

Coalitions That Clash: California's Climate Leadership and the Perpetuation of Environmental Inequality

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Abstract: At a time when the U.S. federal government refuses to act on climate change, much has been made of California's success as a leader in subnational climate policy. However, as we show in this article, California's landmark climate law divided, rather than unified, the state's environmental movement. In this article, we document the protracted political conflict between the state's environmental justice-oriented movement, on the one hand, and a coalition of market-oriented environmental organizations, private corporations, and state actors, on the other. While the justice-oriented movement emphasized command-and-control regulations that they argued would allow the state to reduce greenhouse gas emissions while also addressing local pollution and reducing environmental inequality within the state, the market-oriented coalition conditioned its support on a market-based mechanism for achieving statewide emissions reductions. Drawing on legislative and regulatory texts, archival material, and policy-focused interviews with the full range of political actors with a stake in this conflict over how the state's climate policies would ultimately be designed, we trace the policy preferences and influence of both the justice-oriented movement and the market-oriented coalition over time. We argue that while the state's landmark climate policy has largely conformed to the preferences of the market-oriented coalition, the political influence of the justice-oriented movement is currently on the rise. Our analysis sheds light on structural inequalities in the policymaking process as well as contributes to our understanding of coalition building between social movements and non-movement actors.

Introduction

Given how difficult it has proven to be to adopt federal climate change policy in the United States (Rabe 2011), one would think that, for California – the state with the 11th highest level of fossil fuel production (U.S. Energy Information Administration 2008) – to have done so would have required, at a minimum, a unified environmental movement to overcome entrenched business opposition. Furthermore, California did not adopt just *any* climate law; it adopted “The most ambitious climate change legislation enacted anywhere in North America” (Rabe 2013, p. 67). Adopting such a bold law would have, presumably, made broad social movement mobilization all the more critical.

And yet, as London et al. (2013) point out, “For all its promise, AB 32 [California’s landmark climate law] can also be considered a low point in the landscape of conflict between the state’s environmental regulators and its environmental justice movement” (London et al. 2013, p. 791). Several years later, at an event in Paris to celebrate California’s climate leadership,¹ an activist from an environmental social movement organization (SMO) interrupted state officials’ remarks, stating “We’re from California, and let us tell you the truth about what is happening in our communities” (Jennings 2017, p. xiv).

In this article, we provide an explanation for how the most ambitious climate law in North America could have been implemented over the objections of an environmental social movement. We argue that California’s “environmental movement,” at least when it comes to climate change, is better understood as two separate movements, both interested in mitigating climate change, but completely divided on the best way to do so. On one side is a “market-oriented” coalition of what Pettinicchio (2012) calls “institutional activists,” as well as state policymakers and private corporations. This coalition’s preferred policy approach relies on market-based solutions that they believe simultaneously reduce greenhouse gas (GHG) emissions while growing the economy. On the other side is a coalition of “justice-oriented” SMOs, who see themselves as part of a broader environmental justice movement, which is concerned not only with mitigating environmental harms (e.g. climate change, toxic pesticides, air pollution, water pollution, etc.), but also with the unequal *distribution* of those harms across society (Cole & Foster 2001; Harrison 2019; Pellow & Brulle 2005). In California, the justice-oriented movement’s preferred policy approach is to address climate change through command-

¹ Coinciding with negotiations of the Paris Climate Accord

and-control, point source regulations that constrain, rather than promote, market forces, and that target not only GHG emissions, but also “co-pollutants,” such as nitrogen oxides (NO_x) and sulfur oxides (SO_x). These co-pollutants do not directly cause climate change, but they are emitted at the same time, and often from the same sources, as GHGs (Author’s Interviews 11/12/18, 7/23/19, 7/28/19; Jennings 2017).

These two movements’ shared underlying goal of mitigating climate change – despite preferring somewhat incompatible policy approaches for doing so – makes this dynamic distinct from the movement-counter-movement dynamic that we see discussed so often in the social movement literature (e.g. Andrews 2002; Laschever & Meyer Forthcoming; Meyer & Staggenborg 1996). It also distinguishes this case from what the literature calls “radical flank effects,” in which components of a single movement, with a shared ideology but divergent tactics, influence the fortunes of the other component, sometimes positively and other times negatively (Haines 1984, 2013; McCammon et al. 2015; Schifeling & Hoffman 2017).

The key to our analysis, here, is carefully documenting the policy preferences of all of the various movement and non-movement actors involved, and then tracing their respective levels of policymaking influence over the years, as California developed and amended its chosen, market-oriented climate policy regime. This is the sort of analysis that the literature on the policy consequences of social movements has emphasized is the most likely to advance our understanding of the role social movements play when it comes to policy outcomes (Amenta et al. 2010; Amenta 2014; Andrews and Gaby 2015). We argue that the case of California’s landmark climate law, AB 32, and the cap-and-trade program that was used to implement it, demonstrate the limited influence of the

justice-oriented movement relative to the market-oriented movement and its institutional allies. However, notwithstanding the defeat of the justice-oriented movement's agenda with respect to AB 32 and cap-and-trade, we assess the policymaking influence of the justice-oriented movement in California more generally to be on the rise, with justice-oriented movement actors becoming increasingly institutionalized within the "policy community" focused on climate change (Pettinicchio 2017).

We note three main factors contributing to the state's initial rejection of the justice-oriented movement's agenda. First, the justice-oriented coalition was weaker for the obvious reason, well-understood in the social movement literature (Amenta 2006; Amenta et al. 2010), that it was an "outsider" coalition relative to the more institutionalized market-oriented coalition, which included not only environmental SMOs, but also "green" business interests and the state's very politically powerful investor-owned utilities (IOUs). Second, California's policy-making arena – like other state governments and the federal government – privileges technical expertise (Epstein 1998; Waller 1995), whereas the justice-oriented movement's identity, and tactical repertoire, promote lay involvement, mobilizing and empowering the individuals with the highest stakes in terms of their disproportionate exposure to environmental hazards (London et al. 2008; Perkins 2015). Third, given these first two challenges, the justice-oriented movement faced internal conflict over how to proceed tactically, further fragmenting and weakening its political power.

