The Structural Context of Novel Rights Claims: Southern Civil Rights Organizing, 1961–1966

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Theorists of Critical Legal Studies (CLS) have argued that the abstract, individualistic, and state-dependent character of rights makes them of dubious value for groups fighting for social change. Southern civil rights organizers in the early 1960s engaged in the kind of power-oriented strategy that CLS writers advocate in lieu of a rights-oriented one. However, the rights claims they made inside and outside courtrooms were essential to their political organizing efforts. Far from narrowing collective aspirations to the limits of the law, activists' extension of rights claims to the "unqualified" legitimated assaults on economic inequality, governmental decisionmaking in poverty programs, and the Vietnam War. What made possible this novel formulation was not only the multivalent character of rights but also key features of the social, political, and organizational contexts within which rights were advanced.

Should powerless groups frame their grievances in terms of legal entitlement? Should they speak a language of rights? The pervasiveness of rights-talk in collective struggles around everything from comparable worth and disability to gambling and gun control suggests that activists see benefits in rights claims not available to those asserting "needs," or seeking concessions through direct action, legislative lobbying, or electoral organizing. But scholars associated with Critical Legal Studies (CLS) have issued a provocative challenge to the wisdom of rights claimsmaking. "It is not just that rights-talk does not do much good," Mark Tushnet states flatly. "In the contemporary United States, it is positively harmful" (1984:1386).

CLS writers argue that the indeterminacy of rights allows judicial decisionmakers to operate on the basis of idiosyncratic and ideological preferences and allows unmeritorious opponents of

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progressive interests to invoke legal rights with equal clout. Thinking in terms of rights, moreover, substitutes a mystified notion of human sociability for a more authentic form of unalienated connection (Gabel 1984; Gabel & Kennedy 1983–84). The problem, then, is not only litigation as movement strategy, with its dependence on lawyers, its cost, and its inability to guarantee enforcement, but the very formulation of grievances in terms of rights. As Kelman puts it, "Basically the claim is quite cognitive: to the extent that people are 'afflicted' by legal thinking . . . counterhegemonic thought will simply make less sense, simply be harder to think" (1987:269; see also Gabel 1984; Hunt 1990; Herman 1993). Rather than succumbing to the illusory freedom and equality promised by rights, activists should demand that their "needs" be met rather than their "rights" granted (Tushnet 1984). They should puncture the ritualized sanctity of the courtroom and appeal to people's compassion and empathy rather than to standards of legal justiciability (Gabel & Harris 1982–83). While they may not want to junk rights claims altogether, recognizing their value as a motivating source of "imagery and inspiration" (Freeman 1988:335), activists should concentrate on collectively "unthinking" the ideological distortions that rights-talk reflects and furthers (323). They should "keep [their] eye on power and not on rights" (Gabel & Kennedy 1983–84:36).

Such arguments have predictably spurred ardent defenses of litigation as a movement strategy. In this article, I take a different tack, examining how rights were conceived in a movement dedicated to the kind of power-oriented strategy that CLS writers recommend. Between 1961 and 1966, activists working under the auspices of the Council of Federated Organizations (COFO), the Student Nonviolent Coordinating Committee (SNCC), the Congress of Racial Equality (CORE), and the Mississippi Freedom Democratic Party (MFDP) sought to register black voters and build indigenous political organizations in the most repressive areas of the deep South. Young and militant, and aware of their role on the cutting edge of protest, they were largely dismissive of the NAACP's litigation campaign and of other organizations' focus on federal legislation. Their goal was power. And yet they and the local residents with whom they worked talked frequently about legal rights. Drawing on records of meetings, internal movement correspondence, field reports, and interviews, I examine how southern civil rights workers understood the relations among rights, politics, and protest. Rather than assessing the extent to which activists were able to preserve some prelegal political consciousness from its perversion by rights-talk, as CLS writers might do, I ask, what did they see law as capable of achieving? How did they relate other forms of activism to litigation efforts?

How did their language of rights change? Did it expand to new targets, subjects, or institutional arenas?

What I found should assuage CLS writers' worries that rights claimsmaking fosters a demobilizing dependence on the state to recognize rights-bearers, that litigation always displaces alternative, more power-oriented strategies, and that activists' political vision is progressively circumscribed by the limits of the law. With respect to the first, black Mississippians did indeed seek recognition as rights-bearers—as "first class citizens"—but less from federal and local officials than from congregation, kin, and community. Legal proceedings inside the courtroom supplemented the rights-talk that took place outside it by publicly recognizing people's willingness to "stand up" to white oppression. Far from substitutes for collective action, as Critical Legal Studies writers worry, legal victories were interpreted as prods to further action. Finally, with respect to critics' concern that rights-talk narrows activists' political vision and strategic options, I find that activists' extension of rights claims to the "unqualified" proved important in challenging prevalent notions of political representation. It helped to shape a collective action frame that went on to animate struggles around economic inequality, governmental decision-making in poverty programs, and the Vietnam War. Activists' engagement with conventional rights-talk pushed them beyond legal liberalism to a more radicalized but still resonant frame.

What made possible this re-envisioning was not only the multivalent character of rights but also distinctive features of the political, social, and organizational contexts within which they were advanced. During periods of interorganizational movement competition, in settings where social institutions (legal, religious, familial, economic) enjoy relative autonomy, and when organizers are at some remove from state and movement centers of power, frame innovations are more likely. I thus address in a preliminary way a question that seems to me crucial: if novel rights formulations are always *possible,* then under what circumstances are they *likely* to be advanced by challengers and to resonate with a broader public?

