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## **Charley's Corner**

### **Election Special: Changing the Frame**

*by Charles R. Dyer, Consultant and Retired Director of the San Diego County Public Law Library. All views expressed in this column are my own alone.*

Back in September 2004, I devoted a Charley's Corner to an election theme. While I have never denied that I am politically liberal and a supporter of the Democratic Party, I try to avoid taking a direct political stance in this column, which is meant for all SCCLL SIS librarians, regardless of their political beliefs.

So I devoted that column to a relatively objective view of the Bush Administration's policies on matters of concern to librarians. While noting several items that many librarians consider to be incursions on freedom of speech, I also noted that the Bush Administration had pushed more funding into graduate and undergraduate training for librarianship and funding of library science research projects than any previous administration. Undoubtedly, Laura Bush, as a former children's librarian, was a great influence on the President in that regard.

Of course, the funding from the national government has not been sufficient to replace the considerable losses of funding for county law libraries that has occurred at the state and local levels over the past few years. The loss of civil filing fee income in Florida, under the watch of then Governor Jeb Bush, is peculiarly vexing to me, as it seems that Laura Bush's influence did not extend to her brother-in-law. Laura Bush most likely never noticed the situation in Florida, or she, like many, considered county law libraries as entities devoted solely to helping the practicing bar that could and should be privatized, i.e., let the lawyers buy their own books. Or she, like many, might believe that public libraries should be mostly augmentations of schooling for children, with fewer resources devoted to adult needs. ("Let the people buy their books at Barnes and Noble. If you don't have the money for books, well, shame on you.") ("And that would certainly be true of county law libraries, and people should hire lawyers anyway.")

Those sentences in parentheses in the preceding paragraph are meant to be the words that might come out of the mouths of people who hold the beliefs that I attribute as possibilities to Laura Bush. Those beliefs and those words come from a cognitive frame that holds that people should earn enough money to take care of their needs, and when they don't, it is their fault. This frame further holds that those who are rich are deserving of their riches, and they are better people than those who have not managed to accumulate wealth. In effect, those employing this frame would suggest that having not earned the money to hire a lawyer when you need one is a moral failure on your part. This same frame suggests that people left behind when Katrina struck New Orleans have only themselves to blame and that they were morally wrong to have sat on their haunches instead of going out, doing hard work, and earning enough money to have a car and be able to get out of town before the storm hit. Even those in wheelchairs should have earned money prior to their debilitating event in order to handle their own situation. Indeed, those who may have lost

limbs from diabetes have only themselves to blame for their condition as well. Had they eaten better, i.e., not had diabetes, they would have been able to walk out of New Orleans.

Many of us who have struggled and attained some degree of success often succumb to this framing as it is regularly preached at us through the media and often through our churches. Many successful immigrants become conservative voters as they apply the “veracity of their own life story” to their political thought, even to the extent of denying easy entrance into the United States to successive immigrants.

There is the notion among some that the frame is simply a result of the clash of the classes. But the statistics don’t bear that out. Among the upper middle class, especially the professionals, the ones who had to do a lot of college and testing to attain their roles in life, Democrats outnumber Republicans. Among working classes, those who find it harder to make ends meet, Republicans outnumber Democrats. And one study showed that, when given the chance to vote, the chronically homeless generally vote Republican! With books such as Thomas Frank’s *What’s the Matter with Kansas?*, the fact that class is not the decider for the frame we use is no longer news.

Daniel Kahneman, a cognitive scientist, won the Nobel Prize in Economics in 2002. He and his late colleague Amos Tversky used cognitive science to show the inadequacies of the “rational actor model”<sup>1</sup> and how economics could benefit from the study of how people really reason. ([http://nobelprize.org/nobel\\_prizes/economics/laureates/2002/kahneman-lecture.html](http://nobelprize.org/nobel_prizes/economics/laureates/2002/kahneman-lecture.html)) Kahneman distinguishes *reflexive* thought from *reflective* thought.

Classical economics presumes that people make rational decisions based on marginal utility, i.e., what do you gain versus what do you lose. Kahneman and Tversky found that:

- People think in terms of gains and losses relative to a reference point, e.g., momentary pleasure over long-term gain, quarterly profits over infrastructure support.
- People tend to choose frames that highlight gains rather than losses.
- People tend to avoid losses more than they prefer gains, e.g., a 10 percent death rate is worse than a 90 percent survival rate. (There was an actual psychological experiment that showed that how the doctor stated the probability actually altered the responses.)
- People tend to prefer certainty to uncertainty.
- People tend to think in terms of prototypical frames.
- People tend to adapt to a new state and take it as a new reference point, e.g., our successful immigrant.

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<sup>1</sup>“Rational actor model” is the widely used term of art for political and international banking applications of the paradigm theory of microeconomics known as *rational choice theory*. The basic idea of rational choice theory is that patterns of behavior in societies reflect the choices made by individuals as they try to maximize their benefits and minimize their costs. In other words, people make decisions about how they should act by comparing the costs and benefits of different courses of action. As a result, patterns of behavior will develop within the society that result from those choices.

- People tend to substitute more “accessible” frames for more accurate but less accessible frames, e.g., “global warming” as opposed to “climate change.”

Thus, contrary to classical economic thought, gamblers who are losing tend to think they need to bet more in order to win back their losses, and presidents fight wars long after their original aims are met or denied.

