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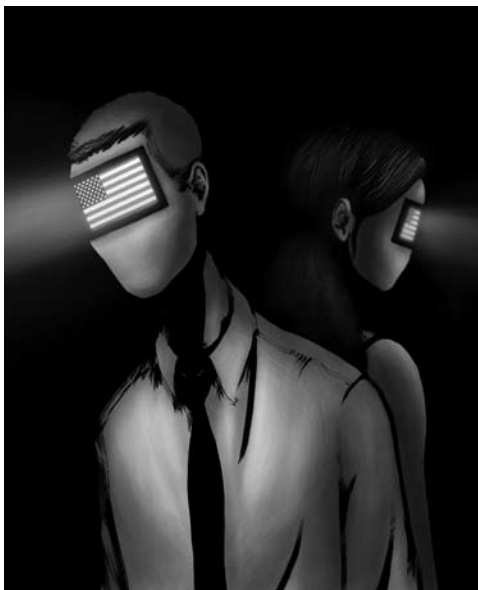
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## *Framing in Race-Conscious, Antipoverty Advocacy*

# A Science-Based Guide to Delivering Your Most Persuasive Message

By Bill Kennedy, Emily Fisher, and Colin Bailey

It is easier to perceive error than to find truth, for the former lies on the surface and is easily seen, while the latter lies in the depth, where few are willing to search for it.

—Johann Wolfgang von Goethe<sup>1</sup>

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**F**raming is a subtle yet powerful communications strategy with very broad applications, widely used by businesses marketing their products and services, politicians pushing their policies, organizations seeking funding for their programs, and others to achieve a strategic goal. It is also a very important, though little understood, tool for antipoverty advocates dealing with issues of racial inequity.

Framing builds upon an understanding of the science of cognition that tracks how the brain processes information and prompts certain analytic frames through which facts are sorted.<sup>2</sup> The most effective way to frame a message to achieve an advocacy outcome may differ from the way advocates talk about the same issues within the legal aid community. The most effective messaging in an advocacy strategy may require that we employ language that feels uncomfortable because it seems incomplete or even inaccurate in some respects. In those cases, we may face a choice between using language with which we are comfortable and familiar and pursuing a winning strategy for our clients.

Advocates at Legal Services of Northern California and in the broader race equity movement have been examining our society's dominant frames.<sup>3</sup> They have been developing and using framing tools to prepare presentations to client groups, to advocate before local government bodies, and to argue their cases in court. In this article we present the theory and application of framing as an advocacy tool, leaving out any discussion of successes and obstacles. As a strategy, framing has broad application

<sup>1</sup>A DICTIONARY OF THOUGHTS 589 (Tryon Edwards ed., 1908), <http://tinyurl.com/ycscvww>.

<sup>2</sup>For a discussion of social cognition as a tool in race conscious advocacy, see Mona Tawatao et al., *Instituting a Race-Conscious Practice in Legal Aid: One Program's Effort*, 42 CLEARINGHOUSE REVIEW 48 (May–June 2008). Our article is the sixth in a series of Legal Services of Northern California's Race Equity Project articles that discuss tools to advance a race-conscious antipoverty law practice. For more discussion of tools and articles on race equity, see the authors' blog, Legal Services of Northern California, The Race Equity Project, The Race Equity Feed, <http://lsnc.net/equity/>.

<sup>3</sup>For ongoing discussion of frames at work in the context of race equity, and further Web-based media resources on this subject, see Legal Services of Northern California, The Race Equity Project, <http://lsnc.net/equity/category/framing/> (posts under "Framing").

to antipoverty advocacy with potential application to all substantive advocacy work. Here we focus on race equity advocacy, the arena where these advocacy tools were developed.<sup>4</sup>

## I. The Science of Framing

To understand the science of framing, advocates must reconceptualize thinking as the product of a physical system—the firing of electrical pulses between and among synapses within the human brain. Scientists now know a great deal about how our brains, as an observable phenomenon, respond to information presented to us and how our brains reach conclusions based on a whole host of factors, including the order in which that information is presented, who does the presenting, and what values, metaphors, and frames precede the presentation of facts. Framing is more than mere rhetoric. According to framing expert and author George Lakoff, “[framing] is critical [to winning a public debate] because a frame, once established in the mind of the reader (or listener, viewer, etc.), leads that person almost inevitably towards the conclusion desired by the framer, and it blocks consideration of other facts and interpretations.”<sup>5</sup> Lakoff’s statement and the power to which it attests are based on scientific fact and are a clarion call for all engaged in the persuasive profession to master the use of this tool for good.

Science tells us that emotion and its relationship to preconceived notions about the way the world operates play a far more crucial role in decision making at the individual and group levels than most

of us realize.<sup>6</sup> Upon closer scrutiny, the Enlightenment conception of thought as something wholly distinct from emotion—as the product of the dispassionate application of rules of logic to objective fact—is flat wrong. In fact, science demonstrates that most of our decisions result primarily from unconscious thought. Our unconscious mind is capable of taking in and synthesizing far more information far more quickly than our conscious mind.<sup>7</sup>

Most scientists believe our dependence on unconscious thought to help us arrive at quick judgments is, in fact, adaptive. Faced with certain stimuli, such as a predator or enemy, we had to decide quickly whether we faced friend or foe. Under such circumstances, acting decisively (“fight or flight”) was an imperative of survival not only for the individual but also for the species. Thus our brains mapped experience and everything we associated with that experience onto synaptic pathways, which, depending on the intensity of the experience or the frequency with which it was repeated, would become more or less strongly mapped and, under similar circumstances, usher us toward conclusions about “good” or “bad,” “safe” or “not safe,” without the delay of engaging our much slower conscious mind. In a related development, humans also developed a psychological preference for certainty as opposed to internal conflict and indecisiveness. In this way unconscious thought brought order to the chaos of daily living through unconscious shortcuts to preconceived normative judgments so that we were not overwhelmed by details that might otherwise bog down our conscious mind.<sup>8</sup>

<sup>4</sup>A full exploration of the topic of framing would take hundreds of pages. In keeping with the mission of the Race Equity Project, here we focus on framing in race-conscious advocacy alone. However, framing can be applied to clients’ advantage in almost any political exchange. We encourage advocates to put this tool to use in all of their advocacy work.

<sup>5</sup>George Lakoff, *George Lakoff Manifesto 2*, <http://bit.ly/4Qydx8>.