The article proceeds as follows: While referring to the work of several CLS writers, I focus on the critique of rights discourse advanced by Peter Gabel because it treats most explicitly the relations between rights, rights consciousness, and social movements. My objections center on the stark opposition Gabel draws between social movements and rights claimsmaking. Social movements for Gabel are simply occasions for experiencing the authentic, unalienated relations that the law promises but precludes. They are, in other words (and this is contrary to Gabel's intention), the mirror image—but somehow "authentic" rather than "inauthentic"—of rights claimsmaking. This kind of reified opposition makes it difficult to assess the place of rights

and litigation in actual social movements since Gabel's very understanding of social movements elides aims of power, prefiguration, and personal self-transformation. In examining rights claimsmaking in the southern civil rights movement, I instead try to specify (1) the relationship between litigation and other movement activities (asking whether litigation was pursued at the expense of power-oriented strategies, as CLS writers worry), (2) activists' use of rights-talk outside formally legal settings (asking whether political organizing was undermined by its dependence on individualist, formalist, proceduralist, and state-dependent claimsmaking), and (3) the evolution of activists' political vision (asking whether it was made moderate by its dependence on the quest for rights).

Data for this study consist of archival materials documenting southern civil rights movement "talk" between 1961 and 1966,[1] supplemented by a subset of the over one hundred interviews I conducted with former southern civil rights activists. I examined transcripts and recordings of strategy sessions, mass meetings, and courtroom proceedings; legal affidavits; personal correspondence; contemporaneous interviews with activists; and over six hundred field reports.[2] The latter were especially useful in detailing the pitches that organizers made and the kinds of responses they encountered. Quoting extensively from mass meetings and individual conversations, they offer rich depictions of political organizing, as well as of organizers' evolving strategies and political visions. My own interviews with former civil rights activists helped me to understand the discursive patterns I found in the movement materials.

Rights-Talk and Its Critics

Rights, Peter Gabel argues, are a substitute for the human bonds that we desire but do not experience in our lives. Apparently, that was not always the case: Gabel attributes to capitalism a "profound loss of a sense of social connection" (Gabel & Harris 1982–83:371). We project our unarticulated desire for connection onto the law, believing that the state can grant us the recognition of selfhood (which Gabel analogizes to the cathexis be-

[1] SNCC began voter registration work in Mississippi in 1961 and southwest Georgia in 1962; between 1961 and 1966, political organizing in Mississippi was conducted under the auspices of SNCC, CORE, the SCLC, the NAACP, the umbrella COFO, and the COFO-created MFDP. Although voter registration campaigns were by no means new (Dittmer 1994; Payne 1995), during this period they constituted the major movement activity in the most repressive areas of the South.

[2] Sources for meeting minutes, legal affidavits, personal correspondence, and field reports include microfilm collections of SNCC papers and those of the Voter Education Project, contained in the Southern Regional Council papers, as well as movement activists' personal collections, housed in the Wisconsin State Historical Society. I also drew on a collection of interviews with activists and residents in 1965 conducted by Stanford University students (Project South 1965).

tween mother and child) that we lack in a capitalist world of hierarchical institutions. But our existence as "legal subjects" is an illusory one, realized only in and through the state. We forget that the state is mere thought projection (a "passivizing illusion" [Gabel & Kennedy 1983–84:26]),[3] and imagine it as something real in order to justify our dependence on it. This has at least three consequences for our experience of rights:

> First, to the extent that individuals are represented as "having" rights, these rights signify social experiences that are merely possible rather than the experiences themselves. . . . Second, these rights are conceived as being granted to the individual from an outside source, from "the State" which either creates them (in the positivist version of the constitutional thought schema) or recognizes them (in the natural law version) through the passage of "laws." . . . Third, intersubjective action itself is conceived to occur "through" or "by virtue of" the "exercise" of these rights. (Gabel 1984:1576–77)

Together these understandings yield social relations "which have the quality of being 'okayed in advance' because they occur only insofar as one is engaging in the right to do them" (1577).

What does this phenomenology of rights mean for social movements? Movements—and Gabel refers variously to the civil rights, women's, and labor movements—both reflect the desire for more authentic forms of sociability and, by relying on rights to articulate that desire, further consolidate the hold of alienated social relations.

> When state officials refuse to recognize the legitimacy of the movement's demands, the movement may partially give in to this tendency by seeing itself less through its own eyes and more through the "eyes of the State," as if "the State" were the source of its being and for that reason ought to recognize it. The initial refusal of recognition by State officials, in other words, may begin to seduce the movement into deciding that "getting our rights" is the movement's ultimate objective rather than being but a moment of its own internal development. (Gabel 1984:1564)

We may stay locked in a struggle for rights rather than realizing the power that we have outside the law. Conversely, if the state *does* recognize our rights claims, we may fall into the trap of believing that the struggle has been won, that "having" rights can stand in for the unalienated relations that we seek.

Gabel does leave room for the utility of rights: "It may be necessary to use the rights argument in the course of political struggle, in order to make gains. But the thing to be understood is the extent to which it is enervating to use it" (Gabel & Kennedy 1983–84:33). The task for activists is to prevent rights claims from absorbing, moderating, substituting for, or otherwise undermin-

[3] The Gabel and Kennedy piece is a dialogue; I quote only Gabel's comments.

ing the aims of the movement. Rights victories should not be interpreted as securing anything, since their guarantees exist only in the realm of ideology. And rights defeats should not be taken as validating law as the proper terrain of struggle. Activists and lawyers should instead concentrate on using cases to strip away the state's authority by exposing its dependence on rituals and symbols. The point is not that you do not bring the case, but that "you keep your eye on power and not on rights" (36). You litigate cases in unconventional ways, resolutely breach the formality of relations that conceals the political within the legal, and call on people's empathy and compassion to transcend their reliance on legal standards of justiciability. You "play music at meetings" (54), and try to "make the kettle boil" (5).