On the other hand, we account for what we argue is an increase in the justice-oriented movement's political power in more recent years by identifying three sources of this rising power. These sources are electoral, coalitional, and strategic in nature.

Together, these factors have increased the justice-oriented movement's political influence in California, allowing them to realize more of their policy objectives even without abandoning their grassroots ethos of empowering those residing in the state's most socioeconomically disadvantaged communities.

In the next section, we introduce the two movements in greater detail. We then discuss the data and methods of this study. After that, we detail the fight over AB 32 and California's subsequent cap-and-trade program. We outline the policy preferences of the various constituencies that sought to influence these policies, including but not limited to the market-oriented and justice-oriented movement actors. We then analyze the three aforementioned factors that limited the justice-oriented movement's ability to shape these policies according to their preferences. We conclude with an analysis of the sources of the justice-oriented movement's growing influence in California policymaking.

Although our primary focus is on AB 32 and cap-and-trade, we refer, at times, to other, related policies. Figure 1 provides a timeline and brief description of each policy mentioned.

Ideologically Mismatched Environmental Movements in California

California has a long and well-documented history of environmental leadership (Vogel 2018). When it comes to the issue of climate change, however, we see a fairly pronounced splintering of the state's environmental movement (London et al. 2013; Perkins 2015; Sze et al. 2009). Because California is by far the most populous U.S. state, and its statewide economy, measured in total gross domestic product (GDP), is larger than entire advanced industrial nations such as the United Kingdom and France (Cocoran 2018), it has been a strategic focus of large, foundation-funded, national environmental

organizations. These organizations hope that state policy in California will provide a roadmap for federal policymakers to emulate (Author's Interviews 11/5/18, 11/8/18). The two most prominent examples of such organizations are the Natural Resources Defense Council (NRDC) and the Environmental Defense Fund (EDF).

These organizations have a reputation for being pragmatic, for collaborating and compromising with major corporations, and for preferring market-oriented solutions to major environmental problems (Lyon 2010). A well-known example of this approach is when these organizations joined together with major energy companies, such as British Petroleum (BP) and Shell, in a coalition known as the U.S. Climate Action Partnership (USCAP), to support what was ultimately an unsuccessful effort to pass cap-and-trade at the federal level (Bartosiewicz & Miley 2013; Grumbach 2017; Pooley 2010). Back in 2006, when AB 32 was signed into law, the top leaders of these same market-oriented environmental SMOs viewed California as the ultimate proving ground, to demonstrate to national policymakers that market-oriented climate policies were a politically feasible way to reduce GHG emissions (Author's Interviews, 11/5/18, 11/8/18, 1/7/19).

By contrast, the justice-oriented environmental movement in California -- which comprises hundreds of community-based SMOs throughout the state, but also includes umbrella organizations such as the California Environmental Justice Alliance (CEJA) -- has a very different approach to designing climate policy. This movement prefers command-and-control regulations that limit pollution at the source. This movement problematizes the fact that low-income populations within the state, and particularly communities of color (Downey & Hawkins 2008), suffer disproportionately from environmental harms (Capek 1993; Cipler et al. 2015; Park & Pellow 2013).

Justice-oriented environmental SMOs in California identify as part of a larger movement, throughout the United States and globally, that seeks to combat structural, cultural, and institutional sources of environmental inequality, such as racism and capitalism (Carter 2016; Harrison 2019). This often puts them at odds with market-oriented environmental SMOs, which advocate more finite policy goals, taking the macro-structure of the American political and economic systems as a given rather than something that can be reformed through state policies. Moreover, some environmental justice activists would argue that, because EDF and NRDC depend on the capitalist structure for resources (e.g. corporate foundation funding), they are unwilling to challenge it. Market-oriented advocates at EDF or NRDC might respond by arguing that the urgency of reducing GHG emissions precludes pursuing the sorts of structural change envisioned by the justice-oriented groups, and requires a more pragmatic approach.

Generally speaking, the environmental justice movement has struggled to influence public policy in the United States beyond merely “symbolic” victories (Bullock et al. 2018; Edelman 1992; Konisky 2015). Yang (2002) argues that a major reason for this is that the movement’s claims are rooted in civil rights doctrine, which, at its core, is intended to protect minority victims from majority oppressors. By contrast, U.S. environmental law has historically been rooted in a framework that seeks to protect the “commons” (i.e. the public at large, irrespective of racial minority status) from a small number of polluting firms. Consequently, the environmental justice movement’s efforts to reshape environmental law from a civil rights paradigm often fall on the deaf ears of lawyers and policymakers approaching the law from an entirely incompatible paradigm (Yang 2002).

And yet, the California case represents an extraordinary political opportunity for justice-oriented environmental activists to maximize their policymaking influence. Demographically, California has the largest Latino population of any U.S. state, and the second largest as a percentage of the state's total population, as well as sizable populations of other racialized groups facing socioeconomic disadvantage, such as Black Americans and Native Americans (U.S. Census Bureau 2011). Given that environmental inequality disproportionately affects these communities (Downey & Hawkins 2008), it is not surprising that California has a relatively strong grassroots environmental justice movement. Furthermore, California has a long history of environmental problems around which this movement has mobilized, ranging from pesticide drift due to the state's significant agricultural sector (Liévanos et al. 2011) to air pollution due to the state's oil refineries, cement manufacturing, and smog (Cole and Foster 2001).

And indeed, there is plenty of evidence to suggest the environmental justice movement enjoys greater influence in California than elsewhere. For example, Harrison (2016) studies five environmental justice grant programs run by government agencies at the federal, state, and municipal levels, and finds that the California Environmental Protection Agency (CalEPA)'s program is the only one whose outcomes "reflect the EJ [environmental justice] movement's model of change" (Harrison 2016, p. 543). Meanwhile, London et al. (2008) write that, "In terms of state-by-state approaches to environmental justice policy and programs, California is far ahead of other states in the United States" (London et al. 2008, p. 263).

