Boston College Environmental Affairs Law Review

1-1-2006

"Reframing" the Presentation of Environmental Law and Policy

Charlotte Ryan

Samuel Alexander

Follow this and additional works at: http://lawdigitalcommons.bc.edu/ealr

🔾 Part of the Environmental Law Commons, and the Social Welfare Law Commons

Recommended Citation

"REFRAMING" THE PRESENTATION OF ENVIRONMENTAL LAW AND POLICY

Charlotte Ryan*
Samuel Alexander**

Abstract: In 1995, Congress, with the support of the Clinton administration, passed the Personal Responsibility and Work Opportunity Reconciliation Act, a sweeping welfare reform designed to appease conservative critics of 1960s War on Poverty programs. In the last decade, conservatives have intensified a comparable campaign to dismantle environmental programs and regulatory agencies established during the 1970s through the efforts of the environmental movement. Conservatives' calls for market forces to replace governmental environmental protection programs echo the arguments of conservative opponents of welfare. Similarly, contemporary battles over environmental policy are being waged in the mass media arena. Therefore, it behooves environmental advocates to review the public discourse that surrounded the welfare debates of the 1990s. Using frame analysis, this Essay describes the evolution of media discourse in Massachusetts from 1990 through 1994 regarding the role of government and its responsibility in providing public welfare programs. The Essay then draws lessons from welfare reform that are relevant to current environmental debate.

Introduction

In 1996, Congress, with support from the Clinton administration, passed the Personal Responsibility and Work Opportunity Reconciliation (Welfare Reform) Act,[1] a sweeping welfare reform designed to appease conservative critics of the 1960s War on Poverty programs. In

---

* Professor & Sociologist, University of Massachusetts-Lowell; Co-Director Movement/Media Research and Action Project. Ph.D., Boston College; B.A., Harvard University. For more information on the Movement/Media Research and Action Project, see http://www.mrap.info.

** Doctoral Student, Yale University. B.A., Brown University. The Author conducts qualitative research with social policy implications. He currently is collecting and archiving oral histories for a Rhode Island oral history project coordinated by the Swearer Center at Brown University.

[1] Personal Responsibility and Work Opportunity Reconciliation (Welfare Reform) Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (codified as amended in scattered sections of 7, 8, 21, 25, 42 U.S.C.).

the last decade, conservatives have intensified a comparable campaign to dismantle environmental programs and regulatory agencies established during the 1970s through the efforts of the environmental movement.[2]

Despite scientific evidence suggesting that environmental problems—such as global warming, water accessibility, and air quality—are worsening,[3] conservatives are pressing for significant changes in tort law, regulatory standards, and conservation efforts, all likely resulting in lesser governmental involvement in environmental protection. They argue that reducing governmental oversight will unleash market forces, thereby engendering more creative ways to protect the environment.[4]

Conservatives' calls for market forces to replace environmental protection programs strongly echo the arguments of conservative policy analysts that governmental welfare programs should be eliminated. Reiterating the three recurring themes of conservative rhetoric, welfare opponents in the 1990s argued that government programs should be eliminated, reduced, or recast, either because they perversely worsened the problems they were established to address, or because they wasted taxpayer money and amounted to little more than futile gestures.[5] Appealing to proponents of cost-benefit analysis, this argument further suggests that the continued existence of such programs is hazardous to the overall health of society and perhaps hazardous to the very individuals that the programs intend to help. In place of governmental intervention, Secretary Norton has called for market-driven solutions that "'favor human freedom [and] human creativity.'"[6]

There are a number of parallels between the legislative and regulatory struggle over welfare cuts in the 1990s and the current struggles over environmental and regulatory programs. In both cases, government-based solutions were initially established after surges of social mobilization, in the 1960s and 1970s, respectively. In both cases, pro-

---

[2] *See* Bradford C. Mank, *The Environmental Protection Agency's Project XL and Other Regulatory Reform Initiatives: The Need for Legislative Authorization*, 25 Ecology L.Q. 1, 36–37 (1998).

[3] Seth Borenstein, *Scientists Issue Mixed Prognosis on Environment*, Pittsburgh Post-Gazette, Mar. 30, 2005, at A2.

[4] *See* Wendy Worrall Redal, *Norton Seeks "Common Ground" on Conservation Issues*, Center for Envtl. Journalism Newsl., Winter 2005, http://colorado.edu/journalism/cej (follow "CEJ Newsletter Archives" hyperlink; then follow "Winter 2005" hyperlink; then follow "Norton Seeks 'Common Ground' on Conservation Issues" hyperlink). Secretary of the Interior Gale Norton has branded the currently existing approaches as "'government coercion-based.'" *Id.* (quoting Gale Norton, Sec. of the Interior).

[5] For an analysis of recurring themes in conservative rhetoric, see Albert O. Hirschman. The Rhetoric of Reaction 7 (1991).

[6] Redal, *supra* note 4 (quoting Gale Norton, Sec. of the Interior).

gram opponents have argued that market forces could address existing problems more effectively than governmental programs. Both debates concern the role of government in protecting the most vulnerable, be they children, the poor, or endangered species. In addition, cost-benefit analysis has been promoted as a reliable means of resolution for both of these debates, with opposing sides debating the definitions of terms: Are taxes a cost or an investment? How does society weigh short-term costs against long-term impacts? How does society evaluate benefits and losses? Finally, how does society balance who benefits and who loses in any social planning equation?

Like the contemporary battles over environmental policy, the battle over welfare reform was waged in the mass media arena—the master forum of our historical epoch.[7] Following the writings of Charles Murray, a policy analyst at the conservative Manhattan Institute, opponents of welfare programs posed individual accountability—personal responsibility—as the antidote to a bloated, incompetent welfare state that wasted taxpayers' money by encouraging dependency on the government.[8]

Over time, mainstream media began to shape its coverage to the contours of this account. As *Washington Post* writer Juan Williams acknowledged at the time, "'[n]ow we no longer ask how the federal government can help people who need it, but why should the government have to support these people at all.'"[9] According to Williams, the view of "right-wing social scientist Charles Murray" had "'insinuated itself into our coverage here and especially that of *The New York Times* and the networks. . . . Once you win that argument in an editor's mind, you undermine a lot of stories before they're ever assigned or written.'"[10]

Social welfare proponents were faced with a predicament in which media coverage played a critical role in the debates over policy at both the state and national levels, but failed to perform its alleged primary function of exposing incorrect information. This predicament is similar to the one that confronts environmental advocates today. One of the most salient aspects of the successful conservative argument in the debate over social welfare was the extent to which it was divorced from the realm of legitimate fact. As one analyst con-

---

[7] William A. Gamson, *Social Movements and Cultural Change, in* FROM CONTENTION TO DEMOCRACY 57, 76–77 (Marco G. Giugni et al. eds., 1998).

[8] *See* MARK HERTSGAARD, ON BENDED KNEE: THE PRESS AND THE REAGAN PRESIDENCY 33 (1988).

[9] *Id.* (quoting Juan Williams, Reporter, Wash. Post).

[10] *Id.* (quoting Juan Williams, Reporter, Wash. Post).

cluded, "what was most striking about the coverage was its sheer superficiality."[11] In a similar description of national debates, policy scholar and advocate Frances Fox Piven noted, "I am struck by how little evidence matters in talk about welfare."[12]

For all of the foregoing reasons, it behooves environmental advocates to review the public discourse that surrounded the 1990s social welfare battles and to draw lessons from it for current environmental debates. Using the analytical tools of framing theory,[13] this Essay describes the evolution of media discourse in Massachusetts from 1990 to 1994 regarding the role of government and its responsibility in providing programs. This critical period led up to the federal Welfare Reform Act of 1996.[14] The Essay begins by introducing some tools from framing theory and the underlying libertarian metaframe that infused conservative rhetoric on this issue. The Essay concludes by offering lessons relevant to environmental policy debates today.

