

# Locating Stakeholders in Environmental Policy-Making

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**ABSTRACT:** *Stakeholders have increasingly appeared in environmental policy making processes at local, national and international levels but rarely with a definition as to who they might be or how they might participate. The history of 'stakeholder' as a concept in law and business management suggests that it has dual instrumental-normative qualities that promote legal and business purposes. However, the use of stakeholder processes in environmental policy making suggests that it functions as a crisis displacement strategy to restore state policy making legitimacy while retaining state power over policy choices. Crisis displacement strategies are now required because a general crisis of state legitimacy has emerged, co-generated by changes in the global political economy and the increasing complexity of ecological challenges. Stakeholder processes also further state policy legitimacy by creating an appearance of deliberative democracy, which is increasingly critical to liberal democratic states. Thus, the two dominant discourse of environmental politics, sustainable development and ecological modernisation, employ stakeholder processes to displace accountability for policy choices and promote economic growth within processes that substantially reflect business management structures and objectives.*

## Introduction.

Over the last twenty years, the term 'stakeholder' has increasingly appeared in environmental agreements and the literature of environmental politics.<sup>1</sup> In fact, it has become so common that the term 'stakeholder' is now assumed to be self-identifying. But, what is the "stake" and how is it 'held' in such a way that gives a 'stakeholder' a valued position in decision-making? Fully answering this question requires that we locate 'stakeholder' as a dynamic term with its own history and conceptual baggage, and then asking how and why it now appears so prominently in environmental policy making. This also requires that we interrogate the term 'stakeholder' for its contemporary political roots and its policy making effect.

The following discussion covers several terrains in the stakeholder landscape: a stakeholder history that begins as a nineteenth century legal discourse and continues into the twentieth century first as a business management practice and then as an environmental policy making format. From that point, the discussion will further inquire into how stakeholders are used in environmental policy making as both instrumental and normative tools. The discussion will then proceed to ask about the general boundaries for environmental policy making, which includes questions about the state and how economics has become a prime concern for state legitimacy. Finally, the discussion will move to critically examine how the use of stakeholders may be a crisis displacement strategy by the state to reclaim lost legitimacy in environmental policy making. Some support for this argument will be offered through an examination of how stakeholders have been used in three cases of environmental policy making. The conclusions that follow this discussion will narrowly focus on the question: Are stakeholders a legitimate effort to extend deliberative democracy, or are they merely the most recent of a series of attempts to re-secure state legitimacy and control of environmental policy outcomes?

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<sup>1</sup> The term has spawned a wide range of interest in public policy and business. (See, e.g., Smilie, Helmich, German and Randel (eds.) (1999) *Stakeholders*. London: Earthscan, which is subtitled "government-ngo partnership for international development, and Logsdon, Wood and Benson (eds.) (2000) *Research in Stakeholder Theory, 1997-1998*. Toronto: Clarkson Centre for Business Ethics, which reports on the rapidly growing body of 'stakeholder' research in business management.) A growing interest in stakeholders and stakeholder processes has similarly widely appeared in the literature of environmental politics and policy-making. (See, e.g., Coppola, Nancy Walters. (1997) 'Rhetorical analysis of Stakeholders in Environmental Communication: A Model' in *Technical Communication Quarterly*, Vol.6, No.1, pp.9-25; Burroughs, Richard. (1999) 'When Stakeholders Choose: Process, Knowledge, and Motivation in Water Quality Decisions' in *Society & Natural Resources*, Vol.12, No.8, pp.797-810; Short, Christopher, and Michael Winter. (1999) 'The Problem of Common Land: Towards Stakeholder Governance' in *Environmental Planning & Management*, Vol.42, No. 5, pp.613-631; Shackley, Simon and Robert Deanwood. (2002) 'Stakeholder Perceptions of Climate Change Impacts at the Regional Scale: Implications for the Effectiveness of Regional and Local Responses' in *Journal of Environmental Planning and Management*, Vol.45, No.3, pp.381-402; Mahanty, Sango and Diane Russell. (2002) 'High Stakes: Lessons from Stakeholder Groups in the Biodiversity Conservation Network' in *Society and Natural Resources*, Vol.15, pp.179-188; and, McGlashan, Derek J., and Evan Williams. (2003) 'Stakeholder Involvement in coastal Decision-making Processes' in *Local Environment*, Vol.8, No.1, pp.85-94.)

## 1. The origins of 'stakeholder' in law and business management.

The definition of 'stakeholder' in law and in business management serves a dual purpose of achieving instrumental and normative objectives. In law, the term serves the instrumental purpose of resolving control over a body of money: the 'stake' is property or money, and the 'holding' is done by a third person in a contest between two potential claimants (Blacks Law Dictionary 1983). However, it also serves the normative purpose of promoting the state's role as a guarantor of moral leadership (Hughes and Davies 1996). In business management, the term is instrumental in that stakeholder processes help the company to achieve decision-making efficiency (Jones, 1997). However, here too a normative purpose is served where the 'stake' that is held is conceptualised as an important 'relationship' to the company (Gibson, 2000).

Interrogating the origins of the term 'stakeholder' in law and business management helps to locate how those instrumental and normative qualities become embedded in the identification and management of stakeholders once they become part of a decision-making process. While it initially may appear that these are separate streams, they do flow from common sources in the way that the state constructs discourses of policy making for both law and business. The instrumental-normative duality itself reflects the state's efforts to facilitate the achievement of core state objectives, which are instrumental in giving effect to particular policy choices and outcomes and normative in promoting the ideology of the state and its legitimate control over policy making.

### 1.1. 'Stakeholder' as a legally constructed term.

Law is a socially constructed institution that reflects the general purposes of the state in securing cooperation for important state objectives (Habermas 1996). The law itself is a system of rules that change according to the changing character of state needs and ideology (Adams and Brownsword 1992). The law as practiced is an institution that creates and sustains its own normative behaviours within the boundaries provided by the state and the state's ideology (Wilensky 1967). These three characteristics of law are reflected in how and where the law is constructed and applied. What might be 'good law' in one era or place may not be 'good law' as times and circumstances change. The changing qualities of law are clues to the changing needs and ideology of the state, which can reappear in different forms and with differing effects as legal terms become absorbed into broader social contexts.

'Stakeholder' as a legal concept began as a moral-normative prescription in the late nineteenth century. The first official stakeholder seems to have appeared in American legal history in a pool hall in Philadelphia, Pennsylvania in the late nineteenth century. It seems that there was a game of chance with bets laid on the eventual winner. As was the custom of that time, the proprietor of the hall was asked to hold the bets until the contest was decided. However, before a winner was determined the police arrived and arrested everyone for violating the state's gambling laws. When the proprietor appeared in court the following day, he was charged with aiding and abetting (no pun intended) the illegal gambling activity. He defended, 'But you Honour, I was only holding the stakes!' It proved a plea in vain, and the proprietor was found guilty based on his participation in the *process* of gambling even where he did not have an interest in a specific *outcome* for the wager.