Data and Methods

The analysis that follows relies on a subset of the data from the first author’s larger project on comparative climate policy in three U.S. states. The larger project documents, and traces over time, the policy preferences and policymaking influence of the full range of political actors (public and private) involved in legislative and regulatory proceedings regarding two types of climate and renewable energy policies: economy-wide GHG policies (as AB 32 in California exemplifies) and Renewable Portfolio Standards (RPS).² It draws on all relevant legislative and regulatory texts, 4,835 pages of archival material, and 111 policy-focused interviews with state legislators and their staff, high-level executive branch administrators, and policy advocates and professional lobbyists representing the full range of organized interests with a stake in these policies.³

In the course of carrying out this research, it became clear that the California case featured an unusually contentious struggle between what we call the “market-oriented” coalition, and what we call the “justice-oriented” coalition, especially concerning that state’s economy-wide GHG policy. Therefore, interviewees who were in a position to be able to speak to this dynamic directly were asked an additional set of questions about the nature of this conflict and its outcome in terms of the design of the policies that were ultimately adopted. Of the 111 total interviewees from the three states, 43 spoke about the California case, and, of those, 16 spoke at length regarding the nature of this conflict between the market-oriented and justice-oriented coalitions.

The Fight Over AB 32 and Cap-and-Trade

In this section, we outline the policy preferences of each of the key players that sought to influence the legislative process around AB 32 and the regulatory process to

² For an overview of RPS policies, see Carley (2011) and/or Vasseur (2014)

³ For more on the data and methods for the larger project, see Basseches (2020).

deliver on AB 32's mandate, administered by the California Air Resources Board (CARB). We then provide a summary of what policymakers ultimately decided, based on the content of the final statute and regulations. As we will see, with few exceptions, these policies ultimately satisfied the preferences of the market-oriented coalition at the justice-oriented coalition's expense.

Justice-Oriented Movement Preferences

Assembly Member Fran Pavley proposed AB 32 in close coordination with EDF and NRDC. Justice-oriented SMOs welcomed the opportunity to address climate change, so long as it could be done while easing, rather than exacerbating, environmental inequality in California. The preferred approach of the justice-oriented movement was command-and-control regulation, meaning that the state would directly restrict pollution at its source. The justice-oriented advocates point to a different bill that became law that same session, SB 1368, which prohibited California utilities from entering into contracts with coal-fired electricity generators,⁴ as an example of an approach to climate policy that they would embrace (Author's Interview, 11/12/18).

For justice-oriented SMOs, the trouble with AB 32 was its basic architecture. The justice-oriented movement would have preferred for the legislation itself to be more prescriptive, spelling out exactly what was mandated to achieve the overall GHG emissions reduction target it sets forth. This would have minimized the ambiguity (later exploited by the justice-oriented movement's political opponents) as to whether or not the mechanisms that CARB would ultimately select would exacerbate *local* pollution issues. As one justice-oriented advocate put it, "What community [justice-oriented] groups were saying is, we want very stringent language" (Author's Interview, 11/12/18).

⁴ California Public Utility Code, Chapter 598, § 8340-8341.

As we will see, justice-oriented advocates -- thanks to key allies in the state legislature -- were able to insert into the final bill some language that placed justice-friendly parameters on CARB's approach (Sze et al. 2009). However, overall, the bill that was signed into law was far less prescriptive than justice-oriented advocates would have preferred. It left a significant degree of flexibility to CARB with respect to the actions it could take, and ultimately CARB chose two market-based systems – 1) cap-and-trade and 2) a market-based low-carbon fuel standard (LCFS) – which the justice-oriented movement adamantly opposed (Cole et al. 2008; Meszaros & Williams 2009).

The problem that the justice-oriented movement had with cap-and-trade was the “trade” part, not the “cap” part. That is because a cap on GHG emissions amounts to command-and-control regulation, whereas the ability to trade emissions credits provides private polluters the flexibility to potentially *increase* local emissions so long as they pay for the allowances to do so, trade them with another firm in possession of excess allowances, or – most egregiously to justice-oriented advocates – simply reduce their net emissions outside of California, through a mechanism known as “offsets” (Author's Interview, 7/23/19).

Justice-oriented advocates maintain that cap-and-trade has been a misguided, self-defeating project, failing to significantly reduce GHG emissions overall because of over-allocation of pollution credits (McAllister 2009) and other mechanisms allowing polluters such great flexibility that there is insufficient incentive, justice-oriented advocates argue, for them to change their practices. Evidence for this proposition is inconclusive, since establishing a causal relationship between any one policy (e.g. cap-and-trade) and statewide GHG emissions reductions (which have declined significantly) is confounded

by multiple other policies and market forces acting simultaneously. But irrespective of whether the cap-and-trade program is succeeding in reducing GHG emissions globally, there is no question that *local* pollution from regulated sources located in socioeconomically disadvantaged California communities has not declined as a result of cap-and-trade (Pastor et al. 2012), which is cause enough for the justice-oriented movement to continue to vehemently oppose the policy.

Market-Oriented Movement Preferences

By contrast, EDF and NRDC wanted a policy that they believed would simultaneously reduce GHG emissions and promote economic growth. They were especially interested in a proposal that would be palatable to potential coalition partners in the business community. As one of NRDC’s legislative advocates described his organization’s approach, “We ... talk to business and industry and utilities” (Author’s Interview, 11/8/18). From the beginning, even as AB 32 was traveling through the early stages of the legislative process, these groups envisioned a market-based, cap-and-trade program as the key vehicle for meeting the law’s 2020 target. Unlike some of the business actors whose preferences we will soon discuss, EDF and NRDC were serious about wanting to achieve emissions reductions, and so they fought hard for the target to be enforceable. As a key legislative staffer explained:

“I think NRDC had two or three key issues. One is they wanted a market-based compliance mechanism, like cap-and-trade. Two was they wanted an enforceable target” (Author’s Interview, 11/13/18).

