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## **Does Protest Matter? The Impact of Rights-Related Protest on the Legislative Agenda**

Alexandra Tieke Brewer

*University of Tennessee*, [abrewer7@vols.utk.edu](mailto:abrewer7@vols.utk.edu)

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I am submitting herewith a dissertation written by Alexandra Tieke Brewer entitled "Does Protest Matter? The Impact of Rights-Related Protest on the Legislative Agenda." I have examined the final electronic copy of this dissertation for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Doctor of Philosophy, with a major in Political Science.

John M. Scheb, Major Professor

We have read this dissertation and recommend its acceptance:

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Dixie L. Thompson

Vice Provost and Dean of the Graduate School

(Original signatures are on file with official student records.)

**Does Protest Matter? The Impact of Rights-Related Protest  
on the Legislative Agenda**

A Dissertation Presented for the

Doctor of Philosophy

Degree

The University of Tennessee, Knoxville

Alexandra Tieke Brewer

December 2018

## **ABSTRACT**

I will address two research questions: (1) Do rights-related protest events affect the congressional agenda? (2) Does political party condition the relationship between rights-related protest events and the congressional agenda? To examine these questions, I will use a cross-cutting approach by distinguishing between two forms of protest – institutional and extra-institutional forms – to see if disruptive tactics had a greater impact on agenda-setting in the context of rights-related issues from 1960 until 1995. I found that extra-institutional protests related to LGBT rights as well as rights to free speech and religion had a significant impact on related congressional hearings. In addition, institutional protest was highly significant in the case of free speech and religion. However, the empirical findings provide little support for the hypothesis that hearings on rights-related issues will increase when Democrats are in control of Congress and the Presidency.

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## INTRODUCTION

The United States boasts a healthy tradition of collective protest. From abolition to temperance, and women's suffrage to civil rights, Americans have taken to the streets to demonstrate their grievances and demand societal change. There is a great deal of literature examining how collective protest manifests and how it is sustained over time; but there is a dearth of research examining the actual policy impact of Americans' collective struggles. In other words, we still do not know the answer to this question: *Does protest matter?*

This study seeks to answer this question by determining if collective protest affects the policy process. In my dissertation, I will examine the impact of rights-related protests in the United States during the period 1960-1995. I will address two primary research questions: (1) Do rights-related protest events affect the congressional agenda? (2) Does political party condition the relationship between rights-related protest events and the congressional agenda? The issues I plan to examine include "race-related rights," women's rights, disability rights, elderly rights, LGBT rights, and rights to freedom of speech and religion (King et al. 2007, 144-145). I included freedom of speech and religion in my analysis because, without those civil liberties, the civil rights protest movements would not have had the space to develop.

Consider the following examples of landmark civil rights legislation – the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968. Is it plausible that these landmark statutes would have been enacted without the Civil Rights Movement? Some scholars have examined whether or not protest impacts policymaking, but their results are mixed (Soule et al. 1999; Burstein and Linton 2002; Amenta and Caren 2004; Soule and Olzak 2004; Burstein and Sausner 2005; Soule and Olzak 2009). I intend to extend the debate by presenting new evidence that distinguishes between institutional and extra-institutional forms of rights-

related protest activity. “Analyzing the cross-effects” of institutional and extra-institutional protest activity would enable me to determine if activists have a greater impact on the congressional agenda when they act outside the scope of public institutions and engage in disruptive tactics (Soule and Olzak 2009, 202).

In their examinations of protest activity on political outcomes, scholars have found that that protest is “stronger at the agenda-setting stage of the policy process” than in final stages of policymaking (Olzak and Soule 2009, 204; Soule and King 2006; King, Bentele, and Soule 2007). Like other scholars, I argue that congressional attention is an indicator of policy impact (King, Bentele, and Soule 2007; Olzak and Soule 2009; Gillion 2012). Since Congress has limited space on its legislative agenda, issues can cycle on and off the agenda depending upon their degree of salience among policymakers and the public at large (Kingdon 1995; Downs 1972). I argue that by engaging in collective protest, participants seek to “set the political agenda ... and focus their representatives’ attention on grievances that require redress” (Gillion 2012, 953; Baumgartner and Jones 2009).

The act of protesting indicates, “that an issue is controversial,” and the “controversy signals a problem to government and the public at large” (Rochon 1998, 179; Gillion 2012, 953). When an issue is salient and occupies space on the agenda, Kingdon (1995) claims that activists, which he refers to as “issue initiators,” are in a better position to make policy change. As activists expand an issue, “the nature of the conflict, the key actors, and the definition of significant issues change, and new dimensions are added” (Cobb and Ross 1997, 5). As a result of “expand[ing] the scope of conflict,” activists can better control the definition of the problem and offer solutions (Schattschneider 1960, 16; Cobb and Ross 1997).

Previous scholarship suggests that members of Congress respond to collective protest by holding congressional hearings (King, Bentele, and Soule 2007; Olzak and Soule 2009; Gillion 2012). Since there is limited space on the congressional agenda, I argue that hearings represent “that list of items explicitly up for the active and serious consideration of authoritative decision-makers” (Cobb and Elder 1983, 85-86). In my analysis, I expect to observe a positive relationship between rights-related protest activity and congressional hearings on rights issues. I argue that increased levels of protest activity signal the existence of a problem to elected officials. Members of Congress often hold congressional hearings to provide their constituencies with information about an issue (King, Bentele, and Soule 2007, 138).

There is also a rational basis for elected officials to respond to collective protest. Legislators have an incentive to maintain their positions of power and to respond to problems in the political environment (Sulkin 2005). Members of Congress want to be viewed as “responsive legislators who use their activity in office to demonstrate attentiveness to salient issues that they may have previously neglected (Sulkin 2005, 15). They are essentially responding to collective protests “to avoid difficulties in future elections” (Sulkin 2005, 15). If my analysis does not indicate that members of Congress are responsive to protest, there could be implications for theories of democratic responsiveness.

To explain fluctuations in protest activity and congressional hearings, I argue that expanding opportunities in the political environment increase the level of rights-related collective protest and lead to an increase in the number of related congressional hearings. In this study, I use political opportunity theory to argue that movements can “induce social change when confronted with a political opportunity structure” (Giugni, McAdam, and Tilly 1999, xix). Political opportunity structures (POS) are “consistent dimensions of the political environment

that provide incentives for people to undertake collective action by affecting their expectations for success or failure” (Tarrow 1994, 85). Political opportunity theory essentially “[highlights] contextual factors that condition the behavior of” people who seek to make political change (Nownes 2004, 51). I expect political opportunities to be expanding for rights activists when Democrats are in control of the Presidency and Congress. Previous scholarship has indicated that Democrats are more likely to be allies for rights-related causes than Republicans (Poole and Rosenthal 1997; Gillion 2012). Therefore, when Democrats are in power, I would expect to observe increased levels of rights-related protest activity and congressional hearings concerning rights issues. Testing these expectations using a cross-cutting approach will be a theoretical contribution of my analysis.

In Chapter 1, I will examine the rights issues included in this study. Next, in Chapter 2, I will review the literature that provides the theoretical framework for my analysis. I will then outline my hypotheses and methodology in Chapter 3. After laying out the methods, I will put my ideas to the test to see whether the results support my hypotheses in Chapter 4. Finally, in Chapter 5, I will consider the implications of my findings and discuss future directions for this line of inquiry. This study is one iteration of a broader research interest in the legislative impacts of protest.

## **CHAPTER ONE**

### **RIGHTS-RELATED MOVEMENTS IN THE UNITED STATES**

Before presenting my analysis, I will offer an examination of each rights issue from its origins to the present day in the order they emerged. I will begin with the issue of race-related rights, which was the first issue of those I examined to galvanize collective action. Next, I will present a background of women's rights, disability rights, rights for the aged, and LGBT rights. Lastly, I examined the rights of free speech and religion. In addition to covering the development of rights that are civil rights, I included First Amendment rights because none of the other issues could have developed without freedom of expression.

#### **The Emergence of Civil Rights for African-Americans**

Civil Rights for African Americans were slow to develop in the United States as their very existence was defined in terms of subjugation and enslavement. In 1619, a Dutch trader sold twenty Africans to colonists in Jamestown, which began the "long and tragic development of black slavery in the United States" (Harris 2006, 11). From 1700 to 1770, colonists in Virginia and South Carolina alone enslaved 73,000 and 84,000 Africans, respectively (Harris 2006, 43). Following the Revolutionary War, slave-traders continued to enslave and ship Africans to the United States. While the United States Government enacted the Slave Importation Ban in 1808, the ban was enforced sporadically, and slave importation continued until the 1860s (Harris 2006).

As the institution of slavery in the United States gained strength, a movement against its existence – the Abolitionist Movement – emerged. From the 1830s to the 1870s, abolitionists including Frederick Douglas, Sojourner Truth, and William Lloyd Garrison fought for the emancipation of slaves, and then fought to end racial segregation and discrimination (McPherson

1988). Since abolition was a moral issue, it was acceptable for women to participate. Women were able to step out of their homes and contribute to the cause. The increased participation of evangelical Protestants in the anti-slavery movement engendered a greater collective consciousness regarding the evils of slavery. With waves of Protestants joining the Abolition Movement, a shared sense of “outrage and activism” proliferated in northern states (McPherson 1988, 88). The popular atmosphere was ripe for Harriet Beecher Stowe’s *Uncle Tom’s Cabin*, which “sold 300,000 copies in the United States” in 1852 (McPherson 1988). Through the characters that Stowe’s developed, her story “rebuked the whole nation for the sin of slavery” (McPherson 1988, 89). Stowe’s novel “stirred the emotions of a Christian public” and galvanized opposition to slavery (McPherson 1988, 90). In a meeting between President Abraham Lincoln and Stowe, Lincoln reportedly stated, “So [you are] the little woman who wrote the book that made this great war” (as cited in McPherson 1988, 90).

After decades of tension between the northern and southern states, the Civil War erupted in 1861 when the Confederacy attacked Fort Sumter in South Carolina. Confederate states seceded from the Union and fought for its perceived right to perpetuate and strengthen the institution of slavery (McPherson 1988). By 1862, President Lincoln became convinced that a Union victory must result in the abolition of slavery. He issued the Emancipation Proclamation after the Union victory at the Battle of Antietam and declared that as of January 1, 1863, any slaves that were held in “rebellion against the United States shall then be, thenceforward, and forever free” (Lincoln as cited in Harris 2006, 191). As the war continued, the Confederacy’s armies and its strategies disintegrated. By the twilight of 1864, it became evident that the Confederacy would not be able to see its cause to fruition. President Lincoln and members of Congress understood that constitutional amendments would be necessary to prevent Southern

legislatures from continuing the practice, and thus, bring a certain end to slavery. On January 31, 1865, Congress passed the Thirteenth Amendment, which proclaimed, “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction” (U.S. Constitution). In April of 1865, General Robert E. Lee surrendered to General Ulysses S. Grant after the Battle of Appomattox (Harris 2006). Several months later, on December 6, 1865, the states ratified the Thirteenth Amendment (Harris 2006).

During the Reconstruction, which was “a period of federal control over southern politics” from 1865 through 1877, the federal and state governments continued to “extend civil and legal protections to former slaves” by passing and ratifying the Fourteenth and Fifteenth Amendments to the Constitution (Barbour and Wright 2011, 153; U.S. Senate Website 2017, para. 1). The Fourteenth Amendment, which was ratified on July 6, 1868, “granted citizenship to ‘all persons born or naturalized in the United States,’ including former slaves and provided all citizens with ‘equal protection under the laws,’ extending the provisions of the Bill of Rights to the states” (U.S. Senate Website 2017, para. 3). The Fourteenth Amendment also endowed Congress with enforcement power, which was a “provision that led to the passage of other landmark legislation in the 20<sup>th</sup> Century, including the Civil Right Act of 1964 and the Voting Rights Act of 1965” (U.S. Senate website 2017, para. 3). After the government abolished slavery and granted former slaves citizenship, Congress and the states took measures to allow them to vote. Congress passed the Fifteenth Amendment, and the states ratified it on February 3, 1870 (Harris 2006). The Fifteenth Amendment “[forbade] discrimination in voting ... in the United States” (Harris 2006, 232). Congress applied pressure on Southern states to ratify these amendments “as a condition of regaining federal representation” (U.S. Senate Website 2017, para. 2). The Civil War

Amendments “reversed more than two centuries of systematic legal discrimination based on race and enslavement” (Harris 2006, 232).

While these amendments were landmark pieces of legislation that greatly impacted that status and prospects of former slaves, Southern states instituted provisions to hinder African-Americans’ legal, political, and social ascension. For instance, state legislatures in the South established segregation on railroads (Goldfield 2013). In 1890, Homer Plessy, an African-American from Louisiana, “refused to leave the first-class car” of the train because he claimed that he purchased the very same ticket that white customers held (Goldfield 2013, 201). Once he was arrested, he claimed that the Fourteenth Amendment protected “his right of citizenship” and “neither the state of Louisiana nor the railroad could discriminate against him on the basis of color” (Goldfield 2013, 202). In the 1896 Supreme Court case, *Plessy v. Ferguson*, the Court ruled in a 7-1 decision that “segregation laws did not violate Constitution as long as the railroad or the state provided equal accommodations” (Goldfield 2013, 202). The decision in *Plessy* “encouraged states to enact new segregation laws” (Goldfield 2013 202). By 1900, segregation laws “extended to public conveyances, theaters, hotels, restaurant, parks, and schools” (Goldfield 2013, 202). The segregation laws were publicly known as Jim Crow Laws. Jim Crow was a minstrel character, which was portrayed by Thomas Rice, who was a Caucasian man from the north. He “depicted Crow as an elderly, lame slave” who “reflected popular white stereotypes of blacks” (Goldfield 2013, 202).

In addition to Jim Crow Laws, the Ku Klux Klan (KKK) emerged during Reconstruction to “[terrorize] blacks in the South and [make] them reluctant to claim the rights to which they were legally entitled for fear of reprisals” (Barbour and Wright 2011, 153). Members of the KKK were infamous for subjecting African-Americans to “lynchings, arson, assaults, and

beatings” (Barbour and Wright 2011, 153). While northern Republicans in Congress took measures to protect African-Americans in the South in the years following the Civil War, they lost political might when faced with accusations of “military tyranny” (Barbour and Wright 2011, 153). After Reconstruction, Southern Democrats eclipsed northern Republicans’ political capital and control over Southern politics. Democrats in the South enacted poll taxes and literacy tests to suppress the African-American vote. Literacy tests were often “combined with grandfather clauses, which required passage of such tests only by those prospective voters whose grandfathers had not been allowed to vote before 1867” (Barbour and Wright 2011, 153). To fight against the injustices that African-Americans experienced in the South, civil rights leaders such as W.E.B. DuBois, Ida B. Wells, and Mary White Ovington, created the National Association for the Advancement of Colored People (NAACP) in February of 1909. The NAACP “aimed to help individual blacks, to raise white society’s awareness of the atrocities of contemporary race relations, and ... to change laws and court rulings that kept blacks from true equality” (Barbour and Wright 2011, 155). The leaders of the NAACP developed a strategy to dismantle Jim Crow Laws.

With the desegregation of the armed forces in 1948, groups such as the NAACP engaged in institutional tactics to desegregate areas of public accommodation – starting with education. The NAACP brought four court cases concerning “segregation of educational facilities in the South and the Midwest” (Barbour and Wright 2011, 155). In 1954, the U.S. Supreme Court, under Chief Justice Earl Warren, “ruled on all of them under the case name *Brown v. Board of Education of Topeka*” (Barbour and Wright 2011, 155). In its unanimous decision, the Court “held that the ‘separate but equal facilities’ are inherently unequal and violate the protections of the Equal Protection Clause of the Fourteenth Amendment” (*Brown v. Board of Education of*

*Topeka 1954*, para. 3). In addition, the Court “held that the segregation of public education based on race instilled a sense of inferiority that had a ... detrimental effect on the education and personal growth of African-American children” (*Brown v. Board of Education of Topeka 1954*, para. 3).

Despite the landmark decision, there was widespread non-compliance. The issue of noncompliance reached its zenith in 1957 when the Governor of Arkansas, Orval Faubus, deployed the National Guard to a high school in Little Rock to prevent nine African-American children from attending a formerly all-white school (Barbour and Wright 2011). In response, President Eisenhower ordered 1,000 federal guard troops “to guarantee the safe passage of the nine black children through the angry mob of white parents” (Barbour and Wright 2011, 155). In the same year, Rosa Parks sat in the white section of a public bus in Montgomery, Alabama, and she refused to move (Barbour and Wright 2011). After police arrested Parks, “local groups in the black community organized a boycott of the Montgomery bus system” (Barbour and Wright 2011, 157). Groups organized the boycott with the hopes that if the city of Montgomery would lose enough money to justify changing the law. During the boycott, which lasted a year, a court case regarding Montgomery’s law, *Gayle v. Browder (1956)* reached the Supreme Court. In the case, the Court ruled that Montgomery’s law was unconstitutional because it violated the Equal Protection Clause of the Fourteenth Amendment (*Gayle v. Browder 1956*). When the Supreme Court struck down segregation in public schools and transportation, the Civil Rights Movement catapulted into the national spotlight.

In addition, Congress passed, and President Eisenhower signed the Civil Rights Act of 1957, which “established a civil rights division of the Justice Department and a federal Civil Rights Commission with the authority to investigate violations of civil rights and to make reports and

recommendations to the President based on its findings” (Levy 1998, 90). The NAACP lobbied members of Congress to pass the legislation. The successful passage of the Civil Rights Act of 1957 “suggested that Congress ... could be mobilized in support of legal equality (Levy 1998, 90). Following the victories of the *Brown* decision, the Montgomery Bus Boycott, and the Civil rights Act, white supremacists targeted the homes and churches of civil rights leaders (Ramdin 2004). For instance, they bombed the home and church of activist, Ralph Abernathy, who was “a close ally of Martin Luther King Jr.” (Ramdin 2004). In response to the increasing violence as well as the landmark victories of the *Brown* decision and the Montgomery Bus Boycott, Abernathy and King founded the Southern Christian Leadership Conference (SCLC) in 1957 (Ramdin 2004). Abernathy and King hoped that the SCLC would activate a “‘Southern movement’ [to] ensure implementation of the law against bus segregation” and mobilize collective action to bring an end to segregation in other venues of public accommodation. Influenced by the teachings of Mahatma Gandhi, who led a non-violent movement to bring an end to British imperialism in India, King believed that non-violent tactics would be the most effective way to bring an end to segregation (Ramdin 2004). Organizations like the SCLC, the NAACP, the Congress on Racial Equality (CORE) engaged in tactical innovation when these groups occupied space in “segregated facilities” to promote change (Morris 2003, 229). The “sit-in” tactic was a form of non-violent direct action that triggered widespread participation in the Civil Rights Movement. The first “sit-in cluster” took place in Oklahoma in 1958, but the tactic would not “give rise to the massive sit-in movement” because the SCLC, the NAACP, and CORE had not yet developed sufficient organizational strength to support it (Morris 2003, 233).

## Civil Rights for African-Americans 1960 – 1995

However, by 1960, the SCLC has developed robust networks and an organizational structure that could support and sustain collective action. With the support of the SCLC, the NAACP, and CORE, the sit-in movement “caught the imagination of students across the South and elsewhere” (Ramdin 2004, 59). By April of 1960, “seventy-eight southern cities had experienced sit-ins that involved ... as many as 50, 000 protestors and brought 2, 000 arrests” (Newman 2004, 70). Morris (2003) argued that the Greensboro sit-ins did not mark the beginning of the sit-in movement (as they began in the late 1950s), but were “a critical link in the chain, triggering sit-ins across the South at an incredible pace” (Morris 2003, 233).

The sit-in movement expanded in 1961 when CORE members decided to recruit 13 people, “black and white,” to participate in a freedom ride (Levy 1998, 16). CORE planned for the activists to board two buses and ride in a “desegregated manner” throughout the South. African-American activists used white facilities, and white participants used restrooms and waiting rooms reserved for African-Americans (Levy 1998, 16). CORE engaged in the freedom rides to be a test of the 1961 “*Boynton* decision, in which the Supreme Court ... ruled against segregation in interstate transportation” (Levy 1998, 16). If Southern authorities did not comply with the decision, CORE activists expected that “the Kennedy administration would be forced to intervene” (Levy 1998, 16). After the freedom riders entered Rock Hill, South Carolina, white supremacists attacked activist John Lewis as he walked into a white waiting room (Levy 1998).

The group also endured violence in Anniston, Alabama when white protestors “stoned one of the buses and slashed its tires” (Levy 1998, 16). As the driver changed the tires, white supremacists set the bus on fire (Levy 1998). Soon after that incident, the second bus met a “large mob” as it entered Birmingham, Alabama and white protestors beat the activists “with

fists and pipes” with no police protection (Levy 1998, 17). Images of the burning bus in Anniston and the violence in Birmingham “appeared around the world, rousing sympathy and support for the Civil Rights Movement and jolting the Kennedy administration into action” (Levy 1998, 17). The Kennedy administration pressured the Governor of Alabama, John Patterson, to provide police protection to the freedom riders as they traveled to Montgomery. Although Governor Patterson promised to provide protection, he did not keep his word, and white protestors attacked the freedom riders when the bus pulled into the Montgomery bus terminal (Levy 1998, 17). Kennedy was “furious” with Governor Patterson and “sent over five hundred marshals into Montgomery to restore order” (Levy 1998, 17).

National media coverage of the events inspired other people to engage in freedom rides throughout the South. The coverage also pressured Robert Kennedy, the Attorney General, to implore the Interstate Commerce Commission (ICC) to prohibit segregation in interstate travel (Levy 1998). Unlike the Supreme Court ruling that Southern states ignored, the ICC forced compliance with the law by imposing sanctions for violating the order (Levy 1998). The freedom rides demonstrated “an increased commitment to nonviolent, direct-action protest and a willingness by many ... to confront” segregationist practices in the face of violent opposition (Levy 1998, 18). The impacts of these peaceful demonstrations reverberated in the halls of Congress. Throughout the early 1960s, Congress held hearings to discuss the issue of civil rights and the role of Martin Luther King and his fellow activists, in particular. For instance, in a House subcommittee hearing in 1963, Rep. Charles Vanik (D-OH), stated:

the Birmingham blunder of police dogs, water pressure, and massive child jailing is almost sufficient proof that rational minds are not in control...The peaceful march which was initiated by the Reverend Martin Luther King and his associates was a right of assembly guaranteed by the First Amendment of the Constitution...The use of cruel police methods to obstruct the right of peaceful assembly by the civil rights marchers provides full legal authority for Federal Intervention...These hearings would provide an

orderly forum which is very badly needed for the consideration of civil rights transgressions on the national scene and would provide the Congress with an excellent record on the need for vital legislation (Vanik as cited in Civil Rights 1963, 974-975).

Marches and sit-ins continued throughout the early 1960s. In 1963 when King and Ralph Abernathy “defied a court injunction against marching,” they were arrested. After authorities released them from jail, the SCLC intensified its campaign, especially in Birmingham, where the city’s Public Safety Commissioner, T. Eugene “Bull” Conner, “routinely used physical force against civil rights activists” (Levy 1998, 19). Bombings, mobs, and riots were an ever-present reality in Birmingham, so much so that its nickname was “Bombingham” (Levy 1998, 19). Also in Alabama, President Kennedy feuded with Governor George Wallace who refused to integrate the University of Alabama (Levy 1998). President Kennedy sent National Guard troops to be sure that the university would admit two African-American students without violent conflict. In response the events in Alabama, President Kennedy delivered a speech on the issue of civil rights on June 11, 1963 (Levy 1998). Kennedy called on Congress to develop a civil rights bill when he stated, “We face ... a moral crisis as a country and as a people. It cannot be met by repressive police action ... I am, therefore, asking the Congress to enact legislation giving all Americans the right to be served in facilities which are open to the public” (Kennedy 1991, 162). Kennedy’s speech served as a national rallying cry for legislation to engender racial equality.

Before Kennedy’s address, A. Philip Randolph, a civil rights leader in the labor movement, planned a massive demonstration to take place on August 28, 1963. Around “250,000 people, from all across America, black and white, old and young, poured into the national capital” at the reflecting pools at the Lincoln Memorial (Levy 1998, 22). Speakers at the event included John Lewis, the chair of SNCC, Whitney Young, who represented the Urban League, and Roy Wilkins, the leader of the NAACP” (Levy 1998, 22). However, Martin Luther King’s “I

Have a Dream” would become one of the most famous speeches in American history. The tone of his speech was more optimistic than King’s “Letter from a Birmingham Jail.” In one of the most famous excerpts from the speech, King exclaimed, “I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character” (King 1963, 5). King’s speech evoked “hallowed symbols of Americanism” such as the Declaration of Independence, the Constitution, and patriotic songs like “My Country ‘Tis of Thee” (Ramdin 2004, 84). Scholars like Ramdin (2004) characterize the speech as “a defining moment in the history of the United States” (Ramdin 2004, 85).

The national feeling of optimism dimmed a month later in Birmingham when four young African-American girls perished in a bombing of the Birmingham Sixteenth Street Baptist Church during Sunday school (Ramdin 2004). The tragedy prompted President Kennedy to meet with King and other civil rights leaders. Kennedy condemned the violence and Governor Wallace in a television address. Some African-American citizens of Birmingham had grown weary of the movement since their city was “far from being nonviolence’s proving ground. [Instead], Birmingham seemed to be its cemetery” (Ling 2015, 159). The last several months of the year would establish 1963 as a time of political upheaval. On November 22, 1963, Lee Harvey Oswald assassinated President Kennedy in Dallas, Texas. Although President Kennedy was unable to see a civil rights bill to fruition, his Vice President, Lyndon B. Johnson, would take up the cause.

In the wake of the tragedy, President Johnson perceived there to be a window of opportunity opening for the passage of civil rights legislation. In his first speech to Congress, President Johnson stated, “No memorial oration or eulogy could more eloquently honor President Kennedy’s memory than the earliest possible passage of the civil rights bill for which

he fought so long” (Johnson as cited in Ling 2015, 165). Johnson used his cunning political skills to attain a civil rights bill without amendments (except for an amendment that a Democrat introduced to prevent sex discrimination in an effort to sabotage the bill – an act that backfired as the bill passed with the amendment) (Levy 1998). Congress passed the Civil Rights Act of 1964, and President Johnson signed it into law on July 2, 1964. Scholars such as Levy (1998) argue that the Civil Rights Act of 1964 was “the most significant federal legislation of its kind since Reconstruction” (Levy 1998, 24). The Civil Rights Act of 1964 “increased the federal government’s ability to compel local school districts to desegregate and provided more protections for civil rights activists” (Levy 1998, 24). The law also “made it illegal to discriminate against an individual based on race, color, or sex in public accommodations or employment” (Levy 1998, 24).

While the Civil Rights Act of 1964 prohibited segregation in public accommodations and employment, it did not protect against discrimination in voting. Since 1962, civil rights groups like SNCC and CORE initiated voter registration efforts throughout the South. In the summer of 1964, SNCC embarked on its most ambitious plan to improve voter turnout in Mississippi, which became known as Freedom Summer. More than one thousand college students, many of them white, traveled to Mississippi from colleges in the North “to work in one of the forty-four local projects that comprised the overall campaign” (McAdam 1988, 4). The volunteers’ principal task was to “[register] black voters and [teach] in so-called Freedom Schools” (McAdam 1988, 4). Freedom Schools helped citizens “challenge myths” in society and “[emphasized] ...remedial education, leadership development, contemporary issues, and nonacademic curriculum” (McAdam 1988, 83). In courses on leadership development, volunteers taught the “history and philosophy of the movement, current events, and black history” (McAdam 1988, 84).

From June till August, many volunteers “endured bombings, beatings, and arrests” (McAdam 1988, 4). During the summer of 1964, about 17,000 African-Americans traveled to courthouses in an attempt to register to vote (McAdam 1988). Although “only 1,600 of the completed applications were accepted by state registrars, the lonely trips to the courthouse proved to be a major step toward the democratization of voting in Mississippi and throughout the South” (McAdam 1988, 81). The volunteers recorded instances of “delay, obstruction, and harassment” that applicants experienced, which provided “evidence for several important discrimination suits” and helped “dramatize the need for legislation” (McAdam 1988, 81). McAdam (1988), argues that Freedom Summer “laid the groundwork for a nationwide activist network out of which the other major movements of the era – women, antiwar, student – were to emerge” (McAdam 1988, 5).

The very next year, the SCLC planned a march in Selma, Alabama. They chose Selma due to “its reputation as a racist town” with the quick-tempered sheriff, Jim Clark (Ling 2015, 26). They also chose Selma because it was home to Amelia Platts Boynton, who provided the legal basis for activists to engage in the freedom rides (Ling 2015). The 600 activists planned to march across the Edmund Pettus Bridge on March 7, 1965, but the police intervened and brutally beat them, killing several (Levy 1998). Their first attempt to cross the bridge became known as “Bloody Sunday” (Levy 1998, 27). King called for a second march and he beseeched President Johnson to send the Alabama guardsmen for protection, which he eventually agreed to do. On March 21, 1965, King led approximately 25,000 activists across the Edmund Pettus Bridge and marched with them for five days to Montgomery (Levy 1998). The march in Selma and its ensuing violence, which news organizations broadcasted across the nation, was the precursor to the Voting Rights Act of 1965. In a message to Congress, President Johnson evoked the

language of the Civil Rights Movement when he stated, “Their cause must be our cause, too. Because it’s not just Negroes, but it’s really all of us who must overcome the crippling legacy of bigotry and injustice. And we shall overcome” (as cited in Levy 1998, 28). President Johnson signed the Voting Rights Act into law on August 6, 1965. The Voting Rights Act removed legal barriers to voting, such as literacy tests and poll taxes, to ensure that African-Americans in the South would have access to the vote (Levy 1998).

President Johnson continued to advocate for civil rights legislation in the twilight of his administration. In 1967, members of Congress held hearings on the issue of fair housing. By February of 1968, the Senate passed the Fair Housing Act. The House of Representatives debated the bill, but the measure faced a greater degree of opposition. It seemed like the bill was doomed to failure in the House until King’s assassination on April 4, 1968. In the wake of King’s death, “African Americans participated in riots and disturbances in more than one hundred locations across the nation in the week after his assassination, resulting to 46 deaths” (Newman 2004, 129). The events of that “changed the minds of many former opponents” in the House, and the Fair Housing Act passed the House on April 9, 1968 (Yinger 1999, 94). On the following day, President Johnson signed the Fair Housing Act into law. This landmark legislation “declares that, with certain narrow exceptions, the rights of property owners and their agents are secondary to the principle of equal treatment in housing markets” (Yinger 1999, 93). The Fair Housing Act was Johnson’s “last contribution to civil rights” (Newman 2004, 130).

The Civil Rights Movement became increasingly factionalized throughout the 1970s. Civil rights groups also transitioned to different issues. In the 1960s, King fought against de jure discrimination, which is “created by laws that treat people differently based on some characteristics like race” (Barbour and Wright 2011, 157). In the 1970s, civil rights groups

focused on issues of de facto discrimination, which means “discrimination in fact” (Barbour and Wright 2011, 157). Remedying de facto discrimination is quite difficult as it involves matters of “past discrimination, tradition, custom, economic status, and residential patterns” (Barbour and Wright 2011, 157). In the North, for instance, laws did not necessarily segregate education in the North. However, “de facto segregation ... meant that black inner-city schools and white suburban schools were often as segregated as if the hand of Jim Crow had been at work” (Barbour and Wright 2011, 157).

Affirmative action became salient in the 1970s. Because African-Americans had historically been limited to low-paying jobs, the EEOC took measures to ensure that the percentage of African-Americans working in firms should reflect the overall rate of African-Americans in the labor force. Colleges and universities also used affirmative action in admissions, so they could reserve space for minority students, even if it meant accepting applicants with lower tests scores. In 1978, affirmative action was under fire when Allan Bakke, “a thirty-five-year-old white male,” was denied admission twice to the University of California Medical School at Davis (*Regents of the University of California v. Bakke 1978*, para. 1). He claimed that he was denied admission due to his race. While “there was no majority opinion ... four of the Justices contended that any racial quota system supported by government violated the Civil Rights Act of 1964” (*Regents of the University of California v. Bakke 1978*, para. 3). Justice Powell argued that the “rigid use of racial quotas” violated the Equal Protection Clause of the Fourteenth Amendment (*Regents of the University of California v. Bakke 1978*, para 3). The remaining four Justices “held that the use of race as a criterion in admissions decision was constitutionally permissible” (*Regents of the University of California v. Bakke 1978*, para. 3).