I will skip over a number of troublesome points in Gabel's explanation for the "profound loss of a sense of social connection" (Gabel & Harris 1982–83:371), which he sees as characteristic of our era,[4] in order to concentrate on the opposition between rights and power, or rights claimsmaking and "transformative" politics (Gabel 1984:1587), which appears frequently in his work. What does he have in mind when he refers to transformative politics? What is threatened by, and must be preserved against, an enervating dependence on rights claims? Sometimes, it is simply the movement's "strength and energy" (Gabel & Kennedy 1983–84:32), its "development" (34), "its own internal ends" (Gabel 1984:1594), its survival (Gabel & Harris 1982–83:375). In other passages, Gabel refers instead to "gain[ing] . . . power" (Gabel & Kennedy 1983–84:33); "an increase in power" (34); "mak[ing] gains" (33), with power meant apparently in the Weberian sense of the ability to compel action that contravenes the other's interests. Thus, for example, a rights victory can yield "a marginal gain in power. It can force officials to obey their own rules" (34). In still other passages, Gabel represents the goal threatened by a focus on rights as developing a radical political consciousness among the public: "to create a more authentic politics by building the power of the movement through working in public settings which are recognized as political settings by the existing society, to transform the nature of how 'the political' is perceived by people" (32). Most often, Gabel (1984:1563) describes the "fundamental" aim of social move-

[4] Despite Gabel's claim to historicize the "profound loss of social connection" that he alleges, he does not, in fact, specify when it occurs. His characterization of capitalism in terms of the predominance of hierarchical structures does not distinguish capitalism sufficiently from other social systems that have also been organized mainly hierarchically. Gabel and Harris acknowledge in a footnote that their "critique probably applies with equal force to the legal systems of state-bureaucratic socialist societies, which are also characterized by the presence of hierarchy and collective powerlessness" (1982–83:371). However, they name no social formation *not* characterized by hierarchical social relations. Gabel's association of capitalism exclusively with the dominance of hierarchical structures also underestimates the degree to which, as Marx recognized, the worker solidarity fostered by capitalism provides a basis for challenging capitalism's competitive individualism.

ments as to create the direct, contingent, "authentic" lived relations among movement participants that are denied in both their daily lives and their relations with the state; to "build the power, meaning, texture, and richness of intersubjective zap and the strength of the group that is asserting the claim" (Gabel & Kennedy 1983–84:32); to affirm "one's humanity" in a way that makes us "want to transform the society." "By social movement all I mean is that individual growth and change occurs not through mere free will, but though affirmation by the other" (46).

Certainly movements have multiple and changing objectives. But one problem with Gabel's characterization is that it ignores tensions among the various goals he identifies. For example, as theorists from Robert Michels ([1915] 1962) to Wini Breines (1989) have recognized, bids for "power" are often jeopardized by what is required of the prefigurative impulse that Gabel seems to have in mind when he refers to "creating an experience of public community that could dissolve people's belief in and obedience to the State itself" (1984:1596). The obstacles between activists' experience of community and communicating that experience to a wider public are likewise unacknowledged. While many activists would speak fondly of the character of interpersonal relations among an intensely committed movement group, few would privilege those relations over securing changes that can be enjoyed outside movement gatherings and after the movement is over. And, indeed, research shows that people are better able to sustain participatory and egalitarian relations among themselves when they believe the movement is transitory (Rothschild-Whitt 1979). The survival of the group, Gabel's first goal, may thus run counter to the movement's personally transformative and prefigurative thrusts.

Gabel's ambiguity about the aims of movements stems from the set of oppositions on which his understanding both of a rights-orientation and its alternative depend: on one side, real, authentic, instrumental, effective, determinedly informal, state-challenging, power-oriented politics; on the other, inauthentic, falsely conscious, enervating, formalistic, state-dependent, rights-oriented claimsmaking. Such oppositions account for Gabel's confusing use of the term "power" (meaning, variously, political leverage, the exposure of ideological distortions, and the experience of unalienated sociability). They also account for his failure to explain how experiences of sociability are translated into relations outside the movement, how changes in interpersonal relations lead to changes in people's material circumstances, and why movements should endure once they have secured the rights victories that brought them into being.

Indeed, one might ask whether social movements fill the same place in Gabel's scheme as rights do in the legal scheme that he criticizes. Whether "before the law" or in protest, we

seem to experience a connectedness with others that is absent in our daily lives, but in neither case is there any indication that that experience will extend beyond the immediate setting and its current participants. Our devotion to maintaining what passes as subjecthood, whether "rights-bearing citizen" or "activist," threatens to overwhelm the aims that drew us to protest in the first place. Sustaining the movement, just like battling in courtrooms for rights, may become the movement's purpose. It may substitute for, rather than contribute to, effecting social change. In other words, Gabel cannot support his claim that experience in social movements is "true," "authentic," and transformative other than by positing it as the opposite of a "false," "inauthentic," and demobilizing rights orientation.

There are several analytical consequences of this reified opposition between social movements and rights claimsmaking. One consequence is ambiguity about the utility of rights claims for actual social movements. Gabel insists that "no one that I know in critical legal studies is 'against' civil rights or due process rights or workers' rights or any rights *to the degree that their meanings are linked in this way with their authentic foundations in experience*" (1984:1597, my emphasis). But this is precisely the problem, is it not, since rights-talk *precludes* the "immediacy and contingency of truly lived encounters" (1576)? Gabel provides one answer by suggesting that, during a movement's "rising phase," challengers are not seeking recognition from the state but "are rather speaking *through* these alienated forms from the vantagepoint of their own disalienating experience, and they are seeking to provoke a recognition in what we might call the transcendental conscience of real other people. It is for this reason that the meaning of these rights is neither reified, nor indeterminate" (1590, emphasis in the original). He does not specify when the "rising period" of a movement cedes to its consolidated or alienated period, nor why it does so. And even during the "rising period," rights are not represented as furthering the movement's aims, only not enervating them.

Gabel and other CLS writers are also ambiguous about whether they intend their critique to extend to all rights claims or whether certain rights are exempted. Are rights to political participation a basic and worthy goal? Gabel criticizes the reified character of voting: "In voting we each designate ourselves as 'Someone for a Day.' We pretend to emerge from our anonymity by 'going out into public' and becoming 'one of the People' (although, by virtue of our anonymity, there is really no 'People' to be 'one of') . . . we arrange to see each other act as if 'everyone' believed in the State as the authentic repository of our collective will (although this 'will' turns out to be a mere statistical object that can be 'added up' via the anonymity of numerical methods)" (1984:1575). But he goes on to say that "none of this is to

deny that voting-rights struggles have significant popular importance, or that voting is a source of some power through which we can affect events" (1575). Alan Freeman makes a similarly equivocal assessment. He argues that "membership rights . . . seem especially powerful" in our culture, and that for a people such as black Americans, "so solemnly ruled 'other,'" the Fourteenth Amendment "remains a statement of liberation that gives sustenance and aspiration to the culture and struggles of the oppressed" (1988:333). He does not, however, indicate *how* such rights sustain and inspire collective struggles. His chronology of the civil rights movement moves from the narrow legalism of the 1950s to the direct action of the early 1960s to Black Power, whose challenge, he says, was substantive but too late. This chronology misses the questioning of rights, formal equality, and political representation that occurred in the context of southern civil rights organizing in the mid-1960s. The latter, I argue, points to the possibility of alternatives both to a full embrace of legal liberalism and its outright rejection.

