See generally* SHUTKIN, *supra* note 2 (referring to this movement as eco-development).

149. Arnold, *supra* note 139, at 132.

controlling what happens to their environment. In broad terms, environmental justice requires that environmental enforcement, compliance, policy formulation, and decision-making be addressed through a participatory, democratic process.[150] Environmental justice advocates claim that power players in society "exploit the powerlessness of poor and minority communities by making them the targets of LULUs ["locally undesirable land uses"]."[151] Real estate developers and waste industries are allowed to site LULUs in poor urban areas because "government and industry decision makers conclude that they will receive less opposition if they put the LULUs in poor and minority neighborhoods than if they put them in more politically active and economically powerful higher-income, white neighborhoods."[152]

Poor and minority communities have responded to this sense that their interests are being ignored by fighting back with lawsuits and pressure on the government. They have resisted being overlooked and exploited, and are demanding attention and answers. Environmental justice groups hold that "environmental decision-making must itself be transparent and open to those who for too long have been left out . . . those best able to protect their environment are those living in it."[153]

Environmental justice groups push for more community participation, organizing, and education because this model has incredibly positive externalities. Luke Cole is a lawyer and activist at the center of the environmental justice movement. He focuses on what he sees as the three central issues of his work in environmental poverty advocacy: "client empowerment; group representation; and law as a means, not an end."[154] This community empowerment model is what much of grass roots environmental justice is striving to accomplish. The elimination of unhealthy and harmful environmental uses is obviously a major part of the struggle, but the process of working towards that goal also has positive effects. It allows a neighborhood to be stronger when a battle is over, because the fighting has created "a sense of community, education (and self-education) of residents, development of leaders, empowerment of participants, and recognition of common problems."[155]

The participation focus of the environmental justice movement is evident from an examination of President Bill Clinton's 1994 Executive

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150. Shanklin, *supra* note 128, at 337.
151. Arnold, *supra* note 139, at 26.
152. *Id.*
153. SHUTKIN, *supra* note 2, at 7.
154. Luke W. Cole, *Empowerment as the Key to Environmental Protection: The Need for Environmental Poverty Law*, 19 ECOLOGY L.Q. 619, 661 (1992).
155. *Id.* at 668.

Order on environmental justice (Order).[156] In this Order, the President esta-blished a working group that provides guidance to federal agencies regarding environmental justice, collects data and research, and coordinates federal projects.[157] A key aspect to the Order is section 5-5, "Public Participation and Access to Information."[158] This section explicitly mandates that public documents, notices, and hearings be translated for non-English speaking populations, and that all such information be in a readily accessible form for the public.[159] The Order also requires that the working group hold public meetings and make summaries of the meetings available to the public.[160] Environmental justice requires that communities have the ability to access information about their environment, so they can understand what is happening and make decisions based on that understanding. Only with the appropriate information can a community be empowered.

The antisprawl eco-development movement must look to the participation-focused model of environmental justice. Environmental justice stresses that the process of making a change is as important as making that change. This is a lesson that Georgia has not learned. Facing an opportunity to draw on the strength of its people, the state has backed away and created a government program that will not empower or educate people.

V. ENVIRONMENTAL DEMOCRACY

When eco-development and the public participation goals of the environmental justice movement are joined, the result is something that William Shutkin has called "civic environmentalism" or "environmental democracy."[161] This concept starts from the premise that Americans need to be involved in environmental issues not only because these issues are essential to our well-being, but also because the environment is the basis for our democracy.[162] William Shutkin states, "the physical condition of America's communities is a critical factor in the nation's success as a robust democratic republic . . . healthy, vibrant social and political life presupposes a bare minimum of environmental quality."[163]

156. *See* Exec. Order No. 12898, 59 Fed. Reg. 7629 (Feb. 16, 1994).
157. *See id.* §§ 1-101 to 1-102.
158. *See id.* § 5-5.
159. *See id.* § 5-5(a)-(c).
160. *See id.* § 5-5(d).
161. *See* SHUTKIN, *supra* note 2, at xiv.
162. *See id.*
163. *Id.* at 5.