While African-Americans made some legal gains in the 1970s, President Reagan made several conservative appointments to the Supreme Court throughout the 1980s, which impacted the outcomes of several high-profile cases involving racial discrimination. For instance, in *Patterson v. McLean Credit Union (1989)*, the Court ruled that the “Fourteenth Amendment did not protect workers from racial discrimination on the job;” and in *Wards Cove Packing, Inc., v. Atonio (1989)*, the Court held that “the burden of proof in claims of employment discrimination was on the worker” (Barbour and Wright 2011, 160). Furthermore, in *Price Waterhouse v. Hopkins (1989)*, the Court ruled that even when “a plaintiff demonstrates that an employer was motivated by discrimination, the employer can still escape liability by proving that it would have taken the same action based upon lawful motives” (EEOC Website 2017, para. 1). Also, the Court ruled against the use of affirmative action in *City of Richmond v. A. J. Croson (1989)*. The Court ruled, “‘generalized assertions’ of past discrimination could not justify ‘rigid’ racial quotas for the awarding of public contracts” (*City of Richmond v. A. J. Croson (1989)*, para. 3). While affirmative action is “one of the few remedies for de facto discrimination,” the Supreme Court in the late 1980s placed the legal prescription on “shaky constitutional ground” (Barbour and Wright 2011, 160). When Democrats took majorities in both the House of Representatives and the Senate, they passed the Civil Rights Act of 1991 to “undo” some these rulings (Barbour and Wright 2011, 160).

### **Civil Rights for African-Americans 1996 – Present**

Activists in the Civil Rights Movement fought to bring an end to de jure discrimination through protests and working within political institutions; however, de facto discrimination persisted. Affirmative action, “one of the few remedies for de facto discrimination,” was under scrutiny in states across the nation (Barbour and Wright 2011, 160). For instance, in 1996, “voters in

California declared affirmative action illegal in their states, and voters in Washington did the same in 1998” (Barbour and Wright 2011, 160). Michigan voters also forbade affirmative action in “the state’s public colleges and government contracting” (Barbour and Wright 2011, 160). In addition, Nebraska banned affirmative action in 2008 (Barbour and Wright 2011). Affirmative action remains a controversial topic in American politics.

Taking measures to end de jure discrimination have improved African-American representation in political institutions. However, African-Americans tend to have greater representation at the local level as opposed to the state and federal levels. For instance, in 2008, there were 642 African-American mayors, but only one African-American governor – Deval Patrick of Massachusetts (Barbour and Wright 2011). In 2010, “44 of 435 members of the House of Representatives were black, and there were no black senators” (Barbour and Wright 2011). According to the 2010 United States Census, approximately thirteen percent of the population identified as African-American (Census Website 2011). African-American congressional representation improved slightly by 2016 as there are currently 46 African-American in the House and three in the Senate (Marcos 2016). African-American political representation has improved since the time of Jim Crow, but political inequality remains.

Although African-Americans continue to struggle for greater political representation, especially at the federal level, Barack Obama “reached the highest electoral mountaintop,” becoming the first African-American to be elected president in 2008 (Lowery 2016, 13). Following his election, Pew Research (2010) conducted a poll from which they found that 53 percent of African-Americans believed that life for the future for black citizens would improve (Pew Research 2010). The survey also found that 54 percent of black respondents thought that Obama’s election improved racial relations (Pew Research 2010).

However, racial tensions pervaded the political environment during the Obama Administration. Throughout Obama's Presidency, smartphone technology and the use social media was on the rise. Citizens' access to instant video communications demonstrated the prevalence of perceived police brutality against African Americans. The year of 2014 was an especially be a tumultuous year for high-profile police shootings of unarmed black men. On July 17, 2014, a New York police officer tackled Eric Garner, an unarmed black man who had been illegally selling loose cigarettes and used "a banned chokehold technique to restrain him" (Akkoc 2015, para. 8). Video footage of the incident went viral. In the video, Eric Garner said, "I can't breathe" (as cited in Akkoc 2015). Protestors who were outraged by the incident adopted this phrase and chanted it during demonstrations. A grand jury investigated the police officer involved, Daniel Pantaleo, but the jury did not charge him (Lowery 2016).

Less than one month later, Darren Wilson, a Caucasian police officer, shot and killed Michael Brown, an unarmed African-American teenager in Ferguson, Missouri (Akkoc 2015). There are conflicting witness accounts of the shooting. Some witnesses claim that Brown never stepped toward the officer, while others stated that Brown "charged toward the officer" (Buchanan et al. 2015, para. 7). During the incident, "Officer Wilson fire [twelve] rounds, including two from the car and [ten] more down the street, where Mr. Brown sustained at least six more wounds, including at his forehead and the top of his head" (Buchanan et al. 2015, para. 9). A St. Louis grand jury decided not to indict the officer, which ignited waves of protest throughout St. Louis – especially in Ferguson. Protests turned violent when some participants looted businesses and set buildings on fire (Buchanan et al. 2015). In the aftermath of the incident, the Justice Department conducted a report in which they found, "a city that used its police and courts as moneymaking ventures, a place where police officers stopped and

handcuffed people without probable cause, hurled racial slurs, used stun guns without provocation, and treated anyone as suspicious merely for questioning police tactics” (Buchanan et al. 2015, para. 14).

Also, in 2014, an Ohio police officer, Timothy Loehmann, shot and killed Tamir Rice, a twelve-year-old African-American boy who was playing in a park with a BB gun (Akkoc 2015). The person who reported the incident to police said that the gun “was probably fake;” however, video footage showed that Officer Loehmann “shot Tamir within two seconds of the patrol car pulling up beside the boy” (Fortin and Bromwich 2017, para. 9). A grand jury decided not to bring charges, which again “inflamed national outrage” over the issue of police brutality (Fortin and Bromwich 2017, para. 10).

The violence in 2014 exacerbated national outrage that had developed in 2013 when George Zimmerman was found not guilty for the murder of Travon Martin, an unarmed black teenager. In response to Zimmerman’s acquittal, “a thirty-one-year-old activist in Oakland named Alicia Garza penned a Facebook status that soon went viral” (Lowery 2016, 86). In the post, Garza stated, “I continue to be surprised at how little Black lives matter ... Our lives matter” (Garza as cited in Lowery 2016, 87). Garza’s friend, Patrisse Cullors, also an activist, “[extracted] the phrase, black lives matter, and [reposted] the status” (Lowery 2016, 87). They contacted activist, Opal Tometi, “who set up Tumblr and Twitter accounts under the slogan” (Lowery 2016, 87). While the post went viral, the Black Lives Matter movement did not “reach a wider audience until ... [the] Ferguson” protests following Michael Brown’s death (Cobb as cited in Lowery 2016, 88).

After Brown’s death, “hundreds of people who had never participated in organized protests took to the streets, and that campaign eventually exposed Ferguson as a case of

structural racism in America and a metaphor for all that had gone wrong since the end of the Civil Rights Movement” (Cobb as cited in Lowery 2016, 88). When describing the founding of the Black Lives Matter movement, Garza wrote that it “is an ideological and political intervention in a world where Black lives are systematically and intentionally targeted for demise” (Garza as cited in Lowery 2016, 87). Congress held hearings following the protests in Ferguson. For instance, in September of 2014, the Senate Committee on Homeland Security and Governmental Affairs held a hearing to discuss the law enforcement’s response to the protests. Hilary Shelton, the Washington Bureau Director of the NAACP testified, “According to nearly every report, the ensuing protests began peacefully. The people were angry, admittedly and understandably outraged, but initially peaceful. Their protests were met by local law enforcement agents in warfare type mine-resistant ambush protected vehicles, or with military-style assault weapons aimed at them” (Shelton as cited in Oversight of Federal Programs 2014, 40). Later, in the same hearing, Senator McCaskill reiterated, “these were peaceful protestors that, in American, we are supposed to be celebrating as a part of our constitutional heritage” (McCaskill as cited in Oversight of Federal Programs 2014, 52).

In hearings, members of Congress even referred to the protest movement surrounding the controversial topic of police brutality against African Americans. For example, in a 2015 hearing before the House Committee on the Judiciary, Rep. Sheila Jackson Lee (D-TX), stated, “I hope we will have more provocative hearings, maybe those who have lost loved ones, maybe young people who are raising the signs because of their passion for ‘Black lives matter,’ ‘all lives matter,’ ‘hands up, don’t shoot,’ as well as ‘I can’t breathe.’ Let us give all those people dignity” (Jackson Lee as cited in Police Strategies 2015, 110). In addition to engaging in disruptive protest, activists are lobbying members of Congress. On September 14, 2016, the Black Lives

Matter movement held its first lobbying day on Capitol Hill (Wheaton 2016). In their collective efforts to broaden their tactics, BLM activists will likely continue to galvanize members of Congress on issues like criminal justice reform.

### **The Emergence of Rights for Women**

Mary Wollstonecraft laid the ideological foundation for the Women's Suffrage Movement in *A Vindication of the Rights of Woman*. In this 1792 work, she argued that women should have equal access to the legal and social rights. Wollstonecraft believed that society repressed women primarily because they had no means to acquire a formal education. She advocated for a co-educational system so that women could become active participants in society. Her arguments appealed to the sentiments of men as well as women by stating that rational women make "more observant daughters, more affectionate sisters, more faithful wives, and better citizens" (Wollstonecraft 1967, 72). She warned that women would not be freed from their oppression until they acquired education and gained independence from their domestic confinement. Her book was also influential in the formation of the movement because it "helped legitimate feminist demands by linking feminism to the fundamental principles of American Democracy" (Hymowitz and Weissman 1978, 77). She asserted that God had given natural rights to both sexes; so, it is irrational, in her view, for men to enslave women (Wollstonecraft 1967). Wollstonecraft's work provided future feminists a direct link between women's rights and the Declaration of Independence.

As men became even more powerful and wealthy during the expansion westward, a feminine social identity emerged that limited women's roles even further. Also, during this time, the Jacksonian Era gave birth to the "cult of true womanhood," which dictated that women must embody the virtues of purity, piety, submissiveness, and domesticity (Griffith 1984). Women's

publications, ministers, and social conservatives reinforced these ideals to discourage women from stepping out of the private sphere, which mainly consisted of their homes and churches. The popularization of this identity was a major setback for women; however, they found a way to be a part of the public discussion while residing safely inside the boundaries of their feminine sphere (Griffith 1984).

Although women were barred from public discourse regarding political matters, they were at liberty to be a part of religious and moral discussions. Dialogue concerning controversial topics such as abolition and temperance took place at church, so it was appropriate for women to participate in those debates. This newly-found forum was of great significance because abolition and temperance not only involved religion, but it also concerned the public sphere. For the first time, women could openly discuss their opinions regarding an issue of political importance. These movements also gave women the opportunity to educate themselves about the political realm that had been off-limits to them.

Women's participation in these reform movements was also revolutionary because it gave them opportunities to organize and form abolition and temperance groups. The opportunity to collaborate with other like-minded women endowed them with a new sense of purpose, self-confidence, and solidarity, which they had not possessed before. They created an identity that was separate from their roles as mothers and wives. These reform groups also raised their political consciousness, gave women organizational skills, and fostered an ambition to further their education and influence in society (Griffith 1984). Also, their involvement with reform movements forced them to realize the political limitations of their sex. Although women fervently participated in these movements, they could not attain positions of leadership or gain entrance into public forums of debate.

A watershed in the women's movement occurred in 1840 when several females were slated as delegates to the World Anti-Slavery Convention in London. Elizabeth Cady Stanton, Susan B. Anthony, and Lucretia Mott were among the delegates who traveled across the Atlantic Ocean to be an active part of the convention; but to their displeasure, the members of the assembly refused to grant them admittance to the event because they were women. During the convention, Reverend Henry Grew proclaimed, "The reception of women as part of this Convention would ... be not only a violation of the customs of England, but of the ordinance of Almighty God" (Grew as cited in Transcript of World Anti-Slavery Convention 1979, 80). Being denied entry on the basis of sex motivated Stanton to hold a convention that advanced the rights of women. Eight years passed before her conception of a women's movement became a reality.

On July 19, 1848, Lucretia Mott and Elizabeth Cady Stanton organized the first convention for women's rights in Seneca Falls, New York. Both women agreed that they must present a manifesto that effectively communicated the intentions of the convention. Stanton framed her statement around the natural rights argument, as Mary Wollstonecraft had done years before. She decided to model it after the Declaration of Independence because it linked women's rights to the founding principles of American democracy (Hymowitz and Weissman 1978). They titled their manifesto, The Declaration of Sentiments and Resolutions, which Stanton read aloud at the convention. The document maintained, "that all men and women are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness" (Stanton 1979, 94).

After reading the declaration's grievances, Stanton then proceeded to enumerate resolutions that would help bring an end to women's oppression. The resolution that garnered the strongest reaction, and would go on to shape the movement's future, was the demand for

women's suffrage. This manifesto was vital because it "[framed] women's demands as individual rights and [insisted] that their best weapon for realizing these goals must be the political franchise" (DuBois 1999, 44). The Declaration of Sentiments and Resolutions provided the movement with a frame that was instrumental in rallying collective support for the cause. The Seneca Falls Convention prompted suffragists to create organizations to help facilitate social and legal change. Elizabeth Cady Stanton and Susan B. Anthony abandoned the abolition movement and formed the National Women's Suffrage Association in 1869. The NWSA's political platform included suffrage as well as an array of other women's issues like the institution of marriage and divorce laws (Hymowitz and Weissman 1978).

Lucy Stone, a dedicated feminist and an ardent abolition supporter, disagreed with the NWSA's broad focus on women's issues. She founded the American Women's Suffrage Association in retaliation because she believed that the most efficient way to win the vote for women was to make suffrage their only cause. The AWSA also took issue with the NWSA's decision to fight for a federal amendment as opposed to adopting a state-by-state strategy. Although these organizations clashed over tactical matters, they eventually joined forces in 1890 to form the National American Women's Suffrage Association (Hymowitz & Weissman 1978). These groups engaged in extra-institutional tactics like marches, strikes, boycotts, hunger strikes, and parades to communicate their discontent with the present system. Suffrage activists also forged political alliances with members of Congress. In their attempts to lobby members of Congress, they learned that the "reaction of political actors varied with their influence in governmental institutions and their dependence on electoral support" (Banaszak 1996, 98). Their most important allies included members of the Populist Party and the Progressive party primarily because these entities challenged political system (Banaszak 1996). For instance, Progressive

members sought to change the status quo and bring an end to societal problems like poor working conditions and political corruption. Unlike the Populist Party, which did not consistently advocate for women's rights, "Progressive senators and representatives uniformly advocated for women's voting rights in the U.S. Congress" (Banaszak 1996, 105). In 1912, the party gained even more influence when a Progressive candidate for the Presidency, Theodore Roosevelt, supported women's suffrage. At this point, no other man of Roosevelt's political stature had endorsed the suffrage cause.

Between the suffragists' petitions, parades, pickets, and lobbying efforts, members of Congress held hearings to discuss the possibility of giving the franchise to women. In the first hearings, which took place in the 1880s, people who testified often referred to the suffragists' tactics. For instance, in a hearing for the Senate's Committee on Women's Suffrage, participants commonly highlighted the importance of petitions. Suffragists collected thousands of signatures from supporters across the country. A representative of the suffrage cause, Catherine Gougar, stated, "Upon no question [has there been] such a large number of petitions sent as upon this demand for woman suffrage" (Gougar as cited in *Women's Suffrage* 1882, 19). Also, in a 1918 hearing for the House of Representatives' Committee on Women's Suffrage, participants referred to picketing and suffrage parades as major focal points for the movement. For instance, Maud Younger, a Suffrage supporter, testified that, "picketing had done more to make people think of suffrage; that it had dramatized as nothing else had done the struggle of women for enfranchisement. ... The pickets made men feel that suffrage was not merely something for women to talk of at afternoon tea; that it was something women were willing to suffer for, and if need be, die for" (Younger as cited in *Extending the Right of Suffrage to Women* 1918, 159).

Suffrage organizations endowed women with skills and connections that were necessary to facilitate legislative action (McCammon 2001). The movement was able to maintain its visible stature and organizational fortitude throughout the tumultuous years of the Civil War, Reconstruction, and World War One. After seventy-two years of organizing and speaking on behalf of women's right to the vote, the suffragists' goal finally came to fruition. On January 10, 1918, the House of Representatives passed the suffrage amendment. A year and a half later, the Senate followed suit and also approved the resolution. The suffrage amendment was then sent to the states for ratification. On August 26, 1920, Tennessee was the 36<sup>th</sup> state to vote in favor of women's suffrage, which led to the ratification of the Nineteenth Amendment (Hymowitz and Weissman 1978).

### **Women's Rights 1960 – 1995**

Following the ratification of the Nineteenth Amendment, the women's movement was mostly dormant until the early 1960s. Just as the abolition and temperance movements aided suffragists during the first wave of the women's movement, the Civil Rights Movement enriched the soil for the second wave of the women's movement. Historians have argued that "feminist activism [thrives] when the cultural climate is generally conducive to reform" (Dicker 2008, 66). There were indications that women were in need of social and political reforms. For instance, in 1960, *Redbook* advertised an essay contest on "Why Young Mothers Feel Trapped," and they received "twenty-four thousand responses" (Dicker 2008, 66). Furthermore, a 1962 Gallup Poll "found that ninety percent of housewives wanted their daughters to have more education and marry later" than they did (Dicker 2008, 66).

In 1963, Betty Friedan gave voice to this feeling of discontent in *The Feminine Mystique*, which she titled in response to the idea that women should find fulfillment in their roles as wives

and mothers (Friedan 1963). Friedan “exposed the unhappiness experienced by affluent American women [who were] said to have it all – adoring husbands, smiling children, and beautiful homes” (Dicker 2008, 67). Friedan labeled women’s feeling of discontent as “the problem that has no name” (Friedan 1963, 15). In her interviews with women, Friedan found that women sought fulfillment beyond the realm of domesticity (Friedan 1963). In response to Friedan’s work, women organized and formed consciousness-raising groups across the country to discuss their experiences.

One year later, when Congress was debating a bill that would become the Civil Rights Act of 1964, a segregationist Democrat from Virginia, Howard Smith, recommended that the word “sex” be added to Title XII, which prohibited workplace discrimination on the basis of “race, color, religion, or national origin” (Dicker 2008, 69). Smith thought including “sex” in Title XII would allow other Southerners in his party to vote against the measure without appearing racist. However, Martha Griffiths, a Democratic Member of Congress from Michigan, organized a coalition of women to protest and lobby members of Congress for the passage of Title XII (Dicker 2008). The bill passed 290 to 130, and President Lyndon B. Johnson signed the bill into law on July 2, 1964 (Dicker 2008). Congress created the Equal Employment Opportunity Commission (EEOC) that would enforce the Civil Rights Act and “investigate complaints of racial and sexual discrimination in the workplace” (Dicker 2008, 69).

Although the EEOC received thousands of complaints in the first year, activists argued that it largely ignored sexual discrimination and focused mostly on allegations of racial injustice (Dicker 2008). For instance, the EEOC upheld the legality of sexually segregated work advertisements in newspapers so that men’s professions (such as engineering, law, accounting, and management) appeared separately from women's occupations (such as nurses, teachers, and

secretaries) (Dicker 2008). Women such as Martha Griffiths and other frustrated members of the Commission on the Status of Women met with Betty Friedan's to discuss a plan to demand enforcement of Title XII. During that meeting, the women realized that a separate entity would have to advocate for women, which they called the National Organization for Women (NOW) (Gelb 1996; Dicker 2008). These women founded NOW "to take action to bring women into full participation in the mainstream of American society now, assuming all the privileges and responsibilities thereof in truly equal partnership with men" (Friedan 1966, para. 2). The founding of NOW in 1966 with Betty Friedan at the helm, was important because it was the first women's rights organization created after suffrage and "it made activism on behalf of women its top ... priority" (Dicker 2008, 72).

NOW would remain an active social movement organization throughout the second and third waves of the women's movement. NOW used both institutional and extra-institutional tactics to garner political influence. The national offices of NOW "urg[ed] support by appropriate officials of the executive and legislative branches of Government and other organizations, specifically the President of the United States and members of Congress" (Carabillo et al. 1993,178). NOW focused on "mainstream political institutions" and used a variety of tactics such as lobbying, demonstrations, picketing, letter writing, lawsuits, sit-ins, marches, and petitioning to meet their goals (Barakso 2004, 42).

In 1968, leaders of NOW used these tactics to advocate for the passage and ratification of the Equal Rights Amendment (ERA), which Alice Paul wrote and introduced to Congress in 1923. The ERA stated, "equality of rights under the law shall not be denied or abridged by the United States or any state on account of sex" (Paul 1923, para. 1). While the measure was unsuccessful in 1923, NOW activists were determined to see the measure to fruition. NOW

picketed the Senate in 1970 and disrupted a hearing on whether to lower the voting age to eighteen. Some members of the Senate agreed to meet with NOW leaders to discuss the ERA. At that meeting, the NOW leadership presented a petition for the ERA. Congressional hearings on the ERA began in 1970 (Barakso 2004). Women's rights activists may have benefitted from expanding political opportunities that resulted from the presence of a Democratic Senate and House of Representatives. In addition, the Supreme Court held in *Reed v. Reed (1971)* that "the Equal Protection Clause of the Constitution made laws that distinguished between women and men unconstitutional" (Mansbridge 1986; Soule and King 2006, 1874). Women's political rights gained more legitimacy in the halls of American political institutions in the early 1970s. The House of Representatives debated the ERA on the floor in 1971, and it passed the bill in October of 1971 (Barakso 2004). The Senate passed the bill in 1972 and President Richard Nixon immediately endorsed the ERA.

The ERA then went to the states for ratification. To facilitate the ratification process, NOW broadened its reach at the state-level and opened 14 new chapters (Barakso 2004). In addition to grassroots organizing, members of NOW created "an institutionalized interest group's ultimate weapon – a political action committee" (Barakso 2004, 63). By the end of 1973, 30 states had ratified the ERA, but only four states ratified it over the next four years. Only three more states needed to ratify the ERA for it to become a constitutional amendment. As the ratification deadline of 1979 loomed, members of ERA began to rely more heavily on extra-institutional tactics by protesting state legislatures (Barakso 2004). Members of NOW also engaged in lobbying efforts as they focused their efforts on "remov[ing] anti-ERA legislators from office" (Suneson as cited in Barakso 2004, 65). In 1978, the 95<sup>th</sup> Congress voted to extend the ratification deadline to 1982. Eleanor Smeal, the President of NOW, announced a "state of

emergency” and urged the organization to focus all of its resources on the ratification process (Barakso 2004, 69). As a result, “NOW’s membership increased to more than 200, 000 people and its budget swelled over eight million [dollars]” (Barakso 2004, 69).

However, the rise of the religious right in the late 1970s and early 1980s stifled ERA ratification. Between Jerry Falwell’s conservative organization, the Moral Majority, and the election of President Ronald Reagan, the national political climate was not conducive to the ERA campaign. Smeal, the President of NOW, ended the ratification effort on June 24, 1982. In a speech, she enumerated reasons for the amendment’s demise. In addition to acknowledging the effectiveness of Republican’s opposition, she also blamed “the reluctance of Democrats to lend their full support to secure its passage” (Barakso 2004, 86). It is also possible that the Supreme Court’s decision in *Roe v. Wade* (1973), in which the Court “held that a woman’s right to an abortion fell within the right to privacy (recognized in *Griswold v. Connecticut* (1965)) protected by the Fourteenth Amendment” played a role in the ERA’s demise (*Roe v. Wade* 1973, para. 2). The issue of abortion rights galvanized conservative groups, and it became a rallying issue for the Republican Party. While it is unlikely that the decision in *Roe v. Wade* (1973) single-handedly derailed the ratification of the ERA, it could have affected the political climate.

Despite the failure of the ERA campaign, “NOW’s sophistication in terms of lobbying tactics, the organization and management of rallies and protests, and understanding the kinds of influence it could wield in electoral contests had grown dramatically” (Barakso 2004, 87). While NOW was advocating for the passage of the ERA in Congress and the subsequent ratification process, Shirley Chisholm became the first African American woman elected to Congress in 1968; Gloria Steinem and Dorothy Pittman Hughes launched *Ms. Magazine* in 1971 to address feminist issues; and Congress passed Title IX of the Education Amendments in 1972, which

“prohibit[ed] discrimination on the basis of sex in any federally funded education program or activity” (Department of Justice Website 2015, para. 1). Each of these events represented positive steps forward for the second wave of the women’s movement.

Throughout the 1970s and 1980s, more women participated in the political process. As of 1984, there were approximately 20 political action committees (PACs) in the U.S. that supported women. The most prominent of these PACs were “the Women’s Campaign Fund, the National Organization for Women, and the National Women’s Political Caucus” (Barakso 2004, 96). While these PACs were supporting women, a new PAC emerged in 1985 called EMILY’s List, which significantly increased women’s participation. The acronym stood for the phrase, “Early Money Is Like Yeast: It Makes Dough Rise,” which means that the earlier campaigns are successful in fundraising efforts, the more support it will attract (Barakso 2004, 96). Led by Ellen Malcolm, a women’s activist, the PAC developed a new approach to political fundraising for creating “a donor network that encouraged members to contribute to the candidates EMILY’s List recommended” (EMILY’s List Website 2017, para. 1). EMILY’s List would become the most prominent PAC for increasing pro-choice Democratic women’s participation in electoral politics (Barakso 2004). Women including Barbara Mikulski, Senator of Maryland, Ann Richards, Governor of Texas, and Carol Mosley Braun of Illinois, the first African American woman elected to the Senate in 1993, were early beneficiaries of EMILY’s List. The PAC has continued to grow and provide resources to Democratic women seeking political office.

Growing numbers of women in national political office catapulted women’s issues to the legislative agenda. For instance, Joe Biden (D-Delaware) worked very closely with women in the Senate and with women’s groups in the early 1990s to create legislation to put an end to domestic violence. Through their efforts, the Violence Against Women Act (VAWA), also

known as Title IV of the Violent Crime Control and Law Enforcement Act, passed through Congress with bipartisan support in 1994 (Laney 2008). The VAWA “mark[ed] the first comprehensive federal legislative package designed to end violence against women” (Legal Momentum Website 2015, para. 2). VAWA emphasized, “enforcement as well as educational and social programs to prevent crime” (Laney 2008, 2). For instance, the law “mandate[d] interstate enforcement of protective orders, a National Domestic Violence Hotline, training for state and federal judges, civil rights remedies for victims of gender-related crimes, and some aid for battered immigrant women” (Gelb and Palley 1996, 230). Also, it provided funds for shelters and an array of services for victims of rape and domestic violence. The VAWA represented a major political victory for women’s rights advocates.

### **Women’s Rights 1996 – Present**

Women’s rights activists continued making strides in the mid to late 1990s. While women were not engaging in robust discursive protest actions in the streets at this time, they were working within institutions to make political change. They especially made inroads to achieving a greater degree of equality in military service. For instance, in *United States v. Virginia (1996)*, the U.S. Government alleged that the state of Virginia and the Virginia Military Institute (VMI) acted outside the scope the Constitution due to its male-only admissions policy. Virginia planned to establish “the Virginia Women’s Institute for Leadership (VWIL) as a parallel program for women” (*United States v. Virginia 1996*). Virginia and VMI argued that both institutions “would offer ‘substantively comparable’ educational benefits” (*United States v. Virginia 1996*). The Court ruled in a 7-1 decision that the Virginia and VMI were in violation of the Equal Protection Clause of the Fourteenth Amendment. The Court also argued that VWIL would not be able to offer a comparable educational experience. As a result, women would be able to attend VMI,

which was the last all-male university in the U.S. Women continued making inroads to equality in the military. By 2013, Congress lifted the ban on women in combat roles; and by 2016, women could be eligible for any job in the armed services.

Women would continue making inroads through governmental institutions in the early 2000s. For instance, “on October 28, 2000, President Clinton signed into law the Victims of Trafficking and Violence Protection Act, of which, Division B is the Violence Against Women Act of 2000” (Laney 2008, 2). In 2000, Congress reauthorized “existing programs and added new initiatives, including grants to assist victims of dating violence, transitional housing for victims of violence, a pilot program aimed at protecting children during visits with a parent who has been accused of domestic violence, and protection from violence for elderly and disabled women” (Laney 2008, 3). The VAWA of 2000 also strengthened penalties against stalking and violations of protective orders. Congress reauthorized the VAWA again in 2005, which reaffirmed existing programs and added support for training and data collection regarding violence against women as well as privacy protections against victims of domestic violence (Laney 2008).

In 2013, Congress reauthorized the VAWA again after a lengthy partisan battle. In addition to reauthorizing existing efforts, Congress added provisions on cyberstalking; it extended “housing protections to cover all federally-subsidized housing programs;” and it required institutions of “higher education to develop ‘a statement of policy’ on prevention” and awareness of sexual assault (NNEDV 2013, 13). The 2013 iteration of the VAWA also amended the Cleary Act by adding “domestic violence, dating violence, and stalking to the list of crime statistics that higher education institutions must report” (NNEDV 2013, 13). There have been

extensive measures taken to prevent violence against women since the inception of the VAWA in 1994.

Women celebrated another legislative achievement in 2009 when President Obama signed the Lilly Ledbetter Fair Pay Act into law. Lilly Ledbetter brought suit against her employer, Goodyear Tire and Rubber Company when she realized that her wages were substantially lower than her male counterparts. Ledbetter sued her employer under “Title VII of the Civil Rights Act of 1964, which provides a remedy for employees whose employers intentionally discriminate on the basis of gender” (Sorock 2010, 1199). However, Title VII stipulates that employees must file claims within [180] days (Sorock 2010). Ledbetter discovered the pay gap after the period elapsed, so the Supreme Court ruled that Ledbetter was not eligible for compensation in *Ledbetter v. Goodyear Tire & Rubber Co., Inc. (2007)*. In her dissent, Justice Ginsberg calls on Congress to revise the law so that women have greater legal recourse in petitioning issues of pay discrimination. The House of Representatives held a hearing in the Committee on Education and Labor to address the matter (Sorock 2010). Once President Barack Obama was elected, Congress passed The Lilly Ledbetter Act, and Obama signed it into law on January 29, 2009. The legislation “expands the statutory limitations periods for Title VII claims” so that the 180-day statute of limitations resets with each new paycheck as opposed to the date when an employer makes an initial wage decision (Sorock 2010, 1200).

Women’s issues would continue to be center stage in electoral politics. In the 2016 Presidential Primaries and ultimately the general election in November of 2016, for instance, women’s issues were at the forefront of the election, at least in part, because Hillary Clinton was the first woman in history to win the nomination of a major political party. She ran against Donald Trump in the general election and ultimately lost the presidential contest. Women’s

rights activists protested the election of President Trump due to derogatory remarks he made about women and his support of policies that are counter to the ideals of the women's movement. For instance, during the campaign, Trump stated that Planned Parenthood should be defunded and women who get abortions should be punished. The day after President Trump's Inauguration, an estimated half a million people marched in Washington, D.C. and over five million people marched worldwide (Wallace and Parlapiano 2017). The election of President Trump may reinvigorate the women's movement. Activists will likely continue mobilizing against efforts of the Trump Administration as long as they believe his actions are a threat to women's rights.

### **The Emergence of Disability Rights**

In addition to movements for African American rights and Women's rights, the roots of the Disability Rights Movement developed early in American history. As injured soldiers returned home from the Revolutionary War, the government debated its role in compensating disabled veterans. In fact, "the Continental Congress paid for up to fifty percent of the pensions of disabled soldiers, [which] was the first time the federal government helped the states care for their disabled" population (Shapiro 1993, 59). The government built a network of marine hospitals to care for "sick and disabled sailors" in 1798 (Shapiro 1993, 59). As the United States entered more conflicts, the federal government became more involved with caring for disabled veterans and their families by expanding access to healthcare, benefits, and pensions (Shapiro 1993). When "the U.S. entered World War I in 1917, Congress [created] a new system of veterans' benefits, [such as] programs for disability compensation, insurance for service personnel and veterans, and vocational rehabilitation for the disabled" (Veterans Affairs Website 2016, para. 4). In 1921, the government consolidated programs for disabled soldiers and

established the Veterans Bureau. The network of marine hospitals evolved into the Public Health Service the first Veterans Administration hospitals in 1922. Advancements in medicine and technology helped injured soldiers survive at higher rates (Shapiro 1993). The Veterans Bureau treated “between 123,000 and 300,000 American veterans with disabilities” following World War I (Barnartt and Scotch 1993, 10; Treanor 1993).