<sup>6</sup>Recent literature highlights that emotion and the unconscious mind account for a much larger portion of human decision making than the Enlightenment model, conceptualizing thought as dispassionate and logical rationality, would have us think (see, e.g., JONAH LEHRER, *HOW WE DECIDE* (2009); A. Bechara, *The Role of Emotion in Decision-Making: Evidence from Neurological Patients with Orbitofrontal Damage*, *BRAIN AND COGNITION*, June 2004, at 30); *The Situationist, The Situation of Reason* (2007), <http://bit.ly/6wVnwi>.

<sup>7</sup>See DREW WESTEN, *THE POLITICAL BRAIN: THE ROLE OF EMOTION IN DECIDING THE FATE OF THE NATION* 224–27 (2007) (several studies show that much of our behavior is based on information we have unconsciously internalized).

<sup>8</sup>See, e.g., *The Situationist, Unconscious Situation of Choice* (2008), <http://bit.ly/4mR4Fl>. Cf. GEORGE LAKOFF, *THE POLITICAL MIND: WHY YOU CAN’T UNDERSTAND 21ST-CENTURY AMERICAN POLITICS WITH AN 18TH-CENTURY BRAIN* 3 (2008); JOSEPH E. LEDOUX, *SYNAPTIC SELF: HOW OUR BRAINS BECOME WHO WE ARE* 8–9 (2002) (function of the brain’s amygdala “defense system” for assessing and reacting to danger); WESTEN, *supra* note 7, at 51–54.

The same phenomenon is observable in more complex thought, namely, political thought. People understand all issues in terms of “a small set of internalized concepts and values, also known as frames, which allow us to accord meaning to unfolding events and new information.”<sup>9</sup> Frames are essentially networks of unconscious associations, mapped onto our brains by experience. Examples of this range from national myths learned in our high school history class to the implicit messages and false baselines about criminality embedded within the local evening news, all of which are linked together in a narrative of a coherent view about how the world works in some small or large way.

These frames are dynamic, not immutable. The strength of certain synaptic associations can rise or fall in any one person’s brain or across an entire society, depending on how often, how strongly, and how consciously or unconsciously they are reinforced or challenged.<sup>10</sup> As often attributed to Mahatma Gandhi, “[a]n error does not become truth by reason of multiplied propagation nor does truth become error because nobody sees it.”<sup>11</sup> For those of us fighting for social and racial justice, frames repeated over

and over again do take on the character of truth for those whose unconscious attitudes adhere to them. The persistent Enlightenment model of thought leaves us largely unaware of the effect of emotion in our decision making and susceptible to illusions that our position is the product of “rational thought” and therefore correct.<sup>12</sup>

Reframing techniques are key, especially in the context of race, where cognition science demonstrates that pernicious racial stereotypes lead to unconscious biases that appear in the subtext of the dominant frames on race.<sup>13</sup> As advocates, we can and should use framing to achieve better outcomes for our clients instead of scrambling to play defense against the disempowering frames that, for example, allow decision makers to dismiss our clients’ concerns as the product of “bad choices.”<sup>14</sup> We aim to show how to do just that. If we are to win the war on poverty and turn the tide in the struggle for civil and human rights, as John Powell has said, rather than using our precious resources exclusively to mobilize people who already agree with us, we must use framing to organize competing values within ambivalent minds.<sup>15</sup>

<sup>9</sup>See Franklin D. Gilliam Jr., *FrameWorks Institute, The Architecture of a New Racial Discourse 3* (2006), <http://bit.ly/7s5JaF>. See also *FrameWorks Institute, Talking About Disparities: The Effect of Frame Choices on Support for Race-Based Policies 1* (2009), <http://bit.ly/91YIwd>.

<sup>10</sup>Cf. Jon Hanson & Kathleen Hanson, *The Blame Frame: Justifying (Racial) Injustice in America*, 41 *HARVARD CIVIL RIGHTS—CIVIL LIBERTIES LAW REVIEW* 413, 416–17, 427–28 (2006) (how different frames ‘blaming the victims’ of injustice have arisen in American society throughout its history as a way of resolving inner conflict between the desire for fairness and the reality of injustice).

<sup>11</sup>MAHATMA GANDHI & KRISHNA KRIPALANI, *ALL MEN ARE BROTHERS: AUTOBIOGRAPHICAL REFLECTIONS* 69 (1958).

<sup>12</sup>See ROBERT BURTON, *ON BEING CERTAIN: BELIEVING YOU ARE RIGHT EVEN WHEN YOU’RE NOT* (2009) (the psychological, emotional, and evolutionary reasons for our preference for certainty, including the adaptive need to act decisively). See also AL GORE, *THE ASSAULT ON REASON* (2007) (the use of fear and falsehood and the orchestrated demise of skepticism, quite possibly the Enlightenment’s central and greatest concept, in modern American political discourse).

<sup>13</sup>This is especially true since the now-dominant American frame on race is that, but for the ignorant and intentional racist actions of a few “bad apples,” America has all but overcome its racist history and now proceeds without regard to color. This is the “color-blind” frame, which, when invoked, aims to stop the conscious discussion of race and attempts to shift blame for the creation of social conflict on those claiming unfair treatment on account of race.

<sup>14</sup>George Lakoff notes: “Conservatives have managed to frame public debate on just about every issue. They have framed government regulation as interference in the free market, which is in turn framed as nature’s way of optimizing wealth for all. Conservatives have framed poor people as undisciplined and to blame for their own poverty, environmentalists as tree huggers who care more about owls than people, criticism of government foreign policy as support for the enemy, and the Iraq War as part of a War on Terror” (Lakoff, *supra* note 5). On the topic of race, during the past approximately thirty years, framing has been used effectively against our clients’ interests, particularly by conservative political and profit-maximizing corporate interests to, for example, frame affirmative action policies as “reverse discrimination” and “preferential treatment”; to cast all government programs, including safety net programs, as “wasteful” and “creating dependence” and the poor as “undeserving” of “coddling.”

<sup>15</sup>John Powell, Director, Kirwan Institute for the Study of Race and Ethnicity, Ohio State University, Keynote Address, National Legal Aid and Defenders Association Directors of Litigation and Advocacy Conference (June 22, 2008).