The case of Atlanta demonstrates how a population can become so frustrated with sprawl that they will push for dramatic change in the way the country operates. But it also shows how intense public energy can be directed into a project that will eliminate any channels for that energy. While the first goal of eco-development may be to return an awareness of ecology to planning decisions, the second goal is inextricably linked to the first: to take advantage of the new consciousness of our interconnectedness for broader goals of re-engagement of people in the public world. If development processes are altered along the model of a new environmental democracy, they can seize public excitement and put it to use. People will be engaged in a project that affects them and that they feel they have some control over, and development is exactly that sort of project. A new environmental democracy can demonstrate that the public sphere has something real to offer citizens: a new environment, remade in the image they choose. Eco-development can show people that when they have a strong stake in a decision-making process, as they do in the development realm, they can and should have a voice in the outcome.

Local people often do not have much actual control over decisions about what happens to their communities. Local decisions may not be made in a truly democratic way, and community members almost never have any sort of voice in the decisions of neighboring communities that have massive regional impacts. A California community activist noted the results of this process, "[f]or the past two or three hundred years we have seen a process in this country of land development . . . [which] destroyed the organization and coherence of our communities, particularly the low-income communities, working class communities and communities of color."[164]

The only way to alter people's attitudes about the public is through a face-to-face confrontation with the fact of our linked futures. The eco-development movement has an enormous reserve of public energy, and it must ensure that this energy is channeled into meaningful public participation structures. People must be able to have a voice in development decisions that affect the environment. If eco-development can seize this energy to reinvigorate people about their ability to influence decisions, the movement has the potential to transform the way our country functions.

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164. Carl Anthony, *Community-Based Approach to Redevelopment: The Case of West Berkeley*, 3 HASTINGS W.-NW. J. ENVTL. L. & POL'Y 371, 376 (1996).

A. A New Connection to the Public Sphere

The issues of eco-development "tend to defy political, cultural, and geographic borders (consider the pervasive, insidious effects of regional air pollution, suburban sprawl, or contaminated drinking water), [and] they are often a unique way to bring people together from all walks of life and backgrounds."[165] Americans seem enthusiastic about eco-development issues, and the people implicated are not a narrow segment of society, but everyone in the country. This realization of our interdependence, and our joint responsibilities and duties to the Earth and each other can join those groups that have been traditionally divided—city and suburb, white people and people of color, rich and poor—into a broader community united to make change.

> [T]he new paradigm establishes a synergistic and mutually reinforcing relationship between interests that have formerly been viewed as oppositional and mutually exclusive, such as suburban-versus-urban, or industrial-versus-environmental. It transforms environmentalism into a unifying thread that can weave together wholes from parts, and communities from blight and sprawl.[166]

By working on a program that shows people the enormous benefits of cooperation—cleaner environment, healthy city and suburbs, efficient economy—but also presents the costs associated with such successes—more governmental controls over private property, less convenience associated with the automobile, and a more dense living arrangement—eco-development gives the country a chance to break down social inequalities resulting from a more individualistic view of society.

Because smart growth demands that society sacrifice many of the benefits afforded by sprawl, such as low-density residential neighborhoods, dependence on the automobile and the ability for middle—and upper-income households to separate themselves from the problems of poverty commonly found in city centers, it can foster social equity. Indeed, by lessening the physical distance between rich and poor, smart growth makes everyone partners in the prosperity.[167]

This proposal might seem unrealistic and romantic, except that jurisdictions all over the country are voting for eco-development programs that restrict freedoms and promote a more ecological view of city and suburb land. "[T]he time is now to seize upon opportunities for eco-development in Boston and the region as a whole."[168]

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165. SHUTKIN, *supra* note 2, at 5.
166. Shutkin, *supra* note 1, at 697.
167. Rice, *supra* note 102, at 1418.
168. Shutkin, *supra* note 1, at 697.

The issue of sprawl and poor use of land has struck a chord with the public, and now it can be used to reinvigorate residents about public participation and involvement. Eco-development democratizes development decisions, which puts the fate of regions in the hands of the people. "Building communities and successful cities requires that citizens understand what they value most, define their own collective future and actively participate in creating it."[169] Environmental democracy, by making people face each other directly, can be a major community-building effort.

