

# 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 failed to act on climate change, California’s success as a subnational climate policy leader has been widely celebrated. However, California’s landmark climate law drove a wedge between two segments of the state’s environmental community. On one side was a coalition of “market-oriented” environmental social movement organizations (SMOs), who allied with private corporations to advance market-friendly climate policy. On the other side was a coalition of “justice-oriented” environmental SMOs, who viewed capitalist markets as the problem, and sought climate policy that would mitigate the uneven distribution of environmental harms within the state. The social movement literature is not well equipped to understand this case, in which coalitional politics helped one environmental social movement succeed in its policy objectives at the expense of another. In this chapter, we draw on legislative and regulatory texts, archival material, and interviews with relevant political actors to compare the policymaking influence of each of these coalitions, and we argue that the composition of the two coalitions is the key to understanding why one was more successful than the other. At the same time, we point out the justice-oriented coalition’s growing power, as market-oriented SMOs seek to preserve their legitimacy.

## **Introduction**

In 2006, California adopted “The most ambitious climate change legislation enacted anywhere in North America” (Rabe 2013, p. 67). Given the difficulties in adopting federal climate change policy in the United States, it would be reasonable to assume that California’s bold law would have only been possible with, at a minimum, the help of a unified environmental movement to counter entrenched climate change opposition. Instead, California’s landmark climate law drove a wedge between two segments of the state’s environmental community. Both segments sought to mitigate climate change, but they had very distinct—and indeed, incompatible—views about the best approach the state should take in doing so, as well as distinct movement identities manifesting as strategic and tactical divergences. These differences were reflected in the very different

types of coalition partners with which each side was willing to ally in order to achieve its desired policy outcome. This in turn had implications for each side's success in achieving its policy objectives.

On one side was a coalition of “market-oriented” social movement organizations (SMOs) whose primary objective was to achieve total greenhouse gas (GHG) emissions reductions through a policy mechanism that could gain the support of allies in the business community. They therefore advocated market-based policy options, such as California's often-celebrated cap-and-trade program, which regulates<sup>1</sup> more than 80% of statewide GHG emissions (Sutter et al. 2018). Given its market-friendly approach, this policy won the support of not only a number of market-oriented environmental SMOs but also “green business” (renewable energy companies, technology companies, venture capitalists, etc.) and the state's extremely powerful investor-owned utilities (IOUs) (Basseches 2020).

On the other side was a coalition of “justice-oriented” SMOs, who shared the objective of reducing GHG emissions, but at the same time, also sought the mitigation of other, related environmental harms (e.g. air and water pollution). Importantly, this coalition of justice-oriented SMOs favored a mechanism that would promote greater equity, or environmental justice, given the *unequal distribution* of these environmental harms across the state -- disproportionately affecting low-income, predominantly Black, Hispanic, and Indigenous communities (Cole & Foster 2001; Harrison 2019; London et al. 2013; Pellow & Brulle 2005). Therefore, justice-oriented SMOs' preferred approach to reducing GHG emissions involved what are known as “command-and-control” or

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<sup>1</sup> An important distinction is drawn between “regulating” and “reducing.” The cap-and-trade program merely subjects 80% of statewide emissions to state rules. It does not necessarily require across-the-board emissions cuts. See Basseches (2021, forthcoming) for more on this distinction.

“point source” regulations, whereby emissions are capped at their source. By contrast, the market-oriented coalition advocated cap-and-trade, which justice-oriented activists described as merely a “marketplace of polluters.” While the ultimate environmental objective of cap-and-trade was to make emissions costlier for corporations, it imposed flexible, rather than strict, controls on their polluting activities.

Consequently, there was little interest on the part of these justice-oriented SMOs in entering into a coalition with private business interests (Author’s Interviews 11/12/18, 7/23/19, 7/28/19; Jennings 2017). Moreover, these justice-oriented SMOs’ organizational identities and tactical repertoires promoted lay involvement, mobilizing and empowering at a grassroots level the individuals with the greatest personal stakes in terms of their disproportionate exposure to environmental hazards (London et al. 2008; Perkins 2015). Partnering with corporations would have been an affront to these justice-oriented SMOs’ core values, and the risk of cooptation was deemed too great.

