Negotiating climate legislation: Policy path dependence and coalition stabilization

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Abstract

This article investigates the nature of policy path dependence through analysis of climate policy formation in the United States. In 2008 the US Congress attempted to pass the Lieberman–Warner bill, a comprehensive climate and energy package that would have capped greenhouse emissions and established a nationwide cap and trade program. In the same year, California successfully enacted the Global Warming Solutions Act. This article explores the circumstances of both cases and raises the question of why legislation at the state level was successful and took such a divergent form from legislation at the federal level. The divergence of these cases is used to highlight the nature of coalition formation and policy path dependence in the legislative process. Explanations of policy tend to gravitate toward either the generalizability of game theoretic approaches or the empirical depth of case studies. This article suggests a combined approach that uses case studies to analyze the positions and motivations of actors and to then model policy development over time. The approach examines policy through the formation and negotiation of policy coalitions. Drawing on the Advocacy Coalition Framework and omnibus analysis, the approach expands these coalition theories first by analysing legislative development at the interface of legislators and constituent interest groups, and second by adding temporal dimension to the analysis. The findings suggest that policy is path dependent in that it is negotiated between coalitions that in turn create stability in the policy process and insulate policy fields from external shocks. Policy path dependence suggests that theory alone is insufficient to predict policy outcomes; policy results depend strongly on prior policy efforts, historically and socially contingent coalitions, and the resulting framing of policy possibilities.

Keywords: carbon markets, climate change, coalition theory, field stabilization, game theory, path dependence.

1. Introduction

The factors guiding the development of climate policy in the United States are complex and multi-jurisdictional, involving an extraordinary range of actors and interests. In cases like climate change, the policy outcome often does not reflect the initial additive interests of the concerned actors and organizations. Instead, I argue that the final policy outcome is the product of a process of path dependent crystallization of the scope and content of the policy debate. Climate policy is path dependent, shaped by prior policy and subject to the inertia of policy coalitions that develop over time. Policy coalitions are historically
contingent and shaped by the interests of actors within specific social and political context. The negotiation and development of these coalitions crystallizes the policy field from which policies are made.

A framework of policy field stabilization and path dependence is proposed to demonstrate how the historically contingent interactions of coalitions shape policy through field stabilizations. Social actors with varying amounts of political influence interact in a policy field and direct the inertial path of policy. This framework highlights the context-sensitive nature of policy, elucidates how coalitions interact over time with inertia in the policy process, and demonstrates how stabilized coalitions respond to external shocks. In doing so, the approach outlined here stands in contrast and contributes to traditional understandings of policy outcomes that typically focus on the bargaining of asocial, ahistorical, rational actors with fixed preferences.

Two case studies highlight the importance of temporally and socially contingent policy field stabilizations for policy outcomes. The first examines the unsuccessful attempt to pass the Lieberman–Warner Bill (Senate bill 2191 – “America’s Climate Security Act”) in the United States Senate in the summer of 2008. The bill would have set a limit on the emissions of greenhouse gases at the national level and established a nation-wide cap and trade scheme. Although the Lieberman–Warner bill did not pass, it is a critical case. The bill received the most attention in the Senate to date and set the stage for the development of further legislation in both the House and the Senate. The second case study analyzes the successful passage of AB 32, California’s “Global Warming Solutions Act,” which, in addition to initiating a host of energy efficiency programs, sets a mandate for California to establish a cap and trade program to reduce the state’s emissions to 1990 levels by 2020. This case provides a counterpoint to the federal example, showing the result of a successful policy process, and demonstrates the core argument of the resiliency of iterated policy negotiation. The time frame of the case studies (2008–2010) also allows for an investigation of the role of external shocks – a historically contingent factor that can alter existing field stabilizations – on the policymaking process. Specifically the 2009 financial crisis and economic recession are used to analyze the impacts of external shocks on the development of climate legislation in California and at the federal level.

Analysis of archival documents and close dialogue – interviews guided by a predetermined set of questions and conducted on a confidential basis with no citation rights (Clark 1998) – provides the empirical foundations of the article. Data collected from 111 interviews has been triangulated with external documents and used to map the political field that underpins climate policy. This empirical data has then been used to develop a conceptual model that demonstrates how policy action is negotiated through coalition formation among conflicting interest groups. Coalition formation is a necessary component of decisionmaking and reflects the structure of the underlying interests in a democracy. As the article demonstrates, these coalitions carry weight over time and structure future policy through path dependent inertia.

The article proceeds in five substantive sections. In the first section, I examine several key literatures, including arguments over the structure and function of the legislative process as well as coalition formation and field stabilization. In the second section, I suggest a new perspective for understanding the US legislative process focused on historical context, policy inertia, and the interface between policymakers and the public. The third section analyzes the development and political process of the Lieberman–Warner
Bill, America’s Climate Security Act. The fourth section explores the quick passage of AB 32: California’s Global Warming Solutions Act. The fifth section compares the national and California cases and considers the effects of external shocks on the legislative process. I conclude by suggesting implications and applications for the path dependence model.