By claiming that he was only 'holding the stakes', the proprietor was saying that his actions were not related to the gambling itself - that he shouldn't be held to account where he received no direct benefit. His claim of no direct interest is important because it distinguishes the term 'stakeholder' as something other than the holder of an 'interest', which as a legal term requires some direct connection between a party and an outcome. Such an 'interest' gives that party an right at law, whereas a 'stakeholder' relationship exists only at the discretion of the law. In more formal terms, an interest holder has an independent 'substantive' right, but a stakeholder has only a 'procedural' right subject to what the court will allow. As the term 'stakeholder' moves from law to policy, evidence should be sought to determine whether that distinction follows along and limits the perception of the rights that a stakeholder possesses.

The gambling law has historical elements with important political connotations. As part of criminal law, it expresses the normative interest of the state in regulating private behaviour. In the case of our hapless proprietor in late nineteenth century Pennsylvania, the state acted to express the preferences of those in its governing coalition that opposed gambling, whether for moral or economic reasons (Crozier et al. 1975). But because gambling law is often labelled a 'victimless' crime, the moral sanctions vary according to social and political needs (Moran 1997). Thus, it is constantly in the process of change, depending on changing social mores and state needs. Beginning in the mid-twentieth century, gambling laws underwent considerable change, based in part on relaxed social

attitudes and in part on the growing use of gambling as a source of state revenue (Hughes and Davies 1996). Thus, gambling was transformed into a regulated industry in the 1950s and 1960s, and then into a business enterprise promoted by the state itself during the 1970s and beyond (Jones and Hillier 1995, Moran 1997). It is of some interest that changes in gambling laws and its adoption as a state enterprise came into being at the same time that states were experiencing an economic crisis, and that these changes also occurred during the period when the idea of stakeholder began to appear in business management practice (Rhenman 1968).

As it turned out, our pool hall proprietor had the bad luck to be in the wrong place at the wrong time, and to be pejoratively labelled a 'stakeholder'. Currently, gambling has become such an accepted activity that the majority of states now operate their own gambling enterprises and have thus become 'stakeholders' on a much larger scale than was our hapless pool hall proprietor. It is also notable that American society itself has become not unlike that Philadelphia pool hall with a majority of Americans gambling not only within a 'gaming industry', but with their life saving in the stock, bond and real estate markets. Left as something of an orphan in the mid-twentieth century, our legal concept of "stakeholder" was forced to move on to the domain of business management where it took on a different colour but with similar form.

## **1.2 'Stakeholder' as a business management theory.**

Eventually, the idea of 'stakeholder' came to find a new home in business management practice where it carried not a stigma but a mark of distinction. While it is eerily similar phonetically to 'shareholder,' and is often mistaken as the same, 'stakeholder' entered business management practice primarily as a conflict resolution alternative (Logsdon and Wood 2000a). When and where it first appeared is something of a mystery, but evidence suggests that it became part of business practices during the early 1960s (Rhenman 1968). Thereafter, it came into environmental policy in the 1970s as a legal alternative dispute resolution mechanism (O'Leary 1999).

Scholarly writing about stakeholders began to appear in business management literature in the 1980s (Freeman, R.E. 1984) This writing has now matured into 'Stakeholder Theory', which generates considerable annual literature discussing how and why stakeholders are important (Logsdon, Wood and Benson 2000) From the beginning, business management viewed 'stakeholder' as both serving an instrumental function in improving company decision making, and a normative purpose that reflected "some ethical design features" (Gerde 2000). Over time, however, an instrumental-normative divide has grown up and recent business management writing is now fully enveloped in a debate over which characteristic dominates (Friedman and Miles 2002).

From the instrumental perspective, stakeholder are most commonly identified as those who have an interest in the outcome of a corporate decision (Agle et al. 2000). This then leads to a 'factor analysis' by company managers where stakeholder are evaluated to determine how they affect company goals (Solomon 2000). In contrast, a normative analysis argues that stakeholders are people that the company must consider in decision making whether or not the company has a specified duty toward them (Kaler 2002). In this way, normative theory identifies stakeholders according to a company's long-term goals rather than limiting the definition to those who might have a short-term profit interest, while instrumental theory requires that stakeholders have some pre-existing relationship with the company or at least "some kind of claim on company services" (Gibson 2000, and Kaler 2002).

Business management theory also presumes that the company-stakeholder relationship is one to be 'managed' as part of the hierarchical structure of business organization (O'Leary, et al., 1999). In this setting, stakeholder participation becomes subject to pre-existing organization power relationships (Gibson 2000): there is no anticipation that stakeholder will self-identify and participate in structuring their relationship with the company. This allows a company to selectively shape its relationship to a community or constituency to emphasize or de-emphasize particular priorities in decision-making. As a containment strategy, however, managing stakeholders in this way may or may not control the shape of their participation, simply because stakeholders will act to reshape the process once they get inside (Shaw 2003). It also ignores the fact that business managers often wear multiple 'hats' as members of the communities in which they live (Wheeler et al. 2002).

Because company managers act in accordance with company needs, and because they reflect the culture of a particular business, they limit their management to predetermined functions (Kaler 2002, and Gibson 2000). This leaves company managers less flexibility to adapt to stakeholder processes than would otherwise be the case. Thus, an instrumental rather than the normative perception tends to dominate business management stakeholder processes. In this case, managers rank stakeholders along a continuum according to their ability to affect a company's economic performance, with stakeholders that deemed essential to a company's short-term goals achieving more recognition than

those with less direct influence on immediate business outcomes (Solomon 2001).<sup>2</sup> Ranking of stakeholder according to their impact on a company's immediate business goals reduces stakeholders to mere tools of corporate purpose (Wheeler et al. 2002). Claims that stakeholder processes reflect a concern for 'public interests' are easily disproved. Even as part of long-range planning, stakeholder processes necessarily reflect a company's profitability goals, notwithstanding arguments that they lower a company's transaction costs by expanding its 'network of actors, alliances, processes and systems' (Solomon 2001).<sup>3</sup> More explicitly, business managers themselves regard normative interests in enhanced community values as 'illegitimate', and regard stakeholder processes as useful primarily as employee and community conflict avoidance mechanisms (Van Buren and Paul 2000, Berman 2000).

General business theorists are less ambivalent about stakeholder processes. They simply reflect that normative stakeholder theory is a response to external changes that have reshaped the business-community relationship to require more attention to 'public relations' (Drucker 1982). The semantic gymnastics that have accompanied the expansion of corporate public relations has generated discourses that portray companies as compassionate and caring community members or 'citizens' (Logsdon and Wood 2000b), or in the case of companies engaged in environmentally sensitive activities as environmental citizens (Coppola 1997). However, the sources for these attempts to create appealing corporate personalities appear more likely to be increased market place competition, technological changes, and a more mobile workforce, all of which are pushing companies to abandon a narrowly disciplined profit orientation in favour of political and community alliance (Altman 2000, Solomon 2000).

The use of stakeholders is not risk free for business, because stakeholders may disrupt existing company internal and external relations, or challenge a company's business methods or goals (Altman 2000, Wheeler et al. 2002). As a response to these risks, companies tend to manage stakeholder participation in ways that minimize potential conflicts and reduce company-stakeholder transaction costs. They do this by excluding those that do not appear to have shared interests with the company (Altman 2000), and then manage those that do participate in highly structured formats. There is no pretence of a 'democratic' process here - only issues considered 'worthy' are included, and only groups that contribute to the company's organizational efficiency and/or economic gain are recognized. In fact, too much 'democracy' in the process can be problematic by opening the agenda to issues that may reasonably be beyond the authority of the participants to resolve (Dryzek 1996).