The social movement literature lacks a clear theoretical framework for making sense of the case of California climate policymaking and the tension that characterizes it. In this case, two social movements are simultaneously targeting the state for a policy response to climate change; both are environmental movements, but they have opposing views of how the state should respond. Social movement scholars typically view movements as “challengers” (Amenta et al. 2010), vying for policy reform in a larger political arena, which includes “more powerful” non-movement actors (Amenta 2006, p. 6), such as state actors and/or corporate actors (Amenta et al. 2010; King 2008). These non-movement forces constitute the “political context” (Amenta et al. 2010) or the “political opportunity structure” (Meyer 2004), which mediates policy responses to social

movement mobilization, resulting in different degrees of movement success in influencing policy.

However, in this case, the movement represented by market-oriented SMOs *partnered* with the state *and* with corporate actors. By contrast, justice-oriented SMOs pushed a wholly different, anti-neoliberal policy solution to the same underlying problem of climate change. Theories predicting the policy consequences of social movement mobilization, such as the political mediation model (Amenta et al. 2005), are not well equipped to make sense of multi-dimensional policy outcomes like the one observed in California. In this case, the state passed the strongest climate policy in the United States, but it relied on a particular policy approach that perpetuates environmental inequality. Thus, the state delivered a movement victory on strong climate policy, but the market-based mechanism for achieving the state's climate targets antagonized one environmental movement while rewarding the other.

In this chapter, we synthesize theoretical tools from the social movements literature and insights from the coalitional and interest group politics literature in order to account for variation in the justice-oriented movement's policymaking influence over the design of California's climate policy. We argue that the justice-oriented movement's limited influence when it came to California's climate law, AB 32, and the cap-and-trade program that was used to implement it, was not just the result of the political context, its less institutionalized tactics and its challenger status, as the social movement literature would theorize. It was also the result of the fact that the market-oriented movement offered state policymakers an alternative means of being responsive to climate movement pressures, but one that could simultaneously satisfy a broader coalition of interest groups

that included non-movement actors, such as “green business” and the state’s very powerful IOUs. However, we also show that none of these factors is static, as evinced by the justice-oriented movement’s more recent rise in influence, resulting from its growing appeal as a coalition partner for a market-oriented movement seeking to unify the broader environmental community to further its agenda.

### **Social Movement and Interest Group Theory**

The social movement literature, as it relates to public policymaking, lacks a complete framework for analyzing these two environmental movements in relation to one another, to corporate actors, and to the state. It might be tempting to think of these two environmental movements as variants of the same movement, and to analyze their impacts using a “radical flank effects” framework (Haines 1984, 2013). That is, a single social movement, with a common policy objective, becomes factionalized over tactics, with one faction adopting more moderate tactics and another adopting more radical tactics. A number of social movement scholars have used this framework to identify both “positive radical flank effects,” whereby the existence of a radical component normalizes the more moderate component, making the latter more likely to achieve its goals, as well as “negative radical flank effects,” whereby the radical flank undermines the moderate flank by inciting backlash toward the movement as a whole (Haines 1984). This framework has been effectively used across a variety of empirical cases ranging from the women’s movement (McCammon et al. 2015) to the climate movement (Schifeling & Hoffman 2019).

However, the division between market-oriented SMOs and justice-oriented SMOs goes far beyond tactics; it is, at its core, ideological in nature. As Yang (2002) argues, the

justice-oriented movement's claims are rooted in civil rights doctrine, which is intended to protect minority victims from majority oppressors. By contrast, the market-oriented climate movement is rooted in an ideological framework that seeks to protect the "commons" (i.e., the public at large and the natural environment) from environmental degradation (Yang 2002). Consequently, market-oriented SMOs were most concerned with reducing climate change on a global scale, and saw cooperation with corporate interests as a necessary means to that end. These are more like two separate movements, with fundamentally different ideological underpinnings rather than a moderate and radical flank of a single movement.

Another framework commonly employed in the social movement literature is the dynamic between movements and "counter-movements" (e.g. Andrews 2002; Dixon 2008; Laschever & Meyer Forthcoming; Meyer & Staggenborg 1996). Counter-movements emerge in direct opposition to movements, positioning themselves on opposing sides of a single issue. Examples include pro-choice versus anti-abortion movements (Staggenborg 1991), gun control versus gun rights movements (Laschever & Meyer Forthcoming, 2021), and pro- versus anti-marijuana legalization movements (Meyer & Staggenborg 1996). But the case of the market-oriented versus justice-oriented climate movements in California is different. It is a multi-dimensional policy conflict in which the two sides are aligned on the need for the state to pass policies to mitigate climate change, but opposed when it comes to whether the state should do so by relying on capitalist markets or by protecting those most vulnerable to climate change's most immediate effects (and the effects of other environmental hazards), by directly restricting emissions at their source.