2. Coalition theory, field stabilization, and path dependence in the legislative process

Climate policy requires legislation that is shaped through a multi-stakeholder process, involving a mix of instruments, third party actors and various enforcement regimes (Barkay 2009; Haines 2011). The development of emissions markets has been criticized as “lite” regulation because it is seen to embrace incumbent industry interests (Baldwin 2008). Furthermore, public authorities must effectively regulate the emissions markets in order for the markets to serve environmental goals (Lederer forthcoming). At heart, the issues of contention in emissions legislation revolve around the nature of stakeholder engagement and policy negotiation, and are best understood through coalition theory (Elgstrom et al. 2001). The key to a coalition is that it must have a minimal winning size to win a policy objective or a majority vote (Riker 1962; Acemoglu et al. 2006). Since climate policy affects everything from energy and economic function to agricultural production and civil defense, it would be impossible to achieve consensus among all the myriad interests at stake (Rabe 2010). Rather, the winning coalition is built by gradually shifting the weight of each interest’s position closer to an equilibrium that rests between all of these interests (Bernstein & Cashore 2007).

The neo-Gramscian framework developed by Levy and Egan (2003) to understand how corporations affect policy retains considerable theoretical traction for analyzing the organizational dynamics of climate politics (Finus 2003). To stabilize a field of conflict, actors seek to build coalitions of firms, governmental agencies, NGOs, and intellectuals who can establish policies, norms, and institutions that structure the policy field in particular ways (Skelcher & Torfing 2010). Field stabilization depends on an alignment of forces capable of reproducing the field (Levy & Newell 2005). Climate policy is negotiated in a field of debate, between a number of private and public institutions, which seek to interpret and prescribe policy outcomes (Greer 2011).

The function of policy coalitions raises an important question: are political alliances stable – possibly reflecting core ideological agreements – or do they shift over time? When combined with coalition theory, the neo-Gramscian approach suggests that policy formation is a form of field stabilization. Conflicts of interests in a policy field are contested through negotiation, such that policy outcomes stabilize conflict. Furthermore, policy negotiation and stabilization are ultimately path dependent (Marcussen & Kaspersen 2007). Established coalitions have inertia and can eventually more quickly pass legislation, because they have already constructed the path for agreement.

Two important streams of thought have tried to address the question of how complex multi-jurisdictional policy is negotiated: research on omnibus legislation (Baumgartner et al. 2000; Krutz 2001), and research on stakeholder negotiations in the form of the Advocacy Coalition Framework (Sabatier & Jenkins-Smith 1993). Omnibus legislation is used to negotiate complex policy areas like climate change because the bills are fast-tracked through committees with less consideration than typical bills.
(Smith 1989). Competing interest groups (both within the legislature and between the legislature and the executive) must accept the entire package in order to achieve their specific legislative initiative (Cox & McCubbins 2005). While divided government impedes agency rulemaking (Yackee & Yackee 2009), omnibus bills ultimately facilitate the formation of coalitions in Congress and help to avert a presidential veto (Krutz 2001). At the national level, these functions explain why climate legislation often takes the form of omnibus bills. However, two factors are absent from omnibus analysis: (i) the historical context and precedence under which bills are built, and (ii) how legislators mediate constituent interests. How does repeated negotiation affect the structure of legislative bills, and in particular, does it diminish the need for unrelated measures and thereby shorten the length of bills?

A second literature – Advocacy Coalition Framework (ACF) – seeks to explain the complex process of policy change over periods of a decade or more and is thus more explicit in exploring the issue of policy inertia (Sabatier 1988). The ACF assumes that the most useful unit of analysis for conducting stakeholder analysis is the policy subsystem, which includes a full range of stakeholders including local, state, and federal government officials, interest groups, nongovernmental organizations, community groups, researchers/scientists, members of media, and target groups (Sabatier & Jenkins-Smith 1993). Stakeholders are primarily motivated by the desire to convert their beliefs into actual policy and seek allies to form advocacy coalitions (Sabatier and Jenkins-Smith 1999). The ACF explains the dynamics under which policy stakeholders coalesce and shape policy opinions over time suggesting a degree of path dependence in coalition dynamics.

The ACF also addresses the impact of external shocks on coalition formation and disruption. In the absence of external shocks, the ACF predicts that measures of coalition structure and stakeholder policy core beliefs should be stable for a decade or more (Jenkins-Smith et al. 1991), such that the basic structure of the coalition does not change (Weible 2007). However, changes in relevant socio-economic conditions or system-wide governing coalitions can dramatically alter the composition and resources of various coalitions and in turn alter public policy within a subsystem (Sabatier 1988). In times of economic instability, previously marginalized advocacy coalitions attempt to take advantage of exogenous events to rearrange resources to overthrow the dominant coalition (Sabatier & Jenkins-Smith 1993; Weible & Sabatier 2007). For example, the recent economic crisis can be expected to shift coalitions in the arena of climate policy. However, the ACF does not present a clear theory of the impact of external shocks on policy fields in the presence or absence of a strong extant coalition.

This article explores the coalition formation process at the interface of legislators and constituents, and suggests a framework for understanding these interactions over time through path dependence. The detailed examination of policy negotiations at the interface of civil society interest groups and policy legislators has the potential to add a temporal dimension to omnibus analysis. The framework proposed here also clarifies for ACF the importance of path dependence and the mechanisms through which external shocks can, and cannot, alter the policy space.