Still, the primary objective of EDF and NRDC with respect to AB 32 was statewide GHG emissions reduction, not necessarily mitigating *local* pollution, and not necessarily

reducing the health-harming “co-pollutants” that justice-oriented groups were highly concerned about.

With regard to the cap-and-trade program, EDF and NRDC had certain principles regarding its design. They wanted to reduce loopholes that might weaken its impact, but ultimately, they were willing to compromise on many of these principles in order to move forward without antagonizing business groups. For example, when asked about why so many cap-and-trade allowances were given away to polluting firms for free, a representative of one of these market-oriented SMOs explained:

“I didn’t think it was realistic, especially from the start [to auction all allowances as opposed to giving them away for free] ... I think all of the factors that the [C]ARB took into account ... are real issues for a single state trying to take this on, and it was right for them to address that [by allocating allowances to certain firms free of charge]” (Author’s Interview, 12/12/18).

In sum, these market-oriented SMOs had very different goals for what these policies would and would not accomplish compared to the justice-oriented groups. A top legislative staffer who was charged with negotiating the final language of AB 32 articulated how he viewed the distinction between how each environmental movement approached the policies:

“There’s a tension in California ... between ... people who live in communities that are disadvantaged ... These are the environmental justice groups. They’re principally groups that represent people of color, poor communities. [By contrast] NRDC is a New York and Washington, D.C. corporate environmental group. It’s got a Board of Directors, mostly bankers and wealthy people. It has a very different kind of orientation. So does EDF. ... This tension exists, and has always existed throughout California law ... Are we trying to save the planet in a way that’s beneficial to Tesla drivers and to corporate environmental groups like NRDC and EDF? Or are we trying to save the planet for California, and Californians?” (Author’s Interview, 11/13/18).

“Green” Business’ Preferences

Another key constituency involved in the negotiations around AB 32 and cap-

and-trade are what we call “green” business interests; that is, businesses that support climate policy primarily because it benefits them financially. These include the renewable energy industry, technology companies developing and marketing battery energy storage, as well as venture capitalists that are heavily invested in these firms.

These interests were well aligned with the market-oriented SMOs. They wanted policies that would open the market for their products, and they were not necessarily concerned with the local pollution issues that the justice-oriented movement prioritized.

An NRDC advocate explained this alliance:

“In addition to NRDC and EDF ... we had a lot of strong business support ... from the clean energy business community ... We actually did have a lot of clean energy businesses that could speak up about why this would be a good thing for California” (Author’s Interview, 12/12/18).

Similar to other for-profit interests, “green” businesses are well versed in capitalist logics, emphasizing market incentives as opposed to command-and-control regulation. As a “green” business lobbyist put it, “We were always supportive of market-based solutions” (Author’s Interview, 8/23/19).

IOUs’ Preferences

The key finding of the larger project whose data this article draws from is that investor-owned utilities (IOUs) are the single most politically powerful stakeholder when it comes to state-level climate and renewable energy policy. As the larger project shows, the policy preferences of IOUs when it comes to these policies are highly variable by state, and depend on a number of factors. For our purposes here, suffice it to say that previous policies, combined with shifting market forces, had put California IOUs in a position to either support or remain neutral (depending on the particular IOU) on AB 32, provided that CARB’s mechanism of choice was a market-based program, such as cap-

and-trade, rather than the command-and-control policies preferred by justice-oriented groups (Author's Interviews).

When a key legislative staffer who was negotiating with the IOUs was asked what the IOUs' single most important priority was with AB 32, he replied, "What was important to them was cap-and-trade, was a market-based compliance mechanism" (Author's Interview, 11/13/18). The IOUs had other preferences, too (Author's Interviews, 11/26/18, 11/13/18, 8/6/19), but cap-and-trade was a potential deal breaker for them. In other words, IOUs' support for AB 32 in the legislature was *conditional* on an informal commitment that, even though the law itself did not *require* a cap-and-trade program, the CARB would ultimately move in that direction (Author's Interviews). In effect, what this meant was that market-oriented SMOs, "green" business interests, and the IOUs were all on the same page in terms of their preferences vis-à-vis AB 32. Justice-oriented SMOs, by contrast, were not.

"Traditional" Business' Preferences

By "traditional business," we mean fossil fuel industries, such as oil, coal, and natural gas, as well as heavy manufacturing, construction, large agriculture, and other large energy users, highly sensitive to changes in energy prices. These companies are represented, in California, by trade associations such as the California Manufacturers and Technology Association (CMTA) and the California Chamber of Commerce (CalChamber). These companies opposed AB 32 regardless of the mechanism CARB would adopt to achieve its targets, though they certainly preferred a market-based mechanism over command-and-control regulation (Author's Interviews).

State Actors' Preferences

In deference to “state-centered” theories of policymaking, which, as opposed to interest group theories, emphasize the relative autonomy of state actors and institutions (Evans et al. 1985; Morgan and Orloff 2017; Skocpol & Amenta 1986), we will briefly consider the (arguably) independent preferences of a few of the key state actors involved. Given the concentration of institutional policymaking power in the hands of three key positions in state government – the Governor, the majority party leader of the House (or, in this case, Assembly), and the majority party leader of the Senate (Basseches 2019; Rosenthal 2004, 2009) – we will focus on the preferences of these three actors in particular.

Governor Arnold Schwarzenegger, a Hollywood movie star facing a tough reelection bid at the time that AB 32 was under consideration, was, as one of the commissioners he appointed put it, “A very liberal Republican” (Author’s Interview, 7/3/19). Schwarzenegger believed strongly in climate change and went further than any other Republican governor in the country toward ensuring he signed legislation to address it (Schwarzenegger 2012). While this alienated some elements of the “traditional” business community, it won him the admiration of the “green” business community and of market-oriented environmental SMOs, which some Sacramento insiders suggested enjoyed a closer relationship with the Governor than they did with legislative leaders (Author’s Interviews, 11/7/18, 8/22/19). As a top staffer to Schwarzenegger put it:

“We had a good personal relationship with a couple of people at NRDC ... And we talked with them on a regular basis” (Author’s Interview, 8/22/19).

