

Beyond Politics

Mixing Private Action and Climate Policy

By G. Tracy Mehan III

Distinguishing government from governance, identifying the separate yet complementary roles of the private and public spheres, say, in the realm of environmental management, and thinking seriously about the opportunities and barriers of an integrated or collaborative approach to confronting the challenges of the day — none of this would have made any sense to a citizen of the Roman Empire in the time of Augustus.

The classical view did not recognize anything like civil society beyond the Empire itself encompassing both political, social and religious aspects. It was only after centuries of struggle between Church and Empire, state and society, and the emergence of varying degrees of individualism, did the concept of a civil order and institutions (church, family, community, labor unions, corporations), antecedent to and independent of the state, come to pass.

Without civil society, government and governance are essentially the same. With civil society government is simply part of the complex web of governance by which a society orders itself as well as the state. Thus, no longer is *governance* viewed as a synonym for *government*.

The late Elinor Ostrom of Indiana University, the first woman to receive the Nobel Prize in economics, did pioneering research on a plethora of collaborative approaches to resource management — governance if you will — around the world in ways that mitigate the Tragedy of the Commons not imagined by Garrett Hardin, who reduced everything to either regulation

or privatization. She demonstrated that user-managed fish stocks, pastures, woods, lakes, and groundwater basins, in many countries and cultures, are able to establish norms of behavior, sophisticated rules for decisionmaking, and even enforcement mechanisms. Her classic book on the subject is *Governing the Commons: The Evolution of Institutions for Collective Actions* (1990).

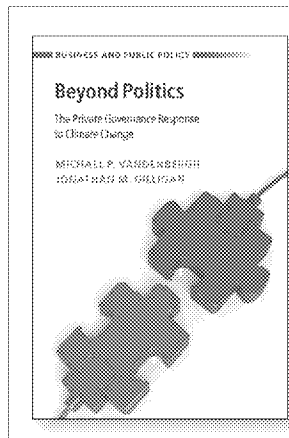
Given the state of environmental protection today, with many problems dispersed throughout society, the landscape, the air- and watershed, involving numerous small sources or causes of harm, all within the control of private

(1997). They noted the value of keeping pace with the important elements of “institutional realignment that are occurring in society. Notably, the role of government is narrowing, the private sector’s responsibilities are broadening, and nongovernmental organizations, from think tanks to activist groups, are increasingly important policy actors.”

Michael P. Vandenberg and Jonathan M. Gilligan, respectively, professors of law and engineering at Vanderbilt University, argue strenuously for private action and governance specifically, in the context of the climate change and the flagging efforts of governments, especially the United States, to take meaningful action. They are not anti-governmental action. But they believe that time is flying and private action provides a realistic, interim strategy until an effective political consensus develops before catastrophe befalls the world. Their *Beyond Politics: The Private Governance Response to Climate Change*

is an imposing work of academic scholarship (e.g., over 200 footnotes in one chapter alone). But their engaging, accessible writing style makes the slog a pleasant one for the diligent reader. It might have been subtitled *Making a Virtue of Necessity* given the realities of climate politics, global aspirations for economic growth, and the complexity of the science.

In the very first line of their preface, Vandenberg and Gilligan cite Gallup for the proposition that two thirds of Americans believe that big government is the greatest threat facing the United States. So any systematic regulation to mitigate climate change faces predictable resistance. The authors seem to believe that the Trump administration’s rollback on carbon regulation is a temporary phenomenon, but they astutely observe that the 2009 Waxman-Markey cap-and-trade bill failed “even though the party that espouses support for climate mitigation controlled the White House and



Beyond Politics. The Private Governance Response to Climate Change. By Michael P. Vandenberg and Jonathan M. Gilligan. Cambridge University Press; 467 pages; \$99.99 (Amazon Prime).

parties, households, farms and institutions, the old top-down, hierarchical model, driven by a federal government much less revered now than in the 1970s, seems inadequate.

Writing in 1997, Daniel Esty and Marian R. Chertow of Yale, called for the “next generation” of environmental policies “that are not confrontational but cooperative, less fragmented and more comprehensive, not inflexible but rather capable of being tailored to fit varying circumstances.” See introduction to *Thinking Ecologically: The Next Generation of Environmental Policy*

both bodies of Congress — a failure that seems remarkable until it is viewed against the backdrop of two decades with only one major new pollution control statute.”