I. Frame Analysis

Recently, framing has gained popularity as a means to help policy analysts and advocates understand the way their issue is being shaped, or framed in the media.[15] What does it mean to "frame an issue?" Some theorists and policy analysts think of a frame in classic rhetorical terms, treating any logical argument documented by fact and illustration as a frame.[16] Others equate frames with policy stances, presenting each policy outcome as a different frame even if the policies have common ideological roots.[17]

---

[11] Michael Sullivan, Missing the Story: News Coverage of Welfare in the *Hartford Courant* and *Boston Globe* 16 (May 1995) (unpublished manuscript, on file with the University of Connecticut School of Social Work).

[12] Frances Fox Piven, *Don't Blame Welfare Mothers for Society's Ills*, St. Petersburg Times, May 8, 1994, at 8D.

[13] For previous discussions of frames and frame contests, see generally William A. Gamson, Talking Politics (1992); Charlotte Ryan, Prime Time Activism: Media Strategies for Grassroots Organizing (1991). This Essay builds upon the themes elaborated in both works.

[14] Personal Responsibility and Work Opportunity Reconciliation (Welfare Reform) Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (codified as amended in scattered sections of 7, 8, 21, 25, 42 U.S.C.).

[15] *See* Ryan, *supra* note 13, at 53.

[16] *See* Gamson, *supra* note 13, at 1–12.

[17] *See* Ryan, *supra* note 13, at 68.

A. *Defining "Frames" and "Framing"*

We define a frame as a thought organizer. Like a window frame, it focuses the viewer's attention on some part of the world, highlighting certain events and facts as important and rendering others invisible. However, a frame is not always cited explicitly. Like the skeletal frame of a building that holds things together but is covered by insulation and walls, a frame provides coherence to an array of symbols, images, and arguments. It makes one story relevant and another not.

We also distinguish between frames and framing. Framing is a ubiquitous process through which people read or interpret their experiences in the world. All citizens are active framers. Building on our direct experience, our community's values, and the opinions of our peers and our broader society—as learned via cultural institutions such as churches and media—we interpret our experiences, feelings, and cultural or religious assumptions to make sense of social conflicts. Framing is the process of mapping one's social reality, whereas a frame is the product of that mapping—the underlying thought organizer through which we relate events and stories.

Frames focus the reader, listener, or audience on what the frame sponsor thinks is the key element of an issue. Frames are not narrowly focused, but they do concentrate an argument and suggest the key elements of an issue, the key actors, and a range of acceptable solutions. For example, to the conservative right, the key elements in an environmental regulatory struggle may be individual responsibility and the potential of free enterprise to replace the failings of bureaucratic government interventions. On the other hand, an environmental activist may approach the same regulatory struggle as an illustration of the need for collective political or social action to create stable environments, ensure sustainable communities, and protect the most vulnerable.

Advocates must understand the distinction between frames as thought-organizers and framing as the universal interpretive process through which they are constructed. Without understanding this distinction, advocates might assume that they can craft and disseminate a winning frame—for example, a frame that moves people to see the world from the position of the advocate—and so mobilize people to support the reform that the advocate proposes. Frames only emerge after sustained dialogue with impacted constituencies. They are a product of the process of talking politics with strategically relevant constituencies. As such, they cannot simply be imposed by an enlight-

ened, benevolent advocate—even one armed with an effective marketing strategy.

While recognizing that framing as a process enhances efforts to mobilize allies, framing is a part of—not a replacement for—the process of building social networks and strategic alliances. Despite the urgency of the crises facing environmental advocates, there is simply no way to avoid this need for network building in conjunction with message building.

B. *Frame Contests*

Frame contests are struggles for power in the determination of what things mean. If power is control over rules, resources, and meanings, framing contests are struggles to decide whose accounts will matter. In any framing contest, frame sponsors are trying to convince audiences of their world view or perspective. Sponsors employ certain frame construction tools repetitively in these debates. These tools include: switchpoint cases, standard bearers, claims-making activities, torpedos, and issue-attention cycles.

1. Switchpoint Cases

British policy analysts Peter Golding and Sue Middleton tracked the cycles of governmental programs in British history over four centuries.[18] In most cases, attacks on governmental programs were cultivated by media coverage of "switchpoint" cases—single cases that evoked the program opponents' frame masterfully.[19] These cases are easily sensationalized in the press and function as switchpoints by diverting public attention from structural analyses of the situation toward secondary issues, such as the morality of the individuals involved.[20]

Readers and viewers of switchpoint cases tend to assume that the cases are common and representative. Conservative campaigns attacking governmental regulatory or subsistence programs routinely highlight switchpoint cases that feature welfare cheaters, drug abusers, neglectful parents, and various other malefactors.[21] Switchpoint cases in the 1990s welfare reform debates were selected to lend credibility to

---

[18] *See generally* Peter Golding & Sue Middleton, Images of Welfare: Press and Public Attitudes to Poverty (1982).

[19] *See id.* at 60–67 (discussing the media's reaction to an English case in the 1970s).

[20] *See id.* at 62, 79–80.

[21] *See id.* at 64–66.

the line, "What she needs is a job!" Today, opponents of environmental regulation would seek switchpoint cases that epitomize boondoggles—situations in which massive governmental spending devolved into special interest profiteering and taxpayer loss, while producing scant environmental gain.

2. Standard Bearers

Standard bearers are key spokespersons in positions of authority, such as elected officials or academic experts, who use their position to advocate their frames.[22] Reporters will not trust frames that lack such sponsorship. Progressives have particular problems with journalists' approaches to standard bearers, since reporters do not typically recognize that someone can become an "expert" through life experiences or a well-reasoned political stance.

3. Claims-Making Activities

As part of frame building, key facts are marshaled to make an argument. Often these are repeated until they are assumed to be correct, even if they are not. Examples of such facts include oft-repeated claims of rising teenage pregnancy, illegitimate births, and welfare fraud rates. When a recognized standard bearer makes claims that reinforce a pre-existing storyline and way of thinking—for example, "government is inefficient" or "welfare keep teens pregnant"—and attaches those claims to switchpoint stories, reporters are likely to repeat the stories.[23] When that effect is multiplied by a national conservative public relations apparatus—comprised of experts, researchers, think tanks, publicists, and politicians—making timely news hooks by proposing legislation, a major ideological war ensues.

4. Torpedoes

Some cultural beliefs have such credibility that the person who evokes them—particularly if that individual is a standard bearer—is rarely questioned. "There's no money," for instance, is a simple, believable message to audiences who frequently find their own bank accounts dwindling. We will return to this concept in the coming discus-

---

[22] *See id.* at 78.

[23] *See* GOLDING & MIDDLETON, *supra* note 18, at 78–80.

sion of the evolution of the Weld administration's framing of the social welfare issue.[24]

5. Issue-Attention Cycles

One additional news routine that affected coverage is the notion of an issue-attention cycle, which has been elaborated by the public policy scholar, Anthony Downs.[25] Positing a five-stage cycle—pre-problem; heightened media attention; recognition of complexity attending genuine resolution; declining media attention; and dormancy—Downs highlights the very fickle nature of media attention.[26] Issue-attention cycle was decisive in the coverage of the policy debates in the early 1990s; after four months of heightened coverage of funding of programs, coverage of welfare debates dwindled.[27] Media scholar Herbert Gans calls this the "repetition taboo": an issue deemed overexposed will be avoided for one to two years.[28]

II. Case Study: The Massachusetts Welfare Framing Battle

Massachusetts legislative debates over welfare policy between 1991 and 1994 foreshadowed national debates that produced the Welfare Reform Act of 1996.[29] A historically liberal state with an ascendant, self-proclaimed liberal Republican governor—William Weld—Massachusetts had been resistant to cuts in programs that had passed in other states. The Weld administration's approach reflected this reticence. When Weld cut several programs in 1991, his tone was one of regret as he announced that the state did not have adequate funds, even for the deserving poor.[30] In embarking on this cautious course, Weld demonstrated a reluctance to engage in what would become a hallmark of struggles to gut social welfare programs: challenging the validity of poor people's demands. While drug addicts and alcoholics

---

[24] *See infra* Part III.A.