## II. A Rose by Any Other Frame

Frames are stories and explanations, deeply embedded in our thought patterns, about the way our society and the world work. One example might be: “Any attempt by the government to restrict or regulate the free market will decrease efficiency and artificially increase the cost of goods and services. Let the market decide how clean the environment should be!” Frames operate like subconscious filing boxes, allowing us to sift through, sort, and organize the information we hear and come to a value judgment quickly. Another example: “Attempts to regulate carbon emissions of coal plants equate with inefficiency and increase in cost of electricity to consumers. That’s bad.” In this way, as preset analytical structures, frames help us make sense of and avoid becoming overwhelmed by a complex world. From a psychological perspective, this is comforting.<sup>16</sup> However, as oversimplified versions of reality, frames do not necessarily reflect reality. Moreover, science demonstrates that, unless we raise them to the conscious level, frames become automated and influence the conclusions of our conscious mind to a surprising degree without our even being aware of this process occurring.<sup>17</sup> At any given time, competing and seemingly contradictory frames await activation in a person’s mind.

Purposefully triggering a frame can leverage its subconscious automaticity to pave the way for a more favorable reception of facts to come.<sup>18</sup> The triggered frame quickly ushers us unconsciously to disregard any encountered facts that conflict with our preexisting emotional and ideological commitments and latch onto facts that are consistent with these commitments. Frames allow us to reach judgments immediately, notwithstand-

ing the often complicated evidence before us. Operating on the subconscious level, the frame is a shortcut to organizing the facts and can lead us to a conclusion that we might not have reached with more careful reflection. As advocates, we want at times to trigger frames in pursuit of our client’s goals and other times to illuminate for our audience a conscious reflection of frames that may be damaging to our case.

### A. Word Choice

The language we use really matters. Certain word choices trigger different frames for understanding a particular issue. Take immigration, for example. The terms “illegal alien” and “undocumented worker” invoke two different frames to discuss the issue of immigration. Using the word “illegal” suggests an enforcement solution and carries with it the sense of moral judgment against one who has “broken the law.” Emotionally it conjures up antipathy or animus. “Undocumented,” by contrast, suggests a paperwork solution. It challenges one to solve a problem that, if accomplished, can activate the brain and commit the person to the solution. Each term triggers a different frame on immigration and implicitly or unconsciously filters and sorts the facts that suggest a very different set of solutions. Framing a discussion of tax policy, for example, likely leads to a different result if the chosen language frames the problem as “tax fairness” versus “tax relief.”<sup>19</sup> The former suggests that an analysis of equities is the best approach; the latter operates on an assumption that taxes are inherently a burden that should be cut or eliminated wherever possible.

Frames operate constantly in public and private discourse. Aware of what frames are at work and able to analyze whether

<sup>16</sup>See Shankar Vendantam, *Study Ties Political Leanings to Hidden Biases*, WASHINGTON POST, Jan. 30, 2006, <http://bit.ly/8dMrsR> (study by Emory University psychologist Drew Westen found that, when presented with negative information about political candidates they liked, pleasure centers lit up in participants’ brains when they found a way to dismiss the negative information, i.e., they automatically rewarded themselves with “feel-good pats”).

<sup>17</sup>WESTEN, *supra* note 7 (several studies show that much of our behavior is based on information we have unconsciously internalized).

<sup>18</sup>See Lakoff, *supra* note 5. For a discussion of the concept of automaticity, see *The Situationist, The (Unconscious) Situation of Our Consciousness—Part I*, <http://bit.ly/6MVGuh>.

<sup>19</sup>See GEORGE LAKOFF, DON’T THINK OF AN ELEPHANT! KNOW YOUR VALUES AND FRAME THE DEBATE 4 (2004).

they help or hinder our clients' cause, we can choose frames that are more helpful in structuring arguments on clients' behalf. Frames are at work whether we are conscious of them or not; politicians and their campaign strategists are not missing opportunities to use framing tools deliberately—as advocates, we cannot afford to miss these opportunities either.

In the context of race equity, frames of “color blindness” and “personal responsibility” (which correspond with the “bad choices” frame) impede real efforts to create a level playing field. The “color-blindness” frame hides structural racism and unconscious bias from scrutiny by suggesting implicitly that, to achieve equity, we must take race off the table in our discussions of societal problems to allow us to default to our presumed natural state of racial harmony. “Personal responsibility” reduces every inequity to a consequence of individual choice and leaves no room to acknowledge racial inequity that is a product of societal structures. These frames have acted as a potent formula for opponents of programs designed to over-

come inequities created by institutional and structural racism. We need not just an antidote to the poison but a tonic—hence the value and necessity of positive reframing in race equity advocacy.

## B. Mythology

Frames arise from the mythology of the nation.<sup>20</sup> They reflect our values in story form and create an understanding, despite reality, of the way our society does and should work. We learn them in grade school from ancestral stories, often apocryphal. They are reinforced in our visual arts, media, and architecture. We know them when we hear them, but our brains begin to recognize them, often on an unconscious level, causing the facts we hear to be sorted, rejected, and ultimately recalled in accordance with the premapped structure of the story. Effective use of mythology-based framing is seen in the box below. What are some of these common American frames?

- Rags to riches (the “self-made man”): anyone in our country, regardless of their station, can rise from poverty to become an “Oprah Winfrey” or “John D. Rockefeller.” Anyone can be our president. These stories are part of the narrative of our nation.
- Individualism and innovation: Americans are imbued with a frontier spirit. They are rugged individualists able to go into the wilderness and carve a nation through ingenuity and the sweat of one’s brow.
- America as a meritocracy: in this narrative, regardless of your ancestry or economic status, success can come to anyone and is achieved by working hard (or harder than others), making good choices, and outcompeting one’s competitors.
- Americans play by the rules: playing by the rules, paying dues, and following the “rule of law” is the key to a well-ordered society.
- America is the land of opportunity for all: Regardless of your race, color, creed, or religious background, America offers opportunity for all.

### Using Mythology as a Framing Device

**Local county supervisor:** We are a decent people but there are limits. It is irresponsible to write a blank check to people who don’t work and ask the hardworking taxpayers to pick up the tab for their real or imagined medical needs. The taxpayers have enough burdens. Yet every year all we hear from the “paid poverty advocates” is that the taxpayers should pay more and more as if there is no limit. These people make their living by making a case that there is all of this suffering among us, but I don’t see it. Do you? If things improved, they would be out of a job. Government should not be in the business of using taxpayer money to subsidize services that the market can provide to anyone willing to work. We might find then that many of these people crying out can work just as we found when we cut their welfare.