The close association between business and the neo-liberal agenda has been widely discussed (Hay 1992, Daly 1999, Dryzek 2002). The traditional relationship between business and conservative ideology concerning 'public choice' has further narrowed stakeholder processes in business management by assuming that individual interests can and should be aggregated to limit excessive demands (Fiorino 1996). Thus, it is no surprise that stakeholder processes in business management reflect neo-liberal thinking about 'rational self-interest' and 'interest group politics', and conservative ideologies that seek to narrow participation. Yet, the influence of these ideologies in business management are often concealed when stakeholder processes appear in environmental politics. When that occurs, environmental politics unwittingly becomes a party to reconstructing the debate about deliberative democratic processes to serve what is essentially a business agenda. In this way, concepts of 'rational self-interest' and 'economic rationality' that are common to business management effectively reify public virtues and convert them into private economic interests (Dryzek 1996).

This subversion of language and process can be seen in how the idea of 'rational choice' has infected the stakeholder discourse of environmental policy-making. It first appeared in business management stakeholder theory as an assumption that failing to respond to stakeholders risked a loss of corporate legitimacy (Gerde 2000). Subsequently, it appeared as an assumption that 'socially responsible business decisions' can provide for long-term economic gain (Wheeler et al. 2002). In both cases, the assumption was predicated on the understanding that businesses are organized and managed for profit (Drucker 1982), and that stakeholders similarly are self-interested in their participation in business management processes (Solomon 2001). Thus, rational choice dictates that businesses structure the stakeholder process as instrumental and contractual relationships in which both the business and the stakeholder are assumed to be pursuing self-interests, and where

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<sup>2</sup> In order of importance, company managers placed customers (38.4 percent), competitors (22.4 percent), and shareholders (21.9 percent) in the first rank, and government (5 percent), suppliers (5 percent) and general members of the community (1.69 percent) in the second rank.

<sup>3</sup> Here I use the term 'transaction costs' to reflect both the actual costs associated with the decision-making process and the 'political' costs that may come in the form of delay, compromise, and trade-offs with other company policies and objectives that may result from the company-stakeholder relationship.

differences are subject to negotiation and reconciliation (Friedman and Miles 2002).<sup>4</sup> Public choice theory plays its role by arguing that appointed stakeholders legitimately represent the public will, which always must be constrained against over-reaching.

The problems for environmental policy-making are that such processes leave little room for authentic democratic participation in what is a public policy process. When business management models appear in environmental policy-making they often reflect this tension between democratic aspirations and organizational realities. Stakeholders in this context are reduced to 'consumers' or agents with whom agencies and businesses can individually contract for policy outcomes (Altman 2000). The adoption of stakeholder processes from business management also tends to displace politics from traditional institutions, with their familiar and established representational qualities, to more opaque decision-making hidden from the public view. Communities no longer reflect dynamic political processes, but are reduced to a set of interests that can be ordered and prioritised according to the preferences of the policy-makers (Kaler 2002). And, finally, contending interests, which in traditional politics illuminate political relationships and build consensus through community-wide negotiation, are stigmatised as barriers to efficient decision-making and policy implementation (Dryzek 1996, Smith 2003a).

### 1.3 Shared meanings and purposes of stakeholders.

The legal construct of 'stakeholder' shares certain meanings and purposes with those adopted in business management, but also carries important distinctions that separate it from the more common use of stakeholder, both in business management and environmental politics. While law and business management are two quite different cultures, they both hold high status in the institutional and ideological structures of liberal democratic states (Camilleri 1990, Habermas 1996). Both also reflect changes in the internal ideology and functioning of the state, and the power relationships that support the state's governing elites. They thus share a common foundation in the social order, adopt and respond to changes in community norms and structures, and serve important functions in maintaining the political systems of the state: law serves to maintain domestic order, while business provides revenue to support state activities (Dryzek 2002). In this way, law and business are subordinate structures of the state.

The late nineteenth century legal definition of 'stakeholder' carried both normative and instrumental implications: stakeholder rights to procedural justice were conditioned by community norms, and legal sanctions against stakeholders strengthen the state's legitimacy as a representative of the 'democratic will'. The late twentieth century definition of 'stakeholder' in business management also carried both normative and instrumental implications: stakeholder rights to procedural justice were condition, but this time by company norms, and the use of stakeholders strengthen a company's claim to represent the 'democratic will'. More importantly, the legal and business definition of stakeholder is bounded by considerations of state political economy. In the first instance, the political power of governing elites during the nineteenth century relied to an extent on their claims to represent moral authority. However, the underlying political power of elites shifted in the twentieth century, and particularly toward the end of that century, to claims that they represented collective economic interests. This coincided with a general shift toward materialism, wherein increasingly numbers of people participated in gambling (Jones and Hillier 1995). In this way, the term 'stakeholder' moved from a definition of stigma to a definition of empowerment: being identified as a late twentieth century stakeholder conferred status and an opportunity to participate in decision-making, albeit under conditions set by the governing elite. This shift served both state interests in securing new forms of revenue, and business interests in further legitimating both their community status and their own 'gambling' culture.

It is also important to note that a subtle transformation of the meaning of stakeholder occurred in its passage from law to business management. As discussed earlier, stakeholders at law were mere proxies for those who held actual interests in the activities.<sup>5</sup> However, as the term is currently used, stakeholders are widely assumed to be direct holders of interests rather than proxies with an equitable interest in process - legal or otherwise. Why and how this occurred is beyond the scope of this paper, but some evidence suggests that the dominant discourse of neo-liberalism, represented in their preoccupation with 'interest groups politics', has conscripted the meaning of stakeholder for its own

<sup>4</sup> The 'contractual' aspect of the business-stakeholder identification has been reduced to organizing stakeholders into a matrix of implied contractual relationships: 'necessary-contingent' and 'compatible-incompatible' (Friedman and Miles 2002).

<sup>5</sup> This 'process' attribute of stakeholder continues at law, and most particularly in insurance law, to permit a person or entity to participate in a legal proceeding through 'interpleader', which is a legal doctrine that allows a third-party proxy holder of an interest to participate to ensure that the *process* protects them against competing claims. (See, e.g., *First Interstate Bank of Oregon, N.A. v. U.S.* (C.A.D.C., 1993) 891 F.Supp. 543). In contrast, the concept of 'interest' provides for standing for direct participation in determining the disposition of litigation.

purposes (Skocpol and Fiorina 1999). The continuing attribution of direct interests to stakeholders considerably narrows the definition of who they might be and how they might act in policy-making processes.

## 2. 'Stakeholder' as used in environmental policy making.

Stakeholder processes began in environmental policy making by way of their prior use in business and resource management.<sup>6</sup> Thus, the discourse of stakeholder identification and participation has been largely confined to business management theory as to whether 'stakeholder' is an instrumental or normative concept. However, within environmental politics the nuanced differences between sustainable development and ecological modernisation practices reshaped how those concepts were employed. Sustainable development, as a discourse arising from international debate and as part of the greater discourse about the relationships between the developed 'North' and the developing 'South', takes a decidedly more normative approach to the issue of stakeholder. Whereas ecological modernisation, as a discourse originating *within* the developed 'North', elaborates a much more instrumental approach to stakeholder processes. Neither, however, is entirely exclusive, and the tension that remains suggests something more about the boundaries of environmental policy making itself.