[25] Anthony Downs, *Up and Down with Ecology—The "Issue-Attention Cycle," in* Political Theory and Public Choice 100, 100–12 (1998).

[26] *See id.* at 110–12.

[27] *See generally* Charlotte Ryan, *The Media War over Welfare*, 8 Peace Rev. 13 (1996).

[28] Herbert J. Gans, Deciding What's News: A Study of *CBS Evening News, NBC Nightly News, Newsweek,* and *Time* 169 (1979).

[29] *See* Personal Responsibility and Work Opportunity Reconciliation (Welfare Reform) Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (codified as amended in scattered sections of 7, 8, 21, 25, 42 U.S.C.).

[30] *See* Frank Phillips, *Weld Details $800M Cuts Package; Seeks Reductions in General Relief, State Salaries, Rent Aid*, Boston Globe, May 3, 1991, at 1.

being carried on welfare were demonized to some extent, the Weld administration primarily defended cuts as fiscal necessities—the state simply had no money.[31]

By 1994, with his national ambitions swelling in an increasingly conservative climate, Weld changed course and began branding welfare mothers as "undeserving poor."[32] In one notorious switchpoint case, Weld arranged a media blitz around a single instance of welfare abuse.[33] He then pushed reforms through a previously resistant Democratic-dominated state legislature.[34]

The case involved a twenty-six-year-old single mother, Claribel Rivera Ventura, who was accused of scalding her four-year-old child and leaving his wounds untreated for weeks.[35] Ventura represented every stereotype of a faulty welfare system. First, as a mother of six pregnant with her seventh child, she was framed as a baby factory.[36] Second, she represented the stereotype of multigenerational dependency—the notion that welfare begets welfare. Claribel's mother had raised seventeen children on welfare, fourteen of whom were now collectively raising seventy-four children on welfare.[37] Third, she embodied the stereotype of welfare mothers as negligent drug addicts, since she had a history of drug addiction and her children had been removed by the state several times.[38] Ventura's case symbolized the stereotypical "welfare queen" who drains public coffers to live in idle extravagance.[39]

Governor Weld acknowledged that Ventura and her family were not representative of Massachusetts welfare recipients.[40] Nevertheless, Weld sent all state lawmakers copies of the media coverage of the Ventura case and passed the story along to leading national conservatives,

---

[31] *See id.*; *see also infra* Part III.A.

[32] *See infra* Part III.A.

[33] Don Aucoin & Scot Lehigh, *Weld Using Story on Welfare Family to Aid His Case on Need for Reform*, BOSTON GLOBE, Feb. 25, 1994, at 14.

[34] *See* Charles M. Sennott, *Whatever Happened to Claribel? Looking for the Poster Child of the Welfare Reform Movement in Massachusetts, 10 Years Later*, BOSTON GLOBE, Apr. 11, 2004, at D1.

[35] *Id.*

[36] *Id.*

[37] Charles M. Sennott, *Surrender of Mother Wanted in Scalding of Child Is Delayed*, BOSTON GLOBE, Aug. 20, 1994, at 23.

[38] Charles M. Sennott & David Armstrong, *Kin Feel Abuse Suspect Has Fled; Say Ventura Called from Puerto Rico*, BOSTON GLOBE, Apr. 12, 1994, at 25.

[39] State officials estimated that the extended Ventura family alone cost taxpayers close to one million dollars each year. Sennott, *supra* note 37, at 23.

[40] Aucoin & Lehigh, *supra* note 33, at 14.

such as Jack Kemp and William Bennett.[41] Within Massachusetts, Weld and conservative Democrats used the case to demand conservative welfare policies, including the privatization of social services, cuts in benefits, and changes in how the state would relate to national welfare programs.[42] A punitive legislature, which had become toughened against the plight of welfare families, passed legislation that had been unthinkable only a few years earlier.[43]

Weld used his standing as a public official to establish himself as a standard bearer. He received ample media space for his views, while welfare mothers were treated as no more than the human-interest flesh on his analysis, and all opposed were labeled as special interests, rather than analytical experts. In sheer numbers, governmental officials in Massachusetts promoting cuts in welfare services were quoted seventeen times more often than welfare recipients and thirty-four times more often than social welfare workers—two constituencies with direct experience of the problem at hand.[44] Public interest advocates fared slightly better, but were still out-quoted by a ratio of six to one.[45]

By the time of the second Weld administration in 1994, a national media campaign against programs was in full swing in preparation for the latest welfare reform bill.[46] The Weld administration's comments now focused far more commonly on constituencies than on government or societal problems. Following the cues given in the Claribel Ventura debacle, public debate would question the worthiness of welfare mothers rather than search for the most appropriate response to poverty. This constituency-centered attack made social welfare activists' task far more difficult. Human service advocates were frequently consumed by the task of defending constituencies as "deserving poor."[47]

Even when advocates and activists focused remarks on problems like poverty rather than on vulnerable constituencies like the poor, news norms made it difficult to introduce frames that highlighted the structural sources of problems and possible structural resolutions. In short, the Weld administration, backed by a national claims-making effort, effectively extended the characterization of the Ventura switch-

---

[41] *Id.*

[42] *See* Sennott, *supra* note 34, at D1.

[43] Mass. Gen. Laws ch. 118, § 2 (2004); *see* Sennott, *supra* note 34, at D1.

[44] *See* Sullivan, *supra* note 11, at app. D.

[45] *See id.*

[46] *See* Sennott, *supra* note 34, at D1.

[47] Charlotte Ryan & Bill Hoynes, Media Research and Action Project, Finding Home in the Media: How Print Media Covered Cuts in Massachusetts Human Services, January 1991–October 1991, at 9 (1992).

point case to demonize an entire constituency that lacked a wide base of support.[48] In part, his administration was able to accomplish this by inserting anger-provoking caricatures into the public consciousness and cutting programs during the resulting furor.[49] The conservatives' success in Massachusetts was repeated in other states and softened opposition to welfare reform nationally, even though public opinion research showed that sixty-four percent of the American public thought government spent too little on poor children.[50]

In summary, the use of switchpoints, standard bearers, and consistently repeated claims had a cumulative effect. Additionally, there were critical resource disparities between the sponsors of conservative frames and the sponsors of frames supporting social welfare and the public sector.[51] Sponsors of the conservative frames were building on a trend promoted by a national conservative movement which, through key powerful figures, crucial think tanks, and their journals, brokered access into national trend-setting media, such as *Time, Newsweek,* the *New York Times,* the *Washington Post, Reader's Digest,* and *Nightline.*[52] In contrast, social welfare supporters had no national or local movement of comparable strength, had fewer advocates in positions of power, and had far less access to trend-setting media.[53]

However, this discussion of short-term framing tactics—switchpoints, standard-bearers, and claims-making techniques—cannot fully explain how a frame develops into a viable representation of reality. The conservative movement targeted cuts in governmental programs and their replacement by market initiatives shortly after the War on Poverty began in the 1960s.[54] While some date the campaign to eliminate welfare as having begun with the Goldwater campaign in 1964, the

---

[48] *See* Sennott, *supra* note 34, at D1.

[49] *Id.*

[50] Geoffrey Garin et al., *Public Attitudes Toward Welfare Reform,* Soc. Pol'y, Winter 1994, at 44. 46.

[51] Randy Albelda & Chris Tilly, Glass Ceilings and Bottomless Pits: Women's Work, Women's Poverty 97–100 (1997); Michael Massing, *The Welfare Blues: Life for Me Aint' Been No Crystal Stair,* N.Y. Rev., Mar. 24, 1994, 41, 45–48; Christopher Georges, *Conservative Heritage Foundation Finds Recipe for Influence: Ideas + Marketing = Clout,* Wall Street J., Aug. 10, 1995, at A10.

[52] *See* William Greider, Who Will Tell the People? The Betrayal of American Democracy 300 (1992).