3. Proposed framework

Two general frameworks have been developed for studying coalitions, a European politics tradition and a game theoretic tradition (Laver & Schofield 1998). The European politics
tradition addresses coalition theory with empirical attempts to fit the experience of coalition formation in the European parliamentary system to an inductively derived theory. In contrast, game theoretical coalition theorists treat the politics of coalition as a constant sum game played for the fixed price of holding office (Riker 1962). Game theoretic studies have mostly been tested on US university campuses and have developed in some isolation from the real political world, and as such suffer from a failure to understand country specific context (Budge & Keman 1993). Studies in the European politics tradition often focus on detailed cases and have trouble replicating the generalizability of game theoretic approaches.

The approach of the article is built around a conceptual framework that combines the strengths of game theoretic and case study approaches. It analyzes how society-wide conflicts of interest are negotiated and stabilized by legislators and interest groups through coalition formation and negotiation. Understanding how political actors and organizations crystallize the terms and scope of the policy discussion is critical to understanding policy outcomes. The conceptual model uses case study data (archival materials and interviews) to map organizational positions onto a policy field of legislative negotiation. In US cases, the policy field is constructed out of four basic policy options available to legislators at both the state and federal levels to address climate change: (i) take no action/maintain the status quo, (ii) use carbon taxes to set a price signal for CO2 and other greenhouse gases, (iii) use command and control regulation to reduce greenhouse gas emissions, such as having the Environmental Protection Agency (EPA) set performance standards on polluters, and (iv) use trading schemes such as “cap and trade” to set an overall cap on greenhouse gas emissions and to allow trading to create a market price for emissions reductions. Unlike emissions taxes and cap and trade, which are incentive-based regulations, command-and-control regulations take a form (ambient standards, source-specific emissions limits, or technology requirements) that is much less flexible (EPA 2012). For example, the EPA might set a performance standard, which establishes a fixed emissions goal or level for each polluter. While command and control approaches may be more effective at reducing emissions, they restrict the flexibility of the economic system – the burden of reducing emissions cannot be shifted to the firms that can achieve reductions more cheaply.

Congressional committees and bill authors establish initial policy positions (usually a balance of these four options) for the legislation within the policy field. Active lobbying institutions and interest groups likewise establish initial positions based on the core beliefs and missions of their constituents. These positions were determined through interviews with state and federal legislators and representatives of interest groups, and mapped onto the policy field to illustrate the process of field stabilization.

Over iterative negotiations of policy, the policy position of the legislation, as well as the positions and interests of vested actors, shift. The policy position that counterbalances the influence of each of the interests is the equilibrium position. Through field stabilizations, legislators try to position the legislative policy at the equilibrium position. The direction of policy shifts is determined by the historically contingent socio-political strength (power, authority, “capital”) of the various stakeholders. Stakeholders with greater socio-political strength exert greater influence on legislators and their policy position than those with less.

Since staffers negotiate the content of legislation with various stakeholders including other legislators, business interests, and NGOs, the structure of the legislation is deter-
mined before it even gets to the Congressional floor. The stakeholder negotiation of legislation stabilizes conflict on the policy field, and thereby exerts inertia on the next round of negotiation. The route of legislative policy can be traced through the series of field stabilizations that occur with each legislative effort. As socio-political strength shifts between actors, so too does the policy trajectory. Within the system (if we exclude exogenous changes), the more policy moves toward (away from) an actor’s initial policy position, the more (less) that actor’s political authority on the subject is reinforced.

Eventually, the process of policy negotiation produces coalescence between legislative policy and the positions of the vested actors. At this point, the policy, while not immutable, should be relatively immune to the effects of external shocks. This bears out in the case of California, where a 40-year iterative policy process preceded AB 32, such that the exogenous shock of the 2008 financial crisis did not produce a change in policy (see Appendix). Before the point of coalescence, however, external shocks can change the relative social strengths of the vested actors, altering the trajectory of policy. This is the case with federal efforts to regulate greenhouse gas emissions. The 2008 financial crisis shifted the policy field (in terms of both policy preferences and available mechanisms) and empowered actors who challenged and eventually disrupted the fledgling coalition developing around climate policy.

4. Case 1: Carbon legislation at the national level

4.1. Lieberman–Warner: America’s Climate Security Act

In June 2008 the Senate rejected closing cloture on the Lieberman–Warner bill, which would have put the bill to a general vote, with a 48 No, 36 Yes, and 16 abstaining vote (United States Senate 2008). The bill would have mandated a national level cap-and-trade system and brought US emissions targets roughly in line with the recommendations of international scientists. The attempt to pass Lieberman–Warner was an important step in stabilizing a policy field. A host of private and public groups – including advocacy groups, industry groups, and labor unions – representing the varied interests of society were involved in the negotiation. Lieberman–Warner established an initial coalition, shifted the policy field, and set the inertia for future climate legislation.

Prior to the development of the Lieberman–Warner bill several other bills were put forward in the House and Senate, without success beyond the committee level (see Appendix for a timeline). One of the most notable of these attempts was the 2005 McCain–Lieberman bill, which was debated on the Senate floor, but defeated in the move for cloture with a 38 yes to 60 no vote (United States Senate 2005). Although the bill did not pass, it framed ensuing climate policy efforts and fixed aspects of the policy field. For example, the bill successfully moved business coalitions and components of the energy sector into a pro cap-and-trade position (ICROA 2011; Peters-Stanley 2011).