Sometimes, counter-movements mobilize in direct response to policy gains made by the opposing movement, as in the example of segregationist backlash to school desegregation policies in civil rights era Mississippi (Andrews 2001). However, the California case follows a very different narrative. The mobilization of the environmental justice movement in California long predated even the *emergence* of the market-oriented coalition, much less its success in securing its desired climate policy outcome from the state. California's justice-oriented movement's decades-old fights focused on the dumping of toxic waste, the use of toxic pesticides, and air pollution and smog, separate and apart from its associated climate change-inducing GHG emissions (Cole & Foster 2001; Harrison 2011; Perkins 2015). In contrast, the market-oriented coalition did not coalesce until the early 2000s. Here, national, market-oriented SMOs such as the Environmental Defense Fund (EDF) and the Natural Resources Defense Council (NRDC) partnered with forward-looking business interests around a proposed climate policy regime in California they hoped would later become a model for national policy (Author's Interviews 11/5/18, 11/8/18, 11/13/18; Lyon 2010).

Still, the social movement literature is in other ways quite helpful for analyzing conflict between the market-oriented and justice-oriented climate movements in California. Pettinicchio's (2012, 2017, 2019) institutional activism in part posits that political elites, including state policymakers, further social movement goals within political institutions. For example, on U.S. disability policy, Pettinicchio argues:

“Elected officials, government bureaucrats, and incumbent interest, disability, and professional groups formed a symbiotic relationship serving their political needs while also doing good” (Pettinicchio 2019, p. 32).

In the case of California climate policymaking, we observed a parallel symbiotic relationship between market-oriented climate SMOs, their institutional allies in state government, and even certain business groups that stood to profit from climate policy (Basseches 2020). A top staffer in the California Statehouse explained how Republican Governor Arnold Schwarzenegger became an “institutional activist,” working to advance market-oriented climate policy on behalf of the market-oriented SMOs; Schwarzenegger stood to simultaneously increase his own political fortunes by advancing the market-oriented movement’s climate policy goals:

“What was really going on was Arnold Schwarzenegger ... was running for reelection, and he was losing. California was moving to a blue state. He had done a lot of things at the behest of .... the more conservative elements of California that had ticked off labor unions, environmentalists, other people. So he was in trouble and ... it seemed pretty clear what was really going on was they [his advisors] told him [to sign AB 32]” (Author’s Interview, 11/13/18).

Political elites can, if they choose, confer a degree of legitimacy on social movement groups while simultaneously excluding other actors from the formal policymaking process altogether. This complicates the previously understood relationship between elites and social movement actors, whereby elites are typically assumed to be movement opponents unless movements hold direct (typically electoral) leverage over them (Amenta et al. 2010). As Pettinicchio (2017, p. 170) 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.”

In the case of California climate policymaking, we observed quite clearly how political elites within the state, and also certain elements of the business community, conferred legitimacy on market-oriented SMOs like EDF and NRDC while at the same time

devaluing the input of the justice-oriented SMOs (Jennings 2017; London et al. 2013; Sze et al. 2009).

However, the marginalization of justice-oriented SMOs within the policymaking process was not just the result of a conscious effort on the part of some political elites; it was also a result of the very different framing the market-oriented and justice-oriented SMOs each relied upon in order to attempt to influence policymaking. Specifically, the former was able to take advantage of what McCammon et al. (2007, p. 733) refer to as a “legal discursive opportunity structure.” The latter’s emphasis on activist and citizen participation to also combat structural racism and capitalism meant that their requests were more likely to fall upon the deaf ears of legislators and technocrats who were more focused on crafting statutory and regulatory language rather than on systemic change. As Basseches and King (2020) argue, the complexity of legislative language poses an obstacle to less institutionalized social movements, like the justice-oriented movement in California.

In sum, the social movement literature is in some ways helpful but in other ways limited in its utility for understanding the case of California climate policymaking, and the divergent policy agendas of the market-oriented and justice-oriented SMOs. The more consequential limitations of this literature become more salient when evaluating the influence of either of these movements on policy. In recent years, there has been a proliferation of research examining the policy consequences of social movements (e.g. Amenta et al. 2010; Amenta 2006; Basseches 2019; Burstein & Linton 2002; Soule & King 2006; Soule & Olzak 2004). Some of this research has even specifically examined

the influence of the environmental movement on public policy (Johnson et al. 2010; Olzak & Soule 2009).