[53] Philip E. Kovacs & Deron R. Boyles, *Institutes, Foundations, & Think Tanks: Conservative Influence on U.S. Public Schools,* Pub. Resistance, May 1, 2005, at 24, 26, *available at* http://www.publicresistance.org/journals/1.1-3Institutes.pdf.

[54] Jonathan Zasloff, *Children, Families, and Bureaucrats: A Prehistory of Welfare Reform,* 14 J.L. & Pol. 225, 272 (1998).

1984 publication of *Losing Ground*, which was conservative policy analyst Charles Murray's call to dismantle welfare, marked a new initiative.[55] By 1988, Ronald Reagan could devote a portion of his State of the Union address to challenging the federal welfare program: "My friends, some years ago, the Federal Government declared war on poverty, and poverty won."[56]

The conservatives' approach was comprehensive. When independent evaluations of War on Poverty programs failed to prove the programs' futility, conservatives developed a series of "think tanks" designed to manufacture and disseminate research promoting the use of market initiatives to replace government programs. Political analyst David Callahan explains:

> [T]he big development of the 1990s is that conservative institutes have had spectacular new success in tapping business money to fund ideologically charged policy research.
>
> Over the past 10 years, a huge influx of private sector money has allowed conservative think tanks and advocacy groups to grow by leaps and bounds. Not only are well-known organizations like CATO, the American Enterprise Institute and the Heritage Foundation more flush with cash than ever, but giving by corporations and wealthy businessmen—all of which is tax-deductible—has underwritten the rise of a new generation of smaller and often brasher conservative think tanks like the Competitive Enterprise Institute (CEI) and the Reason Foundation. Corporate money has also fueled the explosive growth of dozens of state-based conservative think tanks, of which the Independent Institute is a prime example. In 1996 . . . the top 20 conservative think tanks spent $158 million, more than half of it contributed by corporations or wealthy businessmen.[57]

The top twenty conservative think tanks—including the Manhattan Institute, the Heritage Foundation, the American Enterprise Institute, and the Cato Institute—were the brainchildren of "conservative groups that were often backed by big business, conservative founda-

---

[55] *See generally* Charles Murray, Losing Ground: American Social Policy, 1950–1980 (1994).

[56] Pres. Ronald Reagan, Address Before a Joint Session of Congress on the State of the Union, 134 Cong. Rec. 52, 54 (Jan. 25, 1988), *available at* http://www.presidentreagan.info/speeches/reagan_sotu_1988.cfm.

[57] David Callahan, *The Think Tank as Flack*, Wash. Monthly, Nov. 1999, at 21, 21–22.

tions, and similar interests."[58] These institutions funded research aimed at establishing legitimate grounds for conservative stances. While the issues were numerous, many of them reinforced conservatives' desire to downsize government and remove it from the sphere of social problem solving.[59]

However, top-down conspiracy theories do not do justice to conservatives' strategic operations. Conservative gains accrued from a highly effective melding of conservative thinkers and corporate-subsidized think tanks capable of strategically promoting an agenda that utilized social science research, lobbying operations, public relations dissemination systems,[60] and direct organizing in venues such as evangelical churches, local elections, and universities.[61] National think tanks were supplemented by the establishment of institutional infrastructure on the state and local level. For example, of the more than $254 million worth of public policy grants made by conservative foundations between 1999 and 2001, the National Committee for Responsive Philanthropy (NCRP) estimated that:

> [F]ully 46 percent of funding ($115.9 million) went directly to national and state public policy think tanks. This is telling. The fact that conservatives concentrate on policymaking at both the national and state levels signals a departure from most left-leaning and centrist foundations, which generally only focus on national issues. All told, conservatives poured $21.4 million into state-centered institutions during the study period, and The State Policy Network, funded by the Roe Foundation, exists to encourage cooperation among free-market think tanks in the network. . . . [T]his program has seen some serious growth over the last 15 years: "In 1989 there were only 12 market-oriented state-based think tanks. This number has more than tripled in the past decade, and

---

[58] Robert Sahr, *Credentialing Experts: The Climate of Opinion and Journalist Selection of Sources in Domestic and Foreign Policy, in* MEDIA AND PUBLIC POLICY 153, 161 (Robert J. Spitzer ed., 1993).

[59] JEROME L. HIMMELSTEIN, TO THE RIGHT: THE TRANSFORMATION OF AMERICAN CONSERVATISM 28–62 (1990).

[60] Modern public relations systems include computerized media databases, clipping services, and staff dedicated to executing long-term strategic communication plans. *See generally* PHILIP KOTLER & GARY ARMSTRONG, PRINCIPLES OF MARKETING (2001).

[61] HIMMELSTEIN, *supra* note 59, at 28–62.

there are now 40 groups in 37 states promoting free market
solutions to policy problems and challenges."[62]

Additionally, conservatives took seriously the issue of leadership de-
velopment and began creating internships, training, and networking
opportunities for young conservatives.[63]

The issue of research dissemination deserves particular attention.
Reflecting the principles of social marketing, many conservative and
progressive think tanks package their research for busy journalists:
"Although marketing social change is much more difficult than mar-
keting commercial products, the basic premise is the same: Develop a
solid, strategic approach by positioning and packaging the product
. . . and framing messages about it to address the needs, wants, and
values of target audience members."[64] As is standard practice in pub-
lic relations,[65] think tank public relations departments distribute eas-
ily digested executive summaries of research reports to a wide range
of media outlets using well-maintained media databases, and then
make follow-up calls to journalists in major media markets. In some
cases, think tanks hold conferences inviting carefully selected scholars
to discuss the findings of the think tank's own scholars. The market-
ing of Richard Herrnstein and Charles Murray's *The Bell Curve*[66] pro-
vides a case in point. As the editors of the scholarly journal *Contempo-
rary Sociology* explain:

> First, Charles Murray, with the support of the American En-
> terprise Institute (AEI), handpicked a set of people who were
> given a chance to read the book before its release. And not
> only to read it, but then to come to Washington (expenses
> paid by the AEI) for a two-day seminar (October 1–2), where
> they could hear the reactions of other scholars, work through
> the evaluations of the book by a group intended to be suppor-

---

[62] Eric Alterman & Paul McLeary, *Think Again: "Ideas Have Consequences: So Does Money,"* Center for Am. Progress, Oct. 14, 2004, http://www.americanprogress.org/site/pp.asp?c=biJRJ8OVF&b=222111.

[63] *See, e.g.*, Young America's Foundation's Student Programs, http://www.student.yaf.org (last visited Mar. 13, 2006). For historical examples, see Rebecca E. Klatch, A Generation Divided: The New Left, the New Right, and the 1960s, at 265–66 (1999); Gregory L. Schneider, Cadres for Conservatism: Young Americans for Freedom and the Rise of the Contemporary Right 27–32 (1999).

[64] Michael Siegel & Lynne Doner, Marketing Public Health 197 (1998).

[65] For standard public relations practices, see Dennis L. Wilcox & Glen T. Cameron, Public Relations: Strategies and Tactics (8th ed. 2006).

[66] *See generally* Richard J. Herrnstein & Charles Murray, The Bell Curve: Intelligence and Class Structure in American Life (1994).

tive, and do so in interaction with selected media stars—a tremendous head start.

. . . .

Second, the rest of the world had trouble even getting hold of the book. Nor was this accidental. The *Wall Street Journal* (October 20, 1994, p. B1) reports that the book was "swept forward by a strategy that provided book galleys to likely supporters while withholding them from likely critics." . . . Evidently we here at *Contemporary Sociology* were counted as likely critics—certainly we had a great deal of trouble getting hold of the book. We submitted a normal order months before the book appeared, but our copy never came. Even *after* the book appeared we had to make repeated phone calls, were promised three copies but received only one, were promised delivery in two days but waited two weeks, etc.