Beyond caring for veterans, the government developed programs for people who were injured in industrial accidents. As industrialization accelerated, so did “rates of chronic illness and physical disability” (Barnartt and Scotch 2001, 5). Urbanization and industrialization altered how Americans viewed disability. Before the establishment of industry, disabled citizens were cared for privately in families unless they were disabled in military service. Due to the changing social structure in which “economic success was primarily based upon working at paid jobs, disability came to be defined in economic terms as the inability to work” (Barnartt and Scotch 1993, 5; Berkowitz 1987; Stone 1984). In 1918 and 1920, Congress passed “major rehabilitation programs [that] guaranteed federal funds for vocational training and job counseling” for people who were injured on the job (Shapiro 1993, 61).

During this time, the polio epidemic, a virus that caused paralysis, ravaged the American population leaving thousands physically disabled. In 1916, “27,000 people were paralyzed” by polio (Barnartt and Scotch 1993, 11). The poliovirus would continue to spread throughout the next few decades with 25,000 cases in 1946, 58,000 cases in 1952, and 35,000 cases in 1953 (Barnartt and Scotch 1993). The disease also afflicted president Franklin Delano Roosevelt (FDR). He went to great lengths to hide his disability from the public. With the cooperation of the media and other politicians, “there are only four photographs of FDR in his wheelchair” (Switzer 2003, 230). While FDR hid his disability in fear of being perceived as weak, he passed

legislation to assist Americans with Disabilities. For instance, in the wake of the Great Depression, FDR addressed Congress to call “for legislation to provide assistance for the unemployed, the aged, destitute children, and physically handicapped” (Switzer 2003, 48).

FDR signed omnibus legislation in 1935 that provided welfare benefits to the disabled; however, blindness was the only disability that was covered by the law (Switzer 2003). The Social Security Board (renamed the Social Security Administration (SSA) in 1946) began the task of determining which citizens were eligible for benefits. To determine eligibility, the SSA “defined disability as any impairment of mind or body which continuously renders it impossible for the disabled person to follow any substantially gainful occupation, and which is founded on conditions which render it reasonably certain that the total disability will continue throughout the life of the disabled person” (Altmeyer 1941, 4). Administrative officials were given the discretion to determine who would be eligible.

When the U.S. entered World War II, the issue of disability benefits would shift to the periphery due to the expense of delivering healthcare and benefits to disabled people in wartime. Thousands of injured servicemen returning home from the war renewed the national debate concerning the government’s responsibility in providing healthcare and benefits for veterans, “the most highly visible population of disabled Americans” (Shapiro 1993, 62). The federal government expanded rehabilitation programs for veterans. Upon returning from the war, disabled veterans took advantage of the G.I. Bill, which Congress passed in 1944 to provide veterans with access to higher education. Also, Harry Truman appointed the President’s Committee on Employment of the Handicapped in 1947 “to convince business of its obligation to hire [disabled veterans] once they left rehabilitation” (Shapiro 1993, 63). In 1955, President Eisenhower issued Executive Order No. 10649, which made this committee a “permanent

organization” that provided funding and networking opportunities to during its annual meeting in Washington, D.C. (Pelka 2012, 21).

Also, veterans who returned from WWII created organizations to advocate for injured veterans. For instance, soldiers who suffered spinal cord injuries in WWII founded Paralyzed Veterans of America (PVA) in 1946 to advocate for veterans’ medical care, health research, and civil rights (Shapiro 1993). More organizations, like the Blinded Veterans Association, Just One Break (JOB), the National Mental Health Foundation, We Are Not Alone, and the National Wheelchair Basketball Association would emerge during the 1940s to advocate for disabled veterans’ healthcare and job training (Pelka 2012). These organizations laid the foundation for disability advocacy in the U.S. in part because they offered people with disabilities the opportunity to meet and develop a collective consciousness (Barnartt and Scotch 1993). The proliferation of activism on the issue of disability rights led to increases in “membership bases, communication networks, and leaders – the components necessary for the infrastructure upon which contentious action could be built” (Barnartt and Scotch 1993, 15).

Citizens began mobilizing in the post-war years as they identified problems with the government’s treatment of people with disabilities. The standard of medical care for people with disabilities was changing. With more doctors specializing in the treatment of people with mental disabilities, in particular, patients tended to be “separated by the medical system” (Barnartt and Scotch 1993, 15). By 1970, 75 percent of “the public facilities housing mentally retarded people had been built after 1950” (Trent 1994, 238). More children and adults with disabilities were institutionalized into psychiatric medical facilities that isolated them from the rest of society rather than providing rehabilitative care (Barnartt and Scotch 1993; Pelka 2012). Often, psychiatric institutions were overcrowded with limited resources, which resulted in an

environment characterized by “brutality, exploitation, neglect, and routinized boredom” (Trent 1994, 238). For children with mental disabilities who were not institutionalized, they were subjected to a public education system that did not accommodate their needs. For instance, mentally disabled children were frequently grouped with “juvenile delinquents” in classes that were led by untrained teachers (Trent 1994, 239). In Mackie’s (1969) study of special education in America, he found that in 1948, only fifteen percent of children living with their parents were receiving special education from teachers with appropriate training (Mackie 1969).

Parents of children with mental disabilities were vocal in their opposition to these segregated, inhospitable environments. In the baby boom of the post-war years, there were more children born with mental or physical disabilities. Unlike previous generations, these parents were generally more proactive in seeking out support to address a range of issues affecting their children (Trent 1994, 240). For instance, parents demonstrated resolve in “finding community services or the right institution,” and asking questions about guardianship (Trent 1994, 240). In September of 1950, “several local groups met in Minneapolis” to form a national organization they entitled, the National Association for Retarded Citizens (NARC), which would become a collective voice for parents and relatives of children with mental disabilities (Trent 1994, 240). Throughout the 1950s, NARC “would become one of the most powerful human-services lobbies in the nation” (Trent 1994, 240). By 1952, NARC organized 119 local chapters; and 550 by 1958 (Trent 1994). As NARC’s institutional networks became more robust, the organization appointed its first executive director, Salvatore DiMichael, who led NARC’s lobbying efforts. NARC developed a “public awareness campaign” and “distributed thousands of pamphlets to civic groups, physicians, and legislators” (Trent 1994, 241). In 1954, President Eisenhower declared the second week of November as “National Retarded Children’s Week” (Trent 1994, 241).

In addition, “President Eisenhower signed the disability insurance program into law, with applications accepted beginning October 1956 and payments beginning in July 1957” (Switzer 2003, 52). Disabled citizens were eligible for benefits if they could present evidence of a “medically demonstrable impairment that precluded gainful activity for at least a year” (Switzer 2003, 52). However, when this program began in 1956, the program only covered citizens from “the ages of fifty to sixty-four” (Switzer 2003, 52). Around this time, the definition of disability broadened beyond one’s inability to work. Advocacy groups defined “disability” as “the presence of a physical or mental condition that is assumed to be disabling” (Barnartt and Scotch 2001, xv). While public awareness and governmental support of disabled people improved during the 1950s, they would still encounter barriers – both physical and legislative. Until this point, activism on the issue of disability was nascent.

### **Disability Rights 1960 – 1995**

By the early 1960s, many disabled people were seeking alternatives to institutionalization and isolation. In 1962, Ed Roberts, who was a “post-polio respiratory quadriplegic,” was one of the first students admitted to the University of California, Berkley with a severe disability (Zukas 1972, para. 1). Due to his respiratory issues, he spent much of his life in an iron lung. The university administration deemed that he would have to stay in a room in the Student Health Service, Cowell Hospital at Berkley (Zukas 1975). By 1969, there were 12 “severely disabled students living in the Cowell Residence Program” (Zukas 1975, para. 1). Students in the Program felt isolated from campus as electric wheelchairs were scarce and there were no curb ramps. The students organized a class entitled, “Strategies for Independent Living” (Zukas 1975, para. 4). The main objective of the class was to develop a “proposal for a communal arrangement” similar to the Cowell Program, but would be “controlled by the residents” (Zukas 1975, para. 4).

Roberts knew that operating this program would be very costly, so he looked to the Special Services Program that was administered by the Department of Education for assistance. In their proposal, the students outlined the kinds of “services they would need in order to live independently in the community” (Zukas 1975, para. 6). For instance, they would need people to assist them with getting out of bed, “dressing, personal hygiene, preparing meals, ... fast and reliable wheelchair repair, ...[and] assistance in accessing financial benefits and services for which they were entitled from other agencies” (Zukas 1975, para. 6). The program, known as the Physically Disabled Students’ Program (PDSP), represented a significant change from the older institutional philosophy, which left disabled people without autonomy or the means of self-determination (Goffman 1961). In 1972, the efforts of Ed Roberts and the other students and supportive administration at Berkley gave rise to the Independent Living Movement (ILM), which was based on three essential principles: “Those who best know the needs of disabled people and how to meet those needs are the disabled people themselves; the needs of the disabled can be met most effectively by comprehensive programs; [and] disabled people should be integrated fully into [the] community” (Zukas 1972, para. 9). Ed Roberts and other pioneers in the Independent Living Movement sought to make self-actualization possible for people with disabilities (Goffman 1961).

Improvements in legal representation accompanied the development of these services for disabled people. Public interest advocacy centers, such as the Public Interest Law Firm of Philadelphia, the Children’s Defense Fund, the National Center for Law and the Handicapped, engaged in institutional tactics to ameliorate legal, educational, and architectural obstacles for disabled citizens (Scotch 1984). For instance, in the early 1970s, two landmark court cases addressed the ways in which public institutions treated people with disabilities. In *Wyatt v.*

*Hardin* (1971), the Court established a “right to treatment,” which limited “indiscriminate institutionalization of mentally disabled persons” (Scotch 1984, 37). In his opinion, Judge Frank Johnson argued that patients who were “involuntarily committed to Alabama mental hospital” were denied their constitutional rights to receive individualized treatment that would give them a “realistic opportunity” to improve their condition (Scotch 1984, 37).

In another landmark case, *Pennsylvania Association for Retarded Children (PARC) v. Commonwealth of Pennsylvania* (1971), the U.S. District Court of the Eastern District of Pennsylvania ruled that the state owed children who were mentally handicapped an “appropriate program of education and training” (Scotch 1984, 38). The PARC ruling was rooted in the assumption that “placement in a regular public school class is preferable to placement in any other type of program of education and training” (Scotch 1984, 38). The court based the decision on the Equal Protection clause of the Fourteenth Amendment and argued public education cannot be denied to mentally disabled children.

In addition to overcoming educational barriers, public interest groups addressed the issue of accessibility to public spaces. In the 1960s and 1970s, there was a proliferating sentiment that disabled persons should have the autonomy to access public spaces on their own terms. In 1968, Congress passed a civil rights measure that improved access for all disabled people – the Architectural Barriers Act of 1968. The act was national in scope, and it “required that all new federal construction be made accessible to handicapped persons” (Scotch 1984, 29). The drafters of the Architectural Barriers Act used the American National Standards Institute’s (ANSI) criteria for making public spaces accessible, which provided for a “barrier-free design that permits physically disabled people access to bathrooms and drinking fountains and provides specifications for doorways, ramps, and elevators to make all or most of a facility accessible to

wheelchair-bound persons and others with physical disabilities” (Scotch 1984, 30). The Architectural Barriers Act worked hand-in-hand with the vocational rehabilitation measures because training disabled persons for jobs would be of limited utility if they could not enter those workspaces. Furthermore, activists argued that public spaces, which were not accessible to disabled people, “[enforced] segregation” (Shapiro 1993, 68).

Following the passage of the Architectural Barriers Act, Congress was in the process of drafting the Rehabilitation Act. The Senate Committee on Labor and Public Welfare was “one of the most liberal and activist committees in Congress” in the early 1970s. The Committee had been responsible for progressive statutes during the Nixon/Ford years, “including the Education for All Handicapped Children Act, the Occupational Safety and Health Act, and the Child Development Act” (Scotch 1984, 45). In 1972, this Senate Committee, as well as the House Committee on Labor and Education, prepared its versions of the bill to reauthorize the vocational rehabilitation program and “[amend] the existing statute” (Scotch 1984, 64). Congress intended to “expand and improve the vocational rehabilitation program” (Scotch 1984, 49).

During the early 1970s, there was a great deal of “institutional conflict” between the liberal Congress and President Nixon (Scotch 1984, 45). President Nixon vetoed the bill twice. A staff member who worked on the bill, Robert Humphreys, indicated that the Labor Committee was “reacting” to the Nixon Administration and proposed “a lot of service programs frequently in defiance of the Administration” (Humphreys as cited in Scotch 1984, 48). In this political climate, Roy Millenson, who was on Senator Javits’s staff, used language from Title XI of the Civil Rights Act of 1964, “adapted” and “inserted” the language at the very end of the Rehabilitation Act (Scotch 1984, 52). In the final version of the bill that was ultimately “signed into law on September 26, 1973,” the provision became known as Section 504 (Scotch 1984, 52).

Section 504 states, “No otherwise qualified handicapped individual in the United States, as defined in Section 7(6), shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance” (Rehabilitation Act of 1973). This provision garnered little to no attention in hearings or floor debate. According to Scotch (1984), “most members of Congress were either unaware that Section 504 was included in the act or saw the section as little more than a platitude, a statement of a desired goal with little potential for causing institutional change” (Scotch 1984, 54).

Throughout the 1970s, there was increasing collective discontent in disabled communities. Each time President Nixon vetoed the bill, advocacy groups organized protests. While disabled citizens celebrated its passage in 1973, the government was slow to release regulations for the law. Officials in the Department of Health, Education, and Welfare (HEW) prepared several drafts of regulations, but some bureaucrats deemed them “too controversial” and they requested guidance from Congress (Barnartt and Scotch 2001). Since the Rehabilitation Act became law, the disabled community relied on “non-contentious political actions such as lobbying and letter-writing” (Barnartt and Scotch 2001, 164). By 1977, the collective anger came to a boil when disability leaders from the American Coalition of Citizens with Disabilities (ACCD) joined forces with the Disability Rights Center, the Children’s Defense Fund, and the American Council of the Blind to organize a public protest (Treanor 1993; Barnartt and Scotch 2001). On March 18, 1977, the ACCD sent a letter to President Jimmy Carter and Joseph Califano, the secretary of HEW, and threatened to protest if they did not issue regulations by April 4, 1977 (Barnartt and Scotch 2001, 164).

Carter and Califano did not concede to their demands, so protestors marched into regional

HEW offices across the country on April 4, 1977 (Barnartt and Scotch 2001). In Washington, D.C., 300 demonstrators marched in the streets and into the HEW headquarters at Califano's office. Califano did not agree to sign regulations, so they began a sit-in, which lasted twenty-eight hours (Barnartt and Scotch 2001). Activists held protests near HEW offices in Los Angeles, New York, Philadelphia, Denver, Atlanta, Boston, and Chicago. However, 120 protestors engaged in a much longer protest in San Francisco when they marched into the HEW office. The sit-in, a tactic used during the Civil Rights Movement, lasted for twenty-five days (Barnartt and Scotch 2001). HEW officials were reluctant to forcibly remove the "visibly disabled protestors, fearing negative public reaction" (Barnartt and Scotch 2001, 166). On April 30, 1977, Califano agreed to sign the regulation (Fleischer and Zames 1998; Barnartt and Scotch 2001).

Section 504 of the Rehabilitation Act of 1973 was, perhaps, the most critical piece of civil rights legislation for disabled citizens at that time as it prohibited "discrimination in programs that obtained federal grants" (Barnartt and Scotch 2001, 166). The law would impact "local public school systems, colleges, and universities, to local and state governments and federal health and human services providers" (Barnartt and Scotch 2001, 166). Like the Civil Rights Movement, the Disability Rights Movement "characterized access as a civil right," which had distinct "political advantages" (Scotch 1984, 41). Using this collective action frame meant that activists were in a stronger political position to argue that change was a "social imperative" (Scotch 1984, 41). The passage and implementation of Section 504 was symbolically important for the Disability Rights Movement. In this case, political change was "*directly* connected to contentious action" and it "provided a validation of the power of protest in general" (emphasis in original, Barnartt and Scotch 2001, 167). The protests also brought together people who with different kinds of disabilities, which solidified the group's collective consciousness and identity.

Disabled citizens would continue to use disruptive protest as a means of achieving their political ends. On March 6, 1988, a protest by deaf students, faculty, and supportive alumni of Gallaudet University, a school for the hearing-impaired in Washington, D.C., were outraged when the board of trustees appointed “Dr. Elisabeth A Zinser, a hearing woman,” despite months of lobbying the administration in support of a deaf president. Dr. Zinser had “little experience with deafness-related issues or with deaf people” (Barnartt and Scotch 2001, 199). Upon learning of the board’s decision, the several hundred people marched through the streets of Washington, D.C. and entered the hotel where members of the committee gathered (Barnartt and Scotch 2001).

That next morning, the protestors hot-wired buses and cars to barricade the entrances to the university. The demonstrators demanded that Chairperson Spilman “rescind the choice of Zinser and appoint a deaf president; Spilman must resign and appoint a majority of deaf members of the board of trustees;” and there could be “no retribution against student and faculty demonstrators” (Shapiro 1993, 79). Spilman refused their demands, but she called for a meeting so they could have a dialogue about the issues. At the beginning of the meeting, Spilman attempted to quiet the crowd and ordered them “to be quiet so they could hear her” (Barnartt and Scotch 2001, 201). The protests intensified and gained momentum. By March 10, 1988, Dr. Zinser resigned, and the board of trustees agreed to the rest of their demands over the next three days. While the Gallaudet University protest was limited to people in the deaf community at one university, the protest served as a focusing event for of the disability rights movement (Barnartt and Scotch 2001, 193). In 1992, the Gallaudet students and faculty were given the Distinguished Service Award. Justin Dart, who presented the award stated, “The long struggle by the students and faculty to replace paternalism with empowerment sent a vital message to the nation and [it]

was a major contribution to the passage of the [Americans with Disabilities Act]” (Dart as cited in Barnartt and Scotch 2001, 193). The Gallaudet protest would be “the closest the movement [had] come to a having a touchstone event, a Selma or a Stonewall” (Shapiro 1993, 74).

Some scholars argue that the protests in the HEW offices and at Gallaudet University were harbingers of the largest legislative achievement for disability rights activists – the Americans with Disabilities Act (ADA) (Barnartt and Scotch 2001). While activists celebrated the passage of Section 504 of the Rehabilitation Act, they argued for a broader civil rights bill that prevented discrimination. Activists used language like “access,” “opportunity,” and “rights” - thus deviating from the charity framework of years passed (Shapiro 1993). Senator Tom Harkin, a Democrat from Iowa, introduced the ADA to Congress in 1988. Disability activists, notably the Consortium for Citizens with Disabilities, mobilized support throughout the country. During a 1989 congressional hearing about the Americans with Disabilities Act before the Subcommittee on the Handicapped, which is a part of the Senate Committee on Labor and Human Resources, the speakers discussed the events of the Gallaudet University protests. For instance, the incoming President of Gallaudet, Dr. King Jordan, testified that the protest “was a symbol of hope and inspiration to people everywhere...Our successes at Gallaudet has given us all a resolve to see this struggle for equal rights through to success...Passage of the Americans with Disabilities Act will tell disabled Americans that they are, indeed, equal to other Americans” (King as cited in Americans with Disabilities Act 1989, 12-14). Supporters of the ADA organized protests, lobbied members of Congress, and discussed personal experiences of discrimination at congressional hearings (Mayerson 1992). The Congress revised the bill, and the Senate passed the bill in 1989. The ADA passed the House in 1990, and President George H. W. Bush signed it into law on July 26, 1990 (Mayerson 1992).

In hearings about the ADA, members of Congress heard arguments from activists that disabled people should have the same “protections against discrimination that had been afforded minorities and women under the 1964 Civil Rights Act” (Shapiro 1993, 105). Disabled people testified before Congress and talked about their experiences with discrimination. A purpose of the ADA “is to enable people with disabilities to be placed at the same ‘starting line’ as those who are non-disabled” (Goren 2006, 1). The Equal Opportunity Employment Commission (EEOC) stated that disabled people should have “equal opportunity to attain the same level of performance as his/her colleagues” (as cited in Goren 2006, 1). The ADA “prohibited discrimination in employment, transportation, public accommodation, communications, and governmental activities” (Department of Labor n.d.). While the ADA used the framework of the Civil Rights Act of 1964, the law added complexity since it “would require businesses to spend money, if necessary, to avoid being discriminatory” (Shapiro 1993, 115). Businesses would have to adhere to ADA guidelines to build the appropriate infrastructure so that disabled people could access the facilities as employees and as consumers. The 1973 Rehabilitation Act required businesses to make similar changes, but this was limited to business receiving government funding. The ADA went far beyond the scope of the 1973 Rehabilitation Act and required adherence to guidelines “without expectation of reimbursement from Washington” (Shapiro 1993, 115).

### **Disability Rights 1996 – Present**

After the passage of the ADA, activists continued mobilizing support for the disabled. In the late 1990s, the issue of physician-assisted suicide emerged as an issue for the disability movement. Some activists within the movement spawned the Not Dead Yet (NDY) organization, which was “firmly opposed to any form of ... intervention in the process of dying” (Switzer 2003, 148).

Members of NDY argued that disabled people's desire to end their lives "stems more often from depression caused by isolation, lack of access to pain medication, or from the sense that they have become a burden to their families and society" (Switzer 2003, 150). NDY especially targeted Dr. Jack Kevorkian, who assisted at least 130 patients with suicide. In 1997, the Supreme Court held that there "is no constitutional 'right to die,' leaving to the states the question of whether to legalize physician-assisted suicide" (Switzer 2003, 149). Members of NDY would continue to mobilize against euthanasia at the state-level throughout the late 1990s and early 2000s.

Activists have also continued supporting Independent Living Centers and fighting against unnecessary institutionalization. They won a major legal victory in *Olmstead v. L.C.* (1999). The case involved two mentally disabled women who admitted themselves voluntarily to a Georgia Regional Hospital in Atlanta (Switzer 2003). Their doctors "concluded that the two women could be cared for appropriately in a community-based program," but the state of Georgia refused to pay for the care. The U.S. Supreme Court upheld a lower court ruling that Georgia was discriminating against women "on the basis of their disabilities," which was in violation of the ADA. The Court ruled that states should make "reasonable modifications" and provide care in "the most integrated setting appropriate" to the patient's needs (*Olmstead v. L.C. 1999*, para. 1; Switzer 2003, 161).

The Disability Movement also focused its efforts on preventing violence against people with disabilities. A 2012 study by the World Health Organization (WHO) found that "children and adults with disabilities are at a much higher risk of violence than their non-disabled peers" (WHO n.d., para. 1). The WHO found that individuals with disabilities are 1.5 times more likely to be a victim of violence than people who are not disabled (WHO n.d.). In the study, the WHO

found that children with mental disabilities are the most vulnerable because “they are 4.6 times more likely to experience sexual violence than the non-disabled peers” (WHO n.d., para. 2). Activists had some success in incorporating protections for disabled people into hate crime bills in the late 1990s and early 2000s, but those bills have failed to pass into law. For instance, the Hate Crimes Prevention Act was unsuccessful in both 1998 and 2000 (Switzer 2003). The Crime Victims with Disabilities Awareness Act of 1998, which would have included “disability as a category in the National Crime Victims Survey,” was also unsuccessful (Switzer 2003, 167). Finally, in 2009, Congress passed the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, which broadened the definition of federal hate crimes to include violent acts against people with disabilities (Pelka 2012; Faderman 2015). The inclusion of disabled people in the hate crimes legislation was a significant achievement for the disability rights movement as it further demonstrated that protecting disabled persons is a matter of civil rights.

### **The Emergence of Rights for the Aged**

During the colonial period in America, there was a small population of older adults since it was common for early settlers to succumb to disease before reaching their later years. People who were able to reach “old age often occupied an advantaged position, partly because position was loosely tied to age hierarchy” (Atchley 2000, 47). Puritans and Calvinist Protestants espoused religious beliefs that were in accordance with the seniority principle. They believed, “through their struggle to understand and carry out the will of God, [the aged] were more developed spiritually compared with the young, and they expected elders to set a moral and social example” (Atchley 2000, 48). In addition, older men of a higher socioeconomic status typically controlled their family’s valuable assets. In early America, power was typically “based on land ownership and position in the family” (Atchley 2000, 48).

After the American Revolution, the population expanded dramatically, “from just under 4 million in 1790 to nearly 13 million in 1830” (Atchley 2000, 50). During this period, the “land area of the United States doubled,” which “encouraged a great deal of geographic mobility” (Atchley 2000, 51). The Revolution brought forth “an acceleration of emphasis on individual achievement, religious secularism, . . . and the free market” (Atchley 2000, 50). With the publication of Adam Smith’s *Wealth of Nations* in 1776, which argued that the free market provided the best means of creating social order,” the sense of moral authority of the aged gave way to individualism and the prioritization of self-interest in decision-making. As a result, the social and economic advantages of old age dimmed. Instead of waiting until they had seniority, younger men took advantage of an increasingly industrialized society throughout the 1800s and 1900s to make gains. The efficiency of the free market left many older people struggling to compete.

By the 1900s, advancements in machine technology accelerated industrialization. The printing industry, for instance, was a “craft industry in which type was set by hand in numerous small shops” (Atchley 2000, 58). However, with the invention of the Linotype, “a machine that allowed direct setting of lines via a typewriter-like keyboard,” it led to an increase in the pace of production and skill required to maintain a position. Furthermore, unions negotiated to reduce the “workday from ten to nine hours by offering to work faster” (Atchley 2000, 58). The changing dynamics of these work requirements resulted in older workers facing age discrimination. To make matters more difficult, Dr. William Osler, the “physician-in-chief at Johns Hopkins University Hospital,” gave a “widely publicized” speech in which he stated that “the effective, moving, vitalizing work of the world is done between the ages of twenty-five and forty” (Older as cited in Atchley 2000, 59). Around this time, maximum hiring ages were

established. For men, the maximum hiring age tended to be 55 (Hushbeck 1989). While age discrimination affected men, women faced even harsher age discrimination. In 1910, “the U.S. Bureau of Labor reported that women’s earnings peaked at age twenty-four and that after age thirty, women had trouble not only finding jobs but also keeping them” (Atchley 2000, 60).

Since employment opportunities for aging people waned in the early 1900s, there was a rise in the number of seniors living in poverty. Atchley (2000) claims that increases in poverty among older individuals were not due to the physical or mental effects of aging, but to “the economic effects of age discrimination [in hiring practices and] in the absence of adequate retirement pension” (Atchley 2000, 60). Older people experienced a great deal of financial insecurity. Until the seismic economic downturn of the Great Depression in 1929, poverty among older citizens was not deemed as a social problem in need of a governmental solution. During the early 1930s, there was a shift in popular understanding of poverty. During this time, “people who had faithfully followed the prescription of industry, prudence, and thrift nonetheless lost their jobs, saw their pensions disappear, lost their life savings in failed banks lost their homes to foreclosure, and so on” (Atchley 2000, 60). The Depression struck a massive blow to the notion that a free market “would automatically set society on the right course” (Atchley 2000, 62).

In 1934, Dr. Francis Townsend wrote a “Letter to the Editor” in his hometown newspaper in Long Beach California in reaction to seeing three elderly women sifting through his garbage can. In the letter, he called for the government to “retire all those who reach the age of 60 on a monthly pension of two hundred dollars, on the condition that they spend the money as they get it” (Townsend as cited in Gollin 1995, para. 4). If older people had money to spend, it would both support the vulnerable elderly population and stimulate the economy. There was an

outpouring of support in response to his letter. Like-minded people mobilized around this issue and formed the Townsend Movement. His proposal became known as the Townsend Plan, which he widely distributed as a pamphlet. Through its message and tactics, the Townsend Movement garnered the attention of Congress. For instance, in a House hearing on Old-Age pensions plans, members of Congress heard testimony regarding the activities of the Townsend Movement. Robert Clements, the Secretary Treasurer of the Old-Age Revolving Pensions, Ltd. testified that Dr. Townsend “had some small leaflets printed and distributed. He also had some petitions printed, which he circulated...and the response of those petitions was very spontaneous and encouraged him...to see how far this movement could go” (Clements as cited in Old-Age Pension Plans 1936, 18).

Townsend expected support from President Franklin D. Roosevelt (FDR), but FDR believed that the plan was too extreme. Nevertheless, some scholars claim that the Townsend Plan influenced FDR as he laid out the New Deal Programs – notably the Social Security Act of 1935 (Atchley 2000). Title I of the Social Security Act “provided for a federal-state program of public assistance specifically for older people; [and] Title II ...set up a national social insurance system to provide pensions for retired workers, disabled workers, and (in 1939) survivors of workers” (Atchley 2000, 63). People in the Townsend Movement were disappointed with the plan since “it did not promise immediate payments in 1935, because the benefits were small compared to the 200 dollars per month that Townsend wanted, and because people had to work under the Social Security program to earn a payment” (Social Security n.d., para. 2). Despite activists’ sentiment that the Social Security Act of 1935 did not go far enough, it represented a step “in the direction if income security for the aged” (Atchley 2000, 64). The Social Security Act of 1935 was based on the “premise that the aged would not be employed, [and] it

inadvertently supported the ideology of age discrimination” in the workplace (Atchley 2000, 64). Unemployment rates dropped after the Social Security Act went into effect because the status of many older citizens changed from “unemployed” to “retired” (Atchley 2000, 64).

Throughout the 1940s and 1950s, seniors began to organize politically to acquire more resources. In 1947, Dr. Ethel Percy Andrus, an educator from California, founded the National Retired Teachers Association (NRTA), which offered its members life insurance (Campbell 2003, 75). Until the establishment of NRTA, seniors were typically unable to qualify for life insurance. Also, the American Association of Retired Persons (AARP) was established in 1958, which provided life insurance benefits to seniors “of all occupations” (Campbell 2003, 75). The NRTA and AARP “eventually merged and are now known collectively as AARP” (Campbell 2003, 75). The AARP would become the largest interest group in the United States. In 1959, the group touted 50,000 members. As of 2017, the AARP has become a lobbying “powerhouse” with over nearly 38 million registered members (Johannes 2014, para. 2; AARP Website n.d.).

### **Rights for the Aged 1960 – 1995**

Throughout the 1960s, seniors became increasingly involved in institutional tactics like letter writing and lobbying. In 1960, seniors made significant contributions to Kennedy’s campaign, which helped him win “key districts” in the Presidential election (Rich and Baum 1984, 15). Following Kennedy’s election, the Democratic National Committee provided financial support to the National Council of Senior Citizens (NCSC). The mission of the NCSC was to engender congressional support for seniors’ guaranteed access to health insurance - Medicare (Rich and Baum 1984). In response to seniors’ participation in organizations like the NCSC, “age-related policy not only appeared on the agenda more frequently and in more institutionalized forums, but also made some historic gains” (Campbell 2003, 86). In 1961 following a congressional hearing

on the issue of nursing homes, Congress established the Senate Special Committee on Aging (Campbell 2003). The Committee was originally intended to be temporary, but was it was granted permanent status in 1977. Since its creation, the Senate Special Committee on Aging has “called the Congress’ and the nation’s attention to many problems affecting older Americans” by conducting “oversight of programs and investigat[ing] reports of fraud and waste” (U.S. Senate Special Committee on Aging Website n.d., para. 1).