However, this research is often guided by theoretical frameworks like political mediation, which largely ignore broader fields of interest group actors and the influence of coalitions that include both movement and non-movement actors, as exemplified by the market-oriented coalition in California. This coalition included not only SMOs, but also “green business” interests and IOUs (Basseches 2020). To be sure, there has been plenty of work examining coalitions *within* broader social movements (e.g. Van Dyke & McCammon 2010), but less so when it comes to coalitions also consisting of non-movement actors, and even less so examining how the presence of non-movement actors affects the policymaking influence of the coalition as a whole.

For instance, the political mediation model makes little mention of interest group coalitions, focusing instead on five conditions that characterize the relationship between political elites and social movement challengers (Amenta et al. 2010). Missing is an understanding of how partnerships between SMOs and non-movement actors might impact the theorized mechanisms mediating between movement mobilization, on the one hand, and policy outcomes, on the other (Amenta et al. 2005, Amenta et al. 2010). Empirical studies based on this theoretical framework often focus on the effect of tactics in shaping the policy agenda, and less so, on policy itself. They do not model the impact of non-movement coalition partners in potentially augmenting a movement’s policymaking power (Johnson et al. 2010; Olzak and Soule 2009). However, Basseches (2019) does find that an interest group coalition comprising both movement and non-movement actors was at least in part the reason that environmental SMOs in

Massachusetts were more successful when it came to influencing the content of one law than another.

Parallel political science research on interest groups, coalitions, and lobbying suggests that coalition size and diversity can be important factors when it comes to influencing public policy. Bawn and colleagues (2012) theorize that interest group coalition strength is the single most important factor in determining the policymaking behavior of political parties. Hula (1999) argues that lobbying coalitions lower the costs of policymaking for legislators and are therefore highly efficient ways to influence policy outcomes. Finally, Phinney (2017) argues that it is the diversity of types of interest groups that are members of a single lobbying coalition that increases the appeal of its policy agenda to policymakers. In her analysis of why advocates for the poor occasionally succeeded in making gains when it comes to social policy in a political context thought to favor moneyed interests, Phinney concludes that the “strange bedfellows” that comprised the winning coalition help explain its success. We might expect, then, that the fact that the market-oriented climate policy coalition in California included both environmental SMOs *and* business interests would lead policymakers to be more responsive to it than to the justice-oriented coalition.

We show that indeed, coalition power – exerted by a coalition that included both movement *and* non-movement actors – is the missing link that sheds light on why the market-oriented coalition was more successful than the justice-oriented coalition in shaping California’s climate policy regime. Other factors, better accounted for in the social movement scholarship, mattered, too. These include things like tactics (Johnson et al. 2010), resources (McCarthy & Zald 1977), and legal discursive opportunity structure

(McCammon et al. 2007). However, ultimately, the fact that the market-oriented coalition offered policymakers a way to take action on climate change while simultaneously pleasing many powerful elements of the business community was critical to explaining why the justice-oriented coalition's proposed path was the road not taken. To frame our analysis, we first provide additional empirical background on our case, and then outline the data and methodology upon which our analysis is based.

### **Climate Policymaking in California**

California has a long and well-documented history of environmental policy leadership (Vogel 2018). Because of the size of California's population and economy, it has been a strategic focus of large, foundation-funded, national environmental organizations, such as the EDF and the NRDC. These organizations have a reputation for 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 to support what was ultimately an unsuccessful effort to pass cap-and-trade at the federal level (Bartosiewicz & Miley 2013; Grumbach 2017; Pooley 2010). 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 consists of hundreds of community-based SMOs throughout the state -- preferred

command-and-control regulations, which business interests are predisposed to oppose. These limit pollution at the source and constrain, rather than promote, free market forces. The justice-oriented movement was concerned not only about GHG emissions, but also “co-pollutants,” such as nitrogen oxides (NO<sub>x</sub>) and sulfur oxides (SO<sub>x</sub>). 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). The justice-oriented movement problematized the fact that low-income populations within the state, and particularly communities of color (Downey & Hawkins 2008), suffer disproportionately from environmental harms (Capek 1993; Ciplet 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 counter 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.

For justice-oriented SMOs, the trouble with AB 32 was its basic architecture. The justice-oriented movement would have preferred the legislation 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 opponents) as to whether or not the mechanisms that the California Air Resources Board (CARB)<sup>2</sup> would ultimately select to implement the law would exacerbate *local* pollution issues. As one justice-oriented SMO advocate put it, “What community [justice-oriented] groups were saying is, we want very stringent language [in the AB 32 legislation]” (Author’s Interview, 11/12/18).