### 2.1 'Stakeholder' as a borrowed instrumental and normative term.

The discussion of stakeholder processes first appeared in the discourse of environmental politics shortly after it was formalized as stakeholder theory in business management. The movement from business management to environmental policy was encouraged by neo-liberal concerns that environmental policy was becoming unmanageable and that alternative policy formats were required (O'Leary 1999). Initially, this took the form of advocating for a more decentralized processes that relied less on government and more on policy by consensus (Fiorino 1996). Thereafter, 'policy networks' emerged, which were seen as more efficient in developing this consensus and in improving policy legitimacy (Ortolano 1984, Marsh and Smith 2000).<sup>7</sup> Eventually, however, policy practices began turning toward an institutionalised deliberative processes that operated inside existing policy relationships (Hajer 1995).

Traditionally, environmental policy making was a problem solving process (Goodin 1982, Ortolano 1984). However dressed, this was instrumental management theory that merely asked how particular structures serve efficient policy making without regard to their effects on the process or participants. In this way, policymaking was normative management theory. Yet, policy making invariably serves more than a formal purpose: it also generates norms of its own and reflects pre-existing power relationships (Hemple 1996). Whether policy making is positivist, or whether it is dynamic, depends upon the point of view of the analyst. And whether the analyst's focus is on process or outcome, or whether the process and outcome is seen as interdependent. Thus, the instrumental-normative debate about stakeholder processes as they occur in environmental policy making is as much about the purposes pursued by the analyst as it is about the actual operational characteristics of stakeholder processes.<sup>8</sup>

The tension in business management theory between a dominant instrumental analysis and a more emergent normative theory reflects a struggle to recast the nature of business in the modern world. However, within environmental politics the instrumental-normative debate is more covert and less explicit (Jacobs 1999, Carley and Cristie 2000, Smith 2001, Shaw 2003). The explanation for this is that environmental politics, where it is dominated by critical theory, tends towards normative rather than instrumental issues (Reed 2002).<sup>9</sup> The absence of an integrated instrumental-normative stakeholder theory discourse is a major weakness in environmental politics because it disguises the way that policy making actually occurs.

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<sup>6</sup> A considerable part of the writing about business management's use of stakeholders occurs in the context of private and public environmental management. (See, e.g., Jones 1997 - implementing environmentally sensitive business practices, Coppola 1997 - managing public environmental discourses, Short and Winter 1999 - building consensus for public policies, Burroughs 1999 - citizen preferences in water management, Mahanty and Russell 2002 - public resource management, Wheeler et al. 2002 - environmental and socially responsible corporate behaviour, and McGlashan and Evans 2003 - institution-stakeholder relations).

<sup>7</sup> 'Policy networks' have been described as 'structures which constrain and facilitate agents . . . [and] political structures . . . which shape attitudes and behaviour' (Marsh and Smith 2000).

<sup>8</sup> Debates about the common ground between instrumental and normative theory in business management theory appear to come from the lack of empirical work about differences between stakeholders and how they participate in the policy process, the corporate culture, and the separate views of institutional and non-institutional stakeholders. (Friedman and Miles 2002).

<sup>9</sup> Even where so identified, the study of stakeholder theory from a critical environmental politics perspective found a publisher in the journal *Business & Society*, rather than in a journal of environmental politics.

This knowledge gap appears in a variety of ways, but most notably where empirical studies have attempted to confirm theory in practice. The few studies that exist suggest that many important issues fail to be accounted for in theory, such as institutional norms (Reitan 1998), the relative strength of policy dynamics (Carley and Christie 2000), the exogenous qualities of policy networks (Marsh and Smith 2000), and policy inter-network relationships (Berger et al. 2001). Also, the continued reliance on concepts of 'policy networks' carries with it the seeds of neo-liberal public choice and self-interested ideology. While policy networks have become a major focus of environmental political studies, they have as yet failed to consider stakeholder processes, or assume that they are coincidental with policy networks (Smith 2001). This, I believe, is a dangerous assumption, because policy networks exist as externalities to policy making processes, whereas stakeholder processes are internal and often institutionalised.

## **2.2 Stakeholders in sustainable development and ecological modernisation**

Stakeholder processes have appeared in environmental policy making in the current dominant discourses of environmental politics as part of sustainable development and ecological modernisation projects. The context for both of these discourses is an attempt to reconcile what are argued to be underlying tensions between economic growth and ecological sustainability (Douthwaite 1992). The contention is that these conflicts can be resolved to the benefit of both (Mol and Sonnenfeld 2000). On the one side, those that favour reconciliation argue that technological improvements and reformed policy making processes can substantially overcome the operational defects in industrial development (Mol and Spaargaren 2000). On the other side, those opposed argue that technological change will only have a marginal effect (Christoff 1996), that the current definition of economic growth is itself unsustainable (Ekins 2000), that the structure of capitalist development as a growth model works against a sustainable ecology (Hay 1992), that core-periphery economic dynamics preclude ecologically balanced development (Pepper 1999), that structural rigidities resist institutional reform (Reitan 1998), and that political realities will drive policy choices toward unsustainable results (Castles 2000).

These arguments appear somewhat differently in each discourse as a consequence of the politics that created them as separate paths to policy. Sustainable development as a global discourse reflects the divisions in international relations between the developed and developing countries. In contrast, ecological modernisation is substantially a product of national and regional policy making in the European Union. While it has become the dominant policy process in the EU, ecological modernisation has failed to gain much influence outside this region. Discourses of democratic deliberation, of which stakeholder processes are a part, tend to reflect these histories, with ecological modernisation expressing concern for deliberative democracy and sustainable development approaching the issue with much more caution (Reed 2002).

Whatever their differences, both sustainable development and ecological modernisation begin with the assumption that the ecological problems are primarily management issues that can be resolved with adjustments in policy making processes (Jacobs 1999, and Mol and Sonnenfeld 2000). With current policy making reflecting bureaucratic structures, this necessarily implies that policy making will be a 'top-down'. Additionally, where motives for reform focus on efficiencies rather than democracy, the legitimacy and acceptance of policy choices may be left in some doubt (Mol and Sonnenfeld 2000).<sup>10</sup> This instrumental view of stakeholder processes has yet to muster empirical evidence that it works to achieve that objective (Reitan 1998). The strongest criticism made of the policy processes of sustainable development and ecological modernisation is that they simply fail to deliver on ecologically sustainable results. This criticism is not levelled at stakeholder processes *per se*, but at the assumptions of centralized management and the privileged role that business assumes in this form of policy making. The larger agenda for the critics is to critically deconstruct these two discourses as anti rather than pro-democratic processes (Connelly and Smith 1999, Sachs 1999).