In 1965, Congress passed Medicare, which dramatically “increased senior access to health care” (Campbell 2003, 86). In the same year, Congress also passed the Older Americans Act, which created the Administration on Aging (Campbell 2003). Seniors won these landmark victories due to their organized political might that they concentrated in organizations including AARP and NCSC, through their political alliances with “organized labor and consumer groups,” and by consistently turning out to vote in elections (Campbell 2003, 86). Following these successes, Congress passed the Age Discrimination Employment Act of 1967, which “prohibited the use of age as a criterion for hiring, firing, discriminatory treatment on the job, and referral by employment agencies” (Atchley 2000, 66). The law also forbade employers from including age preferences in their job advertisements (Atchley 2000).

Seniors continued to flex their political might in the 1970s. Throughout the 1970s, “seniors overtook nonseniors in the rate at which they were mobilized by political parties” (Campbell 2003, 87). In 1971, the White House Conference on Aging “legitimized” the participation of lobbying organizations in the policy process (Campbell 2003, 87). The most powerful interest group for seniors, the AARP, formed political alliances with members of Congress. Since members of Congress made ample space on the legislative agenda for seniors, issues of the aged were imbued with salience among the mass public. The widespread national

attention and upward mobility of seniors in the American political psyche spurred more seniors to become involved in the political process. Members of Congress who sat on committees that managed Social Security “were overwhelmed by the program’s popularity and seniors’ growing electoral importance” (Campbell 2003, 88). While Social Security gained popularity, the program continued to expand. At the beginning of the decade, “82 percent of seniors received Social Security and average monthly benefits were \$471, increasing to 93 percent and \$637 by 1980” (Campbell 2003, 87). The period of 1965 till 1980 was a “time of unprecedented growth in concern for the general wellbeing of the older population and the number of programs designed to promote it” (Atchley 2000, 67).

However, the political tide turned in the 1980s after a period of “high inflation and high unemployment in the late 1970s, [which] meant that the now indexed Social Security payouts were growing rapidly while payroll tax receipts were flat or shrinking” (Campbell 2003, 90). In addition to there being insufficient taxes to sustain the program as originally intended, the Reagan Administration argued in support of cutting tax benefits for citizens retiring early; they proposed “tightening disability requirements, delaying a scheduled cost-of-living adjustment, and reducing benefit growth for future retirees” (Campbell 2003, 90). The Democratically-controlled House of Representatives denounced Reagan’s fiscally conservative stance toward Social Security. President Reagan’s rhetoric regarding Social Security was rooted in the idea that the federal government should take a more limited role in providing for the welfare of citizens. Instead of government providing support to older individuals, he argued that families and charities should bear the responsibility.

In 1982, President Reagan promoted a plan by Senate Republicans “to make \$40 billion in Social Security cuts over three years as part of the fiscal 1983 congressional budget”

(Campbell 2003, 104). In response, the AARP mobilized its members in a letter-writing campaign to oppose the “budget cuts, and the Republicans withdrew the proposal before the Senate could vote on it” (Campbell 2003, 104). Although the Senate Republicans did not see the measure to fruition, scholars like Light (1985) and Campbell (2003) argue that their attempt to cut Social Security had a negative impact on Republicans’ bids during the mid-term election (Light 1985; Campbell 2003).

While several attempts by Senate Republicans to cut Social Security funding, they were successful in passing the Medicare Catastrophic Act in 1988. The legislation expanded Medicare so that “prescription drugs (after a large annual deductible), mammograms, and respite care for those tending severely disabled Medicare beneficiaries at home” (Campbell 2003, 105). Senate Republicans structured the legislation so that seniors funded the Medicare expansion. The measure increased premiums and imposed “a surtax on the wealthiest [forty] percent of seniors” (Campbell 2003, 105). Seniors mobilize against the legislation by targeting members of Congress in letter-writing campaigns in which seniors urged them to repeal the law. In November of 1989, Congress repealed the Catastrophic Act. Senior organizations like AARP rejected the expansion of Medicare if it meant they would be responsible for the cost. While the Reagan Administration made “threats to senior programs, the 1980s came to an end with virtually no fundamental policy changes” (Campbell 2003, 115). However, high unemployment and a contracting economy characterized the late 1980s and early 1990s. A combination of substantial tax cuts for businesses and individuals, increased military spending during the twilight of the Cold War, and the decline of manufacturing jobs contributed to the national debt (Atchley 2000).

## **Rights for the Aged 1996 – Present**

The economy began to improve in the latter half of the 1990s, and the Clinton Administration worked with members of Congress to secure affordable housing for low-income senior citizens. For instance, Congress passed “VA-HUD and Independent Agencies Appropriations Act for the [2000 fiscal year] (P.L. 106-74), [and President Clinton signed it] into law on October 20, 1999” (Vanhorenbeck 2002, 48). Title V of the law “authorized \$710 million for Section 202 Supportive Housing for the Elderly” (Vanhorenbeck 2002, 48). Also in 1999, President Clinton advocated for the passage of the Senior Citizen’s Freedom to Work Act in his State of the Union Address. In his speech, President Clinton stated, “we should eliminate the limits on what senior citizens on Social Security can earn” (Clinton as cited in Warshaw 2004, 477). He called for bipartisan congressional support for the measure that would modify Title II of the Social Security Act “to eliminate the earnings test for individuals who have attained retirement age” so seniors’ benefits would not be reduced if they were earning “outside income” (Social Security Administration n.d., para. 2). President Clinton signed the bill into law on April 7, 2000. Due to, at least in part, the advocacy work within governmental institutions in the late 1990s and early 2000s, issues concerning senior citizens received considerable attention from the presidency and the legislative branches of government.

However, there were looming fears that existing governmental programs to assist seniors would not be able to support the demands of the Baby Boomer generation. Political pundits including George Will cautioned that baby boomers would bankrupt Social Security and Medicare (Lynch 2011). On October 15, 2007, Kathleen Case-Kirschling became the first baby boomer to be eligible for Social Security, which made her “the first of 80-million” boomers to claim the benefit (Lynch 2011, 12). Amid fears of supporting the Baby Boomer generation was

looming economic trouble was on the horizon for the nation as a whole – senior citizens in particular. In December 2007, a period of economic decline, known as the Great Recession, took an enormous toll on seniors’ retirement investment accounts. People who thought they had enough funds to sustain them through retirement suddenly found themselves forced back into the workforce. According to the Bureau of Labor Statistics, “the labor force participation rate of individuals at least 65-year-old jumped 4.2 percentage points between 2004 and 2014” (Soergel 2016, para. 20). The effects of the recession, including the “stock crash and plummeting values in residential real estate, have exposed flaws on relying upon individual retirement accounts to replace traditional pensions” (Lynch 2011, 13). As seniors went back to work, they became increasingly “[vulnerable] to age discrimination: in 2008, age discrimination complaints to the Equal Employment Opportunity Commission soared – up 29 percent from the previous year” (Lynch 2011, 79; Vogel 2009).

In addition, a Supreme Court decision in *Gross v. FBL Financial Services* (2009) “made it more difficult for plaintiffs to prove age discrimination” (Lynch 2011, 79). In this case, the Court reversed “an earlier appellate court standard that if a worker could demonstrate that age was one of many factors, then the employer was required to provide a reason unrelated to age” (Lynch 2011, 79). Justice Thomas’s majority opinion in the case “required that the plaintiff must definitively prove that age was *the* primary factor in workplace discrimination” (Lynch 2011, 79). Lynch (2011) argued that despite the rising number of EEOC complaints and the decision in the *Gross* case, there was little sense of collective outrage or mobilization in response to the issue of age discrimination and job loss. A survey by the Rutgers University Center for Workforce Development confirmed, “escalating levels of individuals stress, [shame], self-blame, and social withdrawal” (Lynch 2011, 81; Heldrich 2009). The lack of mobilization around these

issues stood in contrast to seniors' collective action in response to issues like Social Security and Medicare. Some scholars have even argued that, while the Baby Boomer may have engaged in collective action in the 1960s, they have not mobilized as much as seniors who preceded them (Lynch 2011). Lynch (2011) claims that there is a "widening class/political/cultural divide that has been evident in the voting and political behavior of boomers" (Lynch 2011, 85). In 2008, 2012, and 2016 election cycles, the boomer generation has shown less political and social cohesion. Instead of voting solely on issues like Social Security and Medicare, a wider variety of items (i.e., national security, immigration, and terrorism) gained importance.

### **The Emergence of LGBT Rights**

In the United States, a sustained movement for LGBT rights did not manifest until after World War II. Scholars largely attribute the "gay awakening" to World War II when "the mobilization of American society ... uprooted tens of millions of American men and women, plucking them from families, small towns, and the ethnical neighborhoods of large cities and deposited them in a variety of sex-segregated environments" (D'Emilio 1998, 77). The Selective Service System drafted men into the armed services and women entered the labor force where they often lived in same-sex facilities (D'Emilio 1998). World War II created "a setting in which to experience same-sex love, affection, and sexuality, and to discover and participate in the group life of gay men and women" (D'Emilio 1998, 77). After the war, there was societal pressure to "reconstruct traditional gender roles and patterns of sexual behavior" (D'Emilio 1998, 77).

In addition to World War II, scholars also credit Alfred Kinsey's reports on *Sexual Behavior in the Human Male* (1948) and *Sexual Behavior in the Human Female* (1953) with permanently changing "the nature of public discussion of sexuality as well as society's perception of its own behavior" (D'Emilio 1998, 33). In the former study, Kinsey and his team

of assistants “interviewed 5,300 men, asking each of them over three-hundred questions” (Faderman 2015, 5). Kinsey found that “forty-six percent of American males admitted that as adults they [had] ‘reacted’ sexually to both males and females; thirty-seven percent admitted to having *at least* one homosexual ‘experience’ as an adult; [and] ten percent said that as adults they [had] been ‘more or less exclusively homosexual’ for at least three years” (Faderman 2015, 5, emphasis in original). The Kinsey Reports “legitimized sexuality as a topic of discussion in the popular mass circulation press” (D’Emilio 1998, 33). Kinsey’s work debunked the conventional wisdom that rare disease or dysfunction caused homosexuality (Marcus 1992). In fact, his work confirmed to the general public that large numbers of men and women had engaged in sexual activity with a partner of the same sex.

Increased public awareness, at least in part, made homosexuals the “targets of institutionalized discrimination in the military, government employment, and in urban gathering places across the country” during the post-war years (Marcus 1992, 1). Members of Congress framed homosexuality “in terms of the national defense” by claiming that they posed an “internal security threat” (Haider-Markel 1999, 246). Because they framed homosexuality as an issue impacting national security, it gave Congress “the jurisdiction” to address the issue as well as “limit what actors could participate and what specific issues could be addressed” (Haider-Markel 1999, 246; Schattschneider 1960).

In 1950, the Senate released the Wherry Report, named after Senator Kenneth Wherry (R-NE), which linked “homosexuality to communism, thereby placing homosexuals on the wrong side of Cold War politics” (Haider-Markel 1999, 246). After interviewing representatives of the Central Intelligence Agency, State Department, and the Federal Bureau of Investigation, and the military, Wherry claimed that there were “3,750 perverts employed by federal agencies”

(Faderman 2015, 21). The McCarthy Hearings reinforced this link between homosexuality and communism in 1953 when “witnesses suggested that homosexual government employees could be blackmailed by communist spies” (Haider-Markel 1999, 246). Witnesses claimed that “homosexuals were immoral and, therefore, inherently corrupting” (Haider-Markel 1999, 246). As a result of the Wherry Report and McCarthy Hearings, anyone who was suspected of being a homosexual was purged from the ranks of government employment and military service (Faderman 2015).

In addition to targeting suspected gay and lesbian governmental employees, members of Congress also attacked gay activist organizations. In 1954, for instance, “Senator Wiley (R-WI) sent a letter to the U.S. postmaster that demanded a gay magazine (ONE) be blocked from using the U.S. mail” due to its commitment to the “advancement of sexual perversion” (Haider-Markel 1999, 247; Streitmatter 1995, 32). Despite political attacks on gay activist groups, gay men and lesbians continued to mobilize, and they formed the Daughters of Bilitis, the ONE Institute, and the Mattachine Society. Representatives of the Mattachine Society, in particular, began framing homosexuality as a civil rights issue when discussing employment discrimination during a congressional hearing (Haider-Markel 1999). While the civil rights frame would be effective in later years, it did not widely resonate at the time. These organizations not only survived the politically turbulent times of the 1950s, but they “established a foundation ... on which the gay rights struggle was built” (Marcus 1992, 3).

### **LGBT Rights 1960 – 1995**

In the early 1960s, “cold warriors and Evangelicals were still firmly in control over” the framing of LGBT issues (Haider-Markel 1999, 248). By 1965, LGBT groups adopted disruptive tactics by staging political protests at the Pentagon, the White House, and Independence Hall in

Philadelphia (Haider-Markel 1999). These early protests “did not appear to elicit a direct response from the federal government” (Haider-Markel 1999, 248; D’Emilio 1983). However, the LGBT movement experienced a watershed moment in 1969 following a police raid of the Stonewall Inn in New York City (Haider-Markel 1999; Faderman 2015). The Stonewall Riots “sent shockwaves throughout the gay communities and provided an incentive for many gays to become involved in the burgeoning movement” (Haider-Markel 1999, 248).

In the 1970s, gay rights activists began framing “homosexuality in positive terms, stressing discrimination and civil rights as the issues that should be under consideration” (Haider-Markel 1999, 248). As the movement was becoming more active, the government began responding. For instance, in 1975, Bella Abzug introduced HR166, which sought to revise the 1964 Civil Rights Act “to include sexual orientation, a clear effort by Democrats to define the main issue as civil rights,” which allows gays and lesbians to “expand the definition of homosexual issues and thereby mobilize nonparticipants, such as ethnic minorities and other traditional Democrats” (Haider-Markel 1999, 248). Gay activists and allies in Congress were issue initiators who expanded “the scope of conflict” to gain support for their cause and ultimately a prominent space on the agenda (Schattschneider 1960; Kingdon 1984). Throughout the 1970s, LGBT allies in Congress began introducing bills and held hearings to protect LGBT people from discrimination (Haider-Markel 1999, 249). The Congressional Information Service (CIS) cataloged instances in which gay activists participated in congressional hearings on a range of issues such as:

cutting Washington, D.C. funding of homosexual venereal disease clinics (1976, H181-77.29, S181-55.4), television portrayal of homosexuals (1977, H501-16.4), alcoholism among lesbians (1977, S541-9), welfare reform (1978, H161-32.3), revisions of Washington, D.C.’s sodomy law (1978, H301-3.8), homosexuality in prisons (1978, H701-45.10), the access of special interest groups to telecommunications (1979, H501-95.7), including questions in the census to identify homosexuals (1979, H621-37.2), and

the repeal of federal welfare benefits to homosexuals under HR4122, the Family Protection Act (1979, H782-45) (Haider-Markel 1999, 250).

Haider-Markel (1999) argues that because pro-LGBT positions were a part of these hearings, it is evident that “gay groups were able to expand the scope of conflict over homosexuality - a tactic often used by groups losing a political battle” (Haider-Markel 1999, 250; Schattschneider 1960). In addition to increases in congressional hearings related to LGBT issues, issue initiators were able to broaden the venues of debate by “expanding the scope of conflict” (Schattschneider 1960, 16). Throughout the 1970s and 1980s, members of Congress increasingly discussed homosexuality in “non-defense related congressional committees, demonstrating that cold warriors and Evangelicals no longer had complete control over framing the issue” (Haider-Markel 1999, 250).

In the 1980s, the AIDS (Acquired Immune Deficiency Syndrome) epidemic intensified the expansion of conflict to other venues. In 1981, thousands of previously healthy young gay men across the U.S. started dying suddenly. As the media reported the deaths, “it was greeted with denial and disbelief” by some gay and lesbian groups in cities like New York City and San Francisco (Marcus 1992, 405). Some gays and lesbians feared that the media attention surrounding the AIDS crisis would negatively impact the movement. Conservative Evangelicals like Patrick Buchanan, a Republican presidential candidate and advisor to President Richard Nixon, used his syndicated column in his 1983 *New York Post* to argue that the AIDS crisis was “nature ... exacting an awful retribution” for “irresponsible and unhealthy sex practices” (Buchanan as cited in Adler 1984, 1177; Faderman 2015, 416). Activists feared that they would lose positive gains they had made, or even worse, that protesting for gays rights “would [not] even matter if everyone was dead” (Marcus 1992, 405).

At the conclusion of 1990, AIDS “had taken the lives of more than one-hundred thousand people in the United States, a majority of them [were] gay men” (Marcus 1992, 405). While the LGBT community was in crisis, new LGBT organizations joined forces with existing groups to “provide care for the sick and dying, conduct AIDS education programs, lobby local and federal governments for increased funding for AIDS research,” enable drug companies and doctors to more aggressively search for an effective treatment, and fight to protect individuals living with HIV/AIDS and those at-risk from discrimination (Marcus 1992, 405). The AIDS crisis mobilized thousands of new participants to join the LGBT movement. The epidemic expanded “the scope of conflict” when these “new actors were brought into the debate, including broad civil liberties groups, medical professionals, and members of Congress who were previously uninterested in gay-related issues” (Haider-Markel 1999, 251). Members of Congress held their first hearing on the AIDS issue in 1982, and it became a “focal point” for congressional activity on LGBT issues throughout the 1980s and early 1990s.

LGBT activists achieved political gains in Congress with the passage of the Ryan White CARE Act in 1990, which provided HIV/AIDS-related services for those “who do not have sufficient health coverage or financial resources for coping with the disease” (HRSA Website 2017, para. 1). The legislation was named for Ryan White, a 13-year-old boy who contracted the HIV/AIDS virus after having a blood transfusion (HRSA Website 2017). White’s story garnered national attention, and he became a symbol for the movement. Also, in the early 1990s, “sexual orientation was included in the Hate Crimes Statistics Act,” which recorded instances of hate crimes in America (Haider-Markel 1999, 252). The LGBT community was also credited with helping elect Bill Clinton to the Presidency in 1992 – a year when “gay political action committees contributed more than \$760,000 to congressional candidates” (Haider-Markel 1999,

252). While LGBT groups were making significant gains in Congress, they experienced a defeat in 1993 with the passage of the “Don’t Ask, Don’t Tell” policy, which prohibited the military from discriminating against LGBT military personnel who were closeted, but excluded people who were openly gay or lesbian from military service (Haider-Markel 1999, 252). In response, on April 25, 1993, between 800,000 and one million LGBT activists participated in “the March on Washington for Lesbian, Gay, and Bi Equal Rights and Liberation” (Garfield 2017, para. 19).

### **LGBT Rights 1996 – Present**

In the next 20 years, the LGBT community would continue to mobilize to make gains in the political arena. In the late 1990s and early 2000s, the movement shifted its focus to issues such as marriage equality, hate crime protections, and employment discrimination. In 1996, Republican-majority Congress passed the Defense of Marriage Act, a federal law, which defined marriage as a legal union “between one man and one woman” (Faderman 2015, 765). On September 10, 1996, the DOMA resolution “passed 85 to 14” and sent a strong message to gays and lesbians about the views of their elected officials (Faderman 2015, 566). On the same day, members of Congress defeated Employment Non-Discrimination Act (ENDA), which read, “the sexual orientation of an individual is not a consideration in the hiring, promoting, or terminating of an employee in my congressional office” in a 50 to 49 vote (Congressional Record as cited in Eaklor 2008, 216). While the measure was defeated, activists were encouraged that it was defeated by a very small margin. President Clinton signed Executive Order 11478 in 1998, which “prevented antigay discrimination in the federal government” (Eaklor 2008, 216). President Obama later amended Clinton’s Executive Order by adding protections based on gender identity. While Democratic administrations of President Clinton and Obama issued Executive Orders to protect LGBT people from employment discrimination, Congress still has not passed ENDA into

law. President Obama beseeched LGBT activists to “keep putting pressure on Congress to pass federal legislation that would solve this problem once and for all” (Obama as cited in Faderman 2015, 580).

LGBT activists lobbied to improve hate crime protections against LGBT people. The FBI defines a hate crime as a “criminal act against a person or property that is motivated in whole or in part by an offender’s bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity” (Federal Bureau of Investigation n.d., para. 4). Reported hate crimes “based on the sexual orientation of the victim had risen in 1998 to 1,488; and several had been murdered” (Faderman 2015, 555). However, these statistics did not receive widespread attention in the public until they were associated with the “innocent face of a young martyr” (Faderman 2015, 555). Hate crimes committed toward the LGBT community “received unprecedented attention” in 1998 when Matthew Shepard, “an openly gay student at the University of Wyoming, was brutally beaten by two men [who] were posing as gay and [he was] left tied to a fence outside Laramie” (Eaklor 2008, 216). Shepard died from the injuries he sustained on October 12, 1998. After his death, a bill that proposed, “enhanced sentencing” for those committing hate crimes would be introduced in Congress consistently throughout the late 1990s and 2000s, (Faderman 2015, 558). The bill would eventually pass in 2009 when the Democrats had majorities in the House and Senate. The legislation is also named for James Byrd Jr., an “African American who was brutally murdered by three white supremacists in Jasper, Texas” (Faderman 2015, 562). On October 28, 2009, President Obama signed the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act into law.

While LGBT activists fought to impact the legislative and executive agendas, it would be the judicial branch that would extend significant victories for the LGBT community in the 2000s.

For instance, the Supreme Court ruled in *Lawrence v. Texas* (2003) that sodomy laws were unconstitutional. The November after the *Lawrence* decision, the Supreme Court of Massachusetts ruled in *Goodridge v. Massachusetts Department of Public Health* that the state had not provided “any constitutionally adequate reason” for denying the right of marriage to same-sex couples (*Goodridge v. Massachusetts Department of Public Health* 2003). In the next six years, Vermont, New Hampshire, Connecticut, Iowa, and Washington, D.C. would also legalize same-sex marriage (Faderman 2015). In contrast, states like Arkansas, Georgia, Mississippi, Montana, Utah, North Dakota, Ohio, and Oregon passed laws that prevented same-sex couples from getting married (Eaklor 2008; Faderman 2015).

As time passed, 37 states would legalize same-sex marriage. In 2013, LGBT activists won a tremendous victory in the case, *United States v. Windsor* (2013) when the Supreme Court struck down the Defense of Marriage Act. Then two years later in *Obergefell v. Hodges* (2015), the Supreme Court extended the right of same-sex couples to marry in all 50 states. The *Obergefell* decision was a crowning achievement for the LGBT movement. Despite these legislative achievements, attempts to curtail LGBT rights have continued at the national party level. In July of 2016, the Republican National Committee adopted a platform that “repudiates same sex-marriage, [supports] ... states’ rights for determining which bathrooms transgendered people may use and defends...merchants who would deny service” to LGBT customers (*NYT* Editorial Board July 18, 2016, para. 5). If the GOP platform is any indication, there will continue to be political challenges to LGBT rights in the United States.

### **The Emergence of Rights to Free Speech and Religion**

In addition to civil rights protest, debates concerning civil liberties have been a significant factor in shaping the identity of the United States since the nation’s founding. In fact, codifying the

guarantee of civil liberties was necessary for the ratification of the U.S. Constitution. During the ratification process, states like “Virginia, New York, and North Carolina were reluctant to support the document” until Congress agreed to develop a bill of rights (Tedford and Herbeck 2005, 23). The First Congress began working on a bill of rights in 1789. During the debate, James Madison and Thomas Jefferson advocated for protections of free speech and religion. Madison worked with the House of Representatives to develop twelve amendments. The House stipulated that states would also be bound to observe the amendments. When the amendments passed the House, the Senate debated the provisions and passed all twelve; however, some senators believed that the Constitution “contained too many restrictions upon the states’ rights,” so the Senate did not force states to abide by the Bill of Rights (Tedford and Herbeck 2005, 23).

“By December of 1791, three-fourths of the states – the required number for ratification – had approved the ten of the twelve amendments in the Bill of Rights” (Tedford and Herbeck 2005, 23). The states did not ratify the amendment to limit the number of representatives in the House or the amendment that prevented Congress from “raising its salaries without an election intervening” (Tedford and Herbeck 2005, 24). Of the first 10 amendments to the Constitution, the First Amendment is arguably one of “the most cherished” and controversial American values. When the Bill of Rights completed the ratification process, the First Amendment read, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people to peaceably assemble, and to petition the Government for a redress of grievances” (U.S. Constit. Amend. I).

Protecting these civil liberties ensures that minorities have space in a society to communicate their grievances and gain support for their cause. The First Amendment, at least in

part, made the successes of the aforementioned rights-related movements possible. In addition to creating a democratic society that provides space for the freedom of expression, the First Amendment itself has been the cause of considerable collective action, congressional attention, and jurisprudence. The controversies surrounding the First Amendment began while America was still in its infancy with the passage of the Alien and Sedition Acts in 1798. The legal measure consisted of four acts, which extended the time period of residence required for citizenship; empowered the president with the authority to imprison or “expel any alien from the country who he believed to be dangerous;” and allowed for the punishment of “any false, scandalous and malicious writing against the government” (as cited in Tedford and Herbeck 2005, 25). From the time of its passage until World War I, the government “squashed the views of radical political groups, labor activists, religious sects, and other minorities” (Barbour and Wright 2011, 118). Despite the limitations placed on free speech during this time, citizens did not mount a collective response.

During World War I, Congress passed the Espionage Act in 1917, which “made it a crime to ‘willfully obstruct the recruiting or enlistment service of the United States’” (as cited in Barbour and Wright 2011, 119). One year later, in 1918, Congress added an amendment to the law that criminalized “any disloyal ... scurrilous, or abusive language about the form of government of the United States ... or any language intended to [bring the government] into contempt, scorn, contumely, or disrepute” (as cited in Barbour and Wright 2011, 119). As a result of the sedition laws, the government could imprison anyone suspected of criticizing the government. Some individuals who were arrested for violating the sedition laws petitioned the Supreme Court “to protect their freedom to criticize the government” (Barbour and Wright 2011, 119). In response, at least in part, to the passage of the Espionage Act, citizens formed the Civil

Liberties Bureau, which would be renamed the American Civil Liberties Union (ACLU) in 1920. Through institutional tactics of lobbying and litigation, leaders of the Civil Liberties Bureau argued that citizens should have the right to express opposition to the war.

Despite the efforts of the Civil Liberties Bureau, the Supreme Court upheld the Espionage Act in *Schenck v. United States* (1919). In the majority opinion in the *Schenck* case, Justice Oliver Wendell Holmes articulated the “clear and present danger test,” in which Holmes argued that the “character of every act depends upon the circumstances in which it is done...The most stringent protection of free speech would not protect a man in falsely shouting fire in a crowded theatre, and causing a panic” (Holmes as cited in Tedford and Herbeck 2005, 49). Despite the establishment of the clear and present danger test, it took time for the Supreme Court to adopt the measure as the bad tendency rule continued to be the standard most often used. Unlike the clear and present danger test, which took the context of speech into account, the bad tendency rule allowed the government “to stop speech before it has a chance to become effective” (Tedford and Herbeck 2005, 50). Thus, the bad tendency rule was a more restrictive legal remedy. The Supreme Court would continue using the bad tendency rule over the next five years to “punish political dissent” (Tedford and Herbeck 2005, 53).

The Supreme Court applied the same rationale to its decision in *Gitlow v. New York* (1925). Despite the ACLU’s defense of Gitlow, the Court affirmed the lower court’s decision to convict socialist, Benjamin Gitlow “for violating New York’s criminal anarchy law and criminal syndicalism laws” (Tedford and Herbeck 2005, 53). Gitlow “published and distributed” thousands of copies of his “‘Left Wing Manifesto’ that urged the establishment of socialism by strikes and class action” (Tedford and Herbeck 2005, 54). While the Court upheld the conviction and used well-established bad tendency rule, *Gitlow* was a landmark case. Justice Sanford, who

wrote for the majority, argued that the First Amendment should apply to the states (Tedford and Herbeck 2005). Justice Sanford wrote, “freedom of speech and of the press ... are among the fundamental personal rights and liberties protected by the due process clause of the [Fourteenth] Amendment from impairment by the states” (Sanford as cited in Tedford and Herbeck 2005, 54). Thus, following the decision in *Gitlow*, the states “would have to meet the standards of the First Amendment to the U.S. Constitution” (Tedford and Herbeck 2005, 54).

After *Gitlow*, the Supreme Court considered “each right on a case-by-case basis to see how fundamental it was” (Barbour and Wright 2011, 111). Justice Benjamin Cardozo called this process of applying the Bill of Rights to the states via the Due Process Clause of the Fourteenth Amendment “selective incorporation” (Barbour and Wright 2011, 111). The Supreme Court would continue applying parts of the First Amendment to the states. For instance, the Court applied the free exercise clause to the states in *Cantwell v. Connecticut* (1940). In this case, Jesse Cantwell and his son, both Jehovah Witnesses, visited homes in a “predominately Catholic neighborhood” to distribute materials about their religion and proselytize. When pedestrians heard an “anti-Roman Catholic message on the Cantwells’ portable phonograph,” residents called the police (*Cantwell v. Connecticut 1940*, para. 1). Police arrested the Cantwells “for violating a local ordinance requiring a permit for solicitation and for inciting a breach of the peace” (*Cantwell v. Connecticut 1940*, para. 1). In a unanimous decision, the Supreme Court ruled that “regulations on solicitation were legitimate, [but] restrictions based on religious grounds were not” (*Cantwell v. Connecticut 1940*, para. 3). The Court held that the local ordinance “allowed local officials to determine which causes were religious and which ones were not,” which violated the First and Fourteen Amendments of the Constitution (*Cantwell v. Connecticut 1940*, para. 3). In the majority opinion, Justice Owen Roberts wrote that the free

exercise of religion was “essential to the enlightened opinion ... on the part of citizens of a democracy” (Roberts and cited in Kersch 2003, 301).

The Supreme Court also incorporated the Establishment Clause and applied it to the states in *Everson v. Board of Education* (1947). The legal question, in this case, concerned whether a “New Jersey statute [violated] the Establishment Clause of the First Amendment as made applicable to the states via the Fourteenth Amendment” because Catholic school children qualified for a governmental transportation subsidy (*Everson v. Board of Education* 1947, para. 2). In an amicus curiae brief, the ACLU argued that using public money for this purpose would be a violation of the separation of church and state. However, the Court held that the statute was constitutional because of services like “bussing ... police, and fire protection for parochial schools are ‘separate and so indisputably marked off from the religious function’” that the state would not be in violation of the Constitution by providing these services (*Everson v. Board of Education* 1947, para. 2). As the Supreme Court continued to incorporate the Bill of Rights to the states, the institution allowed James Madison’s vision to prevail (Tedford and Herbeck 2005).

Despite the application of the Bill of Rights to the states, issues regarding freedom of speech would continue to cause controversy throughout the 1950s. During the Cold War, for instance, the government instated the McCarran Act of 1950, which “required members of the Communist Party to register with the U.S. attorney general” (Barbour and Wright 2011, 119). Also, Senator Joseph McCarthy established the House Un-American Activities Committee to “conduct investigations of American citizens to search out communists” (Barbour and Wright 2011, 119). Emboldened by the creation of this congressional committee, McCarthy and his associates accused many Americans of “being involved with communism,” which irreparably stained many citizens’ reputations and ruined their careers, “even if there was no evidence to

back up the claim” (Barbour and Wright 2011, 119). Some cases regarding the McCarran Act were appealed the Supreme Court, but the Court upheld the statute. Until the 1960s, citizens mainly relied on these institutional means to impact governmental outcomes.

### **Rights to Freedom of Speech and Religion 1960 – 1995**

In addition to citizens using the court system to protect their rights to freedom of expression, they also engaged in extra-institutional collective action in the 1960s. As the civil rights movement gained momentum, students at the University of California, Berkley were sowing the seeds of the free speech movement. The movement began in 1964 when students distributed leaflets about race relations and the Vietnam War on campus (Steffens 2004). College administrators at Berkley claimed that distributing the leaflets was against university policy, so they banned these activities (Steffens 2004). In response, the students led “a series of protests that became known as the Berkley Free Speech Movement” (Steffens 2004, 156). Leaders of the Berkley Free Speech Movement, including Mario Savio, had participated in the civil rights movement by bolstering African-American voter registration in Mississippi. Savio returned to Berkley as the administration banned leafleting. Savio and other undergraduates continued to set up tables and distribute leaflets in defiance of the university’s policy. The university suspended Savio and other students who distributed leaflets.