Regarding the cap-and-trade program, which the CARB ultimately chose as its signature policy mechanism to implement AB 32, the problem the justice-oriented movement had with it was the “trade” part, not the “cap” part. A cap on GHG emissions amounts to command-and-control regulation, which the justice-oriented movement supports. However, 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).

On the other side, market-oriented SMOs like 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”

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<sup>2</sup> The state agency charged with implementation of the AB 32 statute

(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. The primary objective of EDF and NRDC with respect to AB 32 was global 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 key 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 allies. 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 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" and Its Policy Preferences***

We argue that the presence of non-movement, business interests in the market-oriented coalition, alongside SMOs, was a crucial factor in the market-oriented coalition's superior policymaking influence (relative to the justice-oriented coalition, comprising exclusively SMOs). It is therefore useful to describe the policymaking preferences of these non-movement, business interests, showing how compatible they are with the objectives of the market-oriented SMOs. One key private constituency that was part of the market-oriented coalition consists of 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 energy storage, as well as venture capitalists that are heavily invested in these types of firms. Many of these interests have strong ties to California because they are headquartered in Silicon Valley.

These "green business" interests wanted policies that would open the market for their products, and they were not necessarily as 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).

### ***Investor-Owned Utilities (IOUs)’ Policy Preferences***

IOUs are the single most politically powerful type of stakeholder when it comes to state-level climate and renewable energy policy. The policy preferences of IOUs vary considerably by state, and depend on a number of factors. In California, given that state’s “restructured” electricity sector, energy efficiency incentives, and sizable preexisting renewable portfolios, IOUs were very open to the possibility of supporting climate policy, so long as it was designed in a way that was favorable to their bottom lines (Basseches 2020). They saw the potential to do very well for themselves under a cap-and-trade program, but were opposed to command-and-control regulation.

When a key legislative staffer who was negotiating with the IOUs was asked what the IOUs’ single most important priority was with regard to 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, 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 proceed in that direction (Author’s Interviews, 11/26/18, 11/13/18, 8/6/19). In effect, this meant that market-oriented SMOs, “green business” interests, and IOUs shared the same preferences vis-à-vis AB 32. Justice-oriented SMOs, by contrast, did not.

### *State Policymakers as “Institutional Activists”*

As Pettinicchio (2019) argues, social movements can benefit from “allies” in positions of institutional power even though those allies may be motivated by their own self-interest. They can be highly effective in advancing movement goals. This was true in California, where the governor proved to be a staunch ally for market-oriented SMOs, and legislative leaders proved more sympathetic (by comparison) to justice-oriented SMOs’ cause. Governor Schwarzenegger, a Hollywood movie star facing a tough reelection bid when 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). This won him the admiration of the “green business” community and of market-oriented SMOs (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 differences 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).

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 the community-based organizations comprising the justice-oriented movement enjoyed a degree of direct representation in the legislature that they did not in the executive branch. 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.

The justice-oriented movement enjoyed even greater influence in the state senate, 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 "41<sup>st</sup> 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.

## **Data and Methods**

The key to understanding the policymaking influence of a social movement actor (or any political actor, for that matter) is to carefully document the policy preferences of the full range of political actors that attempted to shape a given policy, and then to assess the degree to which each actor's preferences were *realized* in the way the policy was ultimately written (Amenta et al. 2010; Amenta 2014; Andrews & Gaby 2015; Basseches 2019). To that end, the larger project from which this analysis draws began by tracing and analyzing every version of every legislative and/or regulatory text pertaining to six climate policies adopted in three U.S. states. To ascertain which political actors expressed a preference regarding how each policy should be written, what these preferences were,

and the decision-making process that mediated the relationship between the preferences and the ultimate outcome, the project relied on journalistic sources, 4,835 pages of archival documents, and 111 policy-focused interviews with policymakers and their staff and with representatives of the full range of public and private interest groups who lobbied them (Basseches 2020).