**Legal services advocate’s reframing response:** Americans are decent and compassionate people. This is known throughout the world. Our melting pot contains people of all nationalities, races, and ethnicities. We welcome all. That includes children, too young to work, people suffering from life-threatening diseases, the mentally ill, or our grandparents who can no longer work. They are Americans, too. On all fronts we are seeing an increase in public health problems from a child choking on asthma to an elderly widow whose loss of mental acuity is directly related to her lack of nutrition. The expectation in this country is that people will work and save, but if they cannot do so or have exhausted their resources, the good people of America will provide a safety net. That is our creed, and these are decent, patriotic American values. That is what the supervisor threatens to do away with today.

<sup>20</sup>Gilliam Jr., *supra* note 9, at 3 (core narratives in the culture as the source of frames).

- America is the land of equality: although our ragged history on this point is almost universally acknowledged, the aspirational goal is, likewise, almost universally embraced as a frame in our thoughts.
- Americans are proudly different: since the founding of our nation, we have sought to be different from other nations. We were conceived in liberty and go our own way.
- Americans are ingenious: if something is broken, we can fix it.

To acknowledge that the frames exist in our minds does not require that we acknowledge that they are true. Clearly they are not true in any universal sense. They are part of our mythology, but when triggered they provide a strong subliminal context in which to understand the facts presented to us in public discourse. Each frame breaks down when measured against reality, and yet people believe them to be true so strongly that they will overemphasize facts that support the frame to the utter disregard of otherwise relevant facts contrary to the frame.<sup>21</sup> Many frames and the values that they express, such as self-reliance, hard work, equal opportunity, and fairness, are often in tension with one another and yet are mutually held and competing for supremacy in each person's mind on any given topic or debate. Understanding frames can be particularly helpful when engaging in discussions of race equity.<sup>22</sup>

### III. Framing in Advocacy

Much of the research, writing, and discussion on framing has happened within the context of large-scale political and media campaigns. While identifying the frames at work in these contexts is instructive, our aim is to promote more discussion of how these tools are adaptable to the smaller, much more intimate scale of legal services advocacy.

<sup>21</sup>*Id.* at 17.

<sup>22</sup>For an in-depth discussion of how frames have been used historically to resolve racial "injustice dissonance," see Hanson & Hanson, *supra* note 10.

<sup>23</sup>Gary Blasi, *Advocacy Against the Stereotype: Lessons from Cognitive Social Psychology*, 49 *UCLA LAW REVIEW* 1241, 1245 (2002). See also Jon Hanson & David Yosifon, *The Situational Character: A Critical Realist Perspective on the Human Animal*, 93 *GEORGETOWN LAW JOURNAL* 1 (2004) (the so-called rational actor or dispositionist concept of human behavior and motivation is mostly wrong and conscious "free will" is illusory because behavior is driven by unconscious situational factors).

#### A. Good Facts Are Not Good Enough

Our attempts to persuade the public too often fall short when we trot out the facts, as if they spoke for themselves, without presenting a frame through which they can be interpreted. We often reserve our conclusions until the very end, as if to spring them on the audience in a great "Aha!" moment as we piece it all together in a great revealing. We then expect decision makers to confirm our position as the only logical interpretation of the facts presented. This approach is based on the view of the brain as a dispassionate, calculating logic machine that will come to the one logical conclusion if only given the right inputs.

The problem with this approach, according to current mind science, is that it is wrong.<sup>23</sup> Cognition research shows that people understand all issues not in terms of facts but in terms of frames. Trying to persuade with facts alone often does not work because facts are so vulnerable, if not downright inviting, to interpretation. A person's beliefs and decision making are driven more by values and emotion than by reason and lead the person to preformed conclusions. The dominant ways in which the public (and decision makers) typically think and feel about race, class, homelessness, government social and safety net programs, and so on, have led to systematic blame of our clients for their plight, thereby invalidating any attempt to present the problem as one of historic or institutional bias that could be resolved by changes in law or policy.

#### B. Values Are a Heuristic Framework

Frames are value-based, not fact-based. When we become aware of what frames may be currently operating against our clients' interests, we, as advocates, must choose *new* frames that, while resonant with the audience's values, serve to shift

the debate away from blame and personal responsibility toward increased opportunity. However compelling the facts might seem on their own, rather than merely presenting facts, we need to signal an appropriate shared value system that gives our audience permission to reach the conclusion we want them to reach.

### Framing with Blame and How to Respond

**Member of building industry using a blame frame:** Inclusionary housing is nothing more than big government interfering with free-market capitalism. The answer is not more regulation but less. If builders were unfettered from silly local restrictions such as inclusionary housing, the efficiencies of the free market would not be hamstrung and would produce many, many more homes, which is enough for everyone. Why should a middle-class working family pay an additional \$10,000 to \$15,000 to subsidize homes for those who won't work and live off government welfare?

**Legal services advocate's reframing response:** There are times when government needs to fine-tune the market for the public good. The "free market" responds to *demand* and not to *need*. The builders would love to keep building second, third, and fourth homes for the top 20 percent of the population that can afford multiple homes (and that is what the data show), but that wouldn't help create housing for the good people who work in our community, who teach in our schools, work in our hospitals, care for the elderly, or work in our supermarkets. All Americans deserve housing. By requiring housing to be built for Americans at all economic levels we will achieve opportunity for all.

### C. Race Issues Fit into Certain Frames

Polling and focus-group testing by the FrameWorks Institute and the Opportunity Agenda came up with very similar results about the prevailing frames that Americans use to understand race.<sup>24</sup> When we are trying to move an audience, whether a court, a city council, or a public gathering, we might assume that this is our audience's cognitive starting point.<sup>25</sup> By a vast majority, Americans polled throughout the United States believe the following:

- *Racism is a matter of individual action.* Indeed, to sustain a discrimination

claim, the courts require that a perpetrator who acts with racial animus be identified.<sup>26</sup>

- *To achieve racial justice we must become color-blind.* Those who hold this belief contend that even to speak of race is divisive.
- *People are personally responsible for their fates.* All inequity in society can be explained by choices made by individuals. This frame leaves little room for examination of society's structures that result in unequal opportunity.
- *Racial matters have improved dramatically in the past fifty years.* This improvement is the direct result of antidiscrimination laws that are still working.
- *Racist attitudes are not socially acceptable and discrimination has been successfully banned, but for a few "bad apples."* When advocating to the general public on issues of race, this may be the disturbingly complacent starting point from which we are trying to move our audience.