Savio invited other groups to campus, including the Congress for Racial Equality (CORE), the Student Nonviolent Coordinating Committee (SNCC), and Students for a Democratic Society (SDS), to set up tables and distribute literature. The Assistant Dean of Students asked leaders of these groups, such as Jack Weinberg of CORE, to leave. When Weinberg, a “veteran of the civil rights movement,” refused, he “went limp in standard civil disobedience mode” and authorities placed him in a car to be escorted to “security headquarters”

(Steffens 2004, 160). When other students witnessed police placing Weinberg in the car, they surrounded the vehicle and sang “We Shall Overcome” and chanted, “Let him go!” (Steffens 2004, 160). The students prevented the car from moving for thirty-two hours while the police and Weinberg “remained captive” (Steffens 2004, 160). The protest event ended with an agreement between the protestors and the administration to allow a group of faculty, students, and administrators to consider the status of the eight suspended students (Steffens 2004). Police released Weinberg, and no one pressed charges. The university reinstated six of the eight suspended students (Steffens 2004).

After the protest, a new student organization, the Free Speech Movement (FSM), formed, which included representation from many constituents on campus. Members of the FSM strategically included graduate students, who were “essential to the university’s functioning” (Steffens 2004, 161). When 200 graduate students set up tables and distributed leaflets, the university did not suspend them. Realizing their collective power on campus, the graduate students would eventually go on strike. In addition, members of the FSM organized a sit-in and invited Joan Baez to play music. Baez drew three thousand people to the demonstration. After the concert, students entered an administrative building to continue the sit-in. In the middle of the night, police entered the building to start removing students. It would take twelve hours to remove 773 protestors from the building (Steffens 2004). Police charged the protestors with trespassing and took them to county jail. At the time, it was the “largest mass arrest in California history” (Steffens 2004, 164).

Following the arrests, 800 faculty members gathered and collectively demanded that all “pending actions against the students be dropped” (Steffens 2004). They also decided “faculty committee would hear appeals from administrative disciplinary decisions connected with

political action” (Steffens 2004, 165). The faculty also argued that students should be allowed to engage in political activism. The California Board of Regents fired the university’s chancellor and made peace with the FSM. In the future, “students would be allowed to set up tables...receive donations, [and] distribute literature” (Steffens 2004, 168). The FSM at Berkeley gained national attention and highlighted the importance of free speech issues on college campuses. Congress even mentioned the events of the Berkeley Free Speech Movement in hearings. For instance, Edward S. Montgomery, a journalist, testified in a hearing, “In December 1964, the Free Speech Movement of the University of California in Berkeley virtually captured the university when these demonstrators practically took over” (Montgomery as cited in *Subversive Influences* 1968, 2088).

Throughout the latter half of the twentieth century, there continued to be controversies regarding freedom of speech. The ACLU continued its litigation efforts in cases involving freedom of expression. In 1968, for instance, the ACLU defended Charles Brandenburg, “a Ku Klux Klan leader who had been arrested under Ohio’s criminal syndicalism law” (Barbour and Wright 2011, 122). In *Brandenburg v. Ohio (1968)*, the Supreme Court ruled, “that abstract teaching of violence is not the same as incitement to violence” (Barbour and Wright 2011, 122). In the Majority Opinion, Douglas argued that, unless speech was linked to an “imminent lawless action,” it should be “immune from prosecution (as cited in Barbour and Wright 2011, 122).

In addition, the Supreme Court made several rulings regarding symbolic speech. For instance, in *United States v. O’Brien (1968)*, the Supreme Court ruled that “burning a draft card at a rally protesting the Vietnam War was not protected speech because the law against burning draft cards was not aimed at restricting expression and fulfilled an important government interest” (Barbour and Wright 2011, 122). However, just a year later in *Tinker v. Des Moines*

(1969), the ACLU represented Mary Beth Tinker, a thirteen-year-old student who wore a black armband to school to express opposition to the Vietnam War (Barbour and Wright 2011). Her junior high school demanded that she take off the armband, and the school sent her home when she refused to comply with the policy. The matter reached the Supreme Court in 1969, and the Court ruled that the school's policy violated students' constitutional rights to freedom of expression. In the Majority Opinion, Justice Fortas argued that there was not a sufficient governmental interest in suppressing the students' speech (Barbour and Wright 2011).

The ACLU also argued in favor of the constitutionality of burning the American flag - "one of the most divisive issues of symbolic speech" (Barbour and Wright 2011, 122). In *Texas v. Johnson* (1989), the ACLU defended Gregory Johnson's First Amendment right to burn the American flag since it "fell into the category of expressive conduct and had a distinctly political nature" (Texas v. Johnson 1989, para. 3). In the Majority Opinion, Justice Brennan argued, "[i]f there is a bedrock principle underlying the First Amendment, it is that the Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable" (Brennan as cited in *Texas v. Johnson* 1989, para. 3).

Throughout this period, the Supreme Court also heard several cases concerning religious freedom. For instance, in *Lemon v. Kurtzman* (1971), the Court developed the Lemon Test when it "struck down state programs in Rhode Island and Pennsylvania that subsidized the salaries of parochial school teachers" (Murray 2008, 96). According to the Lemon Test, a school must "reflect a clearly secular purpose; have the primary effect of neither advancing nor inhibiting religion; and avoid excessive government entanglement with religion" (as cited in Murray 2008, 96). Unless a school can meet all three criteria, "the Court may deem it unconstitutional" (Murray 2008, 96). The Supreme Court used the Lemon test in the case, *Allegheny v. American*

*Civil Liberties Union (1989)*, with the ACLU arguing that a nativity scene on the steps of the Allegheny County Courthouse violated the Establishment Clause of the First Amendment. The Court ruled in the ACLU's favor. The ACLU would continue lobbying and litigating matters involving the First Amendment in the late 1990s and into the next century.

### **Rights to Freedom of Speech and Religion 1996 – Present**

In the late 1990s, the emergence of the Internet had a tremendous impact on First Amendment issues. Unlike “traditional” mediums like “print and broadcasting,” average citizens can develop content, there are no established censors or editors, it is “not easily controlled,” and it is “not bound by physical limitations” (Tedford 2005, 400). With the rise of this new medium, the government developed policies to regulate it. In 1996, Congress passed the Telecommunications Act, which “included a provision known as the Communication Decency Act (CDA)” (Tedford 2005, 401). The CDA restricted “content ranging from ‘obscenity’ and child pornography to ‘indecent’ and discussion of abortion services” (Tedford 2005, 401). The ACLU argued that indecent content should not be censored since the term was “not defined in the law” (Tedford 2005, 401). “A special three-judge district court “entered a preliminary injunction” on the enforcement of the CDA and cited the vagueness of the term “indecent” (Tedford 2005, 401). The government appealed the case to the Supreme Court in *Reno v. ACLU (2000)*, and the Court upheld the injunction (Tedford 2005). The Court argued that the law would have a “chilling effect on free speech” (Tedford 2005, 403). Justice Stevens argued in the Majority Opinion “that the interest in encouraging freedom of expression in a democratic society outweighs any theoretical but unproven benefit of censorship” (Stevens as cited in Tedford 2005, 404). In this landmark case, “the Court held that Internet speech was entitled to the highest degree of First Amendment protection” (Tedford 2005, 403).

First Amendment issues regarding the Internet were salient in the early 2000s, but arguably none were more prominent than the issue of terrorism. On September 11, 2001, Al-Qaeda, a militant Islamist organization founded and led by Osama Bin Laden, hijacked four commercial airplanes. They flew two into the World Trade Center, one crashed into the Pentagon, and one crashed in a field in Shanksville, Pennsylvania. Approximately 3,000 died, making this the deadliest terrorist attack in American history (Kettl 2007). The attacks were a focusing event that directed the world's attention to issues concerning terrorism and national security. Suddenly, citizens felt vulnerable to attacks, when on September 10<sup>th</sup>, the public generally felt safe and largely unaware of the threat that existed.

The terrorist attacks of on September 11, 2001, culminated in a focusing event catapulting national security to the top of the political agenda and opening a window of opportunity for Congress to pass legislation. Following 9/11, American virtues of individual liberty and national security clashed dramatically. Policymakers proposed 450 bills and resolutions related to national security after the attacks and passed thirty-two new laws – most notably the controversial USA Patriot Act and the Homeland Security Act (Brewster & Stowers 2004; Birkland 2011; May et al. 2011). These pieces of legislation endowed law enforcement agencies with greater power and jurisdiction, allocated resources to combat bioterrorism, and strengthened cyber and aviation security (Brewster & Stowers 2004; Birkland 2011).

Passed into law on October 26, 2001, the USA Patriot Act allows for the “detention and deportation of noncitizens who provide ‘assistance’ for the lawful activities of a group that government now claims to be a terrorist organization” (Brewster & Stowers 2004, 3). Led by John Ashcroft, the U.S. Attorney General, advocates for the law argued that the federal government should have the authority to attain information on suspected terrorists. For instance,

they argued for the right to monitor telephone calls and emails, engage in wiretapping suspected terrorists, allow sneak-and-peek searches of homes without the occupants' knowledge, permit "roving surveillance" to observe the behavior and activities of suspects, and enhanced the government's ability to seize assets through forfeiture (Kettl 2007, 125). The law expanded the power of the federal government considerably, which led to concerns that the government would abuse their power and violate civil liberties, especially freedom of speech (Tedford 2005; Kettl 2007).

As opposed to "the Sedition Act of 1798 and the Espionage Acts of 1917 and 1918 – both of which criminalized speech that was critical of the government – the Patriot Act avoids a direct clash with the First Amendment" (Tedford 2005, 71-2). However, the government's increased surveillance of citizens' behavior could have a "chilling effect on free speech" (Tedford 2005, 72). Since the passage of the Patriot Act, groups like the ACLU have protested the government's growing surveillance apparatus. Citizens across the country gathered to protest the passage of the Patriot Act, and they have continued to organize as the government's surveillance efforts have strengthened. In addition to marching in protest to the Patriot Act, activists also engaged in online extra-institutional tactics. For instance, as Congress was debating whether to reauthorize the Patriot Act in 2015, activists blocked members of Congress "from viewing their [own] webpages in an online demonstration against data-collection provisions" of the legislation (Chuck 2015, para. 1). When members of Congress attempted to access their websites, the activists' software redirected them to the site, [blackoutCongress.org](http://blackoutCongress.org). The organization, Fight for the Future, organized the online protest.

Protest efforts increased when Edward Snowden, a former contractor for the CIA and NSA, leaked thousands of classified documents to demonstrate the scope of the government's

surveillance practices (Greenwald et. al, 2013). In response to the intelligence leaks, a coalition of around “100 public advocacy groups” such as the ACLU, “privacy group Electronic Frontier Foundation, Occupy Wall Street NYC, and the Libertarian Party” marched on Washington (Reuters 2013, para. 7). The government’s data gathering practices in the service of national security will likely remain a highly controversial topic in American politics for the foreseeable future.

## CHAPTER TWO

### LITERATURE REVIEW

While scholars have analyzed the relationship between social movements and policy change, they continue to grapple with the complexities of this association. The study of social movements in general is fraught with debates concerning *how* and *why* social movement activity arises in the first place. Before I delve into the complexities of social movement activity, I will first provide a definition of “social movement” and summarize foundational literature. Scholars typically define social movements as “conscious, concerted, and sustained efforts by ordinary people to change some aspect of their society by using extra-institutional means” (Goodwin & Jasper 2003, 3). Social movements consist of like-minded individuals who “share collective goals and engage in disruptive collective action” (Klandermans 1997, 2). Individuals who participate in social movements typically seek to incite a change within the broader political environment. Collective protest is typically used as a means of creating disruption and furthering the participants’ cause (Goodwin and Jasper 2003). By engaging in collective protest, participants hope to “use the news media to spread their message, ...change laws, policies, regulatory practices, administrative rules, and to avoid repression” (Goodwin and Jasper 2003, 222). A collective protest event occurs when the following three criteria are met: “more than one participant was present at the event; participants articulated a specific claim; and the event must have occurred in public or in meetings that were open to the public” (Olzak & Soule 2009, 204-205). While scholars have analyzed *how* and *why* social movement activity emerges in the political environment, (Tilly 1978; McAdam 1982; McAdam 1996 et al.; Tarrow 1998; Goldstone & Tilly 2001), there is a lack of scholarship that examines its influence on policy change.

## Social Movement Theory: Political Outcomes

The outcomes of social movements “have rarely been pulled together and systematically surveyed and theorized” (Giugni 1999, xv). Scholars who first began to study the outcomes of movements tended to evaluate collective action in terms of success and failure (Giugni 1999). For instance, Gamson’s *Strategy of Social Protest* argued that it was rational for participants to engage in collective action if the movement was successful (Gamson 1975). However, he acknowledged, “success is an elusive idea” (Gamson 1975, 28). He contended that internal factors within a movement, such as participants’ tactics, goals, and level of cohesiveness, could affect the group’s ability to achieve success (Gamson 1975). Gamson attempted to operationalize concepts including “success” and “failure” in the hopes of garnering a greater degree of objectivity in his research (Gamson 1975).

While Gamson’s study was groundbreaking at the time, his notions of success and failure were ambiguous and subjective. According to Gamson, successful outcomes:

fall into two basic clusters ... the first cluster focuses on the *acceptance* of a challenging group by its antagonists as a valid spokesperson for a legitimate set of interests... The second cluster focuses on whether the group’s beneficiary gains *new advantages* during the challenge and its aftermath (Gamson 1975, 28-29, emphasis in original).

Gamson combined these clusters and outlined four potential outcomes of a challenge: “full response, preemption, co-optation, and collapse” (Gamson 1975, 29). While Gamson sought to operationalize the notion of success, “this typology is not fully exploited in the empirical analyses [since it] was confined to the two-fold distinction between acceptance and new advantages” (Guigni 2004, 29). While Gamson’s study provided the foundation for this branch of literature, scholars have criticized it as being “subjective” because “movement participants and external observers may have different perceptions of what counts as ‘success’” (Guigni

2004, 29). Also, one group may judge an event as a success and another group may view it as a failure (Guigni 2004).

Piven and Cloward also studied social movement outcomes in terms of success and failure in *Poor People's Movements: Why They Succeed and How They Fail*. Their analyses of four case studies of “poor people’s movements,” sparked a debate among scholars regarding the role of formal organization in protest movements. Instead of formal organizations mobilizing mass participation, they argued that these entities actually inhibited protest activity in “poor people’s movements” relating to causes such as welfare and civil rights. Piven and Cloward argued that leaders were too “preoccupied with trying to build and sustain embryonic formal organizations,” when they should have been actively engaging the masses in protest (Piven and Cloward 1979, xii). For instance, “when workers erupted in strikes, organizers collected dues cards; when people were burning and looting, organizers used that ‘moment of madness’ to draft a constitution” (Piven and Cloward 1979, xii). Piven and Cloward argued that influences in the larger external political environment accounted for movement success or failure – not internal factors such as organizational strength. A political environment that is conducive to change is “represented by the government and by a coalition of liberal support organizations” (Guigni 2004, 28; Piven and Cloward 1979). Specifically, Piven and Cloward argued, “under conditions of severe electoral instability, the alliance of public and private power is sometimes weakened, if only briefly, and at these times a defiant poor may make gains” (Piven and Cloward 1979, 30).

As was the case with Gamson’s study, Piven and Cloward’s conceptualizations of success and failure were quite vague. One may assume that “mak[ing] gains” refers to movements advancing toward objectives, but Piven and Cloward do not provide sufficient clarification. Analyses that focus on success or failure can be quite problematic since “such a

perspective assumes that movements are homogenous; hence, it tends to attribute success or failure to an entire movement” (Giugni 2004, 29). There can also be a great deal of conflict within a movement concerning its direction and broader goals. These scholars’ early works would have profited from a greater degree of specificity.

Scholars who subsequently referred to the success/failure dichotomy were generally more explicit in their treatment of it. For instance, Lee Ann Banaszak examined why the United States Women’s Suffrage Movement succeeded 70 years before the Swiss Movement. Her presentation of the success/failure dichotomy was quite different than that in previous studies because she explicitly defined success and failure. Specifically, she defined success as passing national women’s suffrage legislation, and she considered failure to be the absence of such legislation (Banaszak 1996). Banaszak argued that American suffragists were the first to “succeed” because they shared values and beliefs that prompted them to adopt more confrontational and effective strategies than Swiss suffragists (Banaszak 1996). Banaszak (1996) used a mixed methods approach to explore her research question. She engaged in a comparative case research design and used data garnered from interviews with movement participants as well as quantitative data. Her statistical analysis and use of in-depth interviews highlighted causal factors that may have been overlooked had she used only statistical analysis.

While Banaszak’s analysis would profit from stronger empirical support concerning activists’ shared values and the roles of women in American and Swiss cultures, her use of the success/failure dichotomy is more effective than her predecessors. These scholars could have been more explicit in their appraisal of success/failure or suffered from a lack sufficient empirical support, but they provided a theoretical foundation and engaged in methodological

innovation that would inform other scholars who sought to examine the impact of social movements on policy outcomes.

These early works provided the framework for scholars to examine the impact of social movements on policy outcomes. Scholars began to study the effects of movements on policy as opposed to the broader idea of “movement success” (Giugni 1999). Analyses that focus on success or failure can be quite problematic since “such a perspective assumes that movements are homogenous; hence, it tends to attribute success or failure to an entire movement” (Giugni 2004, 29). Internal participants and external observers could have different ideas concerning what constitutes success (Giugni 1999). There can also be a great deal of conflict within a movement concerning its direction and broader goals. Since assessing notions of success can be problematic, scholars began to focus on policy outcomes.

### **Social Movement Theory: Political Opportunity Structures**

To explain variations in protest activity and policy outcomes, scholars have typically used political opportunity theory. Scholars who use political opportunity theory argue that movements can “induce social change when confronted with a political opportunity structure” (Giugni, McAdam, and Tilly 1999, xix). According to Tarrow (1994), “political opportunity structures (POS) are consistent dimensions of the political environment that provide incentives for people to undertake collective action by affecting their expectations for success or failure” (Tarrow 1994, 85). POS theory essentially “[highlights] contextual factors that condition the behavior of” people who seek to make political change (Nownes 2004, 51). As a result, social movements emerge “when expanding opportunities are seized by people who are formally or informally organized, aggrieved, and optimistic that they can successfully redress their concerns” (Goodwin & Jasper 2003, 17). Political opportunity structures offer a “set of clues for when contentious

politics will emerge, setting in motion a chain of causation that may ultimately lead to sustained interaction with authorities ... and trigger social networks and collective identities into action” (Tarrow 1994, 20).

Charles Tilly laid the foundation for political opportunity theory in his 1978 classic, *From Mobilization to Revolution*. Tilly offered a “polity model” for the analysis of collective action from which he identified a set of conditions that facilitated mobilization (Tilly 1978). In a later work, Tilly argued that the development of national social movements tended to occur concomitantly with the rise of consolidated national states (Tilly 1979). Tilly’s structural model demonstrated that scholars should study movements in connection with politics. From Tilly’s foundational work, Doug McAdam built the political process model of social movement mobilization by following the progress of the Civil Rights Movement (McAdam 1982). He then assessed its impact on organizational, political, and social change (McAdam 1982). In *Political Process and the Development of the Black Insurgency*, McAdam provided an empirical analysis of the emergence of the black insurgency from 1876-1970. He argued that the movement emerged due to the growth of political opportunities from 1930-1954, the growth of political efficacy among the black population, and the development of three institutions: churches, colleges, and the NAACP (McAdam 1982). McAdam developed this relatively new framework into a robust theoretical model that enhanced scholars’ understanding of protest emergence.

While researchers have typically used political opportunity theory to explain the emergence of collective protest (Tilly 1978; Tilly 1979; McAdam 1982; McAdam 1996 et al.; Tarrow 1998; Goldstone & Tilly 2001), some scholars have argued that the theory should also be used to understand policy outcomes (Jenkins and Perrow 1977; Kitschelt 1986; Giugni 2004; Kolb 2007; Soule and Olzak 2009; Soule 2009). For instance, in *Social Protest and Policy*

*Change*, Giugni (2004) studied the interplay of protest and political opportunity structures on political outcomes. He compared three movements – the ecology, antinuclear, and peace movements – to determine what, if any, impacts they had on policy changes. Giugni identified opportunity structures that existed within the social and political environments in which these movements took place. He argued that movements were more likely to be successful if there were favorable political opportunity structures, institutional elites who support the cause, and public opinion in favor of the movements' goals (Giugni 2004). He engaged in protest event analysis and examined time series data from 1975 to 1999 to measure movement mobilization. Giugni found that movements acting within a domestic policy arena tend to be more effective in affecting change. In contrast, movements involving national security issues and war are less likely to impact policy changes. Throughout the course of his analysis, he examined movements' historical context, which strengthened his discussion with regard to political opportunities within the external environment (Giugni 2004). However, his conception of policy is too narrow since he primarily focused on state spending. Assessing policy outcomes in terms of spending provides only a limited perspective of state activity. Despite this limitation, Giugni's study broadened empirical and theoretical knowledge concerning the effects of protest activity.

Felix Kolb also engaged in this line of inquiry when he utilized a mixed methods design to analyze the causes and political outcomes of the American Civil Rights Movement and anti-nuclear energy protests in eighteen countries. In his analysis of the anti-nuclear movement, he found that the "impact of political opportunities is ... sometimes mediated by other political opportunities" (Kolb 2007, 237). For instance, Kolb (2007) argued that a significant change in nuclear policy that occurred in the period before 1986 "was obtained through sustained mobilization and different configurations of opportunities within the environment [such as]

situations of intense elite conflict [and] an open political structure” (Kolb 2007, 237). Kolb’s analysis suggests that there is often a complex system of opportunities that interact and shift to allow movement participants to gain political strength.

Kolb also sought to develop a general theoretical framework for understanding the causal dynamic between social movements and policy change; however, his analysis reached a high level of abstraction that lacks clarity. He does not define basic concepts such as “social movements.” He is also vague when explaining how social movements produce political change (Kolb 2007, 2). Kolb’s lack of specificity highlights a broader problem within the literature. In his attempt to develop a generalizable theory, he is too abstract in his explanations.

Some research in this field also highlights the difficulty of establishing causal relationships. Establishing a “causal link between a given movement and an observed change is probably the main difficulty scholars have encountered” when assessing the impact of social movement activity on policy change (Giugni 1999 et al., xxiv). Sarah Soule’s *Contention and Corporate Social Responsibility* encountered this issue. Soule focused her analysis on anti-corporate activism and studied its origins and impacts on businesses’ behavior. Throughout her study, she explored the factors that explained why anti-corporate activists succeeded or failed to achieve their goals. Soule also examined political opportunity structures that exist at transnational, domestic, and corporate levels of the “the broader external environment” (Soule 2009, 150). She utilized the *Dynamics of Collective Action* dataset consisting of *New York Times* articles that documented protest events from 1960 through 1990. In addition, Soule examined six cases in the post-1990 period to chronicle the factors and processes that impacted movements’ success or failure (Soule 2009). Based on her mixed methods investigation, she concluded that anti-corporate activism does influence the actions of corporations. However, her general

conclusion that corporations pay attention to activists and heed their advice was too optimistic and overstated. While Soule could point to specific instances in which activism appeared to impact corporate behavior and identified factors that could influence outcomes, she could not establish causality. Her research would profit from including a more robust and nuanced measure of anti-corporate activism's impact on corporations' behavior. Soule's work highlights the difficulty with establishing causality, which is prevalent in the broader social movement literature. Her work also illustrates the utility of a mixed methods approach. Her case studies complimented her statistical findings and highlighted relevant processes that may have been neglected otherwise.

Soule also used political opportunity theory in her 2004 article with Susan Olzak to study the impact of "social movement organizations, public opinion, and political party support" on the ratification process of the Equal Rights Amendment (Soule and Olzak 2004, 473). They used "a quantitative longitudinal panel research design [to] investigate how state-level characteristics of political and gendered opportunity, public opinion, and social movement organizations on both sides of the ERA debate affected the rate of ratification of the ERA in the 1972-1982 period" (Soule and Olzak 2004, 474). In their study, they argued that conditions for ratification were favorable when Democrats occupied elected office. They cited a 1986 study by Mansbridge, which indicated that across the country in the late 1970s, "62% of Democrats and 42% of Republicans favored the ERA" (Soule and Olzak 2004, 480). Soule and Olzak (2004) found that the presence of "anti-ERA organizations decreased the rate of ratification and, second, the effect of these organization intensified when there were more Republicans in the state legislature" (Soule and Olzak 2004, 492). They also found a "direct positive effect of Pro-ERA movement

organizational strength on ERA ratification rates; [and they also found] that the presence of elite allies [in state legislatures] amplified this effect” (Soule and Olzak 2004, 492).

Soule and Olzak continued exploring these connections in a 2009 study. They examined the impact of environmental protests on related congressional hearings and pro-environmental legislation from 1961 through 1990. In their research, they argued that shifting “political opportunities available to challenging groups provides encouragement to protestors *and* increases the odds that desired policy changes will occur” (emphasis in original, Olzak and Soule 2009, 203). They also contended that expanding political opportunities affect “protest activity and agenda-setting” (Olzak and Soule 2009, 203). Olzak and Soule found that “protest activity and the likelihood of its success [will] increase as political opportunities become available” (Olzak and Soule 2009, 203). They distinguished between extra-institutional and institutional forms of protest activity in their analysis to see if disruptive tactics (demonstrations, rallies, marches, vigils, riots, etc.) had a greater impact on Congress as opposed to institutional tactics (such as letter-writing, lawsuits, petitioning, etc.) They examined partisan characteristics of Congress and the Presidency to measure the degree of political opportunity. Olzak and Soule cited other scholars who found that “Democrats were significantly more approving of pro-environmental legislation than were Republicans or Independents” (Olzak and Soule 2009, 208; Agnone 2004; Giugni 2007). From their analysis, they found that institutional forms of protest had the most substantial impact on congressional hearings. While they did not find a significant relationship between partisan characteristics and hearings, they did see that rates of environmental legislation increased when Democrats were in power.

In the context of rights-related movements, I expect political opportunities to expand when Democrats control Congress and/or the Presidency. Previous literature has indicated that

Democrats tend to be more receptive to holding congressional hearings and more open to voting for legislation favoring minority rights-related causes than Republicans (Carmines and Stimson 1986; Poole and Rosenthal 1997; Gillion 2012). For instance, Carmines and Stimson (1986) examined “racial liberalism and conservatism” in the House and Senate from the 1950s till the 1970s (Carmines and Stimson 1986, 84). They found that the 1958 Senate election “ended the pattern of greater Republican liberalism” on civil rights (Carmines and Stimson 1986, 83). Carmines and Stimson (1986) argued that the “hard core of northern liberalism was sufficiently large and sufficiently liberal that it counterbalanced the traditional southern contingent” (Carmines and Stimson 1986, 83).

Also, in the 1964 Senate elections, “American voters clearly perceived the Democratic Party as more liberal on [minority] issues than Republicans” (Carmines and Stimson 1986). In the 1964 Senate race, “racially liberal Republicans (Beall of Maryland and Keating of New York) [were] replaced by highly visibly liberal Democrats (Joseph Tydings and Robert Kennedy). Republican gains were small and uniformly conservative (including J. Strom Thurmond of South Carolina who switched parties)” (Carmines and Stimson 1986, 83). The 1964 Senate election “gave increasing visibility to the Democratic left” and pushed the Republican Party farther to the right on minority issues (Carmines and Stimson 1986, 83). In all, they found that the 1958 and 1964 Senate elections “produced an issue realignment in Senate voting” (Carmines and Stimson 1986, 84). This issue realignment continued in the 1970s as “segregationist stalwarts” departed Congress and were replaced by moderates “from a mold closer to Jimmy Carter than to the old breed” (Carmines and Stimson 1986, 85). The “newly elected southern Democrats ... [were] more liberal in racial voting than southern Republicans” (Carmines and Stimson 1986, 85). Carmines and Stimson found that “Republicanism moved to

the heart of the south and [became] the uniformly conservative choice on desegregation” (Carmines and Stimson 1986).

Carmines and Stimson also examined this issue realignment in the House of Representatives. In their 1986 study, they found that an issue realignment began in the House in the 1964 election, which “produced a large group of northern liberal Democrats” who were elected “at the expense of liberal Republicanism” (Carmines and Stimson 1986, 88). Several months before the election, the President Johnson signed the Civil Rights Act into law. According to Carmines and Stimson (1986), “of the House Republicans who did not return [to Congress], roughly two of every three had voted for the strong House version of the Civil Rights Act” (Carmines and Stimson 1986, 88). The 1964 elections “began the process ... of purging Lincolnism from the G.O.P.” (Carmines and Stimson 1986, 88). President Johnson’s “landslide victory” in the 1964 Presidential Election may have also, at least in part, facilitated the election of Democrats who were liberal on the issue of race.

In addition, Poole and Rosenthal (1997) studied roll call voting in the House and Senate over the course of a 200-year period. They found that the civil rights legislation of the early 1960s impacted subsequent elections as many white southerners aligned with the Republican Party (Poole and Rosenthal 1997). Over the next 9 elections following 1964, they also found that “newly elected Southern Democrats were to the left of existing Southern Democrats” on minority issues (Poole and Rosenthal 1997, 80). Likewise, newly-elected Republicans were more conservative than existing Republicans on civil rights issues (Poole and Rosenthal 1997).

Furthermore, Gillion (2012) argued that the Democratic Party “emerged from the civil rights era as a unified front in support of minority concerns” (Gillion 2012, 959). As a result, “a vast majority of African Americans, Latinos, and Asian Americans have voted heavily

Democratic, and minorities now comprise the party's permanent base" (Gillion 2012, 959). In his examination of "district level minority protest actions to individual roll-call votes on race," Gillion found that Democratic representatives were "twice as likely to be attentive" to political protest regarding minority issues (Gillion 2012, 959). He also found that politicians who see a greater number of minority protests are more likely to "vote in the liberal direction on minority issues" (Gillion 2012, 957). For instance, Representative John Pilcher, a Democratic member of Congress from Georgia, witnessed 50 minority protests over two years, and Gillion (2012) found that Pilcher was "5 percent more likely to vote in the liberal direction on minority issues when compared to others in the 87<sup>th</sup> Congress" (Gillion 2012, 957). Upon considering these studies, I expect to see increased levels of rights-related protest activity and congressional hearings concerning rights-related issues when Democrats control Congress and the Presidency.

### **Agenda-setting Theory**

In addition to assessing whether political opportunity theory explains how the political context can affect protest activity and the legislative process, I will focus on the agenda-setting stage of policy change. Kingdon argues that "public policy is the result of at least four processes: 1) the setting of the agenda; 2) the specification of alternatives (a set of solutions); 3) policy formulation; and 4) policy implementation" (Kingdon 1995, 3). In *Agendas, Alternatives, and Public Policies*, Kingdon focuses primarily on the first two processes and utilizes a streams metaphor to explain how "groups can pursue strategies to gain attention for issues, thereby advancing them on the agenda" (Birkland 2011, 178). In studies of policy change, researchers focus on "the positions that legislators take on roll call votes, which are generally interpreted as manifestations of their underlying ideological preferences" (Sulkin 2005, 7). However, other scholars have shown that the effect of protest activity is "stronger at the agenda-setting stage of

the policy process” than in final stages of policymaking (Olzak and Soule 2009, 204; Soule and King 2006; King, Bentele, and Soule 2007). Kingdon defines an agenda as “the list of subjects or problems to which government officials, and people outside of government closely associated with those officials, are paying some serious attention at any given time” (Kingdon 1995, 3). He distinguishes between a governmental agenda, “which is the list of subjects that are getting attention,” and the decision agenda, “or the list of subjects within the governmental agenda that are up for an active decision” (Kingdon 1995, 4).

Since there is finite space on the agenda, issues compete for attention. Limitations of agenda space are a function of human beings’ limited attention capacity, which prevents them from dealing with all issues at once (Zaller 1992; Ariley 2008). Herbert Simon referred to humans’ limited ability to process information as “the bottleneck of attention” (Simon 1985, 301). Since agenda space is finite, issues can cycle on and off the agenda depending upon their degree of salience among policymakers and the public at large (Kingdon 1995; Downs 1972). When an issue is salient and occupies space on the agenda, Kingdon claims that issue initiators are in a better position to make policy change.