A bipartite strategy was employed to select and recruit interviewees. First, journalistic coverage of each of the six policies was systematically reviewed. Each time an actor's name appeared in the newspaper in connection to one or more of the policies, the actor's name was added to a list of potential interviewees to reach out to. However, once the first few publicly mentioned actors from this list were interviewed, a second method for interview recruitment, "snowball sampling," was utilized in order to avoid missing the perspectives of key actors who were involved behind-the-scenes and therefore never mentioned in the newspaper. These tended to include political staffers, who were politicians' most trusted advisors and confidants and in many cases the attorneys responsible for actually writing the bills, as well as corporate lobbyists. Of the 111 individuals who were interviewed from the three states (about 60% of all individuals who were contacted), 43 spoke about the California case (Basseches 2020).

Each interviewee was asked about their personal involvement throughout each policy's development, their (or their organization's) preferences and priorities at various stages of the policymaking process, and their strategies for advancing their preferences. For each important provision that emerged, changed, or disappeared during the policymaking process, the goal was to gather at least three pieces of information from each interviewee: 1) what did they want (i.e. what was their preference?); 2) how did they

attempt to get what they wanted (i.e. who did they meet with, what arguments did they make, how easy or difficult was it to convince decision-makers to go along with what they wanted?); and 3) to the degree things did not turn out the way they wanted in the final version of the policy, to what do they attribute that (i.e. which actors/interests do they think got their way instead?). All interviews were transcribed and coded using AtlasTI. This coding made it easier to identify specific policy preferences, as well as develop counts of actors/interests supporting, opposing, or requesting amendments of, specific provisions.

One of the advantages of this method is that it facilitated the identification of coalitions – actors and interests with shared policy preferences that coordinated to make the alignment of these preferences known to policymakers. Although all three states had components of the environmental movement that were more market-oriented or justice-oriented, the California case stood out among the three in the degree to which there was a salient and direct *conflict* between the two when it came to the form that the state’s climate policy would take. There are a number of possible reasons why this conflict was most salient in California, including the more central presence of national, foundation-funded environmental groups such as EDF and NRDC as well as California’s long history of environmental inequality. Whatever the reason, this conflict emerged as a central theme in the California data from the larger project (Basseches 2020).

### **Understanding the Limited Influence of the Justice-Oriented Movement**

When it came to AB 32 and its implementation, the market-oriented coalition that included market-oriented SMOs, “green business,” and the IOUs enjoyed far greater influence than the justice-oriented coalition, which consisted only of justice-oriented

SMOs. The version of AB 32 ultimately signed into law was far less prescriptive than justice-oriented advocates would have preferred. It left a significant degree of flexibility to the CARB with respect to implementation mechanisms, and CARB primarily relied on two market-based mechanisms – 1) cap-and-trade and 2) a market-based low-carbon fuel standard (LCFS) – both of which the justice-oriented SMOs adamantly opposed (Cole et al. 2008; Meszaros & Williams 2009).

Justice-oriented SMOs did enjoy the sympathy of key allies in the legislature, and on a few occasions, those allies secured provisions in AB 32 that corresponded with the justice-oriented movement’s preferences. One example of a justice-oriented provision that was secured 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.<sup>3</sup>

However, the justice-oriented movement was disappointed in the implementation of this provision. The movement had hoped that CARB would use this opportunity to adopt command-and-control measures, particularly since justice-oriented SMOs had put forward to CARB a number of related suggestions along with warnings about potential measures they believed would only exacerbate environmental inequality (Environmental Justice Advisory Committee 2007). But when we asked a prominent justice-oriented SMO advocate about the extent to which this 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 LCFS – a measure the justice-oriented SMOs adamantly opposed because of its likelihood to *increase* other, non-carbon air pollutants with

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<sup>3</sup> California Health and Safety Code, Chapter 488 (Acts of 2006)

adverse health impacts in disadvantaged communities (Environmental Justice Advisory Committee 2007).

As Sze et al. (2009) note, the final AB 32 statute contained a few other provisions that were incorporated on behalf of the justice-oriented movement. These included the requirement that CARB convene an Environmental Justice Advisory Committee (EJAC) to provide input on proposed regulations, that public workshops be held in disadvantaged communities, and that regulations not disproportionately disadvantage low-income communities. There was also language directing the CARB to “prevent any increase in the emissions of toxic air contaminants of criteria air pollutants [also known as “co-pollutants”]”<sup>4</sup> (Sze et al. 2009).

However, these provisions, unfortunately for the justice-oriented movement, proved to be largely symbolic gestures by the legislature – or what Amenta et al. (1992) call “cooptation.” 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 claims (Kaswan 2013).<sup>5</sup> 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 statutorily mandated public workshops, and that little was done from a regulatory standpoint to address co-pollutants (Cole et al. 2008). An interview with a legislative

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<sup>4</sup> Final Regulation Order, California Air Resources Board, amending Sections 95480.1, 95481, and 95486, California Code of Regulations. January 12, 2010.