### D. Frames Are Used to Justify Inequality

"Blame frames" have the effect of marginalizing the concerns of groups in society by reducing all outcomes to the consequences of individual choice and behavior, foreclosing any analysis of inequitable societal structures. This type of framing is seen in the box above. Although they may originate from the need to reconcile our sense of fairness with painful realities of injustice, these frames devalue social inclusion and broader community concerns.<sup>27</sup> The blame frame of "personal responsibility" is often used to short-circuit discussions of structural racism in favor of personal judgment that individuals are to blame for their lot. This

<sup>24</sup>Gilliam Jr., *supra* note 9. See also FrameWorks Institute, *supra* note 9. The Opportunity Agenda in conjunction with the Strategic Press Information Network Project has produced a communications toolkit on the "opportunity" frame (see The Opportunity Agenda, American Opportunity: A Communications Toolkit (n.d.), <http://bit.ly/8mVnEO>).

<sup>25</sup>We are not advocating this type of framing for discussion with our client communities. Local advocates will know best what works in these fora. We should, however, take note of how extensive these frames have affected the way our clients speak about problems of racial inequity in their communities.

<sup>26</sup>See Tawatao et al., *supra* note 2, at 55–56.

<sup>27</sup>Hanson & Hanson, *supra* note 10, at 419 (studies show that people "crave justice" and actively work to eliminate suffering and injustice, but, where the problems are complex or difficult, they may satisfy the "craving" by reconceiving the victims as having somehow brought the suffering upon themselves).



frame was widely used in the postrecovery period following Hurricane Katrina in 2005 (see box below). On the third day after the hurricane hit the Gulf Coast, elected officials and commentators began to frame the incomprehensible suffering that fell overwhelmingly on people of color as a matter of choice and personal responsibility by saying that the people who stayed behind ignored an evacuation order. That frame did not permit engagement of the larger issues of segregation, inadequate transportation, information, and infrastructure that condemned those left behind to suffer in the flood.<sup>28</sup>

### Framing the Victims After Katrina

Elected and other government officials took a range of approaches to framing the roles that the victims of the hurricane played in their own fates (see Sourcewatch, Hurricane Katrina: Blaming the Victims, <http://bit.ly/6Bl1N>).

**Michael D. Brown, head of the Federal Emergency Management Administration, to CNN on September 2, 2005:** “Well, I think the death toll may go into the thousands. And unfortunately, that’s going to be attributable a lot to people who did not heed the evacuation warnings. And I don’t make judgments about why people choose not to evacuate” (*The Situation Room: FEMA Director* (CNN television broadcast Sept. 1, 2005), <http://bit.ly/6DrWBu>).

**Sen. Edward M. Kennedy, in a Senate speech, September 7, 2005:** “The powerful winds of this storm have torn away the mask that has hidden from our debates the many Americans who are left out and left behind” (Charles Babbington & Shailagh Murray, *Parties Scramble for Post-Katrina Language*, WASHINGTON POST, Sept. 8, 2005, <http://bit.ly/5XqTol>).

Implying that inequity results from a failure of personal responsibility, otherwise known as the “bad choices” frame, is the most common of the blame frames used to justify that inequity. Other common blame frames include the “God” or “Nature” frame, each suggesting that inequities are preordained by powers beyond human control.<sup>29</sup> “Separate fates” is a blame frame suggesting that certain groups are adjudged not to share “our” values and therefore cannot be expected to share in “our” bounty; inequity, to the extent that it exists, is caused by fundamental differences in groups. (This position is antithetical to the “anyone can be an American” frame.)

### E. Frames Change with the Times

As with political regimes, framing “regimes,” or ways of understanding the world, ascend and decline in power.<sup>30</sup> Some common frames continue to carry significant weight in the American mind, however, for better or worse. Among these are the myth of the “self-made man” and the “frontier spirit”; the notion of meritocracy, where success comes through the exercise of personal responsibility and good choices; the idea that following the rule of law is the key to a well-ordered society; and the dream of America as a land of equality and opportunity. This last frame is often an opportunity in itself for advocates to signal shared values with the audience whom we are trying to persuade.<sup>31</sup>

Frames of meritocracy and the “self-made man” plummeted in popularity when many wealthy Americans lost the bulk of their wealth in the 1929 stock market crash and subsequent Great Depression. As these frames “recovered” later in the twentieth century, the current “financial crisis” or global depression may be an opportunity for more humane, community-oriented frames to gain traction once again.

<sup>28</sup>*Id.* at 451. See also Brian Baresch, *Toward a Taxonomy of Frames* (2008) (how the mythic frame of “the flood” is used in disaster stories to imply that victims somehow brought the disaster on themselves), <http://bit.ly/5bzPkU>.

<sup>29</sup>Hanson & Hanson, *supra* note 10, at 427.

<sup>30</sup>*Id.* (the use of frames and their part in justifying racial injustice from the founding fathers to the Hurricane Katrina debacle).

<sup>31</sup>The Opportunity Agenda, *supra* note 24.

Throughout American history, blame frames have operated to justify gross racial, ethnic, and gender-based inequities that would otherwise be completely incompatible with American values and ideals.<sup>32</sup> The frame of personal responsibility has gained ground recently as other frames used to justify inequality have faded over time, but old ideas about Nature or God and biology as rationales for injustice persist and resurface from time to time. An essential component of our work as advocates is to learn to recognize blame frames in action and help shift the discussion or debate to one based in values of opportunity and American ingenuity.

### F. Frames Can Be Triggered

Allusive words or symbols trigger specific frames, but the messenger can trigger them as well.<sup>33</sup> A 2003 California ballot initiative, Proposition 54, would have prohibited the government from keeping data on race. The opponents of that proposition masterfully presented former Reagan-era Surgeon General C. Everett Koop as a spokesman in television ads, in which he detailed the dangerous health consequences of ignorance due to lack of data.<sup>34</sup> Koop stated in the ads that Prop 54 was “bad medicine” and that the

public was making a “life-and-death decision.”<sup>35</sup> His stature and position of trust and authority in public health matters put Prop 54 in company with Big Tobacco in the minds of voters.