Another analytical liability of Gabel's view of social movements as directed "fundamentally" to forging new experiences of authentic sociability is revealed in his preferences for informality over formality and appeals to empathy over appeals to legal justiciability. If progressive movements by definition seek to expose the illusoriness of the state's claim to authority, and if that exposure is seen as adequate to the task of political transformation, then challenging rituals of formality makes eminent sense. But for people who have been without power, appeals to formal procedures and standards are not so easily dismissed. Informality, like tradition and discretion, is often just the gentler face of domination (Rollins 1985; Merry 1990).

Patricia Williams (1987) makes this point in describing her and Gabel's experiences looking for apartments in New York. Gabel found a sublet and, after a brief conversation with its tenants, handed over $900 in cash, with no lease, receipt, or keys. "The handshake and good vibes were for him indicators of trust more binding than a distancing formal contract" (406). Williams secured an apartment in a building owned by friends and "signed a detailed, lengthily negotiated, finely printed lease firmly establishing me as the ideal arm's length transactor" (407). As a white man, Gabel could afford the informality of relations that had historically provided license for African Americans' exploitation by whites, Williams argues. Where she grew up, landlords had often rented flats to poor black tenants without leases and with rent paid in cash, but those arrangements were demands on the part of landlords and signaled distrust not trust. To engage in formal, legal transactions was for Williams to assert her worth as a legal person. "As a black, I have been given by this society a strong

sense of myself as already too familiar, too personal, too subordinate to white people" (407).

We can assume that Gabel recognizes a distinction between good informality and bad informality. Indeed, he argues that "an alternative approach to politics based on resolving difference through compassion and empathy would *presuppose* that people can engage in political discussion and action that is founded upon a felt recognition of one another as human beings, instead of conceiving of the political realm as a context where one abstract 'legal subject' confronts another" (Gabel & Harris, 1982–83:377, my emphasis). But the set of oppositions on which his definition of effective politics rests elides it with informality in a way that obscures that point. Without denying that the formality of the courtroom can buttress the state's authority and inscrutability at the same time as it discourages expressions, and experiences, of compassion and empathy, we should be aware that formality can also make visible discriminatory and exploitative practices that were previously unscrutinized (see Massaro 1989 on empathy). And we should be aware that informality may conceal not illusory but very real power.

The latter is illustrated by affidavits filed by black Southerners in the early 1960s when local whites heard of their efforts to register to vote or plans to desegregate local schools. Clear threats by whites to black residents' jobs, livelihoods, and safety were couched in the language of paternalism, fealty, indeed, friendship. Cato Lee of Lowndesboro, Alabama, was summoned to the home of a white man to whom he owed money when it became known that Lee planned to enroll his children in the all-white high school. "He said that I haven't violated the law but there might be some trouble at school in September if my two children go. He said that he was just trying to help me since he's been knowing my Daddy a long time. He told me that if I didn't withdraw my children's names I might lose some friendship over in my hometown."[5] John Hunter of Hayneville, Alabama, was visited by a white neighbor who inquired about his crop then asked, "John, haven't I been your friend?" Hunter replied, "Yes, as far as I know." The neighbor went on to advise: "John, the best thing for you to do is to go up there and take [your son's] name off of those [school lists], because these white folks don't like it at all."[6]

The formality of legal processes can make visible, and contestable, actions that have been insulated from critique by their status as traditional, informal, personal, or idiosyncratic. More broadly, the way to avoid the reified conceptions both of rights *and* social movements that underpin Gabel's scheme is to pay

[5] Affidavit of Cato Lee, Lowndesboro, AL, SNCC Papers, reel 18, no. 703, July 1965.

[6] Affidavit of John Hunter, Hayneville, AL, SNCC Papers, reel 18, no. 714, 17 July 1965.

closer attention to how rights claims and strategies figure in actual movements. Among the possibilities not considered by Gabel or CLS generally are that some rights are more amenable to communal rather than individualist interpretations (Lynd 1984), that some kinds of movements are more likely to privilege litigation over other strategies, that litigation may have different costs and benefits at different points in a movement trajectory (McCann 1994), and, most importantly, that the meanings of rights are defined and modified in interaction with the state, opponents, and competitors, rather than defined solely by judges.

The latter insight informs a group of linked perspectives on legality in everyday settings (Ewick & Silbey 1998; Merry 1990; Yngvesson 1989). Such work has shown the extent to which people's understandings of self and social interaction are informed by legal concepts such as "fairness," "property," and "entitlement" *before* they have any formal contact with the state, but concepts defined in ways that are quite often at odds with those currently acceptable in a court of law.

Legal discourse affords possibilities for negotiating the limits of the law in novel ways. Sally Engle Merry writes that its "ambiguities, inconsistencies, and contradictions provide multiple opportunities for interpretation and contest" (1990:9). When this view of the law is extended into the realm of collective action, it suggests that rights-talk can serve as a springboard to envisioning change beyond legal reform (Hunt 1990; McCann 1994; Schneider 1986; Villmoare 1985). "'Rights' can give rise to 'rights consciousness,'" Martha Minow argues, "so that individuals and groups may imagine and act in light of rights that have not been formally recognized or enforced by officials" (Minow 1987:1867).

People can widen the scope of rights to encompass new institutional domains, subjects, and enforcement mechanisms. They can supplement a legal idiom with that of another normative system (religion, say, or the moral responsibilities of parenthood). Critical legal theorists' view of the hegemonic function of rights is thus simultaneously too weak and too strong. It is too weak in maintaining that people's political consciousness is non-legal before they come into direct contact with the state. It is too strong in assuming that relying on rights-talk necessarily limits challengers' capacity to envision alternatives.