In line with these observations, those who see the free and open marketplace as the place where the best will win continue to apply this frame well beyond the scope of its validity. We are taught to think that “socialized medicine” is somehow bad, as if our current privatized system actually gives we consumers any real choice about our medical care and thus the best care becomes the kind that wins out. I get my medical insurance through the California Public Employees Retirement System, which has better than a million people in its medical system, i.e., it has great bargaining power. Yet even with that group leverage, HMO choices are few and those of us outside of California can only use one of two PPO programs. With my PPO plan I would be seeing the same doctor as if I had no insurance (unless I were too poor and had to rely on the emergency room), because in my small community, even with relatively good medical services, only a very few doctors were accepting new patients when I arrived. And who has the ability individually to go hunting around interviewing doctors as if we were buying a new car. And when my doctor wants to run expensive tests, he has to check with my insurance company to see if his plan for my care fits with the company’s protocol, e.g., must I go through needless physical therapy before I can qualify for an MRI. Is our privatized system actually allowing us to get the best medical care?

The reason that “socialized medicine” sounds like some evil is that those who want the present system to continue have been very good at framing our thinking. “Socialized” sounds like communism, our cold war bogeyman that so easily provides guilt by association. Using their definition of “socialized,” we should consider that we already have socialized fire protection, socialized police protection and socialized roads and bridges.

What this freedom of the marketplace frame has done is to skew our brains into thinking that things are better done when there is a profit motive, as if the removal of profit will somehow remove the incentive of we humans to do good things. Those of us who choose to work in public law libraries or for government agencies generally do not make those choices based on our profit motive. Sure we want good and fair salaries, but we do not expect to be making money like investment bankers, even though many of us are brighter and more capable than investment bankers, or at least the ones I’ve met.

This thinking has, of course, entered our own profession to some extent. We tend to think that the competition between Reed Elsevier Lexis-Nexis and Thomson Reuters West is a good thing. And we lament the loss of the many small publishers bought up by these two companies and a couple of other conglomerates. West Publishing began in the mid-1800s as a private publisher of appellate court opinions, finding a niche because the states individually were always woefully behind in getting out their official reports. Partly, that was due to the time required to accumulate enough opinions to make publishing a new volume worthwhile. Enter West’s regional reporters,

combining reports of adjacent states into volumes that could be published faster, and publishing advance sheets, i.e. pamphlet editions of portions of volumes so they could come out even faster.

In this day of online court reports, there is no longer the ability of a private concern to provide a service that individual state governments could not. Nearly all appellate courts now publish their own reports, either themselves or through another government agency. Backfiles of court opinions have been scanned in by smaller companies competing with West and Lexis. Such scanning is now so inexpensive that any state government could easily do the same. West and Lexis are now scrambling to provide additional services to lawyers and others so that their services are still considered worth paying for. And all this is being done without any real change in framing. It's just that it is now so easy for government to do what it should always have done that it is now unavoidable. Shall we refer this trend as the intrusion of "socialized court opinion publishing"? If you talk to some Lexis and West sales representatives, you would think so.

So let me backtrack a bit to get to the point of this column. Why do we librarians become librarians? According to cognitive science, there are several kinds of neural events going on in our brains as we learn how to deal with the world. We have the natural tendency to try to reach a nice homeostasis, i.e., be in a good place, so we have pain and pleasure neurons and neurotransmitters that help us learn what works and doesn't work. Fear and joy are elemental parts of our decision making process, operating often at a "reflexive" level, to use Daniel Kahneman's term.

But in addition to that, we have a particular type of neuron called the *mirror neuron*. Mirror neurons are those that cause a baby to smile when his mother smiles at him. This process of emulation is the necessary ability required for learning. A failure of some of the functions of mirror neurons is the cause for autism and similar learning disorders.

But mirror neurons also do something a bit more. Through them, we learn to realize what others might be thinking. That is how we anticipate the actions and reactions of others. We understand facial expressions because we know that when we feel sad, angry, joyous, in pain, and so on, our facial expressions are the same as those we observe in those states. This is the root of empathy. All human beings who are not severely mentally ill have the ability to have empathy for others. It is as much a part of being human as fear, joy, and the other base feelings we have.

Most librarians I know are usually very empathetic. Indeed, our best reference librarians are those who can anticipate the needs of their customers so as to speed the process of getting them the resources they need. It is perfectly logical and indeed a mark of our humanity to be empathetic. As a species, we survive because we see the needs of others as connected to our own environmental conditions. Mothers endanger themselves in order to save their babies. In a more abstract sense, soldiers fight for their country because they are hoping to improve or maintain the lot of their countrymen. Or at least, that is a principle we use to sell military service as a noble thing.

What this country needs is a new frame that emphasizes our empathetic side, as well as our competitive side. Can government solve everything? No. Governments tend to be lousy movie producers. Large bureaucracies often lose the close touch needed, indeed the empathetic side,

when providing human services. But the marketplace frame is not filling the bill either. When the bureaucracies still exist, but buried inside large corporations that are unaccountable to voters and often unaccountable even to marketplace economics, the lack of empathy is even worse. What governments can do is to remember our better nature and allow its employees to do so as well. What governments can do is find ways to improve our lives without seeking the immediate rewards of quarterly profits. We can wean ourselves off fossil fuels. We can provide health care for all. We can provide disaster services for all. We can provide justice for all.

A county law library is not just a place. It is a provider of renewed homeostasis, where empathetic humans help other humans obtain a state of social equilibrium by providing them access to justice. Social equilibrium is a necessary part of physiological equilibrium. In that sense, like fire and police departments, we are a part of the health care system.

Don't forget to vote. And don't forget to vote all the way down the ballot. Every public position needs our vote.

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For those of you wanting a fast and friendly read on much of what I discussed here, I recommend George Lakoff, *The Political Mind: Why You Can't Understand 21<sup>st</sup> Century Politics with an 18<sup>th</sup>-Century Brain* (Viking 2008).