An advocate can trigger positive frames most effectively with subtlety. The process is best understood by example. The box below is an example of an interaction between two sides of a debate where triggering the frame is as important as the points being made.

### G. Choose the Most Effective Frames for Race

FrameWorks and the Opportunity Agenda tested how various frames affect Americans’ understanding of and attitudes toward issues that may implicate race and identified several frames that show promise when advocating race equity on such issues.<sup>36</sup>

- *Opportunity for all*: Americans consistently support the value of opportunity for all when couched in terms of obstacles that prevent *all people* from realizing a better life. They are willing to acknowledge that the system falls down and support fixing broken structures. Testing shows that, when talked about

## Triggering the Frame

### Disability Hearing for Southeast Asian refugee Needing Supplemental Security

**Income benefits:** The client has a combination of impairments, which include depression and a posttraumatic stress disorder. The administrative law judge handling the hearing tends to rule against refugees claiming psychological impairments, believing that they are “malingering” or feigning illness, or “crashing the good life in America” and just don’t want to work.

### Legal services advocate using framing techniques:

My client’s family was recruited by the CIA to fight alongside American soldiers. Many of our client’s family members and friends paid the ultimate price in their service to our country, fighting against communism during the war in Laos. America honors those soldiers and families who fight for her by taking care of them and their families suffering from the lasting impact of war. America asked these people for help, and they fought bravely and willingly for us. Now it’s our turn to keep our promises to them.

<sup>32</sup>Hanson & Hanson, *supra* note 10. See also MICHAEL K. BROWN ET AL., *WHITEWASHING RACE: THE MYTH OF A COLOR-BLIND SOCIETY* 6 (2003) (“As they see it, the problem is the lethargic, incorrigible and often pathological behavior of people who fail to take responsibility for their own lives.”).

<sup>33</sup>FrameWorks Institute, *Framing Public Issues Toolkit* 22 (2004), <http://bit.ly/8pHNzY>.

<sup>34</sup>Eva Jefferson Patterson, *And Still We Rise*, 6 *AFRICAN-AMERICAN LAW AND POLICY REPORT* 15, 17 (2004).

<sup>35</sup>Suzy Khimm, *AlterNet*, *Avalanche Against Prop 54* (2003), <http://bit.ly/8k7tuF>.

<sup>36</sup>FrameWorks Institute, *supra* note 9; *THE OPPORTUNITY AGENDA*, *supra* note 24, at 29–30 (criteria for selection of appropriate messengers).

to the public in general, obstacles to equality should be described structurally without regard to race. We often talk about the need to put race back on the table, and we still hold this to be true. However, sometimes when moving the public, we achieve our goal by a communications strategy that does not overtly signal race and the systemic racism truly at the heart of the problem. Some recent attempts to engage public discussion of race failed miserably when field-tested.<sup>37</sup>

*Example:* “Opportunity” frame in education funding and access: America is the land of opportunity, but the reality is that some children do not have the same opportunities for success. Frequently schools in minority neighborhoods have less funding and fewer qualified teachers. We must see that *all children* have access to quality education, qualified teachers, and safe schools, or they will have little hope for a better life. We can make the American Dream a reality for everyone if we solve these problems together.

*Example:* “Opportunity” frame in inclusionary housing: We all know that if we go to an auto mall and see just Lexuses or just Camrys or just Corollas—there’s something wrong—our choices are limited. We know that the best housing markets don’t just offer luxury homes, or just condos, or just apartments—they offer them all. Together let’s come up with a fix for the broken housing market that offers only the Lexus houses because we already agree that everyone in our community should have the opportunity to live in a decent place close to good schools and services.

- *American ingenuity:* to the extent that systemic breakdowns leave people behind, message testing shows that we are able to move people to think about racial inequality in a fundamentally dif-

ferent and more productive way when expressed in terms of structures that are beyond any individual’s control and prevent Americans from realizing their full potential. Americans like to think of themselves as creative problem-solvers. We fix broken things. This frame, along with the “Opportunity for all” frames, could be especially useful in race-based advocacy where cries of “reverse racism” are being used to divert attention from systemic racial inequities.<sup>38</sup>

- *We are one nation of shared fates:* inclusive language must be used when discussing race with the public or before legislative bodies. Field testing by the FrameWorks Institute suggests that the general public responds better when we speak of our clients as part of the whole, without referring to “people of color” or “immigrant communities” or other signifiers of “the other.”<sup>39</sup> Instead we must speak of fixing a system so that all Americans are treated equally. The message still resonates with a majority of Americans and can move people on issues of race, even though it is not referred to directly. To raise the issue of oppressed minorities invites the listener to use the blame frames to find fault in the segment of the population seeking equity.

While an in-depth examination of different frames that advocates should apply in specific forums or situations (such as in courts and administrative hearings, speaking to the public, or addressing client groups or local government (see box on page 418)) is beyond the scope of this article, in the future we hope to explore these nuances through discussions of how legal aid advocates have applied effective framing principles in their work.

The same research illustrating successful frames shows that some of the messages used to reframe race equity issues over the past ten to fifteen years have proven ineffective or at least less effective than

<sup>37</sup>FrameWorks Institute, *supra* note 9.

<sup>38</sup>See Channing Kennedy, RaceWire, “Reverse Racism”: Word Distracts from the Big White Elephant of Systemic Racism (2009), <http://bit.ly/7UCANW>.

<sup>39</sup>Susan Nall Bales, Fairness as a Frame (2009), <http://bit.ly/8BNj89>.

## The Wise Investment of Youth Court Programs

From "New Legal Force to End Racism in Juvenile Justice and Child Welfare," a June 30, 2009, press release of the 2009 TimeBanks USA Conference's Racial Justice Initiative Media Kit:

"The high numbers of youth being incarcerated when there are clearly safer, more effective options is a profound injustice. It is harming youth and our communities and squandering precious resources," said Cynthia Robbins, noted youth advocate, lawyer and co-author of *An Offer They Can't Refuse*. "Our message today is that the economic crisis gripping state budgets provides the opportunity to redirect scarce government resources into programs and efforts that work and are much less expensive."

Research over the last decade has established that the use of detention facilities for most juveniles is not only an expensive practice but does little to rehabilitate youth, keep them safe or improve public safety. In fact, detention can increase the likelihood that youth will re-offend or re-offend with more serious crimes.