Consequently, when the Lieberman–Warner bill was put forward in an effort to take advantage of growing public awareness of the climate change issue, it was significantly shaped by the legacy of McCain–Lieberman (Betsill & Hoffmann 2011). Lieberman–Warner was successfully moved from the Environment and Public Works Committee in 2007 to the Senate floor. Despite its initial success, it did not get the three-fifths majority vote needed to close cloture and force the Senate to vote on the bill. Many of the legislative staff interviewed for this study suggested that the bill crumbled under its own weight.
When the amended version of the 2007 bill was re-introduced to the Senate Environment and Public Works Committee on 20 May 2008, it was already a complicated piece of omnibus legislation and over 260 pages in length (Lieberman & Warner 2008). By the time it was put to a vote to close cloture on 6 June 2008, it was over 500 pages in length with amendments.

Although it set comprehensive targets and an aggressive reserve price with between $22 and $30 per ton in 2012 and a floor price set by $10 per ton, most of the detail of the Lieberman–Warner bill was dedicated to distributing revenue from the auction of credits to various programs and institutions (NRDC 2009). By the time of the vote, 70 percent of proceeds were dedicated to emission reductions programs outside the cap, while 30 percent was dedicated for low-income assistance (Lieberman & Warner 2008).

The structure was very similar to McCain–Lieberman, but we wanted to increase the level of detail to get the votes needed. . . In the end it was too detailed and most of the detail was in the allocation process. We still had to generate political momentum by creating programs that were attractive, and we used allocations to buy political support. Part of pushing the bill through the machinery – the subcommittees, the committees and the floor – is getting votes. People whose votes you need, have the right to demand things. This led to the detail of allocation and programs and added to the length of the bill.—Interview with Legislative Assistant to US Senator, September 2008, Washington D.C.

As this legislative assistant suggests, the distribution of programs and revenue was symptomatic of attempts to manage the many interests at stake and to garner support. The bill needed to please the constituencies represented by the Senators conducting the vote and to address economy-wide issues. The first challenge was one of scale. The United States is composed of a myriad of state and regional interests. The most direct challenge is the fact that different states and regions have different power generation schemes. California and several Northeastern states have decoupled energy provision (a utility’s profits are decoupled from energy sales), which makes their electric industries more competitive. In contrast, the Midwest is still dependent upon coal for both power generation and employment. The provision of a nationwide cap has the potential to adversely affect already inefficient regions more than others (Knight 2011). In addition to variation in power provision there are regional economies across the United States: the Midwest is still the agricultural center or “bread basket;” industry, such as automotive, is heavily provisioned in the Northeast; the South, and particularly Texas, is the oil capital of the US and tends to be more conservative and skeptical of environmental provisions.

Interests groups also vary by geography. Environmental NGOs and think tanks tend to be headquartered and active in the more liberal coastal states such as California and New York (CEJM 2008). Business interests are represented in a number of the financial capitals, particularly New York. The political positioning of these groups represents society-wide conflict of interests over the outcome of climate legislation and its effect on different constituencies. The Senators are likewise concerned with and aligned with interests that affect their constituencies. As coalition theory suggests, the Lieberman–Warner bill needed to build at least a minimum winning coalition amongst these interests. It is important to note that staffers developing the legislation do not just negotiate with the Senators whose votes are needed.
We met with over 200 stakeholders before and after the comment period. It was nonstop meetings over several weeks. We were forcing them to get their cards on the table and trying to negotiate the bill through those meetings.—Legislative Assistant to US Senator, September 2008, Washington D.C.

Most of the negotiation takes place with interest groups such as NGOs, labor unions, and business associations. If these groups pledge their support, the Senators that represent their constituencies often vote for the pending legislation.

The weight of Lieberman–Warner, both in terms of the size of the bill and the provisions it established, represented an attempt to build a winning coalition among the myriad interest groups it would affect. As is common of omnibus legislation in general, Lieberman–Warner tried to position the bill in equilibrium between the interests it needed to succeed and to buy support through the multiple and detailed programs its revenue stream provisioned (Lieberman & Warner 2008). Interview data suggests that the offices of Senators Lieberman, Warner, and Boxer (chair of the Environment and Public Works Committee) established an initial policy position, but the final outcome was a negotiated process with the interest groups that represented the constituencies needed to pass the vote. As one legislative assistant explained:

Getting people to the table and getting people to think about impacts on states and committees is the way to get people engaged in the process and to have an effective bill... We got the support of faith communities, businesses, local communities, NGOs, labor unions, even the Conference of Mayors... We got a significant number of labor groups to endorse the bill. We were trying to bring everything together. It is the beginnings of a coalition, not the end of the story.—Legislative Assistant to US Senator, October 2008, Washington D.C.