The process of agenda-setting includes “framing policymaking debates, educating lawmakers, and bringing attention and salience to issues that might otherwise be ignored” (King, Bentele, and Soule 2007, 138; Kingdon 1995; Baumgartner and Jones 2009). Agenda-setting scholarship “is rooted in the perspective that all conflicts are potentially expansive” (Cobb and Ross 1997, 4; Schattschneider 1960). As an issue expands, “the nature of the conflict, the key actors, and the definition of significant issues change, and new dimensions are added” (Cobb and Ross 1997, 5). As a result of expanding “the scope of conflict,” the issue may appear to be quite different from its original articulation (Schattschneider 1960, 16). In addition to studying the

scope of an issue, agenda-setting scholarship examines the “intensity (strength of commitment to a particular issue) and visibility (public awareness of the dispute)” that issues rally (Cobb and Ross 1997, 5). Individuals who seek to place an issue on the governmental (and ultimately the formal) agenda must persuade elected officials that their grievances merit attention. Individuals and groups look to elected officials to provide legislative assistance and to confer legitimacy to their cause (Cobb and Ross 1997, 17).

King, Bentele, and Soule (2007) examined the impact of protest activity on the agenda-setting phase of the policy cycle from 1960 through 1986. In their study, they identified 13 rights-related issues: “abortion rights, elderly rights, freedom of speech, gay and lesbian rights, gender-related rights, disability rights, human rights, immigration rights, prisoners’ rights, privacy rights, race-related rights, tenants’ rights, and victims’ rights” (King et al. 2007, 144-145). They found that “protest, issue legitimacy, and issue competition account for variation in the number of congressional hearings granted to rights issues” King et al. 2007, 137). By measuring issue competition, King et al. (2007) found that “protest events compete for congressional attention and when more protest is devoted to a particular rights issues relative to protests on all other issues, they garner more attention” from Congress (King et al. 2007, 153).

For instance, King et al. (2007) found that “Congress was more likely to hold hearings related to rights issues around which there was an above average number of protests in the same year. Issues for which there was an above average number of protests experienced a 70 percent increase in the expected hearing count (an annual increase of .56 hearings)” (King et al. 2007, 149). They argue that protest is a “disruptive force” and “brings issues to the attention of lawmakers that were previously ignored and helps to carve out a space for those issues in the legislative hearing space” (King et al. 2007, 153).

Johnson, Agnone, and McCarthy continued examining this relationship in their 2010 study. They used the U.S. environmental movement as a test case and examine how social movement activity and the political climate “differentially affect the agenda-setting and law passage stages of the legislative process” (Johnson et al. 2010, 2268). They found that protest activity is “more consequential at earlier stages of the policy process” than at the final stage of law passage (Johnson et al. 2010, 2284). Johnson et al. (2010) also found that protest activity has a stronger impact on the congressional agenda in “a favorable political climate” when a greater number of Democrats occupied elected office (Johnson et al. 2010, 2284). These studies demonstrate that protest does, indeed, have an effect on the agenda-setting phase of the policy process.

### **Agenda-setting Theory: Problem Definition**

Kingdon (2011) recognized the impact of contextual factors on agenda-setting. He argued that policy entrepreneurs who “invest their resources - time, energy, reputation, and sometimes money – in the hope of a future return” identify “windows of opportunity” for change (Kingdon 1995, 122, 194). A window of opportunity opens when “the separate streams of problems, policies, and politics” converge (Kingdon 1995, 201). In the problem stream, in which policy entrepreneurs transform grievances into policy issues, affected groups must demonstrate that an issue is a problem and not merely a condition (Kingdon 2011). There are a plethora of conditions that the human race must endure such as “bad weather, unavoidable or untreatable illnesses, pestilence, [and] poverty” (Kingdon 2011, 109). While conditions are unpleasant realities of life, they cannot be eradicated from human experience.

In contrast, people identify problems when they believe that a condition is “caused by human actions and amenable to human intervention” (Stone 1989, 281). Problems can be

“remedied through government action” (Houston and Richardson 2000, 486). Scholars of public policy have defined a problem definition as the “process of characterizing problems in the political arena” (Rochefort and Cobb 1994, 4). Political actors who want to move an issue from a condition to a problem in the eyes of the public and policymakers must significantly alter the way an issue is perceived. These “issue initiators” who often have fewer resources than their opponents, “face the task of persuading [the] government to act when there is already a predisposition to do nothing” (Cobb and Ross 1997, 218). In the literature, “issue initiators” are often referred to as policy entrepreneurs. In the context of this study, I use these terms to refer to activists. These individuals connect “a problem to a solution and [forge] alliances among disparate actors to build a majority coalition” (Kingdon 2011, 122; Layzer 1996, 19). Kingdon referred to the process of proposing solutions to political problems as “the policy stream” (Kingdon 2011, 200).

The process of defining a situation as a problem relies heavily on “causal ideas” (Stone 1989, 282). Stone argued, “problem definition is a process of image making, where the images have to do fundamentally with attributing cause, blame, and responsibility” (Stone 1989, 282). As Gusfield stated, “human problems do not spring up, full-blown and announced, into the consciousness of bystanders” (Gusfield 1981, 3). In the telling of a causal argument, political actors use “narrative storylines and symbolic devices to manipulate so-called issue characteristics,” but they portray these stories as if they are “facts” (Stone 1989, 282). To support their causal story, they “utilize key statistics and descriptions of relevant events ... as evidence to empirically demonstrate the perceived condition” (Houston and Richardson 2000, 486).

These observations are not interpreted in a purely objective manner; they are filtered through individuals’ existing ideas and value systems. In the course of allocating blame, problem

definitions also provide solutions, which logically flow from the causal argument (Houston and Richardson 2000). Actors who are attempting to draw attention to the problem often utilize values and symbols to garner support “and persuade others to accept the basic assumptions of the problem definition” (Houston and Richardson 2000, 486). According to Stone, “symbolic representation is the essence of problem definition in politics” (Stone 1997, 137 as cited in Houston and Richardson 2000, 486). Taken together, “cultural values, interest group advocacy, scientific information, and professional advice all” aid in the construction of a problem definition (Rochefort and Cobb 1994, 4).

Cobb and Ross (1997) examined the construction of problem definitions and the ways in which grievances are activated in the populace (Cobb and Ross 1997). They argued that agenda conflicts address the issue of grievance activation at two levels. At one level, they look at whether or not the government “takes an issue seriously” (Cobb and Ross 1997, 12). When examining the level of attention that the government dedicates to an issue, Cobb and Ross “emphasize how proponents and opponents of policy innovation are motivated by rational self-interest, meaning that actors pursue objective interests to achieve concrete gains to maintain or improve their position in society” (Cobb and Ross 1997, 12). The idea that rational self-interest motivates political actors is a cornerstone of political behavior inquiry.

Rational choice theory has been a dominant feature of American politics since Downs published his classic work, *An Economic Theory of Democracy* in 1957. Downs utilized “an economic definition of [the term] rational” as attaining the greatest benefit for the lowest cost (Downs 1957, 5). He based his study on an assumption that humans are rational actors who pursue goals (Downs 1957). Downs also assumed that “these goals reflect the actors’ perceived self-interests, [and] their behavior results from conscious choice” (Monroe 1991, 78). Achieving

goals that are in their self-interest motivates individuals' behavior. When weighing alternatives, a rational actor "ranks all the alternatives facing him in order of his preferences in such a way that each is either preferred, indifferent to, or inferior to each other" (Downs 1957, 6). In addition, the actor's preference ordering is transitive, and he "always chooses...the alternatives that rank highest in his preference ordering" (Downs 1957, 6). According to Downs, individuals conduct a cost/benefit analysis of each alternative and select the option that provides them with the greatest utility for the smallest cost.

### **Links to Social Movement Theory**

In the context of social movement theory, Olson continued Downs' rationalist tradition. He advanced the notion that rational individuals could lower their costs and "free-ride on the efforts of individuals whose interest in the collective good is strong enough to pursue it" (Tarrow 1998, 15). To overcome the free-rider problem and stimulate participation, leaders must "either impose constraints on their members or provide them with 'selective incentives' to convince them that participation is worthwhile" (Tarrow 1998, 15). These selective incentives were typically materialistic in nature.

Olson also acknowledged that people are generally more compelled to free-ride in large groups as opposed to smaller associations because there is less accountability (Olson 1965). Consequently, leaders should be more apt to provide selective incentives to lower individuals' costs and increase benefits to stimulate involvement. Since Olson "limited motivation for collective action to selective and material incentives," his theory could not be reconciled with individuals' mass participation "in the movement cycle of the 1960s" (Tarrow 1998, 16). Olson's limited rationalist perspective "ignored the thousands of people who were striking,

marching, rioting, and demonstrating ... on behalf of interests other than their own” (McAdam et al. 2009, 268).

While rational choice tends to be the principal theoretical perspective applied to political decision-making, its “definition of motivation is too limited” (Cobb and Ross 1997, 12). Cobb and Ross argue that agenda conflicts also involve differing “interpretations of political problems connected to competing worldviews” (Cobb and Ross 1997, 13). One’s worldview can significantly impact how one views the role of government in protecting the environment, national security, public health, and the economy. Cobb and Ross claim that analyzing agenda conflicts at this second level must consider how issue initiators and its opponents link issues with general worldviews (Cobb and Ross 1997).

Issue initiators “demonstrate that although the specific grievance they raise is new, acting on it is consistent with many long-standing values; opponents emphasize new issues as a threat to core elements of widely-held worldviews” (Cobb and Ross 1997, 13). While the first level examines the role of rational self-interest, the second level concerns “cultural and symbolic factors” (Cobb and Ross 1997, 13). So instead of focusing on questions related to whether “the distribution of resources to different individuals and groups is equitable...the focus becomes how various groups perceive the fairness of resource distribution and how they interpret it in terms of group identity” (Cobb and Ross 1997, 13). Cobb and Ross argued, “when issues are tied to culturally salient ideas about identity, the structure of the conflict and the ways in which it develops goes beyond simple self-interest, as individual and collective action become linked” (Cobb and Ross 1997, 13). Factors like social identity are vital to gaining a complete understanding of human motivation in collective action engagement. Since rational choice does not account for these phenomena, the theory as a whole is incomplete.

## Social Identity Theory

Scholars have applied social identity theory to the study of social movement participation and agenda conflicts because it sheds light on the “interconnection between social identity (on individual and group levels) and collective action in the political arena” (Korostelina 2007, 23). Scholars who study social psychology are “concerned with the intersection between individual behavior and societal-institutional processes” (Kelman 1965, 22). Social psychologists assume “that an individual living through specific experiences with other members of a group or groups will construct, in part, his or her own world based on these experiences” (Lana 1991, 122-123). Individuals’ interactions with groups essentially provide “the context in which one fashions one’s social reality” (Lana 1991, 123).

Social identity theory stems from this perspective. Identification occurs when “an individual accepts influence from another person or a group to maintain a satisfying self-defining relationship to the other” (Hamilton 2004, 66). By accepting this influence, the individual is “able to see himself as similar to the other” (Hamilton 2004, 66). Scholars define social identity as “that *part* of the individuals’ self-concept which derives from their knowledge of that membership of a social group (or groups) together with the value and emotional significance attached to that membership” (Tajfel 1982, 2). With the limited scope of social identity in mind, the theory relies on a set of general assumptions.

One assumption states, “individuals strive to maintain or enhance their self-esteem: they strive for a positive self-concept” (Tajfel & Turner 1979, 40). Scholars who utilize the theory also assume that “social groups or categories and their membership of them are associated with positive or negative value connotations” (Tajfel & Turner 1979, 40). Positive social identity is largely based on “favorable comparisons that can be made between [an] in-group and [an] out-

group” (Tajfel & Turner 1979, 40). Scholars also assume that “the evaluations of one’s own group is determined with reference to specific groups through social comparisons in terms of value-laden attributes and characteristics” (Tajfel & Turner 1979, 40). In other words, people will attempt to leave a group when their social identity is “unsatisfactory” and join a more “positively distinct” group (Tajfel & Turner 1979, 40). Groups essentially strive to achieve superiority over out-groups, which can generate contention between them. In the context of social movement activity and its impact on the agenda, groups compete for members, political and social power, and legitimacy to support their cause. They view themselves as a collective entity and may even feel a sense of moral superiority over other groups that do not support their mission.

In addition, scholars tend to conceptualize a group as “a collection of individuals who perceive themselves to be members of the same social category, share some emotional involvement in this common definition of themselves, and achieve some consensus about the evaluation of their group and of their membership in it” (Tajfel & Turner 1979, 40). In social movements, people tend to gravitate toward groups “in part to have the support of like-minded people – to make and keep friends” (Mansbridge 2003, 149). Also, members engage in interpersonal interaction to cultivate collective beliefs and attitudes. Constructing collective beliefs “depends on the existence of a social identity” (Klandermans 1997, 5). Because individuals identify with a specific group of people, they “may willingly adopt the beliefs and norms that define that group” (Klandermans 1997, 5). Thus, an analysis of the construction of collective beliefs “inevitably involves the study of [social] identity” (Klandermans 1997, 5).

Also known as an “action system,” a social identity “is an interactive and shared definition produced by several interacting individuals who are concerned with the orientations of

their action as well as the field of opportunities and constraints in which their action takes place” (Melucci 1989, 34). Creating a social identity involves three dimensions:

first, formulating cognitive frameworks concerning the goals, means, and environment of action; second, activating relationships among the actors who communicate, negotiate and make decisions; and third, making emotional investments, which enable individuals to recognize themselves in each other (Melucci 1989, 35).

Scholars commonly refer to social identities that are based on individuals’ race, sex, religion, and sexual orientation. When a group shares an identity, it serves as a “public pronouncement of status” and an “individual announcement of affiliation, of connection” to a group (Friedman and McAdam 1992, 157). Cultivating a sense of belonging and solidarity that stems from reconstituting the “individual self around a new valued identity” functions as an incentive for motivating participation (Friedman and McAdam 1992, 157).

Scholars argue that individuals’ attachment to a social group helps “explain why successful movements emerge and spread as rapidly as they do” (Friedman and McAdam 1992, 157). An individual’s internalized sense of identification with a group “creates loyalty to the movement and commitment to the cause” (Foweraker 1995, 49). When an external force threatens their collective identity, they may also demonstrate because they feel personally threatened. The collective group can be an extension of the self in this regard. People can be so identified with a movement that they take personal offense to contention occurring at the group level. They engage in collective action to protect and improve their group’s position. Social movement participants/issue initiators are often “disadvantaged when faced with powerful opponents, yet their intense commitment coupled with the belief that crucial elements of their core identity are at stake motivates and sustains the group through hard times” (Cobb and Ross 1997, 13).

In an attempt to “defend their threatened cultural values and to seek their public validation through ...legal and extralegal means...to [gain] the upper hand” (Cobb and Ross 1997, 13). These “symbolic processes are often essential in explaining the commitment and perceived threats that characterize bitter conflicts and puzzle outsiders, who see relatively little at stake” (Cobb and Ross 1997, 13). The “cultural symbolization of core identities” is powerfully present in the United States around issues such as homosexuality, race, abortion, disability rights, and “other social issues in which each side believes that defeat is tantamount to a military humiliation” (Cobb and Ross 1997, 13; Hunter 1994). For instance, people who oppose rights of the LGBT community are not necessarily motivated by economic concerns; these individuals mobilize because they perceive their values to be under threat (Cobb and Ross 1997). To defend their cultural values, issue initiators seek to create meaning and a collective consciousness to motivate like-minded individuals, and hopefully elected officials, to join their cause.

### **Framing Theory**

A primary way of that issue initiators/social movement leaders develop a collective consciousness is through the construction of a collective action frame (Barnartt 2001). Collective action frames are “interpretative schemata that simplifies and condenses the ‘world out there’ by selectively punctuating and encoding objects, situations, events, experiences, and sequences of action within one’s present or past environment” (Benford & Snow 1992, 137). Frames are constructed to create meaning and resonate with people’s values and beliefs, so they will be more inclined to support the cause. They endow individuals with the ability “‘to locate, perceive, identify, and label’ events within their life space or the world at large” (Goffman as cited in Benford & Snow 1992, 137). Collective action frames can also emphasize aspects of society that movement participants consider to be unjust or oppressive (Benford & Snow 1992). Activists

construct collective action frames to “identify grievances and translate them into broader claims against” sources of oppression (Tarrow 1998, 111).

Frames intensify individuals’ identification with a movement and mobilize people “out of their compliance and into action” (Tarrow 1998, 112). Collective action frames essentially “diagnose a condition” that needs to be remedied and offer a solution to the problem in the form of tactics and strategies (Benford and Snow 1992, 141). They resonate with the movement’s collective belief system and reinforces commitment to the cause. The way an issue is framed determines “whether or not an issue reaches the political agenda, what venues are suitable for a discussion of the issue, what actors will be mobilized and/or allowed to participate in the political process, and the focus of policy that actors are demanding” (Haider-Markel 1999, 245; Baumgartner and Jones 2009). The concept of a collective action frame is quite similar to a problem definition because both explain how and why an issue is problematic, attribute blame, and offer solutions.

While scholarship on collective action frames became prominent in the mid to late 1900s, social movements have utilized them to encourage mass participation for years. For instance, issue initiators advocating for racial minorities, women, the LGBT community, and the disabled have articulated their grievances through “a frame of civil rights” (Barnartt 2001, 18). Issue initiators used the classical liberal notion of the individual, popularized during the Enlightenment period in Europe, to assert that members of these groups were autonomous beings that possessed natural rights. Leaders in these movements used the civil rights frame to highlight the problem of discrimination; they blamed the status quo and offered solutions to ameliorate the perceived injustices. They argued that these individuals were fundamentally identical in the eyes of the law and, therefore, should be treated as such.

## The Importance of Political Environment

Often, to proliferate their frames, issue initiators use the media to inform and mobilize the public in support of their cause. In this way, the media acts “as a communicator within the policy community” (Kingdon 2011, 59). If an issue garners the attention of the mass media, legislators are “likely to pay attention,” in part, because “the media [impacts] their constituents” (Kingdon 2011, 58). By focusing attention on an issue, media outlets have the power to “accelerate [a movement’s] development and magnify its impact” (Kingdon 2011, 60). The media is endowed with greater power to articulate a movement’s message to the mass public as the scope of conflict expands (Schattschneider 1960; Cobb and Elder 1972). Media outlets “can artificially generate and ... perpetuate [a movement’s] concern once the issue gains a larger audience” (Cobb and Elder 1972, 142). In addition, the media is considered to be a “privileged means of communication” that allows “disjointed actors [to] keep tabs on each other and on what they consider the ‘public mood’” (Baumgartner and Jones 2009, 107). Therefore, it is in the interest of policy entrepreneurs “to influence what is presented in the media” so they can gain a strategic edge on opposition groups (Baumgartner and Jones 2009, 107). These frames, or causal stories, “are more likely to be successful – that is become the dominant belief and guiding assumption for policy makers – if the proponents have visibility [and] access to media; if the theory accords with widespread and deeply held cultural values; [and] if it somehow captures or responds to a ‘national mood’” (Stone 1989, 294).

Lippman argued that there is a “national mind, a spirit of the age which imposes order upon random opinion” (Lippman 1922, 197). James Stimson (1999) took Lippman’s notion and developed the concept of policy mood, which “[implies] that publics see every public issue through general dispositions” (Stimson 1999, 20). He argued that policymakers believe that

public opinion consists of “issue positions too far left for public acceptance, those similarly too far right, [and] a zone of acquiescence between them – not necessarily exactly in the middle” (Stimson 1999, 21). Stimson claimed that a rational policymaker would attempt to “stay within the zone of acquiescence” to minimize bad electoral consequences (Stimson 1999, 23). While this idea may seem straightforward, it becomes complicated because, he argued, that the bounds of acquiescence can shift. He compared policy mood to a “meandering river” and policymakers “swim more or less where it goes” (Stimson 1999, 24).

Erikson et al. (2002) built on Stimson’s work and argued that the concept of mood is their “best effort at measuring the public’s movement regarding support for government programs or the movement on the liberal-conservative continuum” (Erikson et al. 2002, 193). They found, at the aggregate level, that citizens’ collective mood “responds slowly but intelligently to the political and economic environment” (Erikson et al. 2002). They also discovered that elected officials responded to the collective mood. For instance, in their time series analysis, they found that members of the House are very responsive to policy mood, and the Senate response was “smaller and later, as the Constitution writers intended” (Erikson et al. 2002, 401). They argued that “macro level dynamics are driven by an electorate where, in the aggregate, the more politically capable citizens possess dominant influence” (Erikson et al. 2002, 428-429). Their study indicated that there is a very strong influence of policy mood on legislative outputs.

According to Kingdon (2011), the political stream can impact legislative behavior. He argued that political stream consists of broader forces “such as national mood, election results, changes of administration, changes in ideological or partisan distributions in Congress, and interest group pressure campaigns” (Kingdon 1995, 162). Policymakers observe the national mood from “various communications that come to them including mail, visits, trips home,

newspaper coverage, and conversations with constituents” (Kingdon 1995, 163). Politicians may be more likely to advocate and vote for legislation if they sense that their constituents are supportive of the policy change. Likewise, social movement leaders may take advantage of “a window of opportunity” in the political environment in an attempt to impact the decisions of elected officials (Kingdon 1995, 201). Kingdon’s “window of opportunity” is similar to political opportunity theory since both theories recognize the impact of contextual factors on the policy process (Kingdon 1995, 201).

### **Implications for Theories of Democratic Responsiveness**

In addition to changes in public opinion, collective protest may impact the behavior of elected officials. Scholars have argued that protests can be indicative of changes in the political environment to elected officials, who have an interest in maintaining their positions of power (Arnold 1990; Gillion 2012). Examining whether or not members of Congress are responsive has implications for democratic theory. Robert Dahl argued, “a key characteristic of democracy is the continued responsiveness of the government to the preferences of its citizens, considered as political equals” (Dahl 1971, 1). Scholars have engaged in numerous empirical pursuits to determine how responsive the government is to citizens’ preferences. For instance, in the agenda-setting literature, scholars have argued that members of Congress are rational, and they engage in legislative behavior that increases the likelihood that they will be reelected (Mayhew 1974; Fiorina 1989; Stimson, Mackuen, Erikson 1995). Since one may assume that “members of Congress are single-minded seekers of reelection,” one may also argue that they are “forward-looking [and] concerned about future issues that could endanger their seats” (Mayhew 1974, 5; Gillion 2012, 953; Arnold 1990). Members of Congress want voters to view them as “responsive legislators who use their activity in office to demonstrate attentiveness to salient issues they may

have previously neglected (Sulkin 2005, 15). They are essentially responding to collective protests “to avoid difficulties in future elections” (Sulkin 2005, 15).

Griffin and Newman found evidence that elected officials are responsive. They found that, “Senators [were] consistently more responsive to voters when making roll-call decisions” but they were “not responsive to variation in nonvoters’ preferences at all” (Griffin and Newman 2005, 1207). They claim that voters select like-minded Senators, and “voters are more likely to communicate their desires to their Senators, and only voters reelect Senators” (Griffin and Newman 2005, 1207). Griffin and Newman’s findings support the notion that politicians are self-interested and represent the views of the active citizenry who can reelect them. Based on this literature, I would expect members of Congress to respond by holding hearings concerning rights-related issues when these collective protest events increase in the political environment.

Researchers typically examine congressional hearings as a measure of the agenda (King, Bentele, and Soule 2007; Olzak and Soule 2009). Hearings serve as an “indicator of attention to particular issues, which is a necessary precursor to policy action” (King, Bentele, and Soule 2007, 138). Congressional “hearings provide an opportunity to give the public, lawmakers, and other constituencies information about issues and to infuse issues with salience” (King, Bentele, and Soule 2007, 138). Previous literature has indicated that, “issue-oriented hearings facilitate the likelihood of eventual success for relevant legislation” (Olzak and Soule 2009, 204; Soule and King 2006). Thus, I expect rights-related protest activity “to influence [rights-related] legislation largely through [its] effect on congressional hearings” (Olzak and Soule 2009, 204). I argue that by engaging in collective protest, participants seek to “set the political agenda ... and focus their representatives’ attention on grievances that require redress” (Gillion 2012, 953; Baumgartner and Jones 2009). The act of protesting indicates, “that an issue is controversial,”

and the “controversy signals a problem to government and the public at large” (Rochon 1998, 179; Gillion 2012, 953). The theoretical framework outlined in this chapter supports the expectation that protest has the potential to impact political outcomes. Empowered by a sense of collective consciousness or identity, rights-related protest motivates like-minded individuals and elected officials to support the cause. In this instance, I expect rights-related protest to affect congressional hearings, especially when Democrats occupy the presidency and hold majorities in the House and Senate.

## CHAPTER THREE

### HYPOTHESES AND METHODOLOGY

In this dissertation, I will address two primary research questions: (1) Do rights-related protest events affect the congressional agenda? (2) Does political party condition the relationship between rights-related protest events and the congressional agenda? I address these two research questions by testing the following hypotheses:

*Hypothesis 1: As the number of rights-related protest events increases, the number of related congressional hearings will also increase.*

Based on previous work in social movement inquiry and agenda-setting theory, I expect protest to impact the legislative behavior of members of Congress (Sulkin 2005; Soule and King 2006; King et al. 2007; Baumgartner and Jones 2009; Olzak and Soule 2009; Gillion 2012). Scholars who have studied the relationship between protest and Congress have focused on later stages of the policy process by examining roll-call votes (McAdam and Su 2002) or the final passage of a bill (McCammon et al. 2001; Soule and King 2006). In this study, I chose to focus on the agenda-setting phase because scholars have shown that collective protests have the greatest impact at this earliest stage of the policy process (King et al. 2007; Olzak and Soule 2009). Previous literature has indicated that members of Congress respond to collective protest events by holding congressional hearings (King et al. 2007; Soule and Olzak 2009). While some scholars have argued that hearings can be merely symbolic (Olezsek 2001), “the empirical literature finds that issue-oriented hearings facilitate the likelihood of eventual success for relevant legislation” (Olzak and Soule 2009, 204; Burstein et al. 2005; Soule and King 2006). Thus, I argue that protests impact legislation “through their effect on congressional hearings” (Olzak and Soule 2009, 204). Studies have shown that in their pursuit of reelection, members of

Congress want to appear responsive to issues in the political environment (Mayhew 1974; Sulkin 2005; Baumgartner and Jones 2009; Gillion 2012). As a result, I expect to observe a positive relationship between rights-related protest activity and congressional hearings concerning rights-related issues. I also test the following hypotheses.

*Hypothesis 2: When a Democrat is President, the number of congressional hearings concerning rights-related issues will increase.*

*Hypothesis 3: When Democrats are in control of the Senate, the number of congressional hearings concerning rights-related issues will increase.*

*Hypothesis 4: When Democrats are in control of the House of Representatives, the number of congressional hearings concerning rights-related issues will increase.*

Like Soule and Olzak (2009), I argue that shifting “political opportunities available to challenging groups provides encouragement to protestors *and* increases the odds that desired policy changes will occur” (emphasis in original, Olzak and Soule 2009, 203). I also argue that expanding political opportunities can affect “protest activity and agenda-setting” (Olzak and Soule 2009, 203). Therefore, I expect that “protest activity and the likelihood of its success [will] increase as political opportunities become available” (Olzak and Soule 2009, 203). In the realm of the rights-related protest, I expect political opportunities to expand when Democrats control Congress and/or the Presidency. Previous literature has indicated that Democrats tend to be more receptive to holding congressional hearings and more open to voting for legislation favoring minority rights-related causes than Republicans (Poole and Rosenthal 1997; Gillion 2012). In this paper, I expect to see increased levels of rights-related protest activity and congressional hearings concerning rights-related issues when Democrats control Congress and the Presidency. Having a higher percentage of Democrats in the House and Senate as well as Democratic control

of the Presidency would signal to protestors that opportunities in the political environment are expanding, thus increasing both protest activity and the degree to which these groups set the congressional agenda.

### **The Dependent Variable**

The dependent variable in my analysis is *Congressional hearings*, which is an event count measure, which is measured by year (Nownes 2004). Researchers typically examine congressional hearings as a measure of agenda-setting (King et al. 2007; Olzak and Soule 2009). Hearings serve as an “indicator of attention to particular issues, which is a necessary precursor to policy action” (King et al. 2007, 138). Congressional “hearings provide an opportunity to give the public, lawmakers, and other constituencies information about issues and to infuse issues with salience” (King et al. 2007, 138). Hearings “are a gate-keeping mechanism for new policy solutions and a domain where issues become framed as governmental problems” (King et al. 2007, 143). I argue that by engaging in collective protest, participants seek to “set the political agenda ... and focus their representatives’ attention on grievances that require redress” (Gillion 2012, 953; Baumgartner and Jones 2009). The act of protesting indicates “that an issue is controversial,” and the “controversy signals a problem to government and the public at large” (Rochon 1998, 179; Gillion 2012, 953).

To create this variable, I will use data from the Baumgartner and Jones’ *Policy Agendas Project*, which catalogs information for every congressional hearing from 1946 till 2013. The present study is limited to the time frame from 1960 till 1995 due to missing protest data. The *Policy Agendas Project* dataset “identifies the primary policy focus of each congressional hearing,” and it uses a standard method for coding and organizing congressional hearings (Olzak and Soule 2009, 206). “Rights-related [congressional] hearings are defined broadly as any

hearing dealing with civil or political privileges,” which could include issues dealing with discrimination, access to public facilities, freedom of expression, etc. (King et al. 2007, 145). Table 3.1 shows the rights-related hearing issues and corresponding subtopic codes. The categories included in my analysis are: “Ethnic Minority and Racial Group Discrimination,” “Gender Discrimination,” “Handicap or Disease Discrimination,” “Age Discrimination,” and “Freedom of Speech and Religion” (Baumgartner and Jones 2014).

Baumgartner and Jones assigned every “hearing in the dataset one of 225 subtopic codes, many of which corresponded directly” to the aforementioned rights issues (King et al. 2007, 162). In the course of my analysis, I read the description of each hearing in the *Policy Agendas* dataset to “ensure that it did not violate [my] description of a rights-related hearing” (King et al. 2007, 162). Next, I “generated counts of rights-related hearings by each issue for each year” (King et al. 2007, 162). Table 3.1 identifies each issue and corresponding subtopic code. The only rights issues that did not directly correspond were hearings concerning LGBT rights. I used LGBT hearings data from Nownes (2004). By using these data, I can observe the dynamics of congressional behavior and gain a clearer understanding of congressional activity over time. Examining hearings from 1960 through 1995 will enable me to determine if there is a correlation between rights-related protest events and related hearings.

**Table 3.1 Hearing Issues and Subtopic Codes**

<b>Hearing Issue</b>	<b>Subtopic Codes</b>
Race	201
Gender	202
Age Discrimination	204
Disability Discrimination	205
Freedom of Speech and Religion	207

## The Independent Variables

The most important independent variable in my analysis is *Protest Activity*. In this study, I will measure the statistical association between collective protest events and hearings. I will engage in protest event analysis (PEA), which “allows for the quantification of many properties of protest, such as frequency, timing and duration, location, claims, size, forms, carriers, and targets, as well as immediate consequences and reactions” (Koopmans and Rucht 2002, 231). Scholars have used PEA to “systematically map, analyze, and interpret the occurrence and properties of large number of protests ...using sources such as newspaper reports,” which are “easily accessible and provide more detailed coverage than radio or television news” (Koopman and Rucht 2002, 231, 238). By engaging in PEA, I hope to understand the strength and degree of the association between rights-related protest events and related congressional hearings.

To measure protest activity, I will use data from McAdam et al.’s (2009) *Dynamics of Collective Action* dataset. They scanned “daily editions of the *New York Times* for any mention of any kind of collective protest taking place in the United States” from 1960 through 1995 (Soule 2009, 161). Collecting information about “collective action events [from] newspapers and news sources is [arguably] the form of data most frequently used by social movement scholars” (King et al. 2007, 154; Earl et al. 2004). Newspaper articles have become a “methodological staple” in protest event analysis (McAdam and Su 2002, 74). In accordance with the creation of the *Dynamics of Collective Action* database, *The New York Times* “has emerged as the most widely used newspaper source for analyzing the link between protest behavior and governmental action in quantitative studies (see, e.g., Earl, Soule, and McCarthy 2003; King et al. 2007; Olzak and Soule 2009; and Soule and Davenport 2009)” (Gillion 2012, 955). Scholars have argued that *The New York Times* was “proactive in covering minority protest” (Gillion 2012, 956). While

scholars have acknowledged that using one newspaper source might introduce some degree of bias, it consistently recorded instances of collective discontent in the political environment (Davenport 2010; Gillion 2012). Nelson (2003) contended, “*The [New York] Times* was far out front in covering [rights-related protest activity], not only focusing on it long before other news organizations, but also devoting more resources and top news space to it and thereby helping make it part of the government’s agenda” (Nelson 2003, 7).