In arguing that legal claimsmaking has helped oppressed groups to gain power, critics of Critical Legal Studies refuse its sharp distinction between rights and politics. They draw attention instead to "the ways in which rights claims can be linked to claims for power" (Schneider 1986:629). Echoing points made earlier by Stuart Scheingold (1974), Elizabeth Schneider argues that rights, and specifically litigation, can mobilize people by casting grievances as legitimate entitlements and by fostering a sense of collective identity; can help to organize political groups

through lawyers' resources of organizational skills and legitimacy; and can contribute to processes of political realignment, though in ways that are less predictable and conclusive than "ideologists" of a rights strategy would suggest. Litigation can force those in power to account for their actions; it renders them less invulnerable, exposes them to evaluation, and challenges the practices implicitly justified by tradition or habit. Together, these can motivate other forms of political action: lobbying for legislation, direct action demonstrations, economic boycotts, and so forth.

Legal victories may not be necessary to realize those benefits. For the targets of litigation, the possibility of a defeat in court may be enough to convince them to institute changes. In a study of wage equity activism, Michael McCann (1994) found that organizers used litigation not only to mobilize women workers but also to pressure employers to negotiate contracts under the threat that judges might impose a new wage structure. Even though "the courts were unreliable allies . . . employers, especially in the public sector, were vulnerable to the adverse publicity, financial costs, and administrative uncertainties that legal action threatened" (280). For the rights claimants, meanwhile, making public their demands and putting opponents on the hot seat, however briefly and unsuccessfully, may be enough to motivate them to engage in other kinds of insurgency.

Recognizing the multivalent character of rights should not lead us to an overoptimistic faith in the power of challengers to replace hegemonic meanings with subversive ones, however. As Didi Herman cautions, "[T]here is no reason why progressive social movements necessarily rearticulate rights in such a way as to challenge power relations. Rights' meanings cannot simply be 're-invented' and disseminated at will" (1993:35–36). To be sure, people can assert anything as a "right," which can be defined as an "entitlement" without requiring that the entitlement be legally authorized or enforced. But we usually think of rights as claims backed up by the force of law—or *potentially* done so. This conception of rights allows for innovation, but not wild invention. What makes legal rights claims powerful is the conjunction of moral principle and the force of the state. That American courts are unlikely to protect rights to bigamy any time soon, for example, diminishes the power of such claims outside the courts.

What other factors constrain or foster rights innovation? Most discussions have identified constraints at the level of culture, discourse, or ideology (using the terms interchangeably); for example, the "public/private" dichotomy that marginalizes a variety of claims and the opposition of sexual difference to sexual equality (Scott 1988). I inquire instead into the political and organizational circumstances in which people are most likely to discover and secure a hearing for new formulations of the sub-

stance, targets, subjects, and scope of rights. Under what conditions are activists likely to develop radical yet resonant rights claims, that is, rights claims that are not yet recognized by the courts but are effective in mobilizing people and/or compelling concessions on the part of opponents?

One of the ways in which activists may develop resonant rights claims is by combining rights discourse with other normative languages. William Sewell (1992) describes the possibility of "transposing" conceptual schemas from one structure to another, or from one institutional domain to another (see also Laclau & Mouffe 1985; Masson 1996; and Clemens 1997). For example, as Marx recognized, people can turn the worker solidarity fostered by capitalist production into a force for radical action. Or, modes of familial relations can be held up to assess and criticize relations in the workplace. In particular, integrating rights with other normative idioms may be a way to counter the individualist and state-dependent biases of conventional rights discourse. Such transposition is probably more likely where institutional spheres—religion, politics, the family—enjoy some autonomy. By contrast, in a society characterized by a high level of "mimetic" or "coercive isomorphism" (DiMaggio & Powell 1991), where organizations adapt their structures and mandates to those of other organizations, it is more difficult for people to challenge one institution by adopting standards from another.

A similar idea is evident in recent discussions of "free spaces": such institutions as churches or fraternal organizations or literary circles that are not formally political or oppositional but that play key roles in nurturing counterhegemonic challenges (Evans & Boyte 1986; Morris 1984; Hirsch 1990). Elsewhere (Polletta 1999a), I have criticized a tendency to reduce the oppositional agendas that are developed in such institutions to their physical or social isolation from those in power. I argue instead that the capacity of such institutions to foster cultural challenge comes from their preservation of alternative normative frameworks, their autonomy a function of earlier political concessions by those in power. So, for example, mosques played a crucial role in Kuwaiti opposition to Iraqi occupation because of their long-standing and "morally unassailable" authority to challenge the state (Tetreault 1993:278). Institutions such as these offer activists materials for transposing normative rhetorics from one sphere to another.

Activists who are distant from national centers of state and movement power are better able to do that work of transposition, to combine standard rights formulations with locally resonant justificatory rhetorics. This is a second condition for novel rights claims. In his study of the Communist Party in Alabama, Robin Kelley writes, "The Bible was as much a guide to class struggle as Marx and Engels' *Communist Manifesto*; rank-and-file black Com-

munists and supporters usually saw nothing contradictory in combining religion and politics" (1990:107–8). Communist organizers themselves—and this was in contrast to their northern counterparts—invoked religious imagery and often opened meetings with a prayer. In the southern civil rights movement, organizers also promoted the compatibility of religious and legal idioms. One southwest Georgia organizer described spending a rainy day looking for useful quotes in the New Testament to the effect that "Christ [is] a Marxist, etc."[7]

Numerous scholars have argued that decentralized movement structures encourage tactical and ideological experimentation as activists adapt agendas to the needs, aspirations, and skills of local people (Gerlach & Hine 1970; Flacks 1988; Robnett 1997). Indeed, members' dispersal in indifferent or hostile political terrains often forces them to be ecumenical in their appeals. For example, the debates about anti-communism and fellow-traveling that galvanized early national leaders of Students for a Democratic Society (SDS) had little meaning for new left activists in Austin, Texas, as Doug Rossinow (1998) shows. The autonomy of SDS chapters allowed Austin activists to draw on ideological currents that were foreign or unappealing to new leftists in New York, Chicago, or Ann Arbor, however—chiefly a populist-inflected liberalism and a social gospel tradition. SNCC workers' political idiom was transformed by their experiences at the grass roots: their questioning of conventional criteria for political representation came from their growing respect for the sharecroppers and domestic workers who proved stalwarts of the struggle yet were often dismissed (by movement leaders as well as white segregationists) as "unqualified" for political participation. NAACP activists were also operating at the grass roots, but their efforts to take advantage of organizing opportunities were hampered by the national organizational mandates under which they operated.