The stabilization of conflict is illustrated in Figure 1. The relative positions of interests groups were established through interviews with representatives of each group and these are shown in Figure 1. These positions are neither exact nor comprehensive; they are meant purely to illustrate the policy process. Industry groups and utilities like the Edison Electric Institute were actively lobbying either for no regulation, weaker standards, or in some cases for a tax that would send a clear price signal, which would help them to forecast and assess future risks and liabilities (Whitten & Chipman 2007; EEI 2008). Environmental NGOs like Friends of the Earth held several positions, but mostly supported a mixture of stringent command and control programs, such as efficiency and renewable portfolio standards, and trading mechanisms (Shaw 2008). Carbon market advisory groups like the International Emissions Trading Association (IETA) and Environmental Entrepreneurs supported a trading mechanism, and provided detailed recommendations of how this should be structured (E2 2007; IETA 2009). Financial service industry associations like the Carbon Markets Association and the International Carbon Investors actively lobbied for a cap and trade system (Holliday 2008; CMIA 2011). Although regulatory agencies took no official positions, several including the EPA and the Department of Energy indirectly indicated preferences either for taxes that would be easier to administer or for command and control regulation (EPA 2008; Chu 2009; CTC 2011). Unions such as the American Federation of Labor and Congress of Industrial Organizations, the largest US labor group, largely opposed regulation for fear of the competitive advantage it would give foreign companies (Whitten & Chipman 2007).
The field of conflict between these interests is stabilized as the policy negotiation progresses. Interest groups exert pressure on the policymakers; the policymakers likewise exert pressure on the interests groups. The strength of each lobby depends on a number of factors, including size of the constituencies represented by the group, revenue support, and distance from the policy action policymakers prefer. The relative strength of these constituencies is represented by the thickness and length of the vectors. Additionally, the sizes of the circles are meant to loosely illustrate the relative strengths of different groups. The larger circles indicate larger and more unified coalitions (Fig. 1). Additionally, groups that can successfully organize and build coalitions, such as the industry and labor coalitions, exert more gravitational force on the policy outcome by supporting a unified position. Figure 2 illustrates the movement of both the policy action and the policy position of interests groups involved in the process.

**Figure 1** Initial positioning of organizations in debate over Lieberman–Warner.
Although the legislative process of Lieberman–Warner shifted the field toward a cap and trade based solution with command and control programs (energy portfolio standards, emissions reporting, etc.), the position did not move far enough away from the tax and no regulation options for the legislation to be passed. The coalition must be brought far enough into one or more of the policy actions (away from inaction) for a policy to pass. Nevertheless, the policy process, as represented by the movement of the bill through the committee and to the floor, shifted the field and created inertia for future climate legislation. In addition, the coalition formed under Lieberman–Warner was instrumental to the successful passage of the Dodd–Frank bill (Helleiner & Thistlethwaite forthcoming). The sum movement of each of the interest groups and policy committees involved was toward a combined cap and trade and command–control approach. The subsequent passage of the Markey–Waxman House bill and attempt to pass the Kerry–Graham–Lieberman Senate bill utilized this inertia. Both bills were built on similar combinations of legislative approaches.

5. Case 2: Climate legislation in California

AB 32: Global Warming Solutions Act
Unlike the Lieberman–Warner bill, Assembly Bill 32: “California Global Warming Solution Act of 2006” (AB 32) was only 13 pages in length and passed through the state legislature and was signed into law in a matter of months (State of California Legislative Council 2006). The bill, authored by Assembly Speaker Fabian Nuñez and Assembly Member Fran Pavley, commits the state to reducing its greenhouse gas emissions to 1990
levels by 2020. The reduction will be accomplished through an enforceable statewide cap and trade system. AB 32 directs the California Air Resources Board (CARB) to develop appropriate regulations and establish a mandatory reporting system in order to effectively implement the cap (Nuñez & Pavley 2006). The bill was signed into law by Governor Arnold Schwarzenegger on 27 September 2006. The California Air Resources Board has since begun to implement a number of energy efficiency programs and to develop the scoping plan that will determine the exact methods by which California will meet its targets. In contrast to the Lieberman–Warner bill, AB 32 was passed into law very quickly, and leaves a large amount of discretion to CARB (Farrell & Hanemann 2009). The discrepancy between the bills is exemplary of the path dependent nature of coalition formation.

Although the scale of legislation in California is less daunting than at the national level, the quick passage of AB32 cannot be explained by suggesting that California is a progressive state with few conflicting interests. California is the most populous state, accounting for 12 percent of the US population (US Census Bureau 2009). It contains a number of disperse geographies and regional economies, including sizable agricultural activity in the central valley, technology-oriented activity (Silicon Valley) in the north, and the nation’s largest entertainment industry in Los Angeles. In addition, the ports of Los Angeles and Long Beach receive 44 percent of all the container goods entering the United States (Villaraigosa 2007). California is composed of a diverse political atmosphere, with a mixture of liberal and conservative regions, and during the passage of AB 32 had a Republican governor and a Democratic state assembly. There are hundreds of interest groups in California, ranging from the California Bankers Association to the California Farm Bureau Federation (Culver & Syer 1988). As with national legislation, enacting climate policy has required the construction of a winning coalition (Urpelainen 2009). The quick passage of AB 32 reflects the fact that this coalition was built and has been stabilized for many years.

To pass a bill in DC or in Sacramento is all about relationships. It’s about the coalition. . . we started few environmental groups and split up tasks. We would meet and try to build on numbers. We had responsibility sharing. We ran it like a campaign and did outreach. . . If you pass the legislation, it sends a signal to people that there is a market where people can invest. The amount of venture capital support pouring into the Bay Area now is incredible. . . So what started as an environmental issue in 2001 or 2002 has garnered a lot of business support.—California Policymaker, August 2008, Los Angeles, California