Racial disparities persist in the juvenile justice system with a disproportionate number of minority youth being incarcerated. African Americans, Latino, Native, Asian and Pacific Islanders are 35% of the U.S. youth population but comprise 65% of all youth who are imprisoned preadjudication. On average, African American and Latino juveniles are confined, respectively, 61 and 112 days longer than white youth. ...

Youth Court programs across the nation experience immediate returns on investment. Even in programs with only two years of operation, more than 80% of the youth offenders have completed their sentences successfully. In 30% of the participating programs, 1 in 5 youth offenders returns to the program as volunteers.

Source: 2009 TimeBanks USA Conference, [http://tbusa.org/?page\\_id=392](http://tbusa.org/?page_id=392).

advocates had hoped in moving the public.<sup>40</sup> Though popular concepts, these frames failed to deliver:

- *Diversity as strength*: this frame asserts that our society is stronger as the result of diverse perspectives and experiences. Most people agree with the idea that a company or organization is better off as a result of diversity, but people get bogged down in nonproductive discussions of hiring and firing and quotas.
- *Prevention (the "miner's canary")*: using the analogy of the canary in the mine, this frame argues that problems in minority communities are warning detectors for impending deterioration of the quality of life in the broader society. Drugs, crime, joblessness, and other

indicators are "warning" signs not only for the community immediately experiencing the problems but also for all communities. The first big problem with this frame is that it evokes popular and negative perceptions about minorities and minority communities, playing into the frame that different communities (read: racial and ethnic groups) simply have different destinies. The second problem is that it causes the average listener to quarantine the problem by conceiving of the problem as "someone else's" problem, rather than inspiring steps to ameliorate it.

- *White privilege*: white people have come to expect opportunities to be available to them. They expect the best rates on loans, the ability to live in any neighborhood, go to any school, etc. They do not view these expectations as unusual or somehow outside the norm and have difficulty realizing that not to have to think about race as a factor in securing opportunity is a privilege. The creation of the frame of "white privilege" was an attempt to move white people to see that what they see as the normal operations of society do not extend to others. The frame has not proven to be very successful or persuasive perhaps, again, due to the strength of the frame that presumes and is at ease with there being different fates for "different" communities.

## H. The Framing Game Has Rules

Progressive communications experts such as Drew Westen and George Lakoff and organizations such as The Opportunity Agenda and the FrameWorks Institute discuss the use and techniques of framing in public discourse extensively.<sup>41</sup> Having synthesized their research and recommendations, we offer the following general rules for framing:

- *Know your audience*: attention to this fundamental rule is too often neglected in our advocacy. To be effective, the language and frames we choose must

<sup>40</sup>FrameWorks Institute, *supra* note 9, at 5.

<sup>41</sup>WESTEN, *supra* note 7; LAKOFF, *supra* note 19; The Opportunity Agenda, <http://opportunityagenda.org>; FrameWorks Institute, [www.frameworksinstitute.org](http://www.frameworksinstitute.org).

be appropriate to the audience, whether we are addressing client groups in our community, local government bodies, a court or jury, or the general public through media outlets. We know our message, but we must also think of the “frame” as the context or vehicle through which the message is delivered. The same message may have several frames depending on your audience.

Sometimes the need for frames is hard to grasp. We have our own familiar and comfortable lexicon in the legal services community. We use this terminology within our community with the reasonable assurance that we will be understood. Terms such as “structural racism,” “communities of color,” and “undocumented workers” are recognized as signals of our like-mindedness. Our value-laden language choice is part of the glue that binds us as a community.

What works in our community, however, may not resonate in court or in broad public discourse. If our language is judged to be “rhetoric” or “politically correct speech” coming from a “liberal,” the audience may dismiss our message because the language triggers their perception that we or our clients or both are outsiders and do not share the audience’s values. The term “politically correct” is a frame in itself suggesting that the speaker’s values are outside the mainstream.

Once listeners attach a label that triggers or may be in itself a type of frame, they may close their minds to our message. This is a key point: people resist changing their frame if it is confronted too directly, such as with language that signals a conflicting frame. Subtlety may seem to be a lost art in public discourse, but adapting a language frame that does not trigger an adverse labeling response in the audience should be a goal. Remember that when you are engaged in a public communications strategy intended to move large num-

bers of people, you must adapt by using the more common lexicon of local public discourse.

- *Lead with values or solutions or both:* communicating values early in the conversation is essential to trigger positive frames. Indeed, values trump facts in terms of persuasive power. Too often, as advocates, we build our cases with the meticulous use of facts, revealing our conclusion only after demonstrating that it rests on a solid empirical and moral foundation. The literature suggests two factors that may cause us to rethink this approach. First, in order to prepare the brain to be receptive to a message, values must be signaled early on in the address or one can lose the audience.<sup>42</sup> To the extent that the values we discuss are widely held, the brain becomes more receptive to hearing the message. Second, when we articulate a solution, the brain prepares a categorical schema within which received information is stored and recalled.

Depending on the audience, part of the effective marshalling of facts may include resisting the urge to overwhelm our audience and realizing that part of the reason why particular facts seem compelling to us is that they support our own internalized and preset frames. As we attempt to illustrate our problem and set out facts supporting our position, we may know where we are going, but, without an articulated solution, our audience may be going somewhere else entirely with the facts. Even in court, where we need to build a case meticulously based upon the evidence at hand, signaling to the court the values that gave rise to the law as well as the law itself is helpful. This can be accomplished effectively with subtlety and very few words. When we are before a legislative body, signaling solutions early on may better capture the attention of elected officials who may feel that they have already heard enough about the problem.

<sup>42</sup>See, e.g., LAKOFF, *supra* note 19, at 33 (the “truth will not set you free” unless the truth is first framed effectively to trigger common values); FrameWorks Institute, *supra* note 33, at 13 (importance of starting communication with “higher-level frames” signaling broadly shared values, which then “prime” or map these values on more specific issues).