In addition to the relative autonomy of institutional arenas and organizers' distance from national centers of state and movement power, a third condition may facilitate ideological innovation generally, and novel rights claims specifically: interorganizational competition. In spite of broadly common purposes and frequent alliances, movement organizations compete for money, political allies, members, public attention, and legitimacy. Such competition is not necessarily a bad thing, since it encourages groups to "product differentiate" (Zald & McCarthy 1980), to concentrate on particular tactics (say, litigation or civil disobedience), or to forward a new agenda. The result may be a greater variety of groups able to appeal to people with a range of ideo-

[7] Chatfield to Sherrod, Southern Regional Council Papers, reel 178, no. 526, 16–24 Dec. 1962.

logical preferences and "tastes in tactics" (Jasper 1997; Mansbridge 1986), and the "radical flank effect" (Haines 1984) that increases financial contributions to the movement as a whole as patrons seek to curb the potential power of radical groups. Intramovement competition also forces groups to "clarify their framings and to engage in critical reflection" (Benford 1993:696), and it builds organizational solidarity and commitment. When an activist says, "We are not like X or Y organization; our role in the movement is distinct," she is articulating and reinforcing the group's collective identity—and shaping its agenda.

Product differentiation takes place not only with respect to tactics, goals, and frames but also with respect to the movement's constituency. Organizations may carve new movement niches by claiming to speak for people who have not yet been spoken for. Such processes may stimulate novel rights formulations as well as expand the mobilization pool. Consider the movement group advocating for bisexual or transgendered people in relation to the gay and lesbian rights or women's movements. By asserting the "rights" of this until-now unrecognized group, activists invoke a nonradical liberal discourse; they are only asking that transgendered and bisexual people be treated like everyone else. At the same time, by drawing attention to the fact that this group's needs palpably cannot be met by the rights claims being advanced by mainstream movement organizations, they are challenging the alleged universalism of rights.[8]

A deliberate assertion of particularistic rights shows that the blindness to differences claimed by liberalism requires that particular groups be made *invisible* (see Crenshaw [1990] on black women's invisibility in anti-discrimination law). "Deaf" activists (who distinguish themselves from mainstream deaf activists by the capital "D") demand rights but refuse the label of "disabled." Likening deafness instead to ethnicity, they call for reforms that would accommodate the needs of deaf people rather than force them to conform to hearing society. Such demands are radical in their scope if conventional in their formulation, and they throw into question pervasive assumptions about the lines between "difference" and "disability." Yet another example of a novel rights formulation is the call to center reproductive rights discourse on the rights of "pregnant women of color" in order to foreground the needs of black and Latina women for health care, teenage counseling, prenatal care, and so on (Eisenstein 1990). This formulation puts individual choice within a context of race, class,

[8] On transgendered activists' rights claimsmaking, see the websites of the following organizations: It's Time, America, www.tgender.net/ita; and the International Conference on Transgender Law and Employment Policy, Inc., www.abmall.com/ictlep/. See especially, Jessica Xavier, "TS Feminism and TG Politicization," www.annelawrence.com/tsfeminism:html. On bisexual activism, see Tucker (1995), and BiNet U.S.A., www.binetusa.org.

and gender inequities. It makes clear that reproductive choice for groups within the category of "women" requires more than the freedom to choose an abortion. Similarly, I argue, when SNCC workers asserted the rights of the unqualified, they were demanding that the rights of citizenship be extended to those who had been disqualified by a system that had denied them basic education, *and* they were questioning more broadly what counted as political expertise. In each of these cases, conventional rights claims were expanded to encompass the needs of people unrecognized by those claims.

Such rights claims are most likely made during the active period of a "protest cycle" (Tarrow 1998), especially in contexts of robust intramovement competition. In the grip of contention, challengers are likely to utilize a conventional political idiom and to reject, question, and rework aspects of that idiom. That is, rather than simply claiming new rights, or coming up with alternative, non-legal claims, they stay attuned to the requirements of political resonance in a culture that values rights (Haskell 1987), while pushing existing rights to encompass new targets, new subjects, or stronger mechanisms of enforcement. In his study of wage equity struggles, McCann (1994) found that activists "framed their challenges to status quo power relations as creative reformulations of, rather than as exotic alternatives to, familiar liberal legal discourses." But "this was not because the activists were mesmerized by legal norms and blind to their limitations. Rather, this was the only radicalism that could 'make sense' to the primary parties in the conflict. That is, to frame new challenges in an alien, esoteric, exogenously derived lexicon simply would be 'senseless' as a motivation and ineffective as a strategy, given the cultural orientations binding the activists, their constituents, and their opponents" (1994:272). Likewise, it would make little sense for a movement organization speaking for a marginalized subgroup to forward claims in an altogether new lexicon or to operate entirely independently of the mainstream movement, which has resources and political clout that it does not. Deaf activists, for example, have been unwilling to "cut [themselves] off from the larger, savvier, wealthier disability lobby" (Dolnick 1993:43). Instead, since identity claims in our society are often made in terms of rights, activists for marginalized subgroups are likely to forward rights claims that are radical simply because they expose the normative assumptions built into ostensibly universalistic rights.