As this policymaker highlights, a strong coalition of interest groups – including business interests – is critical to passing legislation. But once legislation is passed, or in the California case a series of environmental bills, the policy process builds a momentum of its own. The quick passage of AB 32 is explained by the fact that California had a strong coalition in support of the bill. As ascertained from a number of interviews, AB32 enjoyed wide-ranging support from actors ranging from regulatory agencies like CARB (Lichtman 2008), to building and construction trade unions (Buffa 2008), to strong environmental coalitions led by organizations like the National Resources Defense Council (NRDC) (Woody 2010), to a wide range of business groups and venture capitalists (Rivers 2010). This broad-ranging coalition of support was built over years of iterative legislative development. As one of the senior policy advisors at one of the regulatory bodies stressed:
Everybody was involved in getting the bill passed, all groups including industry groups etc. were active. There were remarkably strong business communities of support. California has an active clean technology industry. The government is also very persuasive with industry.—Senior policy advisor, California Regulatory Agency, August 2008, Berkley, California

Figure 3 illustrates the nature of the coalition that backed AB 32. In contrast to the policy field that negotiated Lieberman–Warner, the interests groups are much more closely aligned around the policy action centered on a mixture of command and control and cap and trade mechanisms. This position is not where the state originally started. The structure of the field stabilization that passed AB 32 has been constructed over 40 years of policy efforts to improve air and environment quality and energy efficiency (Rosenfeld 1999).³ The quick passage of a bill with such impact yet so little detail demonstrates the path dependence of the political process. Over time the gravitational force of each policy action has pulled the coalition that addresses environment or climate policy closer together.

The quick passage of AB 32 results from 40 years of clear air legislation development in California.⁴ This legislation has been a driving force of vehicular emissions standards not only in California, but also across the United States. The policy inertia has also been aided by establishment of two agencies with jurisdiction over air quality standards – the California Air Resources Board (CARB), which regulates air pollution, and the California Energy Commission (CEC), which regulates energy provision (CARB 2009; CEC 2009). Additionally, California has been developing legislation to
control greenhouse gas emissions (Hanemann 2008). For example, in 2000 Assembly Member Byron Sher introduced SB 1771, a bill that led to the creation of the California Climate Action Registry (CCAR), a non-profit corporation to record and register voluntary greenhouse gas (GHG) emissions (Sher 2000). The CCAR is now under consideration as the framework for a national registry. California Assembly member Fran Pavley likewise played a role in developing considerable climate legislation. Most notably, in 2001, she introduced AB 1493, a bill requiring CARB to adopt regulations to reduce GHG emissions by new motor vehicles sold in California (Pavley 2002). By the time AB 32 was introduced, it was backed by an economy-wide coalition that had been established over decades of policy negotiation.

6. The National and California cases in comparison

As with AB 32, most of the California legislation has left decisionmaking to the discretion of CARB and CEC. At the national level, garnering support for a bill without sufficient detail outlining every aspect is at best difficult. In California, an incredible amount of trust is left to the technocratic elite of CARB and CEC. In the policy field of energy efficiency or environmental standards, the quick passage of legislation, without the details of enforcement, has become institutionalized and works counter to the logic of omnibus legislation. The establishment of agencies like CARB and CEC, to some extent, embodies the coalitions that have been built to pass environmental legislation. Once these institutions gained a certain amount of jurisdiction, leaving the structure of regulation to these agencies became a matter of normalized procedure. This is not to say that conflict does not arise during negotiation over which agency will have jurisdiction over legislation.

Part of the conflict in establishing AB 32 was determining which agency would be in charge of implementing regulation to reduce of greenhouse gas emissions. Governor Schwarzenegger had initiated the process on 1 June 2005 by releasing Executive Order S-3-05, which established that California would reduce its GHG emissions to 80 percent below the 1990 level by 2050 (Schwarzenegger 2005). The Governor designated the California EPA (under his direct purview) as the lead agency for climate affairs. The state legislature responded by releasing AB 32, to achieve the same targets, but to leave the discretion of implementation to CARB. On 30 August 2006 (one day before the legislature would have closed session and halted the progress of the bill until the next legislative session) a compromise was reached and the bill was passed (Hanemann 2007). Governor Schwarzenegger signed it into law on 27 September 2006. CARB would have control over implementation, but to protect business interests the Governor had a “safety valve” (whereby the cap could be relaxed by the Governor under extraordinary circumstances) written into the legislation. As one of the senior legislative advisors suggests, part of the difficulty in establishing which agency has jurisdiction is that climate change is new and extensive:

The legislature has an important role to play to appropriate the money and have oversight over [the market] and the California Air Resources Board. There are important policy debates on things like cap and trade. The Senate is skeptical of cap and trade. But it has been proven to us as the best way to go. There is both a formal role and the political role, if the government is to go out on a limb. Neither the California Air Resources Board nor the state government has its handle on all of the
different aspects of climate change. Other agencies are doing regulation as well. But no one has clearly defined activities. This is a new area of law and regulation and it requires development.—Senior Legislative Assistant, California State Senate, August 2008, Sacramento, California

The entrusting of regulation to institutions of jurisdiction also occurs at the national level. For example, 30 years of legislative work to protect the environment has created a considerable field of jurisdiction for the Environmental Protection Agency. Path dependent coalition formation explains the mechanisms that develop these institutions. At both the national and state levels, the initial starting conditions and the ambitions of the actors that drive coalition formation direct the development of climate policy. Both the equilibrium/stabilization of interest groups at the national level and the feed-in from other policy mechanisms directed the inertia of the policy field towards cap and trade mechanisms at the end of 2008. While the combination of policy inertia, field stabilization, and changes in the interests of actors are certainly not immutable, only extraordinary circumstances could shift the inertia of the policy field from the trajectory it has established. The 2008 financial crisis and subsequent recession provides an opportunity to examine the dynamics outlined here under duress.