“Only in the past several years have scholars begun to recognize that a fundamental shift has occurred away from federal legislation as a social response to environmental threats, a shift that became much more apparent with the 2016 elections,” write the authors. They might also have noted the 1997 vote of 95-0 in favor of the Byrd-Hagel Resolution in the U.S. Senate against signing onto the Kyoto Protocol.

Vandenbergh and Gilligan make a sincere, passionate, even eloquent case to both conservative and liberal skeptics, the former skeptical as to climate policy in general and big government in particular, the latter concerned about undermining the case of strong governmental action on climate.

Essentially, these authors see zero chance of the community of nations meeting the goal of stabilizing global temperature at 2 degrees Celsius as called for in the Paris Agreement. “In fact, the Paris Agreement, even if all commitments are fulfilled, will allow an increase in global emissions of roughly 34 to 46 percent in 2025 over 1990 levels.” Even with full implementation of all Paris commitments, the globe is likely to see temperatures of more than 3 degrees Celsius above pre-industrial ones.

The Vanderbilt professors look to private action to achieve “a significant fraction of the necessary reductions — carbon dioxide emissions equivalent to roughly 1 billion tons out of the 5.5 billion tons per year of reductions necessary over the next decade to close the Paris Gap.” They view this strategy as “buying time for a more comprehensive government response” at some indeterminate point in the future, presumably post-Trump. They do not posit “an all-or-nothing argument that the world must choose between

public and private governance. In our view, they are complementary, and we should pursue both.”

The authors cite many instances of effective private action, notably major institutions and corporations such as Walmart, Microsoft, Google, and the like, corporate giants which can lean on their suppliers for emission reductions, practices that could be scaled up nationally and internationally. They take heart in Elinor Ostrom’s concept of “polycentric governance to reduce GHG emissions” which she first applied to the management of water resources and the provision of municipal services. This refers to the use of multiple scales of government and nongovernmental organizations to address collective action problems, such as managing common pool resources.

Readers of THE ENVIRONMENTAL FORUM may recall Professor Vandenbergh’s article, “The Drivers of Corporate Climate Mitigation,” in the January/February issue, providing a succinct statement of the case for private action in that realm.

Big fans of Pope Francis and his 2016 encyclical addressing the moral dimension of climate change, they view the Catholic Church as not just an influencer on government, but also “a private regulator of its energy suppliers and emissions in and of itself.” Based on their back-of-the-envelope calculations, Catholicism, with its many churches, schools, hospitals, orphanages, and missions, would be among the top 50 largest emitters in the world if it were a country. Whether or not such a vast collection of bishoprics, dioceses, religious orders, lay institutions, and the like could ever be subject to such centralized management, not withstanding its unity of doctrine and practice, it is an interesting thought experiment, as the Germans say.

Vandenbergh and Gilligan aim to ground their optimism on sound reasoning, to wit: “Our view that many households and corporations will respond to private initiatives by reducing emissions does not require unrealistic assumptions about altruism. Instead, the opportunity arises because private initiatives can stimulate efficiency improvements that have not yet been exploited because of market and behavioral failures. Private initiatives also can draw on existing levels of support for climate mitigation in ways that governments cannot. These initiatives also can address solution aversion among moderates and conservatives, bypassing resistance to government climate efforts that arises from concerns about big government. At the international level, private governance initiatives can supplement the slow and cumbersome international negotiations process. Private initiatives also can harness supply chains to transfer pressure for lower-carbon goods and services across international boundaries, circumventing sovereignty and free-trade concerns and increasing support for mitigation in developed and developing countries.”

The “principal barrier” is “conceptual,” i.e., “the need for opinion leaders, corporate and NGO leaders, and philanthropists to grasp the magnitude of the opportunities available to them.”

Beyond Politics is provocative and challenging, well-sourced and full of insights as to motivational approaches to household and institutional behavior. Yet, no where in the dozen or so pages of the book’s index will the reader find any references to either adaptation or resilience in the face of climate change. The authors chose to focus exclusively on mitigation. Society, however, may be forced to consider other options given the stark political and economic realities of climate policy.

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Filling the gap between what government can achieve and a realistic temperature goal