The result was that, in the crucial weeks immediately after the book's release, supporters knew the book far better than critics.[67]

While some think tanks spend roughly one-third of their budgets on such activities, others hire public relations firms to disseminate self-published, nonpeer-reviewed research.[68]

Washington now supports a number of public relation firms which provide corporate or think tank-initiated campaigns with integrated marketing that cover everything from research development to favorable polling, lobbying, and grassroots canvassing. Calling this "democracy for hire," William Greider concludes, "[a] major industry has grown up in Washington . . . devoted to concocting facts and opinions and expert analysis, then aiming them at the government."[69] The democratic discourse is now dominated by such transactions.[70] During the years leading up to welfare reform Sally Covington, Director of the Democracy and Philanthropy Project of the National Committee for Responsive Philanthropy, estimated that the top twelve conservative foundations with $1.1 billion in assets at their disposal awarded $300 million in grants and targeted another $210 million for

---

[67] *From the Editor's Desk*, 24:2 CONTEMP. SOC., at ix (1995).

[68] JOHN C. STAUBER & SHELDON RAMPTON, TOXIC SLUDGE IS GOOD FOR YOU: LIES, DAMN LIES AND THE PUBLIC RELATIONS INDUSTRY 189–93 (1995).

[69] GREIDER, *supra* note 52, at 35.

[70] *Id.*

institutions and special projects.[71] The grants targeted "government rollback through the privatization of government services, deregulation of industry and the environment, devolution of authority from the federal to state and local governments, and deep cuts in federal anti-poverty spending."[72]

By 1995, conservative institutions were mentioned in media almost eight times more often than liberal or progressive think tanks—8000 and 1152 citations, respectively.[73] Covington added that the combined 1995 budgets for the top eight liberal or progressive groups were less than a quarter of the budgets for the top five conservative think tanks.[74] She concludes, "While revenue base may be only one factor underlying (or contributing to) organizational capacity and effectiveness, surely it is a critical one."[75]

Describing the efforts of those twelve foundations as "impressively coherent,"[76] Covington lists a series of initiatives aimed at challenging what conservatives "regard as the institutional strongholds of modern American liberalism: academia, Congress, the judiciary, executive branch agencies, major media, religious institutions, and philanthropy itself."[77] She particularly notes policy initiatives, support for conservative scholars and academic programs, and funds "targeted to recruit and train the next generation of right-wing leaders in conservative legal principles."[78] Finally, she highlights efforts to establish "a conservative media apparatus, support pro-market legal organizations, fund state-level think tanks and advocacy organizations, and mobilize new philanthropic resources for conservative policy change."[79]

---

[71] Sally Covington, *How Conservative Philanthropies and Think Tanks Transform US Policy*, CovertAction Q., Spring 1998, at 6, 7, *available at* http://mediafilter.org/CAQ/caq63/CAQ63thinktank.html.

[72] *Id.* at 7.

[73] *Id.* at 11.

[74] *Id.* at 14.

[75] *Id.; see also* Jean Hardisty, Mobilizing Resentment: Conservative Resurgence from the John Birch Society to the Promise Keepers 15–16 (1999) (explaining that liberal and progressive resources went towards social services rather than movement-building").

[76] Covington, *supra* note 71, at 7.

[77] *Id.* at 7; *see also* Philip H. Burch, *Introduction to Reagan, Bush, and Right-Wing Politics: Elites, Think Thanks* [sic], *Power, and Policy*, 16 Res. in Pol. Econ. 91, 91–128 (1997).

[78] Covington, *supra* note 71, at 7.

[79] *Id.* at 7. For more extensive treatment of this topic, see generally Trudy Lieberman, Slanting the Story: The Forces That Shape the News (2000); Stauber & Rampton, *supra* note 68. For an emphasis on the incorporation of modern marketing and public relations tactics, see Himmelstein, *supra* note 59, at 144–51.

When Governor Weld took on social welfare policy in the 1990s, he was availing himself of conservative groups' fifteen years of framing work. As a result, Massachusetts conservatives promoting the cuts were able to fit the issue into a cohesive frame stressing personal responsibility. We outline that frame below, building on our analysis of Massachusetts welfare cuts in 1990 and 1994 to 1995. We then discuss the "personal responsibility frame" in relationship to a broader, libertarian metaframe that is currently being mobilized by opponents of environmental programs and regulation.

III. The Personal Responsibility Frame

Conservative groups working to cut Massachusetts social welfare programs sponsored a consistent, multilayered message—or frame—which prompted the following answers to these recurrent questions:

- *What's wrong with American society?*

  The decline of family, the lack of individual accountability, the rise of the welfare state, big regulatory bureaucracies, big unions, and big spending; and

- *What should be done about it?*

  Individual responsibility, no free lunch, privatization, deregulation, tax cuts, free the market, put a bootstrap in every pot.

At the core of this frame is a standard conservative call to replace government with free market mechanisms coupled with calls for personal or individual responsibility—the personal responsibility frame. As with environmental protection, the conservative frame builds on an individualistic, libertarian notion of freedom that asserts progress depends on unleashing the market and freeing the individual taxpayer. The conservative frame also fuels resentment of the unemployed by the working poor and feeds mistrust of the public sector. Republican political consultant Todd Domke comments that "'[m]iddle-class taxpayers are suspicious of professional lobbyists for the poor.'"[80]

---

[80] Peter J. Howe, *Warnings of Doom Backfire With Some; Advocates for Needy Meet Skepticism Though Worst State Cuts Are to Come*, Boston Globe, Apr. 30, 1991, at 1 (quoting Todd Domke, Republican political consultant).

A. *Torpedoes*

The personal responsibility frame is often not fully presented. Rather, it is subtly suggested by a number of "torpedoes"—subthemes that serve to insert an issue into the personal responsibility frame:

1. Undeserving poor

   - "Don't you know a person on welfare who rips people off";
   - "Government is full of corrupt, special interests";
   - "There's no money";
   - "Free the taxpayer" and "No new taxes."

2. Volunteerism

   - "Thousand points of light";
   - "Welfare begets welfare";
   - "Down with big government."

3. Efficiency

   - "Americans deserve a leaner, tighter safety net."

4. Bootstrappers:

   - "People who don't appreciate things that are done for them just need self-help."

5. Entrepreneurial government

   - "Government by the free market."

B. *Conservative Characterizations*

As part of the frame contest, the conservative analysis characterizes each relevant social actor as "good guys" or "bad guys." Thus, the personal responsibility frame can "frame" each public sector and social welfare-related constituency. It also "frames" each conservative ally:

Conservative Constituencies	
Constituency:	**Characterization:**
Public employee unions	Special interests
Service providers	Special interests
Service recipients	Undeserving bootstrappers—cut welfare
Taxpayers	Hardworking, noble victims
Corporations	Free market will raise all boats
Government	Bloated fat cats; bureaucrats fostering dependency to stay in business

Even Governor Weld's early strategy of nondemonizing complaints about budget shortfalls frequently appealed to these divisive characterizations. Television advertisements carried the "There's no money" message by showing an average family balancing its checkbook at the kitchen table. The implicit and sometimes explicit message was, "On *your* paycheck, can you afford to support people who don't want to work?"

An intense upsurge of resentment between the working poor and poor appeared in a sample of articles discussing cuts in the clothing allowance. Following a largely sympathetic *Patriot Ledger* article on clothing allowance cuts,[81] twenty-three of twenty-four letters to the editor attacked a welfare-mother quoted in the article. The writers, self-described working men and women, argued that welfare recipients expected the government to provide a level of support that they—working poor and middle class individuals—lacked.[82] In the twenty-fourth letter, the quoted welfare mother attempted to explain her position.[83]

---

[81] Michael Paulson, *Welfare Moms: Cuts Turn Kids' Clothes to Rags*, PATRIOT LEDGER (Quincy, Mass.), Aug. 12, 1991, at 1.