The three structural conditions that I have described as conducive to novel rights formulations often interact. For example, decentralized organizations put activists in contact with potential participants who feel marginalized by dominant formulations of the movement's constituency. Note also, however, two ways in which these conditions may actually militate against novel rights

formulations. Activists may be discouraged from adopting or retaining a particular rights formulation because a perceived movement competitor has monopolized it. And the attempt to transpose rights categories from one institutional sphere to another may be hampered by features of the new setting that are not analogous to the old one. I detail both dynamics when I trace civil rights workers' attempts to broaden a notion of the "unqualified" as legal subject from the political to the economic sphere. First, though, I turn to empirical materials documenting movement rights-talk in order to assess CLS writers' claims that (a) legal strategies divert movement energies from political organizing; (b) rights claims weaken political organizing on account of their individualist, abstract, and state-dependent character; and (c) rights claimsmaking progressively moderates collective actors' political aspirations.

Claimsmaking in the Southern Civil Rights Movement

The Student Nonviolent Coordinating Committee (SNCC; pronounced "SNICK") was formed in the wake of the 1960 student sit-ins as a loose confederation of student groups engaged in direct action against segregated public accommodations. Within a year, however, its members' tentative steps into political organizing had gained support from a federal administration anxious to channel students into a form of activism less disruptive than the recent Freedom Rides and eager to register Democratic voters. By 1962, SNCC had metamorphosed into a cadre of organizers working to register black voters in southwest Georgia, Mississippi, Arkansas, and Alabama (on SNCC see Carson 1981; Dittmer 1994; Forman 1985; King 1987; Sellers 1990; Payne 1995; Polletta 1994). In Mississippi, SNCC worked with the Congress of Racial Equality (CORE), under the auspices of the Council of Federated Organizations (COFO).

SNCC workers had been wary of the Kennedy administration's proposal for a voter registration campaign. They worried about sacrificing the disruptive power of direct action. What convinced enough of them to push for, and eventually launch, the registration campaign was the prospect of building black electoral power. Even though federal officials were urging SNCC leaders to organize in the cities, they decided to go into the more dangerous rural areas, reasoning that "the Deep South contained 137 rural counties with a black majority," SNCC's former executive secretary recalls (Forman 1985:264). From the beginning, the plan was "Negro control of the . . . rural counties in the Deep South in which there is a Negro majority" (quoted in Watters & Cleghorn 1967:294), the goal "political power."[9] "The only attack

[9] Ivanhoe Donaldson field report, SNCC Papers, reel 7, no. 1090, 30 Oct.–5 Nov. 1963.

worth making," Mississippi project head Bob Moses wrote in 1963, "is an attack aimed at the overthrow of the existing political structures of the state. They must be torn down completely to make way for new ones."[10] Five years before Stokely Carmichael's cry of Black Power shot around the world, SNCC workers were talking about the kind of power that Critical Legal theorists posit as the alternative to a rights-orientation.

Yet the first step to black power, registering people to vote, proved almost impossibly difficult. Those known to have made an appearance at the registrar's office, or even to have associated with the "Freedom Riders," as SNCC and CORE activists continued to be known, were likely to be fired, evicted, or have their credit cut off. The names of those who registered were published in the local paper (ostensibly to give others an opportunity to challenge their "good character"), so black residents knew that once they made the trip to the courthouse they would be fair game for reprisals. They were verbally harassed and often subjected to physical violence. In the registrar's office, prospective voters were required to interpret an incomprehensible section of the Mississippi Constitution, or submit character vouchers signed by already registered voters, often in counties where no blacks were registered. They were often rejected for having participated in civil rights demonstrations, or were turned away for such trivia as having underlined rather than circled "Mr." on the registration card. Or the registrar would simply, without warning, close the office on registration day (Rodgers & Bullock 1972:22–23). For many black residents, a view of politics as "white folks' business" was an empirical reality if not a just one.

The task for organizers in these circumstances was to convince people to participate, knowing its likely costs. Organizers unashamedly invoked the presence of Justice Department officials in their persuasive efforts, this in spite of their own skepticism about the government's commitment.[11] For the most part, their telephone calls to the Justice Department went unreturned,

[10] Moses to SNCC Executive Committee, SNCC Papers, reel 40, nos. 6–7, n.d. 1963.

[11] Although the 1960 Civil Rights Act provided for the appointment of federal judges or special referees to register qualified registrants who had been rejected by local officials, in the 16 months after its passage, the voter provision had yet to be used, and there had been only one finding of a pattern or practice of discrimination in the entire South (Rodgers & Bullock 1972:24). To appoint a federal referee required a court finding of persistent discriminatory disenfranchisement. After such a finding, a person discriminated against had to wait for a year to apply for an order declaring him or her qualified to vote, an application procedure that required another long process (Handler 1978:121–22). Even after Justice Department suits began to make inroads in some parts of the South, other areas remained firmly resistant to black voting. Some Georgia counties registered only 3–5% of eligible African Americans, compared to 95% of whites (Handler 1978:122). In Mississippi, the average voting rights case brought by the Justice Department took 18 months for a decision; an appeal took another year (Rodgers & Bullock 1972). Michal R. Belknap (1987) argues that the Kennedy administration's unwillingness to intervene in southern states was justified, not motivated, by the claimed "constitutional impotence" of the national government.

planned suits were dropped, and organizers were questioned by FBI agents about whether they had "staged" a bombing. Thirty-five years later, Reggie Robinson remembers the impact of seeing a Justice Department official turn away from a bloodied fellow organizer, unable or unwilling to do anything to pursue his assailant. After describing the acquittal of three police officers for brutalizing a black resident in southwest Georgia, a SNCC worker wrote: "If one ever had the naive hope that the system had disappeared, the Federal Court sitting in Americus [Georgia] has made quite plain the fact that the system is quite alive, and fostered by some of the ablest minds around. Thanks, men, for putting me back in touch with reality."[12] Organizers harbored no illusions that Justice Department suits would halt reprisals against black residents altogether. But they did hope that the lawsuits would convey to white segregationists the possibility of further federal intervention.