The only real difference between the preferences of the Governor and those of the market-oriented SMOs was that the latter wanted an enforceable emissions cap while the

former preferred a more flexible cap that could be adjusted based on how the economy was performing (Author's Interview, 11/13/18).

However, as a Republican facing reelection, Schwarzenegger nevertheless had to give *something* to his political base in the business community. What he gave was a commitment to a cap-and-trade program. Indeed, Schwarzenegger's starting position in negotiations with legislative leaders was that the AB 32 statute needed to specify that CARB "shall" (as opposed to "may") adopt such a cap-and-trade program, and he privately threatened to veto the bill unless that language was maintained (Author's Interviews, 11/7/18, 11/13/18, 11/15/18). The legislature called his bluff (Schwarzenegger wanted the environmental victory too badly), but Schwarzenegger ultimately signed AB 32 knowing that CARB decision-makers served at the pleasure of the governor; thus, he enjoyed considerably greater leverage over them than he did over legislative leaders. As a result, he moved quickly to ensure that CARB got to work designing a cap-and-trade program before he left office (even though the law itself did not require it), and he even fired and replaced a recalcitrant CARB Chair in order to ensure it happened (Jennings 2017; Wilson 2007; Author's Interviews, 11/12/18, 11/13/18, 8/21/19).

The justice-oriented movement's strongest allies were in the state legislature rather than in the executive branch. This was partly due to the fact that environmental justice communities enjoyed a degree of direct representation in the legislature that they did not in the executive branch, given that some legislators came from their communities whereas the movie-star-Governor came from one of the wealthiest neighborhoods in the state (Author's Interviews, 7/28/19, 8/22/19). This included Assembly Speaker Fabian

Nuñez, who himself came from one such community, and represented a low-income, majority-Latino district.

But it was in the Senate that the justice-oriented movement enjoyed even greater influence, not only because Senate Pro Tem Don Perata was very sympathetic to their cause, but also because he employed, as his lead staffer, Kip Lipper, a man referred to by Sacramento insiders as the “41st senator” (there are 40 elected state senators in California) due to his enormous influence crafting legislation behind the scenes (Bailey 2009). Lipper was instrumental in securing the pro-justice language in AB 32 that we will soon discuss (Author’s Interviews, 11/12/18, 11/13/18, 11/14/18, 11/19/18). However, this language proved insufficient for preventing Schwarzenegger’s CARB from moving forward with cap-and-trade.

Who Won the AB 32/Cap-and-Trade Contest?

Having laid out the policy preferences of all of the major players, we now turn to examine the actual outcome of the policymaking process. We argue that the ultimate winner of this process was the coalition consisting of the market-oriented SMOs (i.e. EDF and NRDC), “green” businesses, IOUs, and Gov. Schwarzenegger, rather than the coalition of justice-oriented SMOs and their legislative allies.

One of the most important provisions of AB 32 to the justice-oriented movement was §38560.5, known as the “early action measures.” By June 30, 2007, the CARB was required to publish a list of discrete measures to reduce GHG emissions immediately, apart from any longer-term plan, such as a cap-and-trade program, to achieve the 2020 target. The justice-oriented movement had hoped that CARB would use this opportunity to adopt command-and-control measures, and the justice-oriented movement put forward

to CARB a number of suggestions for what these could be, along with warnings about potential measures that the justice-oriented movement argued would exacerbate environmental inequality (Environmental Justice Advisory Committee 2007). But when we asked a prominent justice-oriented advocate about the extent to which her input was taken into consideration with respect to these early action measures, her answer was “not a lot” (Author’s Interview, 7/28/19). Indeed, the most significant early action measure that the CARB ended up adopting was a market-based low-carbon fuel standard (LCFS),⁵ a measure the justice-oriented movement adamantly opposed because of its likelihood to *increase* other, non-carbon air pollutants with adverse health impacts in disadvantaged communities (Environmental Justice Advisory Committee 2007).

Sze et al. (2009) note that the final AB 32 statute contained several other provisions that were incorporated specifically in an effort to satisfy the justice-oriented movement. These included the requirement that CARB convene an Environmental Justice Advisory Committee (EJAC) to provide input on its proposed regulations, that public workshops be held in disadvantaged communities, and that regulations not disproportionately disadvantage low-income communities. There was also language directing CARB to “prevent any increase in the emissions of toxic air contaminants of criteria air pollutants [also known as “co-pollutants”]”⁶ (Sze et al. 2009).

However, unfortunately for the justice-oriented movement, these provisions proved to be largely symbolic gestures that the legislature made. While they did provide the basis for a lawsuit against CARB, California courts ultimately sided with CARB, failing to be persuaded by the justice-oriented movement’s claim that CARB’s rush to

⁵ Final Regulation Order, California Air Resources Board, amending Sections 95480.1, 95481, and 95486, California Code of Regulations. January 12, 2010.

⁶ California Health & Safety Code (HSA), Chapter 488, § 38500-38599.

cap-and-trade violated its hard-fought provisions in the AB 32 statute (Kaswan 2013).⁷ Ultimately, the court ruled that the statute did not provide EJAC with any regulatory authority. Justice-oriented advocates also noted that racially discriminatory procedural irregularities compromised CARB's public workshops, and that little was done from a regulatory standpoint to address co-pollutants (Cole et al. 2008). An interview with a legislative staffer reveals how the justice-oriented movement's input into the legislation was accommodated more as a consolation than a serious change of course:

“The EJ [justice-oriented movement] community was asking for the [advisory] committee, but it wasn't at all controversial. It was like, sure, why not?”
(Author's Interview, 11/7/18).