[82] The following letters to the editor all appeared in the Quincy, Massachusetts *Patriot Ledger*: Sandra Austin, Letter to the Editor, PATRIOT LEDGER, Aug. 26, 1991, at 14; Mabel Bean, Letter to the Editor, PATRIOT LEDGER, Aug. 27, 1991, at 14; Debbie Curtin, Letter to the Editor, PATRIOT LEDGER, Aug. 30, 1991, at 16; Marina DeRidder, Letter to the Editor, PATRIOT LEDGER, Aug. 22, 1991, at 20; Rebecca Dixon, Letter to the Editor, PATRIOT LEDGER, Aug. 23, 1991, at 16; Denise Ellis, Letter to the Editor, PATRIOT LEDGER, Aug. 26, 1991, at 14; Bill Ferguson, Letter to the Editor, PATRIOT LEDGER, Aug. 17, 1991, at 32; Jane Fitzgibbon, Letter to the Editor, PATRIOT LEDGER, Aug. 29, 1991, at 26; Tracey Godfrey, Letter to the Editor, PATRIOT LEDGER, Aug. 29, 1991, at 26; Maureen Howard, Letter to the Editor, PATRIOT LEDGER, Aug. 20, 1991, at 18; Billy Hughes, Letter to the Editor, PATRIOT LEDGER, Aug. 22, 1991, at 20; Phyllis Kavol, Letter to the Editor, PATRIOT LEDGER, Aug. 22, 1991, at 20; Christine Lee, Letter to the Editor, PATRIOT LEDGER, Aug. 29, 1991, at 26; Mary MacMurray, Letter to the Editor, PATRIOT LEDGER, Aug. 29, 1991, at 26; Ellen Maguire, Letter to the Editor, PATRIOT LEDGER, Aug. 27, 1991, at 14; Janice McArthur, Letter to the Editor, PATRIOT LEDGER, Aug. 29, 1991, at 26; Claire Regan, Letter to the Editor, PATRIOT LEDGER, Aug. 27, 1991, at 14; Laurie Roderick, Letter to the Editor, PATRIOT LEDGER, Aug. 27, 1991, at 14; Edmond Saliba, Letter to the Editor, PATRIOT LEDGER, Aug. 24, 1991, at 38; Janice Sebring, Letter to the Editor, PATRIOT LEDGER, Aug. 28, 1991, at. 18; Judy Sidman, Letter to the Editor, PATRIOT LEDGER, Aug. 19, 1991, at 14; Steven Tankle, Letter to the Editor, PATRIOT LEDGER, Aug. 19, 1991, at 14; Theresa Tesorero, Letter to the Editor, PATRIOT LEDGER, Aug. 26, 1991, at 14.

[83] Peggy Munchbach, Letter to the Editor, PATRIOT LEDGER (Quincy, Mass.), Aug. 27, 1991, at 14.

IV. Lessons for Environmental Advocates

Advocates entangled in current policy debates over environmental protection can draw rich lessons from the social policy battles of the 1990s. These lessons pertain to what conservatives opposing welfare did effectively, as well as to what social welfare supporters failed to do. As noted above, starting in the 1960s, conservatives poured resources into a multipronged effort at rolling back New Deal and War on Poverty programs.[84] They funded conservative think tanks and electoral campaigns for over a decade before achieving major advances. Conservative funding also helped to establish an impressive national and international communications infrastructure.[85] In addition to internships offered by think tanks and electoral campaigns, conservatives bankrolled training programs for college-aged leaders.[86]

In short, conservatives knew that they had embarked on a longterm war to position themselves, rather than a series of shortterm maneuvering battles. At least temporarily, internal divisions between different wings of the conservative movement—libertarians and evangelical Christians in particular—were held at bay as conservatives united around a message that government welfare programs had perversely weakened the families the programs sought to help. Social welfare policy was a strategically selected issue on which conservatives could now win thanks to the social and organizational resources accumulated since the 1960s.

By contrast, social welfare defenders—public sector advocates and human service supporters—were underresourced and disorganized. They tended to launch defensive battles on single issues, rarely contributing to a longterm vision. Each stopgap battle left the social welfare defenders feeling enervated. Their crisis-response mode to single-issue battles provided difficulties in building a stronger infrastructure, developing longterm alliances, and creating a deeper base. Divisions among social welfare advocates were also deepened by defense strategies that left each constituency to defend itself independently, while the other constituencies avoided tainting by the conservative "scalpel attacks." Some coalition members were far better resourced and networked than others, with welfare activists and the homeless often being the most marginalized. Faced with the demonization of a coalition ally,

---

[84] *See supra* notes 58–59 and accompanying text.
[85] *See* Greider, *supra* note 52, at 300.
[86] *See* Schneider, *supra* note 63, at 28.

advocates focused on saving their own less demonized program— decisions that created serious tensions.

While recognizing that these issues merit fuller treatment,[87] we turn to framing lessons for environmentalists. In the social welfare policy battles, conservatives found an issue that could advance an underlying libertarian metaframe[88] that stressed three points:

- Freedom of the individual from governmental constraints. Following Isaiah Berlin,[89] Hirschman describes this as "negative liberty"—"the individual's 'freedom from' certain interferences on the part of other individuals or authorities"—in contrast to "positive liberty"—"the 'freedom to' exercise traditional republican virtue by means of participation in public affairs and in the political life of the community."[90]
- Free market competition. This was seen as the source of human progress and creativity.
- The need to restrict government's role. This would, in turn, free individuals and the market.

The issue of welfare was ideal for reinforcing the libertarian metaframe's central themes. Standard bearers, such as Governor Weld— valuable precisely because he claimed to be a liberal Republican from the liberal bastion of Massachusetts—drove home the libertarian metaframe in the switchpoint case of Claribel Ventura. As mentioned above, that case perfectly facilitated the caricature of welfare programs as encouraging multigenerational dependency and as ineffective government programs run by out-of-touch bureaucrats.[91]

---

[87] We do not fully address lessons regarding resource accumulation, base-building, coalition strategies, the shifting roles of political parties, and the infrastructural work entailed in establishing and sustaining relations with journalists.

[88] Evangelical Christian frames united with libertarians in opposing social welfare programs; in their view, welfare undermined the traditional family by supporting single women who bore children out of wedlock. However, there were and remain divisions. For example, faith-based supporters of social welfare programs have strongly lobbied their conservative counterparts to consider the welfare of children as the primary objective of social welfare programs.

Environmental advocates may expect similar splits as conservatives debate the meaning of stewardship of the earth—a responsibility many faith-based conservatives take seriously as a mandate from God. *See* Michael Janofsky, *When Cleaner Air Is a Biblical Obligation; Evangelical Groups Join Call for Tougher Environmental Laws*, N.Y. Times, Nov. 7, 2005, at A17.

[89] *See* Isaiah Berlin, *Two Concepts of Liberty, in* Four Essays on Liberty 118, 122–34 (1970).

[90] Hirschman, *supra* note 5, at 87.

[91] *See supra* notes 35–43 and accompanying text.

In general, social welfare activists and advocates did not promote an opposing frame. There was no unifying vision for the relative roles and responsibilities of the family, labor, corporations, and the public sector to oppose that of the personal responsibility frame. Instead, activists responded in a piecemeal fashion, reacting defensively to each conservative attack and often staying within the logic set by the conservative frame. In other words, conservatives framed human service recipients as "undeserving poor," [92] people who are burdens to hardworking taxpayers, stultified by their dependency on government programs. Typically, human service defenders responded by attempting to prove that there were "deserving poor," rather than to reframe the issue.

Generally, the problem with arguing within a frame is that it restricts the field of debate, thereby forcing opponents to operate within the definition of the issue set by the frame sponsors. In this case, the "deserving poor" response left in place the issues of the efficacy of welfare programs, including the issue of continued dependency on government programs interested in self-perpetuation. The "deserving poor" argument also failed to acknowledge that the economic gains since the mid-1970s had largely benefited the upper twenty percent of American households and bypassed the working class and working poor.[93] This created the material basis for the politics of resentment that conservatives so carefully fanned. In sum, welfare advocates were calling on the desperate to be charitable to the more desperate, while not acknowledging how cuts in public education and other federal programs had already shifted a major tax burden to the states.