The basic tenants of ecological modernisation, with its reliance on 'public-private partnerships' and voluntary acceptance of public policy choice, grew from a larger ideological shift away from classic liberalism and toward neo-liberalism ((Weale 1992). Whether this shift was a function of a crisis of legitimacy of the state (Habermas 1976b), whether it was a response to a rise in 'interest group politics' (Berry 2001), or whether it occurred as a crisis displacement strategy (Hay 1992), they became the dominant themes across the public policy landscape (Biersteker 1992). In that sense,

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<sup>10</sup> For proponents of technocratic EM, the problem is defined in terms that are more concerned with post-choice policy legitimacy than with the quality of the deliberation that precedes it. The authors here, both leading EM theorists, in fact do not include expanded democratic participation as one of their five core themes of ecological modernisation, leaving it as a sub-issue to be addressed through a 'reflective modernisation' of state-centred environmental management.

sustainable development and ecological modernisation grew from the same roots and largely adopted similar language and parallel structures (Hajer 1995). Whether the result has advanced ecological sustainability, or merely provided new status for participants in public policy processes, it has shifted the discourse of policy-making away from traditional political negotiations and toward the language and practices of business (Berger, et al 2001). It also has had the troubling effect of painting a democratic 'face' on policy-making while essentially 'privatising' its power (Falkner 2003).

The principal differences between sustainable development and ecological modernisation are that sustainable development is a global policy discourse, while ecological modernisation has been applied primarily as national policy choices. In that respect, North/South differences and conflicts, colonial histories, dominant international institutions, and vast cultural, political, geographical and historical differences heavily influence sustainable development. As a consequence, ecological modernisation has developed a series of formats that use collaborative forums that permit non-institutional groups to interact with institutional managers as part of the policy making process, which it describes as 'changing discursive practices' (Mol and Sonnenfeld 2000).

Ecological modernisation is a reformist approach to policy making, rather than a reconstruction of essential decision making structures. It takes 'a critical attitude toward the (bureaucratic) state; a favourable attitude towards the role of market actors and dynamics in environmental reforms; a systems-theoretical and rather evolutionary perspective with limited notion of human agency and social struggles; and an orientation towards analyses at the level of the nation-state' (Mol and Sonnenfeld 2000). In other words, ecological modernisation continues institutional control but moves away from direct regulation by 'co-producing' policy through collaborative relationships with non-state parties selected and managed by the institution. It thus can promote core state ideological concepts of modernity and rationality, and protect existing power relationships, while avoiding full accountability for policy outcomes (Berger 2001). Ecological modernisation also more clearly defines the purposes of environmental policy making as instrumental: the state absorbs elements of civil society in structuring policy formation (Beck 1994), conflicts within and between government and society are muted (Hajer 1995), science and technology become central tools in identifying problems and the range of appropriate responses, and the market place and its various actors become the vehicle for policy implementation (Mol and Sonnenfeld 2000). This allows ecological modernisation to adapt policy processes to changing political requirements.

Notwithstanding its favoured position within the EU, ecological modernisation has not been easily transported outside of this political domain (Dryzek 2002).<sup>11</sup> Possible explanations are that as a European invention ecological modernisation closely reflects the political history and institutional arrangements in this region, or that the hegemonic position of the United States undermines alternative policy making formats in areas outside of the EU. However, important criticisms of ecological modernisation suggest that there may be fatal weakness that cannot be cured. Critics argue that the underlying motives for ecological modernisation policy making processes have less to do with promoting democracy than with recapturing legitimacy for what are essentially state-driven policy choices (Connelly and Smith 1999). Additionally, recent studies of ecological modernisation practices have found that they fall considerably short of their promise (Reitan 1998, Pepper 1999, Berger 2001).

The global context for sustainable development, which itself is a highly contested term, presents a much more complex policy making environment. Not only are there multiple national entities with substantially different views on what constitutes 'sustainable' and 'development', but the nature of the environmental challenges are themselves more scientifically and politically complex (Sach 1999).<sup>12</sup> The basic tenants of sustainable development that economic policy can be made compatible with ecological sustainability, that environmental protection is a matter of a more efficient use of resources, that 'quality of life' means more than merely increasing economic income, and that "the political involvement of all groups or 'stakeholders' as a requirement is strongly contested (Jacobs 1999).<sup>13</sup>

The definitional problems with sustainable development are epidemic and far beyond the purposes of this discussion. However, two of these are of particular importance in for stakeholder processes that occur in this discourse. The most central is the debate over 'equity' and sustainable development. This often appears as a spatial concern - an equitable distribution of the world's resources that is reflected in the Brundtland Report - that turns on temporal reality - the mal-distribution of global resources is a product of a colonial history (Jacobs 1999). Where you locate that debate and on what terms will

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<sup>11</sup> Notably, ecological modernisation has not developed to any extent in the United States, where traditional regulatory forms of environmental policy making still dominate environmental politics.

<sup>12</sup> These include differences over whether there is a universally applicable design for development (Shiva 1989, Stiglitz 2002), whether development is essentially economic or socio-political in nature (Daly 1999, World Bank 2002), and how social transformations actually occur (Cortner and Moote 1999, Gilpin 2001).

<sup>13</sup> The author cites Agenda 21, adopted at the 1992 'Earth Summit', as the textual authority for this claim.

determine who becomes validated as a stakeholder: a global and contemporary location will favour states and international institutions, while a local and historical location will argue strongly in favour of civil society and local communities. The second debate follows from and is dependant upon the first: how is participation to be structured? If states and institutions become the location, then 'top down' management structures will be employed. If civil society and local communities become the location, then a 'bottom up' management structure will be created that allows for more deliberative democracy (Carley and Christie 2000).

While sustainable development offers less by way of the structural development of stakeholder processes, it offer more theoretical challenges to the preconceptions of stakeholder theory as it exists in business management theory. Here the normative confronts the instrumental with inescapable questions about ideology and politics, and how they influence environmental policy making at all levels. The boundaries, such as they are, between policy theory and policy practice become much more permeable and problematic. Where the lines are drawn and how boundaries are enforced is less about ecological sustainability than about the ideology of the state, economic imperatives and the legitimacy of state-based decision making about the environment.

### **3. Boundaries of environmental policy making.**

Policy making does not occur in a political vacuum, but it would be a mistake to assume that policy is itself politics (Walker and Mendlovitz 1990). Rather, policy making is a political process that takes place in multiple for a and contexts that may be more obscure and far removed from one particular place or one discreet issue than is otherwise apparent (Magnusson and Shaw 2003). Interrogating the spatial and temporal character of a policy process uncovers a wide range of ideological and political arrangements that shape expectations and participation in policy making. With stakeholder processes, the boundaries that emerge are drawn by the state, which itself is in contest with the great democratic narrative and the changing terms of its own identity. Here, the issues are a crisis of state legitimacy, particularly in environmental and economic policy making, and the emergence of economic growth as the prime directive for state policy outcomes. This has seriously compromised the ability of the state to legitimate its environmental policy choices through traditional state-centred policy processes. None of these three boundaries can be fully explored here. But for the purposes of this discussion, each can be examined for how it shapes the identification of stakeholders and the structuring of state-centred stakeholder processes.