Struggles for racial justice in the 1960s are examples of framing the issues with deeply held American values rather than relying on plain facts. After the violence against marchers in Selma, Alabama, in March 1965, President Lyndon B. Johnson addressed Congress to demand passage of the Voting Rights Act and squarely placed on the table the very “dignity of man and the destiny of democracy.” The issue at hand, as framed by President Johnson, was not merely a question of voting statistics in the South, however egregious and demonstrative of racism they would have been to anyone interested in statistics, but a challenge “to the values and the purposes and the meaning of our beloved nation.”<sup>43</sup>

Leading with solutions prevents “compassion fatigue” in the audience or the sense that the problem is too large and intractable. Signaling the solution helps define the problem in a way that brings it within the scope of what is manageable or even fixable. When presented with effective solutions, people can more easily embrace the notion that the system has broken down because we are offering them tools for fixing it.

Do not lead with conflicting facts or statements, for example, “You may have heard that differences in cancer rates are a result of genetic differences among different races. That’s just not true.” Science demonstrates that leading with contrary facts in an effort to change minds creates cognitive dissonance in the listener and triggers the “conflicting facts” frame. Once triggered, this frame then leads the listener to discard the conflicting facts as erroneous in some way and affirm that listener’s preconceptions since listen-

ers feel better to think that they were right.<sup>44</sup>

- *Control the “we”*: extensive testing suggests that an audience is more receptive to a solution if it can identify the problem as one it may face. The wrongs we are attempting to redress must be defined as a wrong not to someone who is different from us or our audience but to any one of us. We need to define the issues in a way that helps listeners connect and identify with the person on whose behalf we are advocating, rather than reinforcing a client’s “otherness.”

Grammatical conundrums aside, “we” is a powerful place from which to speak when we can control and define it in an inclusive way. President Johnson’s 1965 speech also offers a powerful example of defining “we” to include Americans of all races, regions, and political affiliations. As Johnson stated, “[t]here is no Negro problem. There is no Southern problem. There is no Northern problem. There is only an American problem. And we are met here tonight as Americans—not as Democrats or Republicans—we are met here as Americans to solve that problem.”<sup>45</sup>

- *Be subtle in asserting your frame, and “do not think of an elephant”*: As George Lakoff points out, attempting to argue against our opponents’ frames only serves to reinforce them; ignore them and assert your own frame in a more skillful way than your opponent.<sup>46</sup> Repeating the “triggering” words or language of the opponents’ frames reinforces them.<sup>47</sup>

## I. Reframing Is Doable

When faced with a frame that limits our advocacy, we must try to use language to

<sup>43</sup>Pres. Lyndon B. Johnson, Special Message to the Congress: The American Promise, (March 15, 1965), <http://bit.ly/4GsX5b>.

<sup>44</sup>See BURTON, *supra* note 12; see also GORE, *supra* note 12.

<sup>45</sup>Johnson, *supra* note 43.

<sup>46</sup>LAKOFF, *supra* note 19, at 3, 116 (Professor Lakoff’s class’s inability not to think of an elephant when class was asked not to do so—in a debate one should never answer a question framed from an opposing point of view; instead one should “[a]lways reframe the question to fit your values and your frames”).

<sup>47</sup>See FrameWorks Institute, *supra* note 33, at 42 (“bridging” techniques for responding effectively to questions that trigger undesirable frames).

“reframe” the debate.<sup>48</sup> To do so we must tell a different story and not succumb to the prevailing frame. We offer these pointers (see box) on how to construct a reframing argument. Here is how to restructure a frame:

- *Lead with values:* a brief statement of context is enough to activate a frame. Values that work in framing race are “equality,” “community,” and “opportunity,” among others.
- *Signal solutions early on:* solutions are a road map for the listener. Information is evaluated in light of the solution and the values it advances. Solutions must come early in the presentation.
- *Control the “we”:* define the client as part of an “in” group and in a way that fosters the public’s identification with the person for whom we advocate. Words such as “Americans,” “Californians,” or “Angelenos” are more likely to spur identification on the part of the general public than words such as “immigrants,” “poor people,” “minorities,” or “communities of color.” Make the issue about a wrong being done to people who are like the listening public and not different from us or our clients.



Through theory and examples we have sought here to describe the art of framing discussions of race in advocacy. Framing has application far beyond our scope here. We see it as a fundamental tool of persuasion; the increasing literature on the subject suggests its effectiveness. Advocates in the wider legal aid community are using the tool and reporting their successes and challenges, thereby broadening understanding of its application.<sup>49</sup>

Whether advocates use framing techniques or ignore them, we can be sure that those who oppose our advocacy goals are using and will continue to use them to

### Reframing Dos

- Do invoke common values that apply to all early on and then explain how these values are structurally derailed in minority communities.
- Do show people where systems that we all rely upon break down and specify how they might be fixed.
- Do invoke deeply embedded American values.
- Do invoke ingenuity or the can-do spirit with respect to solving tough problems.
- Do define an inclusive community.
- Do remind people of our common belief in “opportunity for all” and how failures of the system hurt everyone.
- Do communicate in a practical tone that emphasizes shared fate and future prosperity.
- Do control the “we” and describe your client as part of the large American family.

### Reframing Don’ts

- Do not lead the audience to think about the issue as being about people, as opposed to being about situations.
- Don’t lodge race, racism, or racial disparities at the top of your communication.
- Don’t focus on the triumphant individual or other mechanisms that exceptionalize.
- Don’t focus on problems and disparities to the exclusion of solutions.
- Don’t talk about fairness or the historical legacy of racism.
- Don’t engage in a rhetorical debate about the intentionality of discrimination.
- Don’t use comparisons that prompt a sense of two communities.

advance their own agendas. Our central charge and responsibility is to use all tools at our disposal to advance our mission to empower our client communities in uprooting the causes of poverty and racism and to persuade decision makers to reach a conclusion that best serves our clients’ interests. We invite you to use framing toward that end at every opportunity.

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### COMMENTS?

We invite you to fill out the comment form at [www.povertylaw.org/reviewsurvey](http://www.povertylaw.org/reviewsurvey). Thank you.

—The Editors

<sup>48</sup>To this point we have assumed that the advocate initiates the discourse and chooses a frame to support the advocacy. When we are not first to the debate, we must tell a story that creates a different analytical frame. The mechanics of “reframing” need to be the subject of another article, but you have all seen the battles over framing by television pundits. Questions are often posed in the context of a frame. To answer the question is to confirm the frame; instead of answering, the person to whom the question is posed does not answer but creates a new frame with its own question that remains unanswered. These are the hallmarks of “frame wars.”

<sup>49</sup>See Legal Services of Northern California, *supra* note 2.



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