After documenting all protest events, McAdam et al. (2009) organized the events by policy domain. They used Jones and Baumgartner’s subtopic codes for the same issue areas, which made for seamless analysis. McAdam et al. (2009) included protest events in the dataset based on the following criteria, “there must have been more than one participant,” and they “must have articulated some claim, whether it was a grievance against some target or an expression of support” (King et al. 2007, 146). I used these claims to confirm that the protests were related to rights issues I have identified. In this study, I plan to measure the prevalence of collective protest events that involved rights issues, which will enable me to observe fluctuations in collective action over time.

Like Soule and Olzak (2009), I will disaggregate rights-related “protest by tactics used at the event” (institutional and extra-institutional) “and create two different annual counts” (Soule and Olzak 2009, 205). I will explore “the cross-cutting effects of protest [and] agenda-setting ...by distinguishing two forms of protest activities, institutional and extra-institutional forms, in an effort to clarify specifically which types of protest matter at which stage of the policy process” (Olzak and Soule 2009, 204). Institutional forms of protest include: “lawsuits and other legal actions, petitioning, letter-writing, [and] lobbying” (Olzak and Soule 2009, 206). In contrast, extra-institutional tactics comprise: “demonstrations, rallies, marches, vigils,

picketing and civil disobedience” (Olzak and Soule 2009, 205). They chose to disaggregate institutional and extra-institutional forms of protest in response to Gamson’s (1975) study, which suggested, “‘unruly’ voices might have a bigger impact on social change” (Olzake and Soule 2009, 205; Gamson 1975). For each collective protest event, McAdam et al. (2009) included data describing the types of tactics used, which allowed me to disaggregate collective protest into two new variables. I used this cross-cutting process approach to see if disruptive tactics had a greater effect on the congressional agenda in the context of rights-related issues. Once I understand the dynamics of collective protest during this thirty-five-year period, I can assess whether there is a correlation between institutional and extra-institutional forms of protest and congressional hearings.

### **Congressional and Presidential Political Characteristics**

I also plan to include in my model two explanatory variables relating to partisan presidential and congressional characteristics. Previous research has indicated that Democrats are typically more supportive of rights legislation (Poole and Rosenthal 1997; Gillion 2012). For instance, in his study of the linkage between district-level minority protests and state legislators’ individual roll-call votes, he found that in response to protests, “Democratic representatives [were] twice as likely to be attentive to these political cues” (Gillion 2012, 959). He argued that while there were divisions within the Democratic Party, particularly in the South, the Democratic Party “emerged from the civil rights era as a unified front in support for minority concerns” (Gillion 2012, 959). Consequently, “a vast majority of African-Americans, Latinos, and even Asian Americans have voted heavily Democratic, and minorities now comprise the Party’s permanent base” (Gillion 2012, 959). In their analysis of political opportunities and legislative behavior, Soule and Olzak (2009) found that there are more hearings related to environmental issues when Democrats have

a majority in Congress (Olzak and Soule 2009). I want to investigate this relationship at the federal level. Thus, I expect there to be more congressional hearings about rights issues when more Democrats are in office (Olzak and Soule 2009).

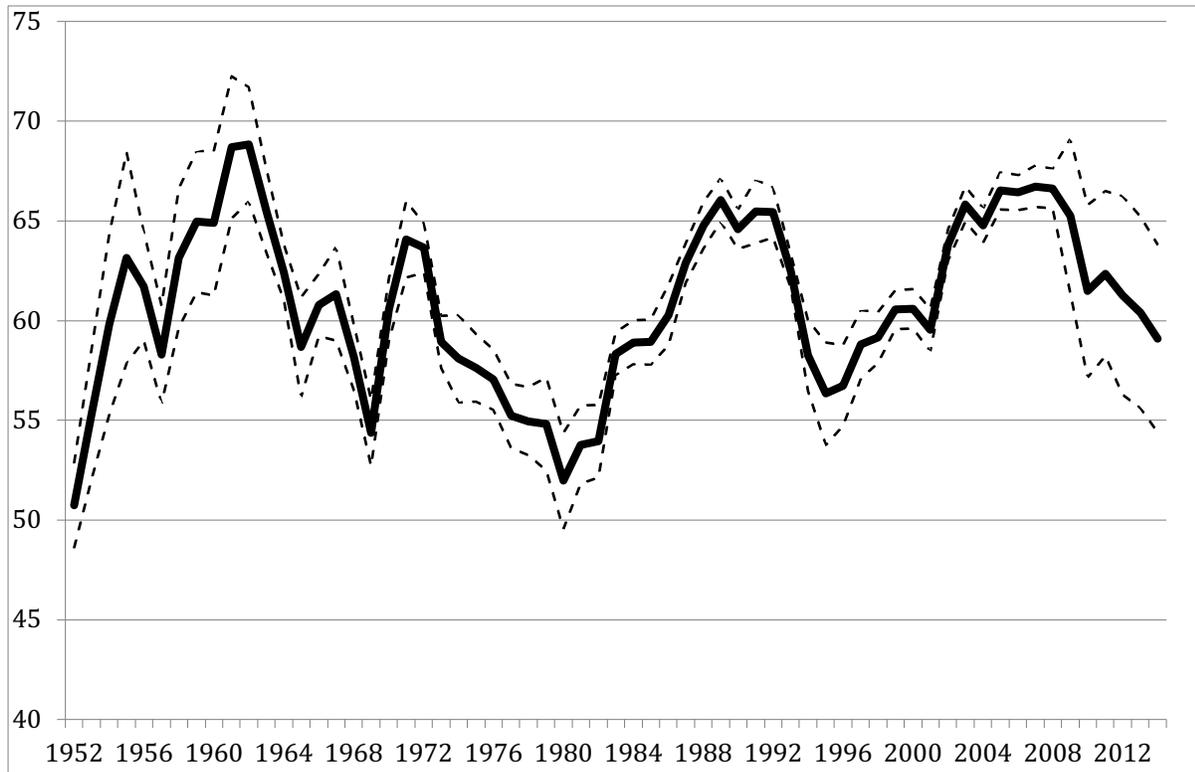
To measure the effect of presidential and congressional political characteristics, I will “include a dummy variable for whether or not a Democratic President was in power” (Olzak and Soule 2009, 208). The dummy variable will be coded 1 in all years when a Democrat is President, and 0 otherwise. I also plan to include “a measure of the percentage of House and Senate seats that were held by members of the Democratic Party” (Olzak and Soule 2009, 208). “Measures of the political climate ... capture the positive and negative aspects of political opportunities” for the rights-related movements (Olzak and Soule 2009, 208). Therefore, when Democrats are in power, I expect that advocates for rights legislation were more likely to take advantage of the political climate and engage in protest activity with the hopes of facilitating policy change.

### **Policy Mood**

In addition, I intend to include *Policy mood* as an explanatory variable, which is a “measure of the public’s net preferences overtime” (Erikson et al. 2002, 193; Stimson 1991). Policy mood “is the major dimension underlying expressed preferences over policy alternatives in the survey research record” (Stimson et al. 1995, 548). Erikson et al. (2002) argued that using the policy mood variable was their “best effort at measuring the public’s movement regarding support for government programs or movement on the liberal-conservative continuum” (Erikson et al. 2002, 193). They claimed that mood is “properly interpreted as left versus right – more specifically, as global preferences for a larger, more active federal government as opposed to a smaller, more passive one across the sphere of all domestic policy controversies” (Erikson et al. 1995, 548).

I used James Stimson's Policy Mood data, which spans from 1952 till 2014. Due to the temporal limitations of the protest data, I only included the years of 1960 - 1995. Stimson's mood measure "represents the public's sense of whether the political 'temperature' is too hot or too cold, whether government is too active or not active enough" (Erikson et al. 1995, 548). In Erikson et al.'s (2002) aggregate time-series analysis, they found that mood not only impacts how citizens vote, but it also affects the behavior of members of Congress (Erikson et al. 2002). Since this study seeks to examine the link between protest and congressional hearings, it is important to gauge the extent to which citizens' collective policy mood affects this relationship.

Displayed in Figure 3.1 is Stimson's Policy Mood measure, which "portrays an American public that moves slowly back and forth from left (up on the scale) to right (down) overtime" (Erikson et al. 1995, 548). The dotted lines represent the upper and lower bounds of the annual mood measure. The Policy Mood begins in the conservative range in the early 1950s and "reaches a liberal high point in the early 1960s" during the Kennedy Administration (Stimson et al. 1995, 548). Then, it drifts toward the conservative end of the range in the late 1960s, which corresponds with the Johnson Administration and the War in Vietnam. The Policy Mood climbs to the liberal range during the early 1970s before it falls to a lower point at the beginning of the Reagan Administration. During the 1980s, it climbs to the liberal range, dips slightly during the Clinton Administration, and rebounds toward the liberal end during the Bush Presidency.



Source: James Stimson

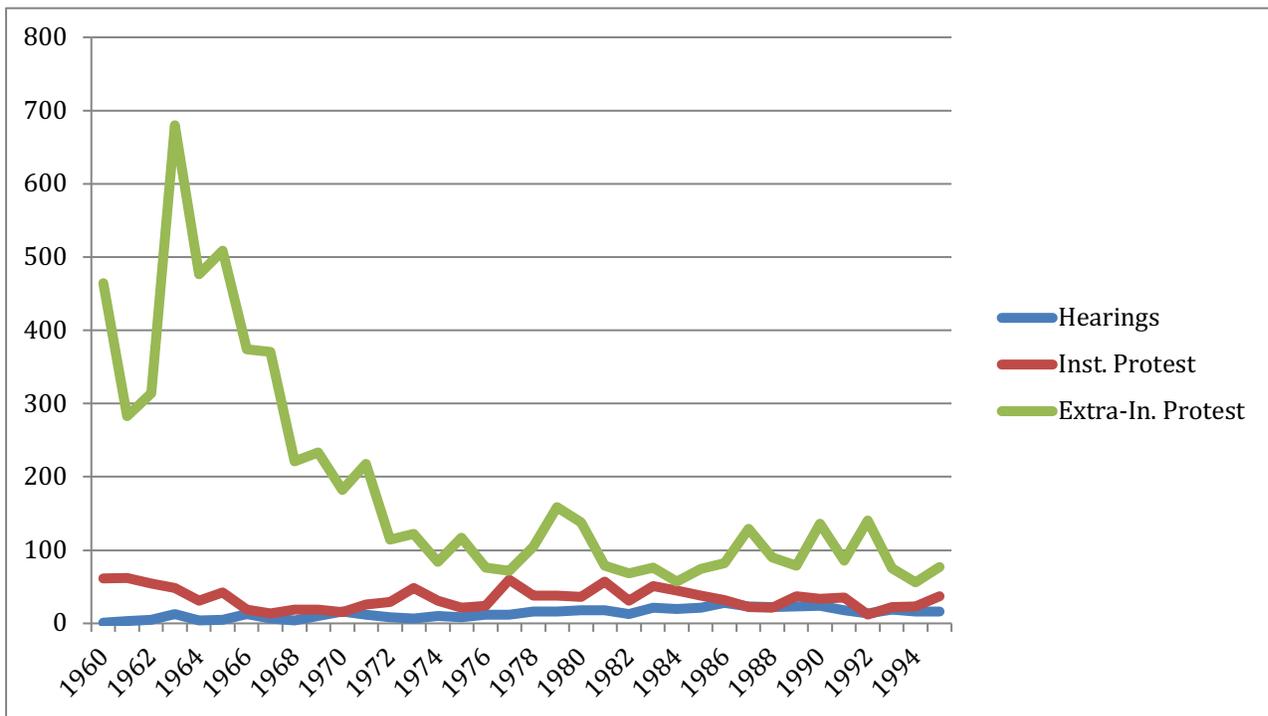
**Figure 3.1: Stimson's Public Policy Mood (1952-2014)**

### **Describing the Data**

By using the *Dynamics of Collective Action* and *Policy Agendas Project's* datasets, I have included graphs that show fluctuations in congressional hearings, institutional protest, and extra-institutional protest from 1960 through 1995 for each rights issue. Figure 3.2 displays race-related protests and related congressional hearings. Race is unlike any other issue in this study due to the extraordinarily high levels of extra-institutional protest occurring at the beginning of this quantitative study. Unlike other rights issues concerning the LGBT, disabled, and aging communities, racial discrimination garnered attention and outrage long before 1960. In this study, both institutional and extra-institutional protest events for all rights issues combined totaled nearly 11,000 (McAdam et al. 2009). Of that protest activity, around 7,700 were related to race (McAdam et al. 2009). As Figure 3.2 indicates, extra-institutional protest activity

outnumbered institutional protests, especially throughout the early 1960s to mid-1970s. While extra-institutional protests decreased in the mid-1970s and did not exceed 200 for the duration of the study, they remained higher than institutional protests and congressional hearings.

In the early 1960s, there were around 60 instances of institutional protest per year, which decreased in the mid-1960s. The number of institutional protests increased again in the mid-1970s (back to 60) and fluctuated between 57 and 12 for the duration of the study. In addition, the number of hearings related racial discrimination was generally low in the 1960s with the most hearings (thirteen) in that decade taking place in 1963 and 1966 (Baumgartner and Jones 2014). Hearings increased slightly in the 1970s; but starting in 1978, the number of hearings remained between sixteen and twenty-four for the rest of the study (Baumgartner and Jones 2014). A cursory view of the data in Figure 3.2 does not seem to indicate a relationship between protest activity and hearings concerning the issue of race from 1960 - 1995.



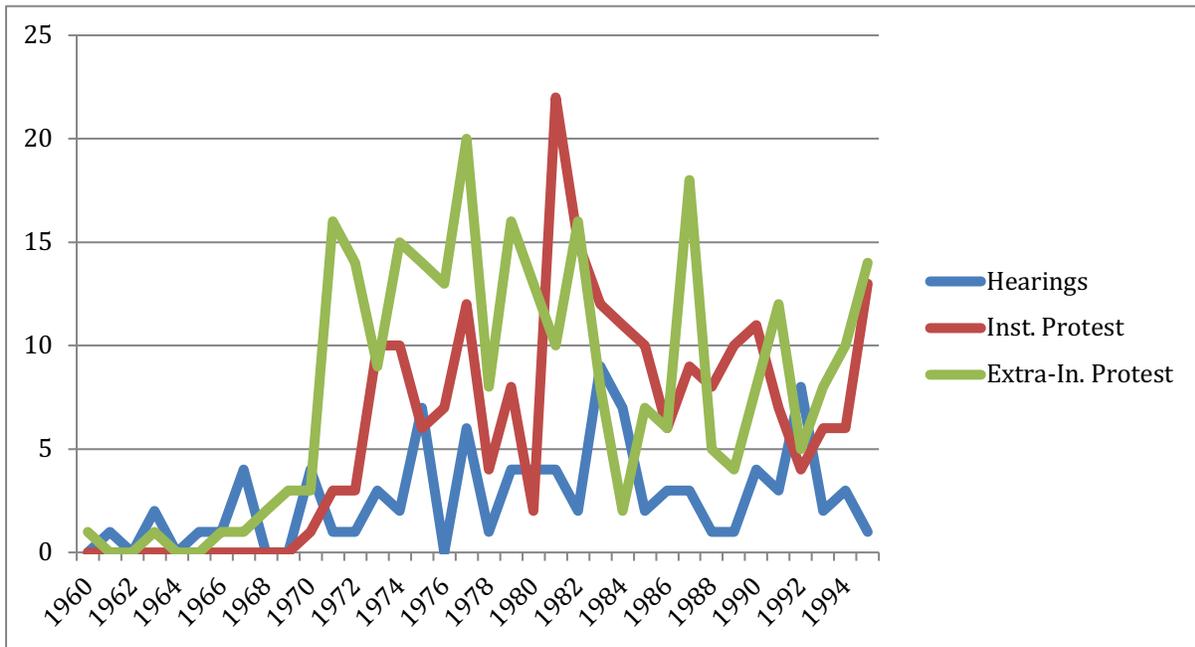
**Figure 3.2: African-American Rights Protest and Related Congressional Hearings**

I will also examine protest and hearings regarding sexual discrimination. Figure 3.3 displays institutional and extra-institutional protest and related congressional hearings from 1960 through 1995. The graph indicates that institutional protest was virtually nonexistent in the 1960s, but extra-institutional protest began to rise throughout the mid- to late 1960s. With the publication of Betty Friedan's seminal work, *The Feminine Mystique*, in 1963 and the establishment of the National Organization for Women in 1966, mobilization to combat sexual discrimination began to take shape. These events marked the emergence of "second wave feminism" (Hewitt 2002). Figure 3.3 also shows that several hearings took place in the 1960s, which focused on equal employment and equal pay for women (Baumgartner and Jones 2014). By the early 1970s, instances of extra-institutional protest increased sharply when the National Organization for Women (NOW) gained traction and mobilized collective action. In addition, prominent women's rights advocates like Betty Friedan, Gloria Steinem, who published *Ms. Magazine* in 1972, and Bella Abzug, who was elected to Congress in 1970, founded the National Women's Political Caucus in 1971. Congress also passed the Equal Rights Amendment in 1972 and sent it to the states for ratification. Protests in support and in opposition to the ERA could have also contributed to the rise in protest activity during the 1970s. Instances of extra-institutional protest remained elevated throughout the 1970s until it decreased sharply in 1984, but it increased again in the mid-1980s and remained elevated through the early to mid-1990s.

Figure 3.3 also reveals that institutional protest rose, but to a lesser degree in the mid-1970s. During this time, women's rights activists used the court and legislative systems to further their mission. For instance, in *Eisenstadt v. Baird* (1972), the Court guaranteed that women, married or unmarried, could have access to contraception; in *Taylor v. Louisiana* (1975), the Court found that women could not be excluded from juries; and the Pregnancy Discrimination

Act became federal law in 1978, which forbade workplace discrimination against pregnant women (*Eisenstadt v. Baird* 1972; *Taylor v. Louisiana* 1975). While there was a decline in institutional protest in 1980, there was a sharp increase in 1981, which then decreased in the mid to late 1980s and early 1990s.

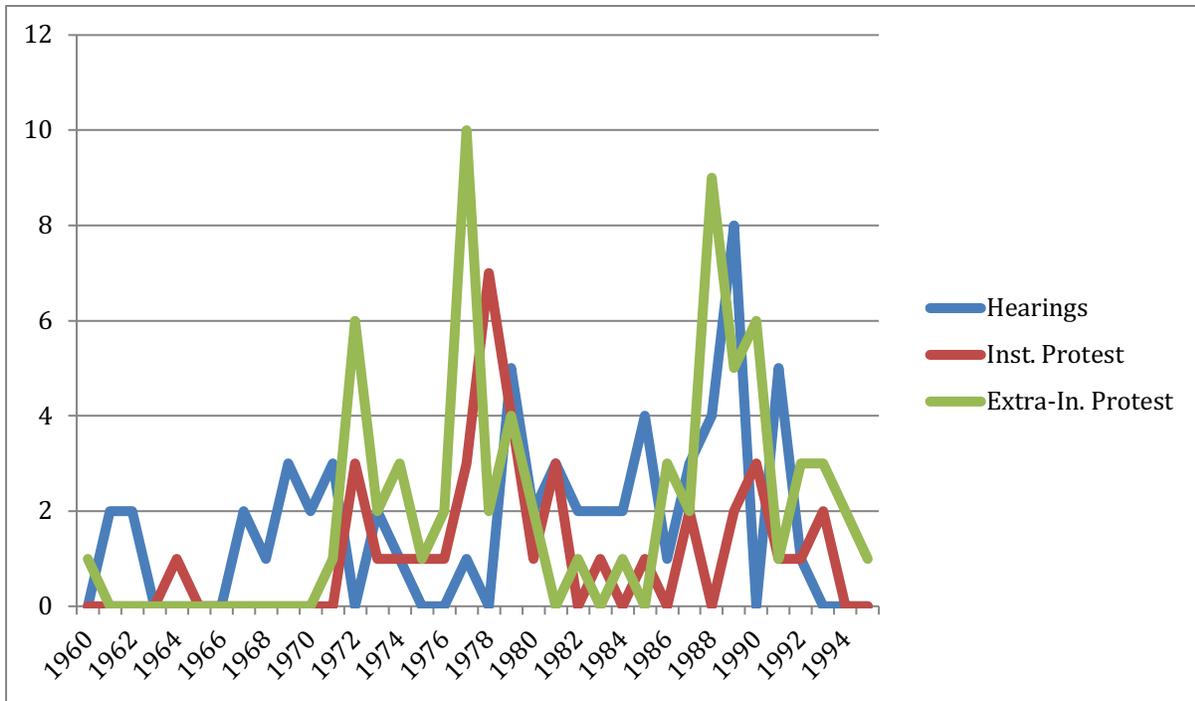
Meanwhile, the number of congressional hearings remained consistent throughout the 1970s and peaked in 1983. The dataset revealed that Congress held numerous hearings in 1983 to discuss women’s federal pensions and child support (Baumgartner and Jones 2014). The number of hearings decreases in the mid to late 1980s, but then rebounded in 1992 when Congress held a variety of hearings addressing issues such as gender discrimination in the military, pension inequities, and sexual harassment in the workplace (Baumgartner and Jones 2014). While there was a great deal of fluctuation in protest activity and hearings related to sexual discrimination from 1960 till 1995, Figure 3.3 does not indicate an obvious pattern or correlation between them.



**Figure 3.3: Women's Rights Protest and Related Congressional Hearings**

I will also examine disability protest and related congressional hearings from 1960 through 1995 to see if there is a relationship between these variables. Figure 3.4 indicates that protest activity regarding issues of the disabled was very low, and at times nonexistent, throughout the 1960s. However, there are several congressional hearings related to discrimination in employment in the 1960s and early 1970s. Institutional and extra-institutional protest began to rise in the early 1970s, which may have corresponded with the extension of the civil rights frame to “people with impairments in the early 1970s” (Barnartt and Scotch 2001, 20). The number of extra-institutional protests peaked in 1977, which could be as a result of the 1977 Rehabilitation Act protests. For twenty-five days in 1977, a group of approximately 150 activists staged a sit-in at a federal building in San Francisco until the Carter Administration agreed to implement Section 504 of the Rehabilitation Act of 1973 (Fleischer and Zames 1998). Section 504 was “a water-shed provision utilizing the language of Title VI of the Civil Rights Act, [which] prohibited recipients of federal funds from discriminating on the basis of physical or mental disability” (Fleischer and Zames 1998, 52).

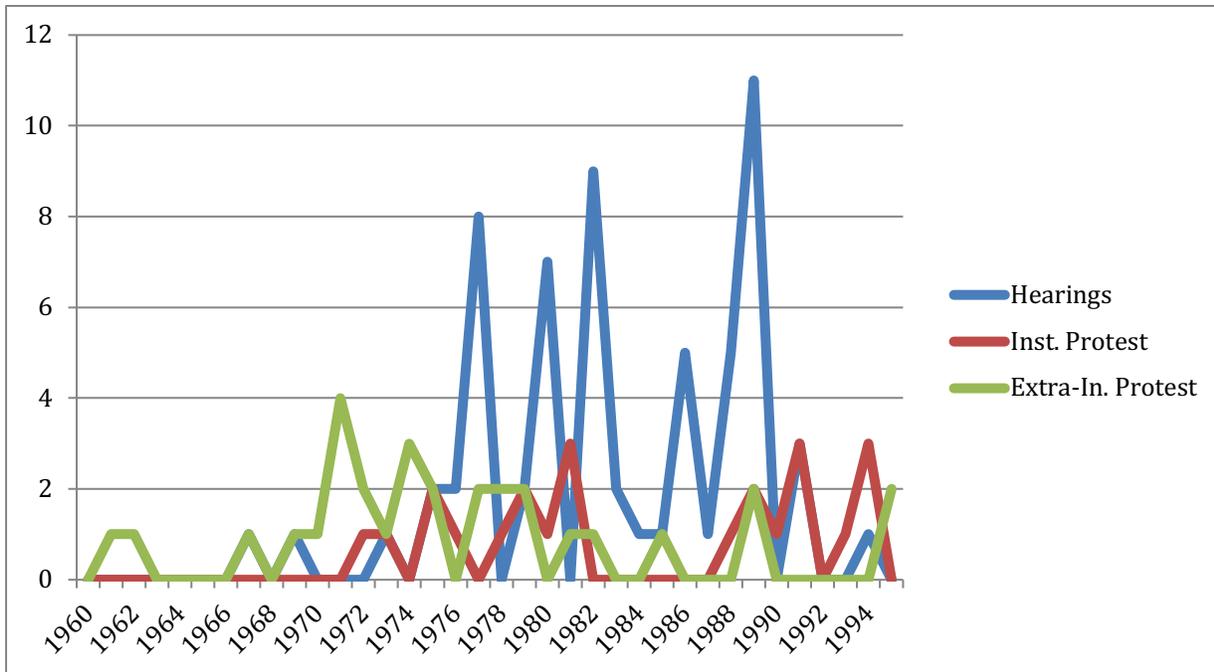
Also, Figure 3.4 indicates that protest and congressional hearings declined in the early to mid-1980s, but they increased again in the late 1980s and early 1990s, which may have been in response to debate concerning the passage of the Americans with Disabilities Act (ADA) of 1990. While Section 504 offered civil rights protections “to people with disabilities in programs that received federal funding; the ADA extended those rights to the private sector” (Fleischer and Zames 1998, 52). Thus, the ADA offered people with disabilities the same rights that had “earlier been granted to individuals on the basis of race, color, sex, national origin, age, and religion” (Fleischer and Zames 1998, 52). Figure 3.4 reveals a possible pattern and correlation between protest and hearings related to disability discrimination since the variables peak in



**Figure 3.4: Disability Rights Protest and Related Congressional Hearings**

roughly the same time periods. At first glance, the graph seems to lend support to agenda-setting theory because increases in hearings appear to follow increases in extra-institutional (and to a lesser degree) institutional protest activity.

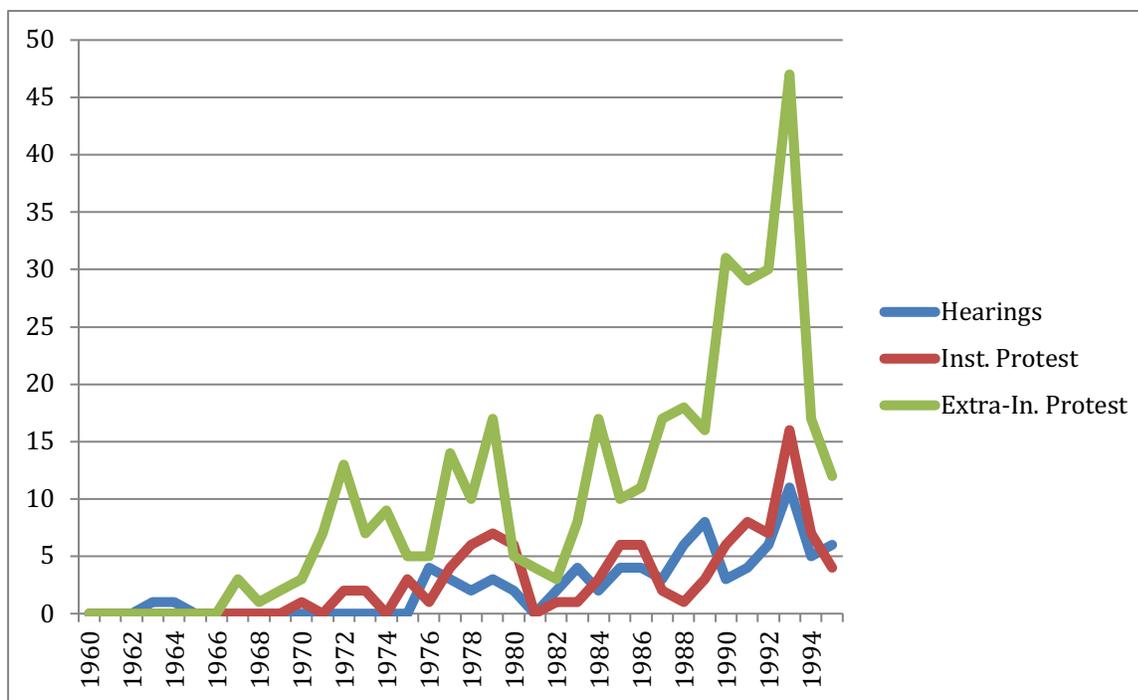
Also, I will examine protest activity and congressional hearings related to age discrimination from 1960 through 1995. Figure 3.5, indicates that there were very low levels of extra-institutional protest and virtually no institutional protest or hearings taking place in the United States in the 1960s. However, unlike the previous examples, Figure 3.5 reveals that congressional hearings exceeded protest activity from the mid-1970s through 1990. Institutional and extra-institutional protest activity on this issue was consistently low throughout the duration of this quantitative study. The *DCA* dataset indicates that activists protested issues such as workplace discrimination (Equal Employment Opportunity) and improvements to housing, healthcare (MEDICAID), and Social Security and for the elderly (McAdam et al. 2009).



**Figure 3.5: Elderly Rights Protest and Related Congressional Hearings**

However, instead of discussing matters related to healthcare or housing for the elderly, congressional hearings focused more heavily on workplace discrimination, retirement policies, and the Equal Opportunities Commission’s (EEOC) enforcement of laws protecting aging citizens (Baumgartner and Jones 2014). While members of Congress may have been responding to pressure within the political environment, Figure 3.5 does not seem to indicate that protest activity was a major factor in setting the congressional agenda.

Next, I examined LGBT protest and related congressional hearings. By examining Figure 3.6, it is evident that LGBT protests and hearings were almost nonexistent in the early 1960s. According to Haider-Markel (1999), whenever Congress focused on LGBT issues prior to the late 1960s, members of Congress characterized “homosexuals as an internal security threat” and investigated “immoral conditions” and “deviant sexual behavior” of the community as well as its potential links to communism during the Cold War (Haider-Markel 1999, 246. 247). Hearings and protests regarding homosexuality did not begin to rise until the late 1960s and early 1970s.