#### **3.1 The state and state- based environmental policy making.**

The origins of the great democratic narrative lie deep within Western Civilization, dating back at least to the time of Plato and the Greek philosophers. The term 'democracy', however, has been so widely appropriated for other than political debate that it has lost much of its meaning. Yet, the core idea of democracy as 'the ability to participate in a broader humanity' continues to command the ideals of many in the Western community and beyond (Magnusson 1990, Walker 1993). The linkages between the great democratic narrative and the political process of the state in environmental politics meet where state policy choices require a minimal level of legitimacy to achieve popular acceptance (Gunderson 1995, Fiorino 1996, Smith 2003a). Policy choices that fail this standard carry considerable political costs that ultimately undermine both the policy and the policy making process (Fiorino 1996). Of course, the 'democratic' test itself is subject to interpretation, with appearance of democracy counting much more than the substance of participation (Smith 2003b).

The great democratic narrative and the discourse of environmental policy became joined in the activism that gave birth to environmental politics (Weale 1992, Connelly and Smith 1999). During the 1960s, environmental policymaking was exclusively a state-centred affair - environmental crises were followed by a state response, sometimes occasioned by citizen action and sometimes by bureaucratic initiative. To the extent that citizens participated, it was through elected or appointed representatives acting with and through the political structures of the state. It was assumed that representative democracy was sufficient to secure citizen acceptance and compliance (Ortolano 1984). Disputes about policy choices were settled in either the political arena, through traditional lobbying, or by recourse to legal actions, but there was little challenge to the process of policy making itself. However, these assumptions failed to hold in the 1970s: multiplying environmental crises of ever greater complexity and effect overwhelmed the technical and political capacity of the state to respond (Weale 1992, Carley and Christie 2000).<sup>14</sup>

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<sup>14</sup> Among the politically significant crises of this period were the 1969 oil spill in California's Santa Barbara channel, the apparent intractability of urban air pollution, and the emergence of global warming as a scientific concern.

The crisis of environmental policymaking in the 1970s occurred as part of a larger crisis of state legitimacy that occurred when systemic changes in the global economy caused the collapse of the Bretton Woods system of fixed currency exchange rates (Sachs 1999, Ekins 2000).<sup>15</sup> Increasingly, states were unable to guarantee economic stability solely through state-managed policies. Rather, economic policy and the state legitimacy that it represented were increasingly hostage to a global marketplace (Brown 1995). As a side effect, the loss of state legitimacy in economic policy making spread to undermine state legitimacy in environmental policy making, which then required new policy making formats. These new policy processes shifted emphasis away from state regulation to the emerging neo-liberal models that preferred a collaboration between the state and important economic and political interests (Sachs 1999). The new processes assumed that states could no longer manage complex environmental issues solely through bureaucratic structures, but that they could be managed through hybrid structures that reduced state accountability for policy outcomes while protecting vital state interests. The policy making structures of choice then became those that emphasized a system of market-based incentives (Weale 1992).

The decline in the legitimacy of state-based policy making also occurred as the nature of the global ecological problematique was being redefined. What had been local environmental crises, manageable wholly through state policies, were transformed into global ecological challenges that required complex political responses with substantial economic impacts (Weale 1992). Policy making based on local-national models were quickly being absorbed into international environmental regimes and institutions (Saurin 1996).<sup>16</sup> Whether or not these new regimes and institutions were adequate to the task remained to be proved. However, from the perspective of the state and its policy crisis, they at least represented an escape from direct state accountability (Biersteker 1992).<sup>17</sup> The emerging new environmental policy discourses of sustainable development and ecological modernisation during this period can be seen as a reflection of the state's response to its own declining institutional power. The initial use of use of focus groups, mediated disputes, and eventually stakeholder processes provided opportunities for the state to displace the crisis of legitimacy without directly confronting the essential political challenges of the global ecological problematique (Hajer 1995).<sup>18</sup>

### 3.2 Economic growth as the prime directive for policy making.

The economic crises of the 1970s and early 1980s created a challenge to the state's historic role as guarantor of economic growth (Camilleri 1990, Hay 1992, Castles 2000, Ekins 2000, Berger 2001). Previously, economic growth was one of several priorities that jockeyed for state attentions, including maintaining an appearance of democratic participation (Walker and Mendlovitz 1990). How and why it became the prime directive in environmental policy making is less clear than its rise to prominence (Hay 1992, Castles 2000, Berger 2001). But its appearance at along side the increasing challenge of global ecological problematique has and continues to raise questions about the compatibility of economic growth with ecological sustainability (Daly 1999, Pepper 1999). Even advocates of growth policies admit that it is highly problematic whether they can be reconciled (World Bank 2002).

Placing macro-economics at the top of the policy agenda has redefined nature as a public good or resource that can be reified into a commodity, which can then be reduced to abstract economic manipulation (Hajer 1995). This movement transforms not only the concept of nature but also the discourse of environmental politics from a concern with ecological sustainability to a concern with economics. This transformation can be seen in the debate over sustainable development where issues of ecological sustainability are now subordinate to issues of economic growth (Stiglitz 2002, World Bank 2002). Once subordinated, resource exploitation becomes the logical response, with sustainability presumed to be a function of managing resource exploitation. This assumes that economic growth can be achieved without endangering ecological sustainability, and that economic growth is essential to alleviating poverty. It ignores the historical roots of poverty as a legacy of

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<sup>15</sup>This could also be described as old industrial and nation-based capitalism being supplanted by a new and global finance capitalism.

<sup>16</sup>Evidence for this can be seen not only in the proliferation of international environmental agreements since 1980, but in the rapid global institutionalisation of ecological science and growth of international non-government organizations (Litfin 1994).

<sup>17</sup>The historic mission of the two principal institutions, the World Bank and the IMF, as designed to promote economic development and currency stability, raised serious questions about whether they could pursue those missions and still accomplish ecological sustainability. Early results indicated that neither could, and most particularly the IMF whose narrow monetary focus dominated all other concerns (Stiglitz 2002).

<sup>18</sup>As the author notes, 'It is not difficult to see why the policy discourse of ecological modernisation would appear to governments . . . it positions itself in contradistinction to the *ex post* remedial strategy of the 1970s that did not produce satisfactory results. . . suggests a positive-sum solution to what had until then been seen as a zero-sum problem . . . [and] explicitly avoids addressing basic social contradictions that other discourses might have introduced.'

colonialism and a function of global economic practices.<sup>19</sup> In this way, the ecological debate is contained and the systemic questions that it poses are deferred to theoretical rather than practical considerations.

The effort to deflect systemic questions about conflicts between economic growth and ecological sustainability has been aided by arguments that scientific rationality and technological innovation can provide ready-made answers to policy dilemmas (Mol and Spaargaren 2000), and that environmental degradation is largely the result of individual choice (Dryzek 1996). Both arguments fit well into the contentions that there is no underlying systemic conflict, only bad choices and bad behaviours that can be corrected through better ideas and more effective social management. In this scheme, it would be reasonable to suppose that stakeholder identification and management would follow with the logic that those who express similar a similar ideology are the preferred participants (Jones 1997, Burroughs 1999, Short and Winter 1999, Wheeler et al. 2002).

If economic growth is considered as a fundamental systemic problem rather than an opportunity for generating new management relationships, the ecological problematique is cast in a different light. Critical theorists have long argued that there are natural limits to resources exploitation, and that alternative economics must be developed to balance human material needs and ecological sustainability (Illich 1972, Meadows et al. 1972, Daly 1977). The conundrum, however, is that the foundations for the modern state are laid in its ability to generate the very economic growth that is now challenged. Efforts to change economic relationships would destabilize the state by depriving it of one of its central purposes (Hay 1992). Yet, the growth imperative is a complex web of relationships between the state, the economy and political elites that are substantially hostage to the requirements of neo-classical capitalist economics (Biersteker 1992). This contradiction is further complicated by the state's dependency on an actively growing business sector (Lindblom 1977).<sup>20</sup> Given this configuration as ubiquitous among modern industrial states, national policy makers in all countries follow similar pro-growth policies (Castles 2000).