Underlying social welfare advocates' defensive posture was a lack of unity on an ideological level. They shared no metaframe and were divided regarding what to say about the very real problems of the existing welfare state. They differed on whether to highlight the widening gaps between rich, poor, and working poor. Furthermore, they were not able to respond to libertarian characterizations of big labor—such as self-serving, undemocratic budget breakers—or big government and the public sector as being bureaucratic, inefficient, special-interest oriented, and corrupt. While some polls suggested that taxpayers were willing to pay for services but did not trust the public sector to spend

---

[92] *See supra* Part III.A.

[93] Isaac Shapiro et al., Ctr. on Budget & Policy Priorities, Pathbreaking CBO Study Shows Dramatic Increases in Income Disparity in 1980s and 1990s, at 1–2 (2001), http://www.cbpp.org/5-31-01tax.pdf.

their money wisely,[94] social welfare advocates did not respond adequately to this concern. No one framed taxes as community investment or spoke of education as investment in the nation's future. The positive meaning of liberty as freedom to engage in community building was lost. Silencing such a response before it could even be articulated was the classic conservative torpedo: "There's no money."

In sum, the libertarian metaframe convinced the public that democracy was freedom from responsibility towards community. Retreating to the defense of individual programs, social welfare proponents often did not present a well-woven frame that countered the libertarian metaframe. Single-issue campaigns and single-program defenses did not hold together as a complete vision.

There are several possible reasons for the failure of welfare proponents. First and foremost, there were issues of underdevelopment. Alternative framings needed more repetition, elaboration, and illustration in order to seem as "real" to the reporter as market-driven economic frames. Alternative frames regarding economic development or a progressive role for government were skeletal. Social welfare supporters also lacked the resources, networks, and infrastructure to develop and sustain a frame contest.[95]

Social welfare supporters also lacked strong standard bearers. Advocates had weak legislative support, which also weakened their credibility as standard bearers. Moreover, reporters looked to the state legislature as the arena defining the legitimate range of views to be debated. While social welfare programs had some legislative backing, these elected sponsors were not outspoken; they felt outgunned by legislators supporting cuts who were seen by mainstream media as the more legitimate sources. As Juan Williams explained, media professionals had adopted the libertarian metaframe that presented taxes as restrictions on both market growth and individual wealth.[96] Reporters no longer accepted as valid the framing of taxes as investments in a community's present, and a nation's future, well-being. Within their dominant frame, the citizen-taxpayer's self-interest rested not in community sustainability, but in cutting taxes.

---

[94] Garin et al., *supra* note 50, at 46.

[95] *See supra* note 75 and accompanying text.

[96] *See* HERTSGAARD, *supra* note 8, at 33 (quoting Juan Williams, Reporter, Wash. Post) (discussing the shift in media perspective); *supra* notes 9–10 and accompanying text.

V. Framing Environmental Policy

Secretary of the Interior Gale Norton has been unusually explicit in avowing her adherence to the libertarian metaframe. In a November 23, 2004 speech at the University of Colorado at Boulder, Norton described herself as firmly committed to market approaches to solving environmental problems.[97] Norton explained that her positions as Secretary of the Interior were informed by "'a fairly libertarian perspective.'"[98] She continued:

> "That's a part of why I try to find approaches that are not government coercion-based. I favor approaches that favor human freedom, human creativity."
>
> "Market forces . . . establish . . . a way for people to be creative as they're making decisions about environmental protections. So it's not just top-down regulation after regulation from the Environmental Protection Agency. It is people who are given a standard they need to meet and can come up with all kinds of different ways to meet that standard."[99]

Speaking from the perspective of an environmental advocate, economist Charles Levenstein provides a critique of Norton's framing of environmental issues:

> A dominant notion in the world today is that the way to human progress is the private market and that virtually anything interfering with market forces results in declines in human welfare. Government is viewed as inherently inefficient, bureaucratic, and undesirable—an intrusion on the liberties of free people. In only the most limited circumstances may government intervene in the marketplace. Politics are viewed as corrupt and degraded by special interests, while the market is seen to reflect the true desires of rational individuals. The less government, the better; the less *interference,* the better.

---

[97] *See* Redal, *supra* note 4.

[98] *Id.* (quoting Gale Norton, U.S. Sec'y of Interior, Address at University of Colorado at Boulder (Nov. 23, 2004)).

[99] *Id.* (second alteration in original) (quoting Gale Norton, Sec'y of Interior, Address at University of Colorado at Boulder (Nov. 23, 2004)).

. . . For a democracy, this is a strange and debilitating rhetoric.[100]

Environmental advocates, such as Levenstein—the editor of *New Solutions: A Journal of Environmental and Occupational Health Policy* [101]—list as the outcome of such debilitating rhetoric the increasingly common assumption of U.S. citizens that freedom means individual freedom from taxes, which frees market forces from governmental regulation. As cultural resonances to support the argument, some draw on the tax rebellions that accompanied the American Revolution.[102] In each environmental policy debate, conservatives work to fit the given issue into this "freedom as market competition" paradigm, which is the libertarian metaframe.

The appeal of framing lies in its ability to suppress the opposition's best arguments. For example, the libertarian perspective does not have to argue against community investment, risk prevention, and longterm conservation. In discrediting and derailing government as the institution that thinks longterm, protects the most vulnerable, and dares challenge the most powerful when they act contrary to community interests, the libertarian metaframe simply moves these issues to the background. The environment is another spreadsheet item that will respond to the "creative" forces of the market. If there were a market for environmentalism, it would happen.

As in the case of social welfare policy, environmental advocates can anticipate finding themselves facing libertarian-based initiatives on the many fronts inherent to environmental policy:

- Energy issues and biodiversity may pit individual freedom—for both persons and corporations—against governmental regulation;
- Shortterm profits against longterm environmental planning;
- Risk assessment grounded in cost-benefit analysis against risk-prevention strategies based on social health measures.

---

[100] Charles Levenstein, *Sociopolitical and Economic Aspects of Risk Assessment, in* Chemical Risk Assessment and Occupational Health: Current Applications, Limitations, and Future Prospects 179, 179–80 (C. Mark Smith et al. eds., 1994).

[101] Chemical Risk Assessment and Occupational Health, *supra* note 100, at 270.

[102] *See, e.g.*, Citizens for a Sound Economy, About the U.S. Tea Party, http://www.cse.org/tea/about.php (last visited Mar. 16, 2006). The organization links current efforts to cut taxes to the 1773 Boston Tea Party, calling for "a modern-day tax protest in the spirit of the original Boston Tea Party." *Id.* (follow "Tell a Friend About the Tea Party" hyperlink). The site explains, "Like those patriots in 1773, Citizens for a Sound Economy feels it is time for another symbolic protest in the best tradition of our Founding Fathers." *Id.*

To survive and succeed, environmental policy advocates must succeed where social welfare advocates fell short. They must establish a deeper base of support and transcend the specifics of individual policy battles. Reflecting on past campaigns—and in dialogue with the full panoply of local, regional, and national organizations that comprise an impressive, if fragmented, chorus of pro-environmental voices— environmental policy makers need to reestablish a commitment to positive liberty.[103]

This course of action will allow environmental policy analysts to establish proactive themes. Environmental advocates should not respond to libertarian claims that "government is incompetent, if not corrupt," with a mechanical counterclaim of "government is *not* corrupt." Instead, a proactive metaframe would allow environmental advocates to reframe issues in terms of balancing individual freedom from interference with positive freedom to build community, invest in the nation's global commons, and function as collective citizens who participate in political processes as intentional actors concerned with the community's longterm interests.