Financial crisis and California’s resolve for a climate solution
Circumstances and events can disrupt policy momentum and in the process shift the position of an entire field. The 2008 financial crisis shifted the policy field farther up toward a public governance, command and control response and away from private and market responses (Newell & Paterson 2010; Helleiner & Thistlethwaite forthcoming). Additionally statements from policymakers indicated that the 2008 crisis created concern over private governance through market mechanisms:

It is difficult to say whether there will be resistance to creating markets, because of the [economic] difficulties we are facing now. That is one of the contexts we will have to operate under, but to say America doesn’t believe in markets is an extreme view. We would be a different country if that were the case. We may have fallen off track, but not changed completely.—Legislative Assistant to US Senator, October 2008, Washington D.C.

Nevertheless, coming into office in 2009 President Obama voiced strong support for continued effort, saying in his State of the Union Address:

But to truly transform our economy, to protect our security, and save our planet from the ravages of climate change, we need to ultimately make clean, renewable energy the profitable kind of energy. So I ask this Congress to send me legislation that places a market-based cap on carbon pollution and drives the production of more renewable energy in America. (Obama 2009)

In response, the House passed the Markey–Waxman bill on 26 June 2009, which would establish a range of energy controls and incentive programs, as well as a national cap and trade bill. Mirroring efforts in the House, Senator Lieberman continued to push for climate legislation in the Senate. In 2009 he formed an alliance with Republican Lindsay Graham and Democrat John Kerry to pull both sides of the Senate into agreement on climate policy. Building on the footsteps of the Lieberman–Warner bill, the triumvirate consulted heavily with industry, financial instructions, and constituent groups in coal-heavy states. Days
Before the bill was announced to the Senate, the tenuous coalition broke under the weight of external pressures including economic concerns from financial crisis, the BP oil spill, and concessions for health care (for an extensive review of the circumstances of the bill’s formation and collapse see Lizza 2010). The disbanding of Kerry–Lieberman–Graham suggests that the field shift in the wake of a series of external shocks (financial crisis, negotiations of other major legislation, and environmental catastrophe) disrupted the policy field and scattered the nascent coalition. The field equilibrium shifted away from the tenuous policy equilibrium established by the negotiation of Lieberman–Warner.

In California the weakening economy likewise challenged the established policy coalition that produced AB 32. With unemployment reaching 12.5 percent, Proposition 23 was put on the ballot in November 2010 to temporarily suspend the greenhouse gas regulations until the employment rate remained at 5.5 percent per year. The initiative received $10.5 million in campaign funding from Texas oil companies (Rivers 2010; Woody 2010). Opponents of the proposition were led by powerful venture capital firms who put forward a record $36 million in campaign support to counter the measure (Cholia 2010). At the ballot box Proposition 23 was voted down by a 21 percent margin. The resounding opposition to the measure suggests that external shocks were insufficient to move or disband the established coalition driving climate and energy policy in California. If anything, the challenges in 2010 have only strengthened the state’s resolve to be the national energy and climate leader; a number of new energy initiatives were put on the legislative table for 2011 (CBS 2011).

In both the national and state cases external shocks had the potential to destabilize policy fields and to disrupt climate policy coalitions and momentum. At the national level these shocks shattered the forming coalitions for climate policy, disrupting early inertia and altering the path of development of future legislation. In contrast, in California external shocks failed to challenge the well-established coalition and to dismantle support for climate policy. This suggests that inertia along a particular path is strengthened by the existence of well-established and tested coalition. Furthermore, the strength and inertia of a tightly knit coalition anchors policy to a policy field, lessening the chance of equilibrium shift due to external shocks.

While the evidence presented here relies only on two cases and is by no means conclusive, it supports the existence of path dependence in the legislative process. Furthermore, it suggests that field stabilizations as traced through a historical path of coalitions can help explain the ability of policy to withstand external shocks. The dynamics of coalition formation and path dependence proposed here under the model of field stabilization should be further investigated and clarified. With development this model may add considerable insight to both ACF and omnibus approaches.

7. Conclusion

This article suggests that coalition formation and policy field stabilization shape policy outcomes, and that the path dependent characteristics of these processes are of significant importance. This approach stands in contrast to much of the literature on policy formation that highlights the rational behavior of ahistorical, asocial actors. As the case studies here demonstrate, interests are fluid and contingent on historically and socially specific coalitions. These interests groups represent the will and interests of civil society. Under democracies, field stabilization, in the form of coalition formation sets a development
trajectory for policy, generating momentum that uniquely shapes future policy framings and efforts.

The findings of the article have important ramifications for understanding the policy process. Social scientists cannot assume that theories (and the rational actor models they are based on) are applicable across space, time, and societies. Careful work needs to be done to assure the general applicability of theories. This prescription is particularly trenchant for economic studies, which tend to depend on a crucial set of historically and socially agnostic simplifying assumptions for explanatory leverage. As this article shows, theory alone can neither explain nor predict policy outcomes. While the policy options are informed by theory, the actual policy result depends strongly on prior policy efforts, historically and socially contingent coalitions, and the resulting framing of policy possibilities and probabilities.