<sup>5</sup> Of the multiple claims environmental justice 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).

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).

### ***The Importance of Coalitions That Include Non-Movement Actors***

Why does the justice-oriented movement appear to have had so little meaningful influence (beyond symbolic, “cooptation” gestures) over the design of AB 32, and its implementation, which was primarily vis-à-vis a cap-and-trade program that the movement vehemently opposed? Our analysis reveals that the chief answer lies in the cross-cutting nature of the market-oriented coalition, which comprised non-movement *and* movement actors. We argue that the political influence of market-oriented SMOs was greatly augmented by the alignment of these SMOs' policy preferences with, and indeed their coordination with, powerful business actors such as “green business” and the state's powerful IOUs (Basseches 2020).

This was critical in the market-oriented coalition's winning of the support of the governor, who Rosenthal (2004) argues is the most powerful actor in state government, in both administrative *and* legislative policymaking. Schwarzenegger pushed so hard for a market-based approach to the state's climate policy precisely because it offered him a way to *simultaneously* secure his climate bona fides *and* avoid completely alienating his political base in the business community (Author's Interviews, 11/7/18, 11/13/18, 11/15/18). He moved quickly to ensure that CARB got to work designing a cap-and-trade program before he left office, even firing and replacing recalcitrant CARB personnel in

order to ensure it happened (Author's Interviews, 11/12/18, 11/13/18, 8/21/19; Jennings 2017; Wilson 2007).

Conventional wisdom rarely puts environmental groups and IOUs on the same team when it comes to environmental policy; and yet, that is precisely what we saw when it came to AB 32 and cap-and-trade (Basseches 2020). 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 (Author's Interviews 11/7/18, 11/13/18, 11/15/18).

Another critical source of power within the market-oriented coalition was “green business.” The following quotes from Sacramento insiders illustrate the heft that these interests brought to the market-oriented coalition:

“The renewable industry has certainly learned how to lobby in California. They're very active. They're an important part of the political process in California” (Author's Interview, 8/15/19).

-Market-oriented SMO Advocate

“The business message from Silicon Valley, and from independent energy producers who wanted to make money at selling renewables offset the standard business mantra of opposition [to climate policy]” (Author's Interview, 11/13/18).

-Legislative Staffer

State senator Fran Pavley, the chief sponsor of AB 32, recalled how instrumental the support of “prominent venture capitalists” was in getting the legislation across the finish

line, and recalled in particular how important it was to them that “market signals” do the work of ushering in a new era of “investment in innovation and new, clean technologies” (Author’s Interview, 1/7/19).

Even a lobbyist for a major trade association that *opposed* AB 32 recalled that the sheer number of businesses supporting the policy, including some that were members of his trade association, made his job of trying to defeat the proposal much more difficult:

“Holy smokes, I got track marks over my back from leading the coalition [against AB 32] because all of a sudden I got leading players in my organization going out and being in support of it [AB 32]. And not only that, when Schwarzenegger signed the bill in San Francisco, I had five major members standing on the podium next to him” (Author’s Interview, 8/7/19).

### ***Resources, Tactics, and “Legal Discursive Opportunity Structure”***

While the importance of the market-oriented coalition including both movement and non-movement actors is the most novel element of our explanation, we recognize that other factors, which the social movement literature has discussed with much greater regularity, mattered greatly as well. Material resources (McCarthy & Zald 1977), and what Andrews (2001) calls “movement infrastructure,” were clearly in more abundant supply on the market-oriented side than on the justice-oriented side. Movement infrastructure theory postulates that movements with the resources to pursue multiple mechanisms of influence at the same time, including more institutionalized methods such as lobbying, are more likely to succeed in influencing the policy process (Andrews 2001; Johnson et al. 2010).

A top staffer in the California legislature contrasted the organizational infrastructure of market-oriented SMOs like NRDC with that of justice-oriented SMOs:

“Remember, first of all, the EJ [justice-oriented] groups were fairly—NRDC was a fully functioning, well-equipped organization. EJ [justice-oriented] groups in

those days tended to be more community-based. They didn't have statewide organizations" (Author's Interview, 11/13/18).