Smart growth and the public-interest investment opportunities it generates foster this style of community building and provides the tools to help our cities manage urban sprawl, the biggest challenge now facing urban society. It also enables communities to tap the full potential of their citizenry—government, residents, businesses, banks, and others—in an effort to build prosperous partnerships for the twenty-first century.[170]

B. A Framework for Public Participation

William Shutkin is clearly optimistic about the potential of the eco-development, but he argues that existing institutions lack the capabilities to unite diverse stakeholders in order to capitalize on its emerging policy apparatus.[171] "[W]e need institutions that, by design, can link and coordinate the various existing stakeholders across each sector, while adding value through disseminating and deploying knowledge and information about best practices, storehousing lessons, ideas, and networks, facilitating local planning and community development strategies, and enacting public values and vision."[172] Shutkin discusses the need for different and better third sector environmental groups, and this is clearly necessary.[173] But the lack of coordinated citizen groups also points to another deficiency: a process by which to make all voices heard in eco-development decisions.

Peter Calthorpe argues that environmentalists, developers, and inner-city social activists can find a common purpose in land use and planning goals.[174] He describes each group's motivation in eco-development by stating, "Each share a concern for the next generation . . . . The developers because they would like to build for them, the environmentalists because they seek to preserve healthy ecosystems for

169. Rice, *supra* note 102, at 1421.
170. *Id.*
171. Shutkin, *supra* note 1, at 697.
172. *Id.*
173. *See id.*
174. *See* Calthorpe, *supra* note 3, at 36.

them, and the urbanists because they hope to pass on a more equitable and stable society."[175] It is not often that this diverse group of interests has a common goal, and eco-development must make the most of the opportunity, to ensure that each group is represented in choices about our future.

Residents are another group vitally interested in the results of eco-development. Whether they live in deteriorating cities or isolated and polluted suburbs, people who live in these different environments must be central to any strategy of eco-development. If eco-development is truly to emphasize the connection of people to each other and to the Earth, then there needs to be a forum by which people can express themselves and their opinions on development, the environment, and justice. It is essential that any eco-development plan set conditions for serious public participation in decision-making processes.

This opportunity must not be wasted; the eco-development movement must include proposals for governmental structures that allow for intense public participation. Several jurisdictions have created such participation-centric plans for development. These programs take different forms. For example, Portland, Oregon sent questionnaires out to more than 500,000 households asking residents to make choices about how they would like Portland to look.[176] The questions forced people to see that their choices had consequences: if they wanted more public transit lines and growth in the urban center, they would have to also accept smaller residential lot sizes and fewer parking spots.[177] Another region, around Chattanooga, Tennessee, has encouraged citizen participation in planning and development and has taken citizens' opinions seriously. A new aquarium in the city was built following a suggestion by a citizen who likes to fish in the nearby river.[178]

At a recent environmental conference in California, a community activist recounted the failures of the top-down federal urban renewal programs in the late 1960s.[179] He discussed how his community, West Berkeley, California, had protested the redevelopment plans that called for the destruction of low income housing.[180] They successfully blocked the plans, and then had an interesting problem: they were in charge of development.[181] The community activists had won the right to control

175. *Id.*
176. *See* Pierce & Johnson, *supra* note 30, at 21A.
177. *See id.*
178. *See id.*
179. *See* Anthony, *supra* note 164, at 373.
180. *See id.*
181. *See id.*

the destiny of their own neighborhood, but now they had the responsibility to do it correctly. He discussed how the community developed a plan in a "fish bowl," by holding open community meetings to work on planning documents, financial statements, and architectural plans.[182] When the plans did not work out as well as the community hoped, the community activists-turned-planners kept to their community centered mission.[183] They "respected the community's abilities to solve its own problems," and "created an atmosphere where the people of the community could come together and face the decision-making for these tough problems."[184] This process involved talking to groups as varied as environmentalists, labor unions, and animal rights activists, but in the end,

> every single issue that people in the community were worried about was taken through a consensus process and the point of it (the most important point, in my view) was the building of the community, the empowering of the people to make the tough decisions that they have to make in order to face an uncertain future.[185]

By showing people that they cannot achieve what they want for their city in a vacuum, but that they must negotiate and work with other people's preferences and interests, the West Berkeley community activists created a process that re-engaged people with the public.