In sum, there are clearly justice-oriented movement footprints on the final language of AB 32 (Sze et al. 2009), but, due to the political maneuvering of Governor Schwarzenegger and a number of other limits of the justice-oriented movement's political power that we will soon discuss, the justice-oriented movement's opponents were able to exploit CARB's policymaking discretion in order to ensure a cap-and-trade program would be implemented. The political center of gravity in California, in terms of organized interest groups, wanted the state to be a climate leader, but it wanted this leadership to take a market-oriented, neoliberal form.

Limits of Justice-Oriented Movement's Influence

We propose three main limits to the justice-oriented movement's policymaking influence. First, from the standpoint of coalitional, interest group politics, the justice-oriented coalition was limited to justice-oriented SMOs alone, whereas the opposing

⁷ Of the multiple claims EJ petitioners made, the only one the courts upheld was that CARB did not adequately consider alternatives (as required by statute) before selecting cap-and-trade. However, CARB quickly remedied this by releasing a “supplemental” analysis, which ultimately deemed cap-and-trade to still be the right approach (Kaswan 2013).

coalition combined market-oriented SMOs such as EDF and NRDC with business constituencies such as “green” business and the IOUs. In other words, the latter coalition represented a broader range of interests (Phinney 2017), and it also benefited from the greater resources brought by both private interests as well as SMOs that were far more “institutionalized” (McCarthy & Zald 1977; Pettinicchio 2012). Second, the logic of the policymaking process itself privileged technical expertise, which was monopolized by market-oriented interests; the justice-oriented movement’s tactical repertoire (certainly at that time) centered lay participation, and the voices of those oppressed by environmental injustice. Finally, the justice-oriented movement’s accurate perception that it was being marginalized by policymakers led to a degree of internal fragmentation; this further weakened the movement as a whole.

Coalitional Politics, Resources, and Institutionalization

As discussed previously, the market-oriented coalition combined the resources (and political power) of well resourced, national environmental organizations, ostensibly advocating the public interest, and a growing private industry that saw a potential to profit from climate policy, provided it would be designed in a market-oriented manner. Political scientists who write about coalitional interest group power often focus on the added value of coalitions being broad (in terms of interest groups represented), bringing together groups that policymakers might not ordinarily assume to be natural allies. These “cross-cutting coalitions” add a perceived sense of legitimacy to a particular policy alternative, so compelling to policymakers precisely because it unites what Phinney (2017) refers to as “strange bedfellows” (Hula 1999; Junk 2019; Phinney 2017).

The public rarely thinks of environmental groups and IOUs as being on the same side when it comes to environmental policy; and yet, that is precisely what we saw when it came to AB 32 and cap-and-trade. Note how California Assembly Speaker Nuñez described the political value of Pacific Gas and Electric (PG&E), an investor-owned utility, opting to participate in the market-oriented policy coalition:

“I used them [PG&E] in every conversation with every Democratic legislator who was not 100% on board [with AB 32]. I would say, ‘Well, why is PG&E on board?’ PG&E was huge [political] cover for me” (Author’s Interview, 11/15/18).

A significant part of the answer to the rhetorical question Nuñez poses is that PG&E, like many of the major corporations who backed AB 32, did so with the assurance that CARB would implement it using market-based mechanisms, rather than command-and-control regulations.

As Pettinicchio (2017) writes:

“Policy communities persist when incumbents institutionalize a field by creating norms and assigning values to the efforts of its actors. This means that elites confer legitimacy to certain kinds of organizations, structures, and policy frames, and delegitimize others” (Pettinicchio 2017, p. 170).

In California’s “climate policy community,” at least at the time of AB 32 and the early days of the state’s cap-and-trade program, the market-oriented coalition was legitimized while the justice-oriented coalition was delegitimized. This translated directly into the former enjoying a greater degree of policymaking influence than the latter.

Technical Expertise as Political Power

A second factor limiting the influence of the justice-oriented coalition is the extent to which U.S. policymaking institutions tend to privilege a certain type of expertise – one that is highly technical and legalistic in nature (Basseches & King Working Paper; Pellow and Brulle 2005; Waller 1995). This type of expertise can be contrasted with what

Liévanos et al. (2011) refer to as “street science” – the knowledge that comes from lived experience, which, in this case, means suffering disproportionately from environmental harms. As Cohen and Ottinger (2011) write:

“[Justice-oriented] community members’ lack of familiarity with highly technical terminology can limit their ability to challenge the bases on which policy decisions are made, since their contributions to public hearings and other deliberations are likely to be devalued for not being ‘scientific’ (Cohen & Ottinger 2011, p. 7).

Indeed, in its decision in favor of CARB’s position in the legal battle between the justice-oriented SMOs and CARB over cap-and-trade, a California court opined that CARB, “[A]s the agency with technical expertise” (Kaswan 2013, p. 11), should have the discretion to determine the best way forward.

During the legislative process, the justice-oriented movement – while powerful in its grassroots numbers and loud in its message – struggled to articulate its principles in ways that were coherent to the lawyers (legislative staffers) responsible for the actual drafting. As one such lawyer explained:

“These [justice-oriented] groups didn’t know what they wanted to begin with. NRDC knew that it wanted cap-and-trade. EDF knew that it wanted a market-based compliance mechanism” (Author’s Interview, 11/13/18).

And then after the law was passed, when the policymaking process moved over to CARB, the justice-oriented movement was offered only symbolic opportunities to participate, by providing input (primarily through the EJAC). Their input, however, was often devalued precisely because it was coming from individuals who were not considered “technical experts.” As a justice-oriented advocate explained to Perkins (2015):

“It’s a great case study on why ‘being at the table’ not only doesn’t help you, but it sucks up your time and energy. And you ended up with nothing” (Perkins 2015, p. 205).

Furthermore, when CARB hosted public workshops in disadvantaged communities, as was required by the AB 32 statute, justice-oriented activists who showed up to testify faced discriminatory barriers including lack of translation services for Spanish language-speakers and hours of waiting (Cole et al. 2008).

