

EDITOR'S NOTE

THE DISCOURSE OF ENVIRONMENTALISM

In a political system built on binary choices—this candidate, or that; for, or against—it's understandable that there is often little room for nuance in expressing policy preferences. As a result, policy choices become conflated, or even disappear. For example, no logical principle connects the issues of gun ownership and abortion rights, yet if people knew your views on one of those topics, they would probably assume they knew your views on the other. And in this year's presidential election, there will be no à la carte list of policy preferences to vote on, but rather two viable candidates to choose from. If you vote pro-choice, you're also voting for gun control. If you vote pro-life, you're also voting against gun control. The relationship between these issues is not inevitable, but manufactured, and largely taken for granted. Now, maybe the Democratic National Committee and the Grand Old Party have accurately divided up every contentious issue to ensure that voters perfectly express their myriad political views by checking a single box. But it seems more likely that we as voters lose autonomy over many important decisions by subscribing to the idea that we only have two choices.

Of course, this all sounds absurd as a means of introducing a publication on environmental law. However, the problems inherent in a dualistic political system have profound effects on the field of environmental law, and the discipline is among the victims of the United States' increasing polarization. Either the government is engaged in overregulation or is guilty of underenforcement; either industry is destroying our resources or environmentalists are job killers. Campaign rhetoric is not conducive to gradation, and the discourse of environmentalism reinforces assumptions that environmentalists and capitalists are adverse parties with irreconcilable objectives. But why can't an environmentalist support privatization in some contexts? Why can't an industry representative support criminal penalties for gross environmental negligence? Why should political preference have anything to do with protecting against contaminated water and unbreathable air? The environmental movement is filled with false dichotomies that make

the lack of progress on pressing issues—like climate change—seem inevitable.

Suspicion and misapprehension abound on both sides of the debate. Republicans cannot touch the term “environmentalist” so long as people assume that protection of the environment hurts the economy, or associate environmental regulation with a broader liberal agenda. On the left, efforts to achieve more sustainable business practices by working with regulated entities are derisively labelled “desperate environmentalism.”¹ It seems impossible to even approach the other side of the aisle without being accused of selling out your cause. Perhaps the perceived danger of compromise is unsurprising in a political climate that discourages dialogue with dissenting viewpoints and relegates public discourse to one of two echo chambers. Yet, we cannot afford to accept a binary view of environmental policy and exchange dialectics for diatribes.

The United States is facing some profound environmental threats: Recent droughts have approached historic levels; states of emergency were declared over a methane leak in California and contaminated water in Michigan; by some predictions, saltwater fisheries could collapse in my lifetime. If we assume our capacity to address these threats is subsumed within a single choice—whether or not we self-identify as an environmentalist—then discussions of environmental issues will remain stagnant and divisive. To the extent the term “environmentalist” connotes antipathy towards industry or private property rights, the term is not very useful, as it implies that environmental concerns are reserved for a limited class of people. However, the need for clean water and air is common to everyone. The benefits of a healthy ocean are common to everyone. The risks of prolonged drought are a threat to everyone. And addressing these problems does not have to mean antagonizing industry or stifling progress. (Where is the progress in depleting a resource into oblivion?). As the articles in this issue indicate, there is plenty of room for compromise: marketing conserved water provides ecological and economic benefits (see Squillace & McLeod, *infra* at 1); municipalities can aggregate their purchasing power to lower utility rates while reducing greenhouse gas emissions (see Outka, *infra* at 105). Environmentalism and capitalism are not mutually exclusive.

Admittedly, transitioning to a more sustainable economy will disproportionately affect certain industrial sectors. However, austerity measures and transitional adjustments are most constructively viewed through a utilitarian lens, rather than demeaned down to platitudes such as a “war on coal,” or framed as the prioritization of environmental concerns over human concerns. The coal industry must contract in order to transition to renewable energy, and the localized impacts of this transition will require effective mitigation strategies—but the renewables sector will also create new jobs, and reducing our dependence on fossil fuels will make the country stronger and more secure in the long run. Catch limits must be reduced in

¹ See Joshua Galperin, ‘Desperate Environmentalism’ Won’t Save the Environment, L.A. TIMES, October 29, 2015, <http://www.latimes.com/opinion/op-ed/la-oe-galperin-environmental-desperation-20151029-story.html> (last visited Feb. 13, 2016).

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certain commercial fisheries, and this will temporarily dampen employment in the industry—but such restrictions will ensure future generations of fishermen have access to unimpaired public fisheries. The idea that environmentalism and economic prosperity are at odds is a social construct, and we should all do more to challenge this myopic assumption.

Since its inception, *Environmental Law* has addressed topics at the frontiers of environmental law and policy. As a young environmentalist, I wonder where those frontiers are today. The first major environmental laws are not that old, and as my generation inherits the environmentalist torch, I hope that progress will mean a more inclusive form of environmentalism. One that expands the discourse, forms new alliances, and rejects doctrinal rigidity. While we cannot retreat from the regulatory and legislative gains of the past, we also must acknowledge that the unique problems of the present and future require fresh ideas. An environmentalist should not be hesitant to advocate for market-based solutions just because capitalism became a straw man for industrial pollution. A conservative politician should not be hesitant to support environmental legislation that imposes reasonable regulations on some constituents but protects the health and safety of all constituents. Dogmatism might be the greatest threat to the environment, and if nothing else, I hope *Environmental Law* remains a platform for new ideas for years to come.

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