It was clear from our interviews that the justice-oriented SMOs did not possess the lobbying skill or experience of the market-oriented SMOs:

"The EJ community [justice-oriented SMOs] was not [involved in the negotiations] at this particular point in time ... This was now backroom nuts and bolts" (Author's Interview, 11/9/18)  
-Legislative Staffer

Beyond tactics and resources, another factor was how each side framed its claims, and how well their respective framing cohered with the legalistic and technocratic language that policymakers spoke. The market-oriented SMOs spoke in a language policymakers could understand, and translate into statutes and regulations. By contrast, the justice-oriented SMOs were making broader claims about systemic inequality that were not readily transformed into legislative or regulatory policy. It is useful to think of this in terms of what McCammon et al. (2007) refer to this as the "legal discursive opportunity structure" (McCammon et al. 2007, p. 733). The shared lexicon, between policymakers and market-oriented SMOs, presented the market-oriented SMOs with discursive opportunities the justice-oriented SMOs lacked.

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 ..." (Cohen & Ottinger 2011, p. 7).

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).

After the law was passed, when the policymaking process moved over to the 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).

## **Discussion and Conclusion**

The major theoretical takeaway from our analysis of the case of California climate policymaking, and the tension between market-oriented and justice-oriented environmental SMOs that has characterized it, is the value of “bringing coalitions in” to the study of social movement policy outcomes. Importantly, we are not talking about coalitions consisting exclusively of social movement actors, as this has long been a focus of analysis in the social movement literature (e.g. Van Dyke & McCammon 2010). Rather, we are talking about coalitions of “strange bedfellows” (Phinney 2017) that include both movement *and* non-movement actors—such as market-oriented SMOs *and* IOUs. These “cross-cutting coalitions” add a perceived sense of legitimacy to a particular policy alternative (Hula 1999; Phinney 2017)—in this case, a market-oriented approach to climate policy.

There is growing evidence (e.g. Basseches 2019) that the presence of non-movement actors in coalitions with SMOs can have a significant positive impact in these SMOs' policy fortunes, but theoretical frameworks for analyzing the policy effects of social movements, such as the political mediation model (Amenta et al. 2005) and political opportunity structure (Meyer 2004), tend to omit the impact of such coalitions, implicitly assuming SMOs are necessarily challengers to the status quo of political power arrangements. They may therefore overlook the possibility that a social movement pushing for policy reform on climate change may be successful from a market-oriented perspective, but not from a justice-oriented perspective.

Despite the ways in which the justice-oriented movement has fallen short of influencing California's climate policy in the past, there is evidence that its influence is currently on the rise. While the justice-oriented movement continues to vociferously oppose cap-and-trade in California, it has also moved on to new policy battles. In recent years, the justice-oriented movement has experienced some major legislative victories: the enactment of a bill directing CARB to further regulate co-pollutants (SB 605, enacted in 2014),<sup>6</sup> 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),<sup>7</sup> 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).<sup>8</sup> Figure 1 provides a timeline of these more recent legislative victories, as well as the major policies that preceded them (the focus of the analysis above).

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<sup>6</sup> Chapter 523, California Statutes (Session Law) of 2014.

<sup>7</sup> Chapter 586, California Statutes (Session Law) of 2015.

<sup>8</sup> Chapter 250, California Statutes (Session Law) of 2016.

We believe that, just as coalitional politics can help explain justice-oriented SMOs' past policy shortcomings, it too plays a role in explaining the recent reversal of the movement's policy fortunes. 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 environmentalists. 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, and reached out to provide assistance, when possible. In the case of NRDC, this has even meant representing justice-oriented groups in legal matters (Perkins 2015).

One justice-oriented SMO 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 ... 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, market-oriented environmental SMOs 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. This newfound partnership suggests that, while the market-oriented SMOs benefit materially from their partnerships with business actors and other elites, associating *too* closely with these interests, and being publicly chastised by justice-oriented SMOs with increasing tactical sophistication, carries with it a threat to the market-oriented SMOs' legitimacy as a social movement actor.

In this chapter, 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 market-oriented vision was shared across party lines, 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, 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. Even so, the signs we are beginning to see in California of a bridging of the two movements, coinciding with a recent rise in the policymaking influence of the justice-oriented coalition, suggests that barriers to coalition-building are not static or permanent, and can possibly be reduced over time, and with shifting 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).

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 subnational leader when it comes to climate policy in the U.S., and many in the broader environmental community have pointed to California as a beacon of hope amidst the federal government's refusal to address 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 Climate Policy Conflict between Market-Oriented and Justice-Oriented Environmental SMOs**