The Lieberman-Warner and AB32 cases illustrate how path dependence relies on coalition formation. At an initial glance it is stunning that AB32 passed so quickly with so little text while Lieberman Warner took months of negotiation, and with more than 500 pages of detail could not pass the Senate floor. Understanding the underlying conditions and particularly the history of coalition formation in California clarifies the situation. The relationship between the cases is also interesting. Legislation in California has long had an impact on the development of legislation at the national level. Indeed the state has been a forerunner of national environmental and energy policy, and President Obama set the tone of his Administration by suggesting it was time for the nation to follow California’s lead. The relationship between coalitions at different levels of analysis is not fully explored here but would add further insight into the nature of path dependence.

The findings here support other studies that find that there are dynamic feedbacks between policies of different scale (Chey 2007; Rosenau 2007; Wright 2011). However, future research might investigate the relationship between coalitions of different scale (national, regional, state level) within the same policy system as well as without. The development of an acid rain program in the US led to the creation of the flexible mechanisms in the Kyoto Protocol, which in turn led to the European Union Emissions Trading System (Knox-Hayes 2010). When the response was not forthcoming at the federal level, states such as California began initiating their own policies, preempting federal legislation. Evidence additionally suggests that there is a direct link between public awareness in one region and media coverage generating increased awareness in different regions (Doulton & Brown 2009; Sampei & Aoyagi-Usui 2009). The nature of these relationships (and particularly the coalitions that drive them) at different scales and across regions could add considerably to the development of coalition theory.

This study lays the foundation for investigation into the path dependent nature of policy. It further adds insight into the temporal and social processes that drive coalition formation, weak points for both omnibus and ACF theories. Finally, it creates an innovative method for analyzing coalition formation through the mapping of policy fields. However, the study is only an initial step. Future research should seek to test the theory by developing metrics to measure political positions and mathematically modeling field stabilization in a coalition formation process. While the analysis here is limited to the United States, it would be useful to extend the analysis to other regions to explore the role of political and cultural context. The relationship between field stabilization and democratic function should likewise be further investigated.
If the conditions of prior policy and coalition formation are adequately understood, the modeling of coalition formation suggested here could be used to predict or project future policy trajectories. The model could also be used to understand current policy dilemmas and to more quickly find the equilibrium or range of equilibriums that will stabilize the field of conflict. This could have a considerable benefit in accelerating the rate of policy development under conditions requiring quick action, such as climate change. However, the timing of policy development may be a component of path dependence, and deserves further investigation. This area of inquiry is of interest and would be of benefit to political scientists, economists, and geographers alike.

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Notes

1 Since the positions of the groups were established through descriptions from group representatives, rather than comprehensive surveys of group members, they should be taken as illustrative of the negotiation process rather than definitive measurements of policy positions. Although this model is illustrative, it would be possible to develop metrics to determine relative gravitational weights for each interest group. The field stabilization process could then be mathematically modeled.

2 Not all of the relevant interest groups are diagramed, only those that played the most active role.

3 For a timeline of legislation passed in California and comparison with national legislation see Appendix.

4 For a full legislative history see Hanemann (2007).

5 As a frontrunner California has had to establish coalitions to pass clean air and energy policies. In many instances legislation in Congress is a direct reaction to the pressure created by California, and other states following its lead. In the case of automobile emissions and energy efficiency standards the pressure is generated by industry requesting a unified national standards as opposed to patchwork production standards across the states (Hanemann 2008).

References


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### Laws Cited


Appendix

Timeline of emissions and energy efficiency legislation with progression from state to national level

Timeline of bills passed at the California State and National Level (bills passed by the US Congress in Bold)

- 1947 – California creates the Los Angeles Air Pollution Control District, the first air pollution agency in the United States.
- 1959 – California Motor Vehicle Pollution Control Board created to test automobile emissions and set standards.
- 1960 – California Motor Vehicle Pollution Control Board established to test and certify devices for installation on cars sold in California.
- 1965 – Congress passes the **Motor Vehicles Air Pollution Control Act**, which adopts California emissions standards.
- 1967 – California Air Resources Board (CARB) created by combining the Motor Vehicle Board and units from the State Department of Health.
- 1967 – California seeks and is granted a waiver to impose emissions standards on stationary sources.
- 1974 – California Clean Energy Commission (CEC) is established.
- 1987 – Congress passes the **National Appliance Energy Conservation Act** (NAECA), adopting specific standards on many major appliances, which would preempt state standards.
- 1988 – California **Clean Air Act** passed, which sets forth the framework for how air quality will be managed in California for the next 20 years.
- 1988 – California passes AB 4420 which calls for the compilation of and inventory of GHG emissions from all sources in California.
- 1990 – Congress passes the **Clean Air Act Amendments of 1990** which adopts many of the standards of the 1988 California Clean Air Act.
- 1996 – California passes AB 1890, a restructuring law, which decouples utility providers from generators.
- 2000 – California passes SB 1771, which establishes the California Climate Action Registry to record and register voluntary GHG emissions, and directs the CEC to update the inventory of GHG emissions from all sources in California.
• 2001 – California passes SB 1170, which requires CARB, CEC, and the California Department of General Services to develop and adopt fuel-efficiency specifications for all state-purchased vehicles.
• 2002 – California passes AB 1493, which sets standards for emissions of CO2 and other greenhouse gases from automobiles and light duty trucks.
• 2002 – California passes SB 1078, which requires California to generate 20 percent of its electricity from renewable energy no later than 2012.
• 2006 – California passes AB 32 requiring CARB to implement programs, including cap and trade, to reduce California’s greenhouse gas emissions to their 1990 level by 2020.