Standard bearers emerge from such political activism. The ability to make claims grows as social networks become more dense, and switchpoint cases present themselves when collective citizens are ready to use them.[104] Hurricane Katrina provides a case in point. In an attempt to counter the libertarian metaframe as applied to the environment, environmental advocates are posing Hurricane Katrina as the switchpoint case that illustrates America's failure to address environmental concerns, such as wetland protection. Some advocates further argue that the post-Katrina humanitarian disasters represent the failure of the Republicans to invest in social infrastructure.[105] The positive role of government can now be seen in its absence. No one in government, the argument goes, is thinking about longterm environmental planning, no one is planning for disaster relief, and even after the disaster, no one is interested in protecting the most vulnerable communities.

---

[103] *See* Hirschman, *supra* note 5, at 87.

[104] It is important to remember that switchpoint cases are human fabrications. They are shaped by active social agents who engage in a whole set of activities to sponsor an event as a switchpoint. Whether or not they succeed depends on the fit of the particular case to the particular situation and on the readiness of the social agent to sponsor the case. *See subra* Part I.B.1.

[105] *See, e.g.*, Paul Krugman, *The Price of Ideology and Cronyism: Katrina's Victims Have Paid for the Right's Hostility to the Public Sector*, Guardian (Manchester, U.K.), Sept. 6, 2005, at 22.

Environmentalists conclude that the debacles surrounding Katrina demonstrate what happens when societies move environmental policy decisions out of government hands and into private initiatives, be they market-driven alternatives to environmental regulation or volunteer substitutes for environmental planning and disaster relief.[106] Environmentalists are attempting to use Katrina as a switch-point case to argue the limits of market-driven environmental planning:

> [L]et us reflect on an important fact: different populations are not affected equally by environmental disaster. The effects of severe weather events disproportionately affect the poor and powerless, who have fewer resources to respond to calamity. In New Orleans, helicopters airlifted victims from the roofs of private hospitals while charity hospitals pleaded desperately for help. Those in well-appointed neighbourhoods escaped in their own cars; the poor, predominantly black, citizens from low-lying areas were typically not so lucky.
>
>   If the unequal distribution of safety along social and racial lines in New Orleans has shocked us, we should not forget that in many corners of the world marginalized populations suffer disproportionately both from environmental disaster and from gradual climate change. In part, this is because the fruits of science and technology are not distributed equally. In the failure to maintain the levees despite the disaster-modelling of engineers, in the failure to install a tidal wave warning system in earthquake-prone regions (except those adjacent to our developed world), in the failure to advance a truly global pandemic-preparedness plan against avian influenza, similar mechanisms of selfishness and short-sightedness are at work.[107]

From this position, environmentalists can ask a number of questions that serve to reframe their issue. How should citizens in a democracy assign power over longterm planning regarding conservation and preservation? Who should decide how much environmental risk should be assumed, and who should assume that risk? Who will prepare to prevent disasters and to respond to them when they cannot be

---

[106] Editorial, *Katrina, Climate Change and the Poor*, 173 CANADIAN MED. ASS'N J. 837, 837 (2005), *available at* http://www.cmaj.ca/cgi/content/full/173/8/837.

[107] *Id.*

prevented? Furthermore, who will protect a free press and free scientific inquiry from coercion so that those who might alert citizens to environmental dangers are not silenced by those with shortterm and contrary interests?

Framing contests are just that, contests. There are always other players contesting to control the field in order to gain the public's attention. If environmental advocates fail to establish a shared metaframe and solidify its application in many concrete policy initiatives, they yield ground to their opponents. Again, the example of Katrina is instructive. To the environmental advocate, Katrina appears as a nobrainer. It is the perfect clarion call for environmental conservation, reduction in emissions, and disaster planning. However, conservatives have also been swift in applying the libertarian metaframe. The result is a conservative issue frame that is striking in its resemblance to the personal responsibility frame of the 1990s. For example, a vice president of the Heritage Foundation has gone so far as to cite the Katrina disaster as proof that New Deal-era government programs "'were failing anyway.'"[108]

It is important to note that this frame—which clearly points to the ineffectiveness of underfunded governmental programs as evidence that the programs should never have been instituted—has had concrete policy implications in the aftermath of Katrina. The Bush administration's solutions have focused on "freeing the market" through such deregulatory action as releasing federally-funded contractors from the requirement that they meet average wage requirements.[109] The administration has also vowed to recuperate funds that have been allocated in response to this crisis through massive spending cuts, "with programs like Medicaid and food stamps especially vulnerable."[110] The conservative tactics deployed here should be familiar given the above discussion of the 1990s battle over welfare cuts: the common sense torpedo of "there's no money"—working in conjunction with the libertarian assumption that government can only worsen the situation—clears the way for a scalpel attack that begins by targeting the most vulnerable citizens.[111]

---

[108] *See* Jason DeParle, *Liberal Hopes Ebb in Post-Storm Poverty Debate: An Ideological Clash over How to Help America's Poor*, N.Y. Times, Oct. 11, 2005, at A1 (quoting Stuart M. Butler, Vice President Heritage Found.).

[109] *Id.*

[110] *Id.*

[111] *See supra* Parts II, III.

The response of commentator Bill O'Reilly, as reported by radio host Ira Glass, typifies one frame sponsored by conservatives immediately following Katrina: "First, he said, you can't rely on government. And second, he said, the problems that we saw in New Orleans weren't about race, they were about class."[112] Glass replayed the following representative quote from O'Reilly—its ferocity predictably veiled in "common sense" rhetoric:

> If you're poor, you're powerless. Not only in America, but everywhere on earth. If you don't have enough money to protect yourself from danger, danger's gonna find you. The aftermath of Hurricane Katrina should be taught in every American school, if you don't get educated, if you don't develop a skill and force yourself to work hard, you'll most likely be poor, and sooner or later you'll be standing on a symbolic rooftop waiting for help. Chances are, that help will not be quick in coming.[113]

In response to O'Reilly's framing, Glass included the response of eighteen-year-old New Orleans resident Ashley Nelson, who was read the O'Reilly quote by Glass's producer, Alex Blumberg:

> ASHLEY NELSON: That's what he [O'Reilly] said?
> ALEX BLUMBERG: Yeah.
> ASHLEY NELSON: He said that[?]
> ALEX BLUMBERG: On TV. Yeah. To you, what's the thing that stands out the most about that?
> ASHLEY NELSON: Basically saying if you're rich, you live, if you're poor, you die. And I didn't have no idea that it was a crime to be poor, and the punishment was death.[114]

Nelson's quotation, which amounts to no less than a powerful reframing of Katrina, invokes the terrifying vision of a planet of individuals uncommitted to community investment, longterm planning, and protection of the vulnerable. In its effectiveness, it also highlights the need for advocates to create real dialogue with those directly affected by environmental crises to incorporate the experiences of those most affected into existing sophisticated frames, and to promote those frames through collaborative movement-building.

---

[112] *This American Life: After the Flood* (WBEZ Chicago radio broadcast Sept. 9–11, 2005), *available at* http://www.thisamericanlife.org/pdf/296.pdf.

[113] *Id.*

[114] *Id.*

Conclusion: Ten Practical Steps for Environmental Legal Advocates

- All effective media strategies should build on sustainable organizing strategies that target one or more arenas—whether legislation, regulation, electorate, or media.
- Treat the media arena as worthy of time, research, and resources in its own right.
- Take the long view. Learn from conservatives who positioned themselves through small skirmishes and often lost. Place individual maneuvers within a broader war of position.
- Prepare for the long haul by establishing a communications infrastructure.
- Build leadership capacity by institutionalizing a media caucus. Everyone in your organization must be a communicator. Everyone must learn how to apply a generic shared view of the environment to the given issue or crisis of the day.
- Apply to the media arena the skills used in preparing cases and making arguments to a jury.
- Think about audiences and, in fact, multiple audiences. A key decisionmaker is an audience of one.
- Read and watch what your audiences read and watch. Know what they've heard.
- Do not take your allies for granted. Communicate and build coalitions.
- Frame messages about the environment to convey a broader message about the importance of citizen-driven government. Restore the notion of taxes as investment in community.