Public participation must give residents all the data and resources they need to make informed decisions. For example, the New Urbanist movement typically holds "charrettes" with a community to see how they see themselves and how they would like to change their environment.[186] A prototypical example of this community-centered planning is the Dudley Street Neighborhood Initiative (DSNI) in Boston, Massachusetts.[187] This community group held public meetings to discuss their deteriorating urban neighborhood and possible ways to revitalize it.[188] The residents eventually settled on an "urban village" model, and DSNI is now working to make the vision a reality.[189]

Technological advances can make public participation easier and more focused. Whereas before, community meetings relied on imagination or crude building blocks to envision a new physical environment, new computer simulation programs allow community members to watch

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182. *Id.*
183. *See id.* at 374.
184. *Id.*
185. *Id.* at 376.
186. Frug, *supra* note 17, at 162.
187. *See* SHUTKIN, *supra* note 2, at 148.
188. *See id.*
189. *See id.* at 149.

as images of their neighborhood are manipulated to see the effects of changes like new zoning regulations or new development.

Some scholars think that these neighborhood gatherings should be institutionalized and become a part of the government process itself.[190] Professor Gerald Frug, has proposed the idea of "citizen juries."[191] A certain number of citizens, maybe one hundred, would be required to come to a meeting, similar to the jury duty process.[192] But this meeting would not decide a lawsuit, but instead make a development decision. For example, a randomly selected group of people from all over a region would come together and discuss where a waste removal site should be located, or where a new shopping center should be placed, or whether a certain project should be granted a variance. Professor Frug believes that by giving control over such a decision to a group of citizens, not only would the decision have the input of a broad spectrum of viewpoints, but it will also empower and politicize those people.[193] "The need to experience the opposite pulls of community and self can become a vehicle for involving ordinary citizens in the experience of local democratic decision making."[194]

This radical version of public participation would clearly upset those who believe that decisions about development belong to experts and those who have studied the subject over a long period of time. But if the citizen jury is truly informed through expert testimony, there is no reason to say immediately that these citizens would make more harmful decisions than a local government.

VI. CONCLUSION

Environmental democracy may be a salvation for America. It promises to halt inefficient and environmentally harmful growth and reshape the country according to a plan set out by the people. The movement seeks to build an environment that will allow our society to flourish and bring justice back to the environment. But these changes are not all; environmental democracy can also provide a structure for a re-inspired public life and community. Environmental issues can be the basis for a public discussion that acknowledges our interconnectedness and highlights the compromises that we must make to live in a community together.

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190. *See* Frug, *supra* note 17, at 88-89.
191. *See id.*
192. *See id.*
193. *See id.* at 87-88.
194. *Id.* at 89.

Eco-development plans like those in Atlanta are squandering a rare opportunity. At a time when there is real public interest and excitement about an issue, Georgia has taken control and agency away from the public and placed it in the hands of one high government official. This defeat for democracy is even sadder when it is considered that the reason for the public energy is a realization that individuals are connected and have impacts on one another. Just when there is a chance for robust public discussion about the ways in which residents of the Atlanta region deal with each other, the government has shut the people out.

Many of the changes proposed by eco-development would have seemed unthinkable a decade ago. The fact that the political environment has changed so much in that time gives social justice advocates cause for hope. Whereas local government laws traditionally foster "metropolitan fragmentation" and "reinforce[] the notion that withdrawal, self-protection, and personal advancement define what it means to exercise human freedom," eco-development and the public interest in such projects seem to signal that the public is now more open to new definitions of what government can do.[195] As one commentator says, "American people are coming to the conclusion that sprawl is to blame for a good deal of the discontent that attaches to end-of-century middle-class life. And this change of mind will shake up politics in many places in the first decade of the 21st century."[196] With the right political institutions, this shake-up can be steered in the direction of renewed public life and discussion about our responsibilities to each other, with truly transformative results. As William Shutkin states, the environmental movement can be a way to rebuild American democracy "from the ground up."[197]

195. *Id.* at 220.
196. Ehrenhalt, *supra* note 109, at A23.
197. SHUTKIN, *supra* note 2, at 14.