Whether or not the growth imperative can be tamed is a political not an ecological argument. Critical theorists suggest that this might be resolved by redefining 'economic growth' away from quantitative, resource exploiting measurements to social capital conceptions (Ekins 2000), or through the redistribution of global resources (Sachs 1999). Other, however, argue that the very nature of capitalism precludes its reform, and that only a system-wide radical reconstructing of economic relationships, and by implication state relationships, will suffice (Douthwaite 1992, Daly 1999). The argument turns on the nature of contemporary capitalism and how its relationship with the state is structured. In so far as economic growth is required to maintain a stable economic and political systems, it seems unlikely to change.<sup>21</sup>

#### **4. Stakeholder processes as a crisis displacement strategy**

'Crisis displacement' is a strategy undertaken by states to avoid accountability for failed policy making. It does so by relocating crises in ways that states can secure and/or re-secure its legitimacy with civil society (Hay 1992). Where the legitimacy of the modern state is challenged by its inability to cope with environmental problems through its traditional policy making processes, it will seek out crisis displacement strategies (Weale 1992).

The failure of the modern state to meet environmental crises has several roots: these policy failures result both from the complex nature of these environmental problems that increasingly lie beyond the limits of state resources,<sup>22</sup> and derive from an inability of states to achieve equitable policy outcomes in the presence of mal-distributions of economic and political power (Reitan 1998). Where these policy failures are global, they are displaced back to states, and where they are national they are relocated to local communities (Hay 1992). Thus, crisis displacement strategies are both ideological and structural: changes in policy making must be accompanied by new storylines that deflect implications of state accountability (Foucault 1984), and new policy making structures must be fashioned that shift the location of policy making without disrupting existing power relationships (Weale 1992). The use of stakeholder processes in environmental policy making can be viewed this way as a crisis displacement strategy that incorporates a response to the great democratic narrative of citizen

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<sup>19</sup> This argument also side-steps the issue of whether absolute or relative poverty should be used to measure global inequality.

<sup>20</sup> As the author here suggests, 'Depression, inflation and other economic distress can bring down a government.'

<sup>21</sup> One of the several arguments is that capitalist finance requires an ever increasing pool of free capital to fund further expansion and repay debt. (Daly 1999).

<sup>22</sup> The labyrinth of technical and human resources required to monitor environmental conditions and policy directives now exceeds the available resources of most states, who increasingly rely on voluntary support from civil society to accomplish these tasks.

participation: it offers the appearance of deliberative democracy without disturbing actual power relationships (Hajer 1995).

#### 4.1 Deliberative democracy as a crisis displacement strategy.

'Deliberative democracy' is comfortably within the ideology of liberal democracy as a positivist construction using public choice and rational choice theory (Dryzek 1996). As liberal democratic theorists observe, democratic participation is an essential, if limited, ingredient necessary to legitimate policy, that can also serve to strengthen citizen political skills and identity with the political processes (Fiorino 1996). This rationale has also made its way into 'Green' politics, which finds that 'revitalized practices of citizenship are a necessary element of the political and cultural change required to achieve environmental sustainability' (Smith 2003b). However, what appears to be a consensus between the two ideologies begins to break down on closer inspection: the purpose of 'democratic participation' within liberal democratic thought is to avoid risks to the state by managing conflict as part of policy making (Mol and Sonnenfeld 2000), while 'Green' political theorists have a much more ambitious goal of at least balancing the power of the state over policy choices with the influence of a more enlightened and activist civil society (Smith 2003a).

The existence of a general consensus on participation by non-state parties has been an important factor in the spread of new deliberative practices, including the use of stakeholder processes, mediation, policy focus groups and citizen juries. Some 'Green' theorists have taken a further step trying to reconcile the state legitimating goals of liberal democratic 'deliberative democracy' with the civil society empowering goals of 'Green' politics by suggesting that these state-created processes can offer vehicles through which a new "ecological citizenship" can be constructed (Smith 2003b). This thinking argues that the disabilities of liberal democratic pluralism, which include inequitable economic and political power relationships, can be balanced against the opportunity to socialize citizens' understanding of the ecological problematique (Smith 2003b). To whatever extent this might occur and eventually achieve a stronger ecological consciousness, it leaves unanswered questions about the effects of the state's crisis displacement strategy.

Whatever the good intentions and hopeful expectations that might be argued by "Green" theory, deliberative process constructed by or in collaboration with the state are unequal structures. In these cases, the crisis displacement strategy of the state can successfully shift accountability for the crisis and the policy to participants, reassert its own legitimacy through the control of the policy discourse, and preserve existing economic and political power relationships by limiting policy choices. These choices then institutionalised into law without benefit of passing through an open political process where the boundaries of political and economic power might be negotiated (Habermas 1996). This result becomes ever more true where the policy issues lie nearer to the central concerns of the state for economic growth (Dryzek 2002).

#### 4.2 Stakeholders and state legitimacy in environmental policy making.

If the crisis of legitimacy in state environmental policy making began in the 1970s and accelerated in the 1980s, then we should find some evidence that state policy makers originated crisis displacement strategies during that period. Also, if the economic crisis of the 1970s was a major factor challenging state legitimacy, it may appear as an economic component in a crisis displacement strategy. Where the political and economic crises converged with the environmental crisis, crisis displacement strategies would include responses to all three (Castles 2000). These then might also be combined with some form of response that included a 'democratic' component, which could simultaneously deflect an interrogation of state accountability and legitimate the new policy process. Of course, there would be no need to actually increase democratic participation, simply because of its natural limits within liberal democratic theory (Walker 1993). In many respects, such a crisis displacement strategy, when deconstructed, would show a reconfirmation of the political and economic *status quo*.

The outlines of this crisis displacement strategy were evident by the early 1980s.<sup>23</sup> Environmental policy making, which was in the exclusive control of the state up to that time (Edmunds and Letey 1973), gave way to anxious policy making reforms by the 1980s (Weale 1992). But these reforms did not contemplate actually expanding participatory democracy. Rather, they only modestly public interest while retaining actual state control over the policy making process (Barber 1984).<sup>24</sup> The

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<sup>23</sup> In fact, the economic crisis increasingly took the form of a crisis in environmental policy making over the issue of growth. (Cf. Meadows, D. H. et al. 1972, *Limits to Growth*, and Beckerman 1974, *In Defence of Economic Growth*.)

<sup>24</sup> Initially, these took many forms, including public hearings, large public meetings that provided for public interaction or small group discussions, public workshops and informal small "focus group" meetings (Ortolano 1984). These later evolved into

stakeholder processes that were later to appear had only begun to take hold in business management, which was substantially benefiting from the crisis of state management by absorbing increasing amounts of economic and political power (Drucker 1982). Stakeholder processes managed by businesses for business purposes allowed the state to withdraw from aspects of policy making, which could be recast as business-community affairs. With the state and business both committed to the promotion of economic growth, there was little risk that the stakeholder process would emerge in any way to further threaten state or business interests. Thus, only those stakeholders seen as compatible with this objective would be chosen to participate (Coppola 1997). However, the stakeholder processes of that era had a major weakness, because business too was enduring its own crisis of legitimacy. Stakeholder processes under its control did little to restore lost state legitimacy.