This is reflective of a larger problem, well documented in the environmental justice literature, of justice-oriented activists being paid only lip service by policymakers. The opportunity to *participate* in deliberations is extended to the justice-oriented movement as a symbolic gesture to obviate the need to act on the input that is received.

As Harrison (2019) writes:

“EJ [justice-oriented] activists have criticized the undemocratic nature of regulatory agencies' decision-making processes, in which ... [Justice-oriented] community members' participation is limited to points late in the decision-making process, their knowledge is often treated dismissively by state actors and industry representatives, and their input rarely changes regulatory outcomes.” (Harrison 2019, p. 13).

Internal Disagreement within the Justice-Oriented Coalition

Given these first two limits on the justice-oriented movement's policymaking influence, justice-oriented SMOs had an important, strategic choice to make: would they continue to participate in the formal policymaking process in the largely symbolic role that policymakers had carved out for them with the hope of having some limited impact on future policy outcomes? Or, alternatively, would they withdraw from the formal process entirely, adopt a more adversarial relationship toward the state, and attempt to delegitimize CARB's process altogether? Ultimately, this question divided the justice-oriented movement into two camps. One camp continued to participate in CARB's process while another withdrew completely, and instead sought to obstruct any of

CARB's future attempts to continue developing its cap-and-trade program. Some justice-oriented advocates who were members of the EJAC quit; others stayed on (Perkins 2015).

The tension between the two justice-oriented camps came to a head when the legislature was considering SB 535 in 2010. This bill required the state to invest 25% of the (significant) revenues it would accumulate from its cap-and-trade program into projects that would directly benefit the state's disadvantaged communities, and 10% into projects that would be physically located in such communities. While some justice-oriented SMOs enthusiastically supported this legislation, others opposed it. As one justice-oriented advocate, whose SMO opposed the bill, put it: "I'd rather have clean air than a gold-plated inhaler" (Perkins 2015, p. 227; Author's Interview, 7/28/19).

The division within the justice-oriented movement over how much to work with versus against the state is somewhat predictable, according to the social movement literature. Staggenborg and Lecomte (2009) note that social movement campaigns (such as the fight over AB 32) can sometimes have positive effects, but other times create negative fallout:

"[Social movement] campaigns can ... create conflict among groups, break down bonds within movement communities, and sap the energies of activists" (Staggenborg and Lecomte 2009, p. 166).

Sources of Justice-Oriented Movement's Rising Power

While the justice-oriented movement continues to vociferously oppose cap-and-trade in California, it has also moved on to new policy battles. We believe that, beyond cap-and-trade, its policymaking influence is on the rise. In recent years, the justice-oriented movement has experienced a few major legislative victories: the enactment of a

bill directing CARB to further regulate co-pollutants (SB 605, enacted in 2014),⁸ the enactment of a bill adding two new seats (with actual regulatory authority) to the CARB that would specifically represent the interests of the justice-oriented movement (AB 1288, enacted in 2015),⁹ and the enactment of a bill creating new legislative oversight of CARB that is specifically attuned to environmental justice concerns (AB 197, enacted in 2016).¹⁰

We see three major factors that have contributed to what we view as a justice-oriented movement whose policymaking influence in California is on the rise. First, the movement's electoral strategies appear to be paying off. Second, the significant level of mobilization that the justice-oriented movement demonstrated around the cap-and-trade issue (including litigation) had the effect of increasing its power in subsequent policymaking contests by demonstrating the movement's viability as a political constituency. This demonstrates the positive effects that previous social movement campaigns can have on future social movement campaigns (Staggenborg and Lecomte 2009). Third, the justice-oriented movement has become more tactically savvy, and has increasingly imitated the effective tactics of more institutionalized interest groups.

Justice-Oriented Movement's Growing Electoral Power

California's Latino population has always been large and continues to grow (U.S. Census Bureau 2011). But what has changed in recent years is the degree to which this demographic, residing mostly in disadvantaged communities in the state, has become politically and electorally mobilized. This includes not only voting but also winning elected office. When a key legislative staffer was asked whether the influence of justice-

⁸ Chapter 523, California Statutes (Session Law) of 2014.

⁹ Chapter 586, California Statutes (Session Law) of 2015.

¹⁰ Chapter 250, California Statutes (Session Law) of 2016.

oriented SMOs has been growing, shrinking, or staying the same, he unequivocally said it was growing (Author's Interview, 11/13/18). When asked why, this staffer replied:

“There's a crop of [justice-oriented movement-allied] legislators who have come into their own here. The guy who just left as the leader of the Senate, Senator De León—he was probably their biggest champion. But you have Eddy Garcia over in the Assembly. The diversification of the electorate and the polity in California has also led to the building up of those groups in places where [they had not been as strong previously] ... So yes, they are more powerful ... They have something that they didn't have so much back in 2006, which is they now have legislators ... embedded around here who will go to bat for them in a way that didn't happen back in the early 2000s” (Author's Interview, 11/13/18).

Justice-Oriented Movement's Growing Appeal as a Coalition Partner

A second source of the justice-oriented movement's growing policymaking influence has been a consequence of the longevity and volume with which the movement has made its views on climate policy known, and the degree to which it has successfully linked the climate issue with public health. Market-oriented SMOs, while willing to negotiate with private industry, also know that it is a bad look for them to maintain a publicly adversarial relationship with justice-oriented SMOs, who too claim the mantle of environmentalist. For this reason, even as the market-oriented groups have stood their ground in defending cap-and-trade, they have increasingly sought common ground with justice-oriented groups, when possible. In the case of NRDC, this has even meant representing justice-oriented groups in legal matters, given their superior litigation resources (Perkins 2015).