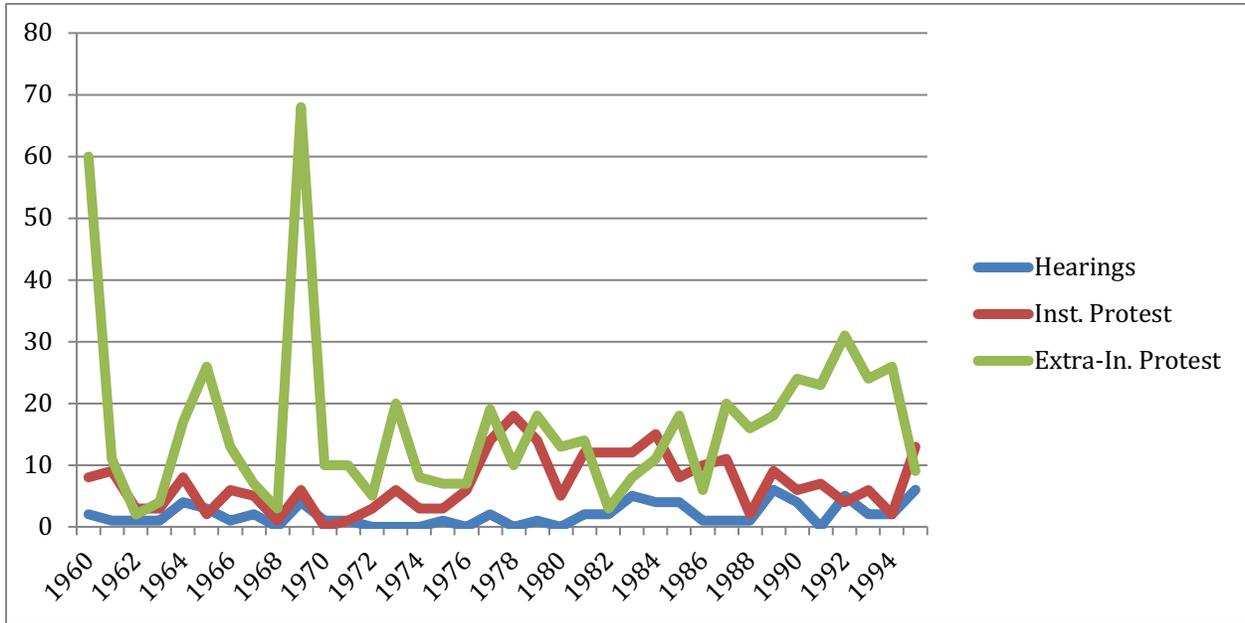
**Figure 3.6: LGBT Rights Protest and Related Congressional Hearings**

The increase in protests and hearings in the late 1960s may have corresponded with the Stonewall Riots of 1969. After a police raid at the Stonewall Inn, there were three days of riots in New York City, which “sent shock waves throughout gay communities and provided an incentive for many gays to become involved with the burgeoning movement” (Haider-Markel 1999, 248). Following Stonewall, activists “framed homosexuality in positive terms, stressing discrimination and civil rights as the issues that should be under consideration” (Haider-Markel 1999, 248). Figure 3.6 plots an increase in congressional hearings for LGBT issues throughout the 1970s and 1980s. In 1973, for instance, “the U.S. Civil Service Commission proposed that a ban on hiring or retaining homosexuals should be removed, and in 1975 it was dropped” (Haider-Markel 1999, 248).

There was also an increase in mobilization and governmental response to the AIDS crisis in the 1980s. When the AIDS epidemic ravaged the gay community “the scope of conflict

expanded” and “new actors were brought into the debate, including broad civil liberties groups, medical professionals, and members of Congress who had previously been uninterested in gay-related issues” (Schattschneider 1960, 16; Haider-Markel 1999, 251). Figure 3.6 shows a continued rise of LGBT institutional and extra-institutional protest and congressional hearings in the early 1990s. In 1993, “an increasingly conservative Congress defeated the attempt to lift the ban on gays in the military, replacing existing administrative rules with the now infamous ‘Don’t Ask, Don’t Tell’ policy,” which prohibited the military from discriminating against gays and lesbians who were closeted, but excluded open gays and lesbians from military service (Haider-Markel 1999, 252). Figure 3.6 reveals a pattern between protest activity and congressional hearings, which seems to lend support to agenda-setting theory. All three variables follow a similar trajectory and they peak in roughly the same years, reaching its zenith in 1993.

I will also examine protest activity and hearings related to issues concerning free speech and religion to see if there is a relationship between these variables. Figure 3.7 indicates that extra-institutional protests spiked in 1960 and 1969. By looking at the data, it is evident that a majority of the extra-institutional protests in 1960 and 1969 were anti-Semitic. Anti-Semitic groups vandalized Jewish temples and painted swastikas on property owned by Jews (McAdam et al. 2009). Anti-Semitic activity persisted from 1960 till 1995. Another factor that contributed to extra-institutional protests in the 1960s was the Free Speech Movement, which began at the University of California, Berkley in 1964 when students protested a campus-wide prohibition on political activities (Cohen and Zelnik 2002). The Berkeley protests, which lasted during the 1964-1965 academic year, are credited with laying the foundation for other student protest movements (such as the Columbia Divestment Campaign) (Cohen and Zelnik 2002; Goodwin and Jasper 2003).



**Figure 3.7: Protests Concerning Rights of Freedom of Speech and Religion and Related Congressional Hearings**

Figure 3.7 also indicates that institutional protest was quite low except for a spike in the late 1970s. The data indicates that there was a slight increase in course cases being filed by the ACLU on behalf of groups like Nazis and Hare Krishnas for them to speak freely and solicit support (McAdam et al. 2009). There were also lawsuits filed and petitions circulated in response issues such as school prayer and pornography (McAdam et al. 2009). Despite the institutional and extra-institutional protest that took place from 1960 till 1995, Figure 3.7 does not evince a pattern between protest activity and congressional hearings related to the First Amendment issues of free speech and religion.

### **Estimation Technique**

From this data, I will conduct a negative binomial regression on congressional hearings relating to rights issues. A negative binomial regression is a “nonlinear regression model, estimated by maximum likelihood” (Hilbe 2007, 15). While a “Poisson regression is the standard method used

to model count data...the Poisson Distribution assumes the equality of its mean and variance – a property that is rarely found in real data” (Hilbe 2007, 1). Since the mean and variance for each rights-related hearings count were not equal, I used a “negative binomial regression in place of Poisson regression ... to correct for over-dispersion in the hearing count variable” (King, Bentele, and Soule 2007, 148). Using a negative binomial regression will allow me to estimate models for congressional hearings, which is “event count data” that was measured by year (Nownes 2004, 60). The count of congressional hearings as a dependent variable has been widely used by scholars in social movement and agenda-setting research (Kingdon 2011; King et al. 2007; Baumgartner and Jones 2009; Soule and King 2006; Olzak and Soule 2009; Gillion 2012). “Negative Binomial regression models are appropriate statistical inference techniques when fitting models with count data as the dependent variable and common within the relevant literature” (Johnson et al. 2010, 2278; See also King et al. 2007; Soule and King 2009).

## CHAPTER FOUR

### RESULTS AND DISCUSSION

Before I present my findings, I will restate my research questions and hypotheses: (1) Do rights-related protest events affect the congressional agenda? (2) Does political party condition the relationship between rights-related protest events and the congressional agenda? I address these two research questions by testing the following hypotheses:

*Hypothesis 1: As the number of rights-related protest events increases, the number of related congressional hearings will also increase.*

*Hypothesis 2: When a Democrat is President, the number of congressional hearings concerning rights-related issues will increase.*

*Hypothesis 3: When Democrats are in control of the Senate, the number of congressional hearings concerning rights-related issues will increase.*

*Hypothesis 4: When Democrats are in control of the House of Representatives, the number of congressional hearings concerning rights-related issues will increase.*

I will test each of these hypotheses using data on each of the issues I identify here. Again, I am using negative binomial regression to estimate the models.<sup>1</sup>

#### **African-American Rights**

First, I ran two negative binomial regressions to see if race-related protest had an impact on related congressional hearings. The results are displayed in Table 4.1. In Model 1, I found no support for Hypothesis 1, since extra-institutional protests concerning racial issues did not have a statistically significant impact on related congressional hearings. The only variable in the model

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<sup>1</sup> I checked for autocorrelation in the protest variables. I checked the total of extra-institutional and institutional protest and found weak correlation between them (.26).

that is statistically significant was *Democratic Senate* at the .001 level. But the coefficient is negative. In the presence of a Democratic majority in the Senate, the rate ratio for congressional hearings related to racial discrimination decreased by a factor of 9.61, while holding all other variables in the model constant. Model 1 disconfirms Hypothesis 3 since a Democratic majority in the Senate actually had a negative impact on hearings. Model 1 in Table 4.1 does not support hypotheses 1, 2, or 4.

My findings in Model 2 were very similar. I found no support for Hypothesis 1, since institutional protest is not statistically significant. In addition, Model 2 provides no support for Hypotheses 2 and 4 since the Democratic President and Democratic House of Representatives variables were not statistically significant. The model disconfirms Hypothesis 3 because the coefficient on *Democratic Senate* is statistically significant at the .001 level negative. In the presence of a Democratic majority in the Senate, the rate ratio for congressional hearings related to racial discrimination decreased by a factor of .00, while holding all other variables in the model constant.

**Table 4.1: Negative Binomial Model of Number of Congressional Hearings Related to Rights of African-Americans**

Variables	(1) Extra-Inst. Protest	(2) Institutional Protest
Extra-Institutional Protests	0.000 (1.00)	---
Institutional Protests	---	-0.01 (.993)
Democratic President	0.21 (1.23)	0.22 (1.24)
Democratic House of Representatives	3.67 (39.26)	3.96 (52.61)
Democratic Senate	-11.55*** (9.61)	-11.35*** (.00)
General Policy Mood	-0.09 (.99)	-0.01 (.991)
Constant	7.50*** (1819.44)	7.50*** (1813.23)
N	36	36
LR chi2(5)	27.94	30.03
Pseudo R2	0.1157	0.1243

\*  $p \leq 0.10$ ; \*\*  $p \leq 0.05$ ; \*\*\*  $p \leq 0.01$  (numbers in parentheses are incidence rate ratios)

### Women's Rights

Table 4.2 presents the results of two negative binomial regressions where I regressed congressional hearings concerning women issues on my independent variables. In Model 1 of Table 4.2, extra-institutional protest concerning women's issues did not have a statistically significant impact on related congressional hearings. The only variables that were statistically significant in this model were *Democratic House* and *Democratic Senate*. The coefficient on *Democratic House* was positive and statistically significant at the .05 level. In the case of women's rights issues, whenever the Democratic Party had a majority in the House of Representatives, the rate ratio for hearings related to women's rights increased by a factor of 1855.53, while holding all other variables constant. This finding lends support to Hypothesis 4.

In addition, the coefficient on Democratic Senate was positive and statistically significant at the .001 level. This shows that when the Democratic Party had a majority in the Senate, the rate ratio for congressional hearings related to women's issues decreased by a factor of 2.43, while holding all other variables constant. This finding disconfirms Hypothesis 3.

In Model 2 of Table 4.2, my findings were very similar. The coefficient on *Institutional protests* was not statistically significant. However, the coefficient on *Democratic House of Representatives* was positive and statistically significant at the .05 level. In short, the data show that when the Democratic Party had a majority in the House of Representatives, the rate ratio for congressional hearings related to women's issues increased by a factor of 1260.78, while holding all other variables in the model constant. This finding supports Hypothesis 4. The coefficient on *Democratic Senate* was statistically significant at the .001 level, but was negative. This means that when the Democratic Party had a majority in the Senate, the rate ratio for congressional hearings related to women's issues decreased by a factor of 1.07, while holding all other variables in the model constant. Models 1 and 2 do not support Hypotheses 1 or 2. Table 4.2 disconfirms Hypothesis 3 because a Democratic majority in the Senate actually decreased the likelihood that congressional hearings related to women's issues would take place. The only theoretical expectation that was confirmed in these models was Hypothesis 4. A Democratic majority in the House of Representatives increased the likelihood of congressional hearings related to women's issues.

**Table 4.2: Negative Binomial Model of Number of Congressional Hearings Related to Women's Rights**

Variables	(1) Extra-Inst. Protest	(2) Institutional Protest
Women's Extra-Institutional Protests	-0.013 (.987)	---
Women's Institutional Protests	---	0.008 (1.01)
Democratic President	0.134 (1.14)	0.116 (1.12)
Democratic House of Representatives	7.52** (1855.53)	7.13** (1260.78)
Democratic Senate	-15.23*** (2.43)	-13.75*** (1.07)
General Policy Mood	-0.04 (.961)	-0.03 (.972)
Constant	7.68** (2159.08)	6.23** (509.58)
N	36	36
LR chi2(5)	13.90	13.73
Pseudo R2	0.092	0.091

\*  $p \leq 0.10$ ; \*\*  $p \leq 0.05$ ; \*\*\*  $p \leq 0.01$  (numbers in parentheses are incidence rate ratios)

### Disability Rights

Next, I conducted a statistical analysis to see if my hypotheses would be supported in the context of disability rights. An examination of the disability rights movement in the U.S. seems to support the idea that protest impacted legislative behavior. For instance, lobbying and protest efforts preceded significant political advancements such as the Architectural Barriers Act and the Americans with Disabilities Act. However, Table 4.3 presents the results of two negative binomial regressions that provide no support for my hypotheses. None of the independent variables in Models 1 or 2 are statistically significant. According to Table 4.3, neither extra-institutional nor institutional forms of protest seem to have a measurable impact on congressional behavior. Similarly, in the context of disability rights, these findings are not consistent with the

**Table 4.3: Negative Binomial Model of Number of Congressional Hearings Related to Disability Rights**

Variables	(1) Extra-Inst. Protest	(2) Institutional Protest
Disability Extra-Institutional Protests	-0.004 (.996)	---
Disability Institutional Protests	---	-0.027 (.973)
Democratic President	-0.701 (.496)	-0.688 (.502)
Democratic House of Representatives	7.38 (1607.66)	7.86 (2601.46)
Democratic Senate	-5.39 (.005)	-5.73 (.003)
General Policy Mood	0.022 (1.02)	0.02 (1.02)
Constant	-1.88 (.153)	-1.84 (.1587)
N	36	36
LR chi2(5)	6.43	6.46
Pseudo R2	0.051	0.051

\*  $p \leq 0.10$ ; \*\*  $p \leq 0.05$ ; \*\*\*  $p \leq 0.01$  (numbers in parentheses are incidence rate ratios)

theory that Democratic control of the Presidency, the Senate, and House of Representatives expands political opportunities to activists who sought to impact the legislative process.

### **Rights of the Aged**

I conducted two negative binomial regressions to see if my independent variables had a measurable impact on congressional hearings related to issues of ageism. My findings were quite similar to the results for women's rights. In Model 1 of Table 4.4, extra-institutional protest events pertaining to age discrimination did not have a statistically significant impact on related congressional hearings. Only the congressional variables were significant. The coefficient on *Democratic House of Representatives* was positive and statistically significant at the .05 level. This means that when the Democratic Party had a majority in the House of Representatives, the

rate ratio for congressional hearings related to age discrimination increased by a factor of 5.12, while holding all other variables in the model constant. This finding supports Hypothesis 4. In addition, the coefficient on *Democratic Senate* was negative and statistically significant at the .01 level. Whenever the Senate had a Democratic majority, the rate ratio for congressional hearings related to age discrimination decreased by a factor of 5.26, while holding all other variables in the model constant. So, Model 1 of Table 4.4 disconfirms Hypothesis 3 since a Democratic majority in the Senate had a negative effect on hearings related to ageism.

The results in Model 2 are quite similar. Model 2 of Table 4.4 does not support Hypothesis 1, as the coefficient on *Institutional protests* was not statistically significant. Furthermore, Hypothesis 2 is not supported, as the coefficient on *Democratic President* is not statistically significant. Like in Model 1, the congressional variables do seem to have a significant impact on my dependent variable. The variable, *Democratic House of Representatives* is statistically significant at the .05 level. This means that when the Democratic Party had a majority in the House, the rate ratio for congressional hearings related to age discrimination increased by a factor of 9.84, while holding all other variables in the model constant. This finding supports Hypothesis 4. The coefficient on *Democratic Senate* is also statistically significant at the .001 level, but it is negative. When the Democrats had a majority in the Senate, the rate ratio for congressional hearings related to age discrimination decreased by a factor of 1.54, while holding all other variables in the model constant. Model 2 disconfirms Hypothesis 3. As a whole, Table 4.4 disconfirms the expectation that a Democratic majority in the Senate increases political opportunities and agenda-setting. However, the table confirms the theory that a Democratic majority in the House of Representatives makes it more likely that political opportunities and agenda-setting are expanding for activists in the context of age discrimination.

**Table 4.4: Negative Binomial Model of Number of Congressional Hearings Related to Elderly Rights**

Variables	(1) Extra-Inst. Protest	(2) Institutional Protest
Age Extra-Institutional Protests	0.226 (1.25)	---
Age Institutional Protests	---	0.249 (1.28)
Democratic President	-0.317 (.729)	-0.423 (.655)
Democratic House of Representatives	20.05** (5.12)	18.40** (9.84)
Democratic Senate	-28.27*** (5.26)	-24.90** (1.54)
General Policy Mood	-0.078 (.925)	-0.10 (.905)
Constant	9.09 (8825.51)	9.48 (13076.31)
N	36	36
LR chi2(5)	13.46	13.44
Pseudo R2	0.108	0.108

\*  $p \leq 0.10$ ; \*\*  $p \leq 0.05$ ; \*\*\*  $p \leq 0.01$  (numbers in parentheses are incidence rate ratios)

### **LGBT Rights**

By examining the history of the LGBT movement as well as the government's response to LGBT issues in the political environment, it would seem that LGBT-related protest had a positive impact on related congressional activity. A quantitative analysis of LGBT extra-institutional and institutional protest and related congressional hearings could indicate whether this evidence is purely anecdotal or if LGBT protest has actually had a measurable impact on congressional activity regarding LGBT issues.

**Table 4.5: Negative Binomial Model of Number of Congressional Hearings Related to LGBT Rights**

Variables	(1) Extra-Inst. Protest	(2) Institutional Protest
LGBT Extra-Institutional Protests	0.037** (1.04)	---
LGBT Institutional Protests	---	0.082 (1.09)
Democratic President	0.866 (2.38)	-0.891 (2.44)
Democratic House of Representatives	3.274 (26.42)	3.87 (48.13)
Democratic Senate	-20.64** (1.09)	-23.18** (8.61)
General Policy Mood	0.002 (1.00)	-0.038 (1.04)
Constant	9.71** (16492.57)	8.80** (6690.32)
N	36	36
LR chi2(5)	25.38	23.62
Pseudo R2	0.1741	0.1620

\*  $p \leq 0.10$ ; \*\*  $p \leq 0.05$ ; \*\*\*  $p \leq 0.01$  (numbers in parentheses are incidence rate ratios)

Table 4.5 presents results of two negative binomial models in which I regressed LGBT-related congressional hearings on my independent variables: *LGBT extra-institutional protest* (in Model 1) and *LGBT institutional protest* (in Model 2), *Democratic President*, *Democratic House of Representatives*, *Democratic Senate*, and the *General policy mood*. In Model 1 of Table 4.5, the coefficient on *Extra-institutional protest activity* is positive and statistically significant at the .05 level. According to the model, if the number of extra-institutional protests were to increase by 1, then the rate ratio for congressional hearings would increase by a factor of 1.04, while holding all other variables constant. Thus, Model 1 provides support for the hypothesis that “protest positively influences congressional hearing counts for rights issues” (King et al. 2007, 148). The coefficient on *Democratic Senate* is negative and statistically significant at the .05 level. This means that when the Democratic Party had a majority in the Senate, the rate ratio of

congressional hearings would be expected to decrease by a factor of 1.09, while holding all other variables in the model constant. In other words, a Democratic-majority Senate had a negative effect on the number of hearings, which runs counter to the theoretical expectations of Hypothesis 3. The other independent variables in the model are not statistically significant.

Although *LGBT extra-institutional protest* had a statistically significant positive impact on related congressional hearings, this result did not apply to the relationship *between LGBT institutional protest* and hearings in Model 2. *Democratic Senate* was the only independent variable in the model that produced a statistically significant, result but the relationship was in the wrong direction. In short, a Democratic-majority Senate has a negative effect on the number of LGBT-related congressional hearings. When the Democratic Party has a majority in the Senate, the rate ratio for LGBT-related hearings would be expected to decrease by a factor of 8.61, while holding all other variables in the model constant. While Model 1 supports my first hypothesis, which expects protest to have a positive impact on hearings, Hypotheses 2, 3, and 4 were not confirmed. In short, my findings are not consistent with the view that Democratic control of the Presidency, Senate, and House of Representatives will result in more political opportunities and agenda-setting with regard to congressional hearings related to LGTB issues (Baumgartner and Jones 2009; Olzak & Soule 2009; Gillion 2012).

### **Rights to Freedom Speech and Religion**

I also conducted two negative binomial regressions to see if protest events related to the civil liberties of free speech and religion had an impact on related congressional hearings. Table 4.6 presents these findings. In Model 1 of Table 4.6, *Extra-institutional protests* concerning free speech and religion had a positive effect on congressional hearings concerning these issues. The coefficient on *Extra-institutional protests* was positive and statistically significant at the .05

level. If the number of extra-institutional protests were to increase by 1, then the rate ratio for congressional hearings would increase by a factor of 1.02, while holding all other variables in the model constant. Thus, Model 1 provides support to Hypothesis 1. The coefficient on *Democratic Senate* is also statistically significant at the .05 level, but it is negative. When there was a Democratic majority in the Senate, the rate ratio for congressional hearings related to free speech and religion decreased by a factor of .002, while holding all other variables constant. Model 1 disconfirms the theoretical expectation that a Democratic majority in the House had a positive impact on congressional hearings related to free speech and religion.

In Model 2 of Table 4.6, the coefficient on *Institutional protests* is statistically significant at the .001 level. This means that if the number of institutional protests were to increase by 1, then the rate ratio for congressional hearings would increase by a factor of 1.11, while holding all other variables in the model constant. Model 1 supports Hypothesis 1 since increases in institutional protest concerning free speech and religion had a positive effect on related congressional hearings. In addition, the coefficient on *Democratic House of Representatives* was statistically significant at the .001 level, but it was negative. In short, when there was a Democratic majority in the House, the rate ratio for congressional hearings related to free speech and religion decreased by a factor of 0.00. Thus, Model 2 provides support for Hypothesis 1, and it disconfirms Hypothesis 4. Hypotheses 2 and 3 are also not supported.

**Table 4.6: Negative Binomial Model of Number of Congressional Hearings Concerning Rights to Freedom of Speech and Religion**

Variables	(1) Extra-Inst. Protest	(2) Institutional Protest
Extra-Institutional Protests	0.023** (1.02)	---
Institutional Protests	---	0.101*** (1.11)
Democratic President	0.27 (1.31)	-0.452 (.636)
Democratic House of Representatives	-6.26** (.002)	-9.08*** (.000)
Democratic Senate	-3.37 (.034)	6.30 (545.59)
General Policy Mood	0.024 (1.02)	0.052 (1.05)
Constant	4.40 (81.38)	-1.35 (.260)
N	36	36
LR chi2(5)	7.73	10.61
Pseudo R2	0.058	0.08

\*  $p \leq 0.10$ ; \*\*  $p \leq 0.05$ ; \*\*\*  $p \leq 0.01$  (numbers in parentheses are incidence rate ratios)

## Discussion

In the end, my empirical results provide mixed support for Hypothesis 1. Extra-institutional protests related to LGBT rights as well as free speech and religion had a significant impact on related congressional hearings. In short, in the policy realms of LGBT rights and free speech and religion, more extra-institutional protest events led to more congressional attention. These results support Gamson's (1975) findings, which suggested that "'unruly' voices might have a bigger impact on social change" than institutional forms of protest (Olzake and Soule 2009, 205; Gamson 1975). In addition, institutional protest was highly significant in the case of free speech and religion. In short, more institutional protest events led to more congressional attention in the form of hearings. Taken together, the empirical findings are in accordance with the literature,

which indicates that the effect of protest activity is strong “at the agenda-setting stage of the policy process” (Olzak and Soule 2009, 204; Soule and King 2006; King, Bentele, and Soule 2007). While protest had a measurable impact on hearings in the cases of LGBT and free speech and religion, it did not in other issue areas. In addition, the coefficients on extra-institutional and institutional disability protest, extra-institutional women’s rights protest, and institutional racial protest variables were negative. Thus, Tables 4.1, 4.2, 4.3, and 4.4 provide no support for Hypothesis 1. While this issue requires further research, the idea that elected officials were not responsive to protest is potentially troubling and casts doubts on the ever-important question – “does protest matter?” My null findings for Hypothesis 1 could have implications for theories of democratic responsiveness.

Furthermore, the empirical findings provide little support for my political opportunity structure (POS) variables. The results lend no support to Hypothesis 2. The presence of a Democratic President had no significant impact on any of the rights-related congressional hearings in this study. In addition, the coefficients on the Democratic Senate variable were negative in 6 of 12 models, which indicates that more protest actually led to fewer hearings. Thus, the data offer no support for Hypothesis 3. This was very unexpected since previous literature has indicated that Democrats tend to be more receptive to holding congressional hearings and more open to voting for legislation favoring minority rights-related causes than Republicans (Poole and Rosenthal 1997; Gillion 2012). While these findings largely do not support political opportunity theory, there was some support for Hypothesis 4. In the context of women’s rights and rights for the aged, the Democratic House of Representatives variable was positive and statistically significant at the .05 level in each model. Political opportunity theory received some support in this study, but it was meager. While the results yielded little support for

my hypotheses, I will continue to examine the relationship between protest and the congressional agenda.<sup>2</sup>

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<sup>2</sup> I experimented with multiple alternative model specifications in order to check for robustness. No significantly different results were obtained.

## CONCLUSION AND FUTURE DIRECTIONS

The United States has a healthy tradition of protest as a vehicle for social change – especially for those who have felt marginalized. Since the U.S. was established as a nation, citizens have engaged in collective action to achieve political goals. In the rights-related movements that I examined in this study, individuals exercised their First Amendment rights and sacrificed their time, resources, and personal safety to impact the direction of their democracy. I began this study with an interest in understanding whether these efforts had a measurable impact on the policy process. In other words, did rights-related protests impact the congressional agenda; and did political party condition this relationship? The statistical results did not offer a resounding “yes” to these questions. There were mixed results for my protest variables, and the political opportunity variables did not perform well. While it is not necessarily true that political opportunity variables should be discarded, it is important that scholars continue working to pinpoint the factors that produce a positive political opportunity structure (Nownes 2004). I am still interested in pursuing this line of inquiry. However, I would implement specific improvements in the next iteration.

To improve the quality of this analysis, I must first acknowledge its weaknesses. One of the most significant vulnerabilities of the study is the lack of available protest data. Since *Dynamics of Collective Action (DCA)* dataset only accounts for protest events occurring from 1960 through 1995, this study could not statistically examine the relationship between protest and congressional agenda-setting since 1995. The scope of this study is quite limited. In the future, I will collect protest data on rights-related issues and broaden the scope of this inquiry at the national level. Collecting protest data would not only be necessary for my research interests, but it would also be useful for this line of inquiry in general. Previous literature that examined

protests has also been limited to the period from 1960 till 1995. The subfield, as a whole, would benefit from updating the *DCA* dataset.

In addition to examining the effects of protest on congressional agenda-setting, I will examine the role of public opinion in mediating the relationship between protest and legislative agenda-setting. Through protests, activists have proliferated messages to the wider public to raise awareness in support of their cause. For instance, during the AIDS crisis, groups like ACT UP used confrontational tactics to appeal to the public. Through protest, they shut down the New York Stock Exchange, and activists scattered ashes of people who died from AIDS in front of the White House. While many people disagreed with these controversial tactics, the group garnered a tremendous amount of public attention. Some scholars credit the ACT UP protests with creating a shift in public opinion (Faderman 2015). Following the protests, Congress passed the Ryan White CARE Act. Public opinion could have had an impact on this legislative decision. I will include measures of public opinion in my next analysis.

I will also explore other theoretical perspectives in the future. My findings largely do not lend support to political opportunity theory in explaining the effect of political party on congressional hearings. Perhaps the Democratic Party is not as amenable to supporting rights-related causes as previous literature suggests (Poole and Rosenthal 1997; Gillion 2012). In the future, I will use backlash theory to explore the relationship between party and congressional hearings to see if this theory better explains the relationship between protest and legislative behavior. According to backlash theory, activists engage in protest due to an increase in the degree of political repression in the environment (Tarrow 1998; Rootes 2003; Brockett 1991; Goodwin 2012; Polletta 2012). Instead of only looking at Democratic Presidential and

congressional influence, it may be useful to explore the relationship between Republican control and congressional hearings to see if there is a statistically significant effect.

We can also look to Neopluralism theory to explain the negative findings on the Democratic Senate variable. According to Stern and Verbeek (1998), political “actors play a variety of different roles, often resulting in role conflicts that affect the policy process and the resulting policy” (Stern and Verbeek 1998, 243). “We must not forget that roles enable as well as constrain, granting actors some degree of individual freedom in making policy for their organization” (Stern and Verbeek 1998, 243). The decisions that members of Congress make are not only informed by their own preferences, but they are acting within the “organization’s culture, [which] constitutes a collective action frame into which the [elected officials are] socialized” (Stern and Verbeek 1998, 243). While I expected an increase in rights-related hearings when Democrats held a majority in the House and Senate, their individual preferences could have taken a backseat to other interests of the party.

In the future, I would also like to analyze the relationship between the organizational capability of rights movements and related congressional hearings. Political opportunity theory provides an external explanation agenda-setting in Congress, but it neglects internal factors that could be impacting this relationship. Resource Mobilization Theory (RMT) could provide theoretical support in future analysis. According to McCarthy and Zald, who developed RMT, the creation and sustainment of collective action “involves expenditures of time, energy, and money and populations with few resources are less able to act on perceived injustices” (McCarthy and Zald 2002, 535). Social movement organizations would lower these costs and encourage widespread participation. For instance, social movement organizations essentially function as “firms [because they] try to accumulate resources, hire staff” to organize and

mobilize participates efficiently, “and sell their point of view to potential contributors” (Goodwin & Jasper 2003, 6). In the same way that Olson viewed people as rational, McCarthy and Zald viewed social movement organizations as rational entities that sought to amass resources and political might. Organizations’ effective use of resources plays a major role in recruiting members to join a collective cause. These structures essentially “subsidize the costs of [movement] participation” (Rosenstone and Hansen 2003, 210). RMT could explain how organizations mobilize policy entrepreneurs to make alliances with members of Congress, thus impacting the legislative agenda.

One could argue that professional movement organizations accounted for much of the rise of collective action in the 1960s. Organizations paid members of their staff, which created material incentives for individuals to work on behalf of the movements’ goals. McCarthy and Zald broadened Olson’s rationalist theory and applied “the cold language of economics” to the study of social movements because they spoke of “movement ‘entrepreneurs,’ ‘movement industries,’ [and] ‘movement sectors’” (McAdam et al. 2009, 269). McCarthy and Zald’s theory explained how organizations utilized economic principles and strategies to lower the costs of collective action and ameliorate the free-rider problem.

Organizational might was vital to the success of the rights-related movements that I explored in this study. For instance, in the Civil Rights Movement, organizations such as the Congress of Racial Equality (CORE), National Association for the Advancement of Colored People (NAACP), and the Student Nonviolent Coordinating Committee (SNCC) were “established national organizations that ...mobilized the rank and file and [galvanized] public opinion” (Rosenstone and Hansen 2003, 188). Social movement organizations used their resources to mobilize supporters’ participation in “bus boycotts, sit-ins, freedom rides...marches,

and rallies to dramatize the cause of integration and black equality” (Rosenstone and Hansen 2003, 189). These organizations had the means to mobilize people in order to make political change.

In taking an organizational perspective, I could also explore whether members of Congress were more responsive to groups with more moneyed resources. Well-financed groups may be more empowered to impact the legislative agenda than groups with fewer resources. The present analysis and future lines of inquiry could have implications for theories of democratic responsiveness. Scholars like Brady et al. (1995) have found “that money is the least equally distributed resource” and has become “increasingly important [in] citizen activity,” thus profoundly altering the character of American politics (Brady et al. 1995, 285). If citizens are not in a position to meaningfully impact the legislative process through elected officials, then one might question the vitality of American representative democracy. While these debates originated with the Founders, I think it is important to continue addressing issues concerning citizen participation and popular protest. When “inequalities in political influence become too large, democracy shades into oligarchy or plutocracy” (Gilens 2012, 234).

The Founders constructed the three branches of American Government so power would not be concentrated in the hands of a few. I would argue that the citizenry could also have the means to check governmental power through participation in protest. In a letter to John Taylor in 1816, Jefferson said, “Believing as I do that the mass of the citizens is the safest depository of their own rights, and especially that the evils flowing from the duperies of the people are less injurious than those from the egoism of their agents, I am a friend to that composition of government which has in it the most of this ingredient” (Jefferson 1990, 209). Popular protest has been a part of the American experience since the Founding, and it is likely to continue into

the future. In the aftermath of the 2016 Presidential Election, it is a particularly salient time to examine the political outcomes of protest. Since Donald Trump won the election in November of 2016, protests have erupted throughout the country. President Trump's Administration is stoking the fires of each rights-related issue examined in this study. Protest is an enduring part of the American experience, and it is important to continue examining its effects on political outcomes.

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## **VITA**

Alexandra Brewer received her B.A. in Political Science from the University of Tennessee in 2007. In May of 2010, Alexandra received her Masters degree in Comparative Politics from American University in Washington D.C. She currently resides in Knoxville, TN.