The answer to the problem of restoring state legitimacy over policy making came in the form of stakeholder process that could be constructed as part of state policy making. Sustainable development and ecological modernisation projects provided the ideal ideological vehicle. Liberal democratic state could use public choice theory as the ideological justification to legitimate stakeholders as collective representatives of public interests, and then place them into policy processes that would effectively limit their choices to pro-growth alternatives. As important public interests, businesses would assume a privileged stakeholder status, where they could promote rational science and technology as progressive answers to environmental problems. Those chosen as stakeholders from civil society would then act as risk managers to deflect contentions over policy choices and outcomes while providing the appearance of deliberative democratic participants. But, what evidence exists to support this conclusion?

### 4.3 Stakeholder processes as risk displacement strategies: three cases.

A review of three environmental policy making cases with stakeholder processes show the underlying crisis displacement strategies that are pursued. While these are merely a sample, and reflect the limitations of the studies, they begin to reveal a pattern of control of identities and participation that effectively limit stakeholder independence or purpose as instruments of deliberative democracy.

In the case of land management in Great Britain, the prescribed for the future 'governance of the commons' limited its designated stakeholders to those 'with a *legitimate concern* about a place' (Short and Winter 1999). It further ranks those with legitimate concerns according to the 'level and extend of interest'. The object of this governance is to achieve a consensus from what is described as 'fragmented decision-making'. The case study itself was commissioned by the U.K. Department of the Environment, Transport and the Regions as part of an effort to improve land management, explicitly for the purposes of obtaining 'optimum management' to combat over-grazing, which they see as an example of 'the tragedy of the commons.' However, Garret Hardin's thesis about the irresponsibility of a 'commons' approach to management has come under serious attack, in part because it substantially misrepresents the historical experience of the English commons, and in part because the 'tragedy' at issue develops as a consequence of an ideology of competition (Cronon 1983, Paterson 2001).<sup>25</sup> Thus, by purpose and presupposition this approach rationalises limited participation by shifting the onus for management to those immediately involved in using the land, rather than seeing overall public policy as setting the framework for land management.

In the second case concerning water management in Rhode Island, stakeholder participation was arranged by the state as a consequence of the lack of public participation in a project with complex scientific and technical issues (Burroughs 1999). The concern of the agency was not with participatory democracy, but with determining how best to encourage participation within the range of policy choices determined by the state. The state also chose a stakeholder process because it was seen "as an alternative to the high cost and delay of litigation." The ultimate purpose of the process was to achieve a 'greater degree of affirmative response [to policy choices] . . . at reduced cost'. Stakeholders were included only where they could show 'a minimal level of technical expertise'. As a consequence, 51 percent of the invited stakeholder came from elected government officials or their appointees, 34 percent came from non-government organizations (undefined), and 15 percent came from business. No members of the general public were invited. In effect, this process sought to construct an elite stakeholder community through which the state could act to secure its own policy choices. By this construction, any failure of policy could be attributed to the lack of effective participation by the

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various more institutionalised forms of participation through opinion polls, consensus conferences, and citizen juries (Smith 2003).

<sup>25</sup> The 'tragedy of the commons' argument also has ideological links to the neo-Malthusian arguments about over-populations, and generally to neo-realist environmental theory.

designated stakeholders, rather than by a critical examination of the range of policy choices considered.

The third case, energy projects in Peru, takes place in an international setting with a multinational oil company seeking to exploit petroleum resources (Jones 1997). It involved a stakeholder process developed by the company in conjunction with several international organizations, including the World Bank, UNEP and the International Finance Corporation. The stated purpose was 'to take foremost account of the environment, including social component, in all "activities'. However, the context for this stakeholder process was to promote the commercial value of these resources, which were deemed prime Peruvian assets. Here, stakeholders were identified as 'those on whom the project will impact (primarily local native communities) and those groups or agencies who can impact the project.' These stakeholders were further differentiated as direct or *primary* (those identified as 'representative federations', and those that were already active in the region), and indirect or *secondary* (those with specific interest in the region, but not directly active, and those involved in regional improvement or study programs). For the purposes of this process, international environmental groups and not immediately local indigenous peoples were deemed *secondary*. The process itself was highly formal, with the corporation organizing and conducting the meetings, producing the essential documents, commissioning any studies or research, 'establishing long-term management for the delivery of *social capital*',<sup>26</sup> and providing public relations. The description in this case leaves little doubt of the purpose of the process: stakeholders were merely adjuncts with few opportunities to participate independently in setting the agenda or identifying choices. Yet, their participation could be used to deflect complaints about imposed policy decisions.

Taken together, these three studies suggest that stakeholder processes are far from democratic, and that they are designed to serve the interests of those that organize them. The advantage that they offer under these conditions is that stakeholders become entrained into the accountability for policy choices with little or no opportunity to influence them. In contrast, similar studies of stakeholder processes that were either community generated or community-based tend to show more deliberative democracy and less structured crisis displacement features (Mahanty and Russell 2002, McGlashan and Williams 2003).

## Conclusions

The essential argument in this discussion is that stakeholder processes, however represented, are essentially crisis displacement strategies with limited potential for extending deliberative democracy in environmental policymaking. Much of the history of the term 'stakeholder', as it appears first in legal doctrine and business management and then in environmental policy making, is concerned with justifying state interests in regulating behaviour within the ideological and core interests of the state.

The evolution of policy making processes within the discourses of sustainable development and ecological modernisation have been bounded by a concern for reconciling economic growth to ecological sustainability. There is substantial argument that this is a fruitless endeavour, but one that lies at the heart of state sovereignty, legitimacy and authority. The modern industrial state is currently confronted by multiple economic and ecological challenges that lie substantially beyond its ability to manage, and thus multiple crises of legitimacy in policy making have occurred in all of these areas. The present configurations of state ideology and the power structures of governing elites present insurmountable challenges, which limit the state's capacity for policy making in considering the global ecological problematic to cosmetic responses.

Examples of stakeholder process demonstrate that the structuring and management of state policy making through them is dominated by business management language and instrumental purposes. While they might offer some opportunities for citizen education and engagement, and while they might also push the boundaries of state control by introducing policy making to interaction with elements of civil society, state-generated stakeholder processes continue the great neo-liberal project of reducing the state to a vessel of the business enterprise. The great risk in them is that they are impliedly privatising public policy' (Dryzek 1996) through a process that obscures the structural nature of ecological problems (Hay 1992).<sup>27</sup>

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<sup>26</sup> The definition of 'social capital' in this case is 'the mechanisms and attributes by which a community interacts within itself to utilise its social assets to the well-being (i.e. development, enhancement and benefit) of the community as a whole.'

<sup>27</sup> As the author suggests, this strategy is cosmetic rather than substantive in that it allows the state to 'respond to the subjective perceptions of the crisis rather than to the contradictions and discontinuities that precipitate such threats to legitimacy.'

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