One justice-oriented advocate described how market-oriented environmental groups have made a conscious effort to rebuild a positive relationship with justice-oriented groups:

“Now, when we're talking about NRDC ... They have changed ... NRDC, over the last fifteen years, has become very close with us, and they have also

represented us in various lawsuits against the Port of Los Angeles” (Author’s Interview, 7/23/19).

Given the far superior financial resources that these national environmental organizations have access to, it is an alliance that bolsters the justice-oriented movement’s political power, and also allows the justice-oriented groups to redirect their own resources toward other policy priorities.

Justice-Oriented Movement’s Tactical Innovation

Finally, the justice-oriented movement has become increasingly sophisticated when it comes to its tactical repertoire, and in particular, its political and technical prowess (McCammon 2012). Justice-oriented SMOs have adopted familiar interest groups tactics in Sacramento, including legislative and administrative “scorecards” to aid in holding state policymakers accountable for their votes and decisions (e.g. California Environmental Justice Alliance 2018a, 2018b). Carter (2016) documents how the justice-oriented movement has expanded its networks to include foundations, civic organizations, and other nonprofit organizations, becoming increasingly institutionalized and more closely mirroring their market-oriented counterparts.

In particular, the justice-oriented movement has deliberately (and successfully) placed a greater emphasis on scientific research, recruiting more technical experts to validate its claims with evidence (Cohen and Ottinger 2011). For example, with the justice-oriented movement’s input, the state developed a GIS tool that indexes environmental hazards at the level of Census tracts to help identify the areas in greatest need of state assistance (Liévanos 2018).

As a justice-oriented advocate explained:

“We’ve teamed up with university partners like UCLA, USC, Berkeley and many others, where professors have embraced us and become our partners ...” (Author’s Interview, 7/23/19).

Another justice-oriented advocate added:

“Manuel Pastor [a University of Southern California sociologist] and others actually started to look at emissions reductions and impacts, and they started to see that they were actually increasing ... A major issue is actually getting data from credible sources, from university and peer-reviewed sources, so that we could [empirically] show [what we were arguing, policy-wise]” (Author’s Interview, 7/28/19).

Given that, as discussed above, regulatory policymaking often privileges technical expertise, the justice-oriented movement’s increasing ability to combine its grassroots presence with the power of scientific knowledge has greatly increased its political fortunes in Sacramento.

Conclusion and Implications

In this article, we have shown that California’s climate policy leadership has been deeply intertwined with a neoliberal logic that has prioritized capitalist economic growth over issues of enduring environmental inequality. This vision was shared across party lines (indeed, AB 32 was signed by a Republican governor despite U.S. climate policy more generally being associated with Democratic politicians), and it brought together a wide-ranging coalition of interest groups ranging from market-oriented SMOs, like EDF and NRDC, to the country’s largest, privately owned utility, PG&E.

With regard to the environmental social movement landscape in California, we have argued that this case reveals two distinct, and ideologically incompatible movements, united only in their desire to mitigate climate change, but divided over the best approach to do so, and over the question of what sacrifices can acceptably be made to achieve that common goal. The fact that both movements do share the goal of

mitigating climate change limits the applicability of the movement-counter-movement literature to this particular case (e.g. Andrews 2002; Laschever & Meyer Forthcoming; Meyer & Staggenborg 1996). And, while the tactics of the justice-oriented movement might accurately be described as being more “radical” (or at least less institutionalized) than the market-oriented movement’s, this is not a case of “radical flank effects” -- due, again, to the conflicting policy goals of the two movements, irrespective of their preferred tactics (Haines 1984, 2013; McCammon et al. 2015; Schifeling & Hoffman 2017).

Instead, it is more useful to think of this case as showing the limits of coalition-building among movements – a topic explored in Van Dyke and McCammon (2010)’s edited volume. In particular, Roth (2010)’s chapter analyzing the “organizationally distinct movements” (p. 99) that characterized Second Wave feminism is highly instructive. In this chapter, Roth argues that fundamental issues of identity and ideology prevented white feminists and Black and Chicana feminists from joining together to form a single, unified coalition. Similarly, the market-oriented and justice-oriented environmental movements in California had fundamentally distinct identities (with the former consisting primarily of upper-class white folks and the latter centering the voices of people of color) as well as fundamentally distinct ideologies (with the former placing great faith in capitalism and markets to reduce GHG emissions and the latter seeking direct regulation of local pollution).

Even so, the signs we are beginning to see in California of a bridging of the two movements, coinciding with a rise in the policymaking influence of the latter, suggests that barriers to coalition-building are not static or permanent, and can possibly be reduced

over time, and with changing political contexts. The dynamic element of our story also draws on important insights about social movement campaigns and their long-term effects being positive, even when their short-term efforts may be less successful (Staggenborg & Lecomte 2009). In particular, it appears that the justice-oriented movement has learned valuable lessons from its previous shortcomings, and is in the process of engaging in what McCammon (2012) calls “strategic adaptation.”

Finally, this case has important implications for the broader topic of this volume: the politics of inequality. Our case sheds light on at least two dimensions of political inequality. The first is unequal access to the policymaking process, as we can see how the material and cultural capital of the market-oriented coalition provided it with significant advantages, including an ability to shape California’s climate policy regime to accord with its preferences at the justice-oriented coalition’s expense. The second is the relationship of environmental inequality to political inequality.

Mirroring the important distinction between economic growth (overall) and economic inequality (i.e. the gap between the rich and the poor), we see, in the California case, an important distinction between reducing total GHG emissions and the unequal *distribution* of pollution within the state. California has deservedly claimed the mantle of the ultimate leader when it comes to state-level climate policy in the U.S., and many in the broader environmental community have pointed to California as a beacon of hope amidst federal-level politicians’ refusal to address the issue of climate change. On the other hand, we see how California, the very state that has led the way in terms of policies to reduce total emissions, has chosen a path to doing so that may have exacerbated the

unequal distribution of local pollution within the state, igniting a justice-oriented movement whose political power is currently on the rise.

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Figure 1: Policy Timeline Showing Selected Events in California’s Conflict with EJ