When organizers brought charges and filed suits, they also showed black residents that whites were not invulnerable to challenge. Legal action recognized black Southerners' efforts to participate politically and demonstrated that their travails were not in vain. The machinery of litigation, the interviews, the affidavits, the court appearances, all were opportunities for black people to tell their stories of oppression endured, threats withstood, fear surmounted. They all helped to create the public identities on behalf of which residents would take "high-risk" action (McAdam 1986): attending a mass meeting, going to a citizenship class, ignoring the veiled threats of white employers and landlords, braving the jeering crowds to enter the registrar's office, launching an economic boycott, marching in a demonstration. When a Sasser, Georgia, deputy marshal was acquitted by an all-white jury of having harassed and fired at civil rights workers, SNCC organizers privately confessed their own frustration and anger ("I want to see the white man bite into the dust," wrote one),[13] even while recognizing the powerful impact of the trial on their organizing efforts. Project head Charles Sherrod, wrote,

> The people . . . came to Americus, Georgia, each day for the week during the period in which the trial was to come up. From each county they came, Terrell, Lee, Dougherty, and Sumter. On Wednesday night, they turned out to the mass meeting at Sasser, on Thursday they turned out to the meeting in Sumter, and on Saturday after the ruling was made they turned out in large numbers at Lee County. They were broken in spirit but they made us feel ashamed that we were all so despondent. . . .

[12] Faith Holsaert to Wiley Branton, Southern Regional Council Papers, reel 178, no. 597, 14 Feb. 1963.

[13] John Churcheville to SNCC, Terrell County Field Report, Southern Regional Council Papers, reel 178, no. 570, 23–26 Jan. 1963.

> They said that it was a victory even to have been able to get D.E. Short to stand in judgment before a Judge and Jury.[14]

The trial had helped to forge the "countywide unity" that was essential to a sustained voter registration campaign, Sherrod concluded. Even when ultimately unsuccessful, bringing or threatening suits was sometimes enough to persuade residents to put their lives on the line in other movement efforts. Legal claims-making was thus one component of a political organizing strategy, not at odds with such a strategy.

In 1964, southern civil rights workers made a legal strategy the centerpiece of a campaign for political power. Earlier that year, members of the COFO-formed Mississippi Freedom Democratic Party (MFDP) had mounted a formal challenge to the seating of the all-white regular Mississippi delegation at the Democratic National Convention. The story of MFDP members' testimony before the Democratic Party Credentials Committee and of the dramatic near victories, turnarounds, and betrayals that marked the course of the challenge in Atlantic City is a well-known one (Carson 1981; Gitlin 1987; King 1987). Not often recounted, however, is a second challenge mounted by the MFDP in late 1964, this time to the seating of the five Mississippi congressmen elected in November. Again, MFDP leaders charged that the discriminatory voting procedures in the state made the election—this time of congressmen rather than convention delegates—illegal. The case came before Congress rather than a court since the Freedom Democrats decided to challenge the election under a congressional statute on contested elections rather than sue the governor to prohibit certification of the regular congressmen. But the congressional challenge resembled litigation in its reliance on favorable interpretation of an existing law, on lawyers, and on legal techniques such as subpoenaed testimony and hearings.[15] It would seem vulnerable to the liabilities

[14] Sherrod to Branton, SRC Papers, reel 178, nos. 582–92, 8 Feb. 1963.

[15] The basis for the challenge lay in a federal statute providing that an individual citizen could contest an election to the House of Representatives by submitting evidence, including subpoenaed testimony of both "friendly" and "unfriendly" witnesses. The challenged party would be permitted to gather its own evidence, and briefs and evidence submitted by both sides would be made available to members of both houses and to the public, before being voted on first by the Committee on Elections and then by the House of Representatives (Kinoy 1983; McLemore 1971). The challenge was formally based on the grounds of (a) violations of the Fourteenth and Fifteenth Amendments; (b) violation of the constitutional requirement that members of the House be elected by "all the people"; (c) Mississippi's failure to comply with the terms of the Compact of 1870, under which it was readmitted to the Union. The terms specified that the Mississippi Constitution would never be amended to deprive any citizen of the right to vote (McLemore 1971:181). The Freedom Democrats initially called for the seating of the five Freedom Democratic candidates who, they argued, had been elected in a democratic election. In a second brief filed in June 1965, they withdrew that claim, calling instead for new elections (McLemore 1971:185). MFDP leaders had been advised to challenge the Mississippi election in Federal District Court on the grounds of its violation of both the Fifteenth Amendment and civil rights laws already on the books. They decided to rely on a congressional statute providing for an individual to contest the election of a member of the House,

of a legal strategy, draining resources, foregoing collective action by the aggrieved population in favor of elite direction, and pressured to limit aspirations to the legally possible.

It was for just these reasons that movement organizers adopted the plan gingerly. They were persuaded, says SNCC worker Mike Sayer, by the possibility of using the challenge to develop MFDP projects around the state.[16] And indeed, field reports by Mississippi organizers show the powerful effects of the challenge in stimulating organizing efforts. In a massive deposition-taking effort, over 100 northern lawyers recruited by the MFDP collected testimony from 600 witnesses in 33 counties. In depositions and hearings, residents "got a chance to tell their own story publicly," MFDP leaders wrote. "People spoke of beating, bombings, jailings, unfair treatment by public officials such as registrars, sheriff, highway patrolmen, etc. They told of losing their jobs, being cut off welfare. . . . [T]housands of people in Mississippi went to the depositions and heard their story told publicly and honestly for the first time."[17]

Armed with the power of federal subpoena, lawyers also compelled white local and state officials to account for their actions. An organizer in Bolivar County reported: "Depositions were held in a Negro church in Cleveland with both friendly and unfriendly witnesses appearing in the same session. . . . The depositions made a powerful impact on the community. The people really spread the word of what had happened. . . . [T]he adult freedom school, even though they are poor, gathered enough money to go to Jackson to hear Ross Barnett testify."[18] At the Jackson, Mississippi, hearings, an audience heard not only the former governor of Mississippi but also the Attorney General, Secretary of State, and the Director of the State Sovereignty Commission, as well as a state senator and an official from the notorious Citizens Council. *New York Times* reporter Fred Powledge wrote, "Mr. Stavis asked [Attorney General Joe Patterson] what he had done in support of Negroes' rights to register and vote. Mr. Patterson replied, 'I haven't done anything.' The Negroes in the audience clapped and hooted. Mr. Patterson threatened to get a Federal marshal to clear the room. Mr. Stavis reminded him that he was a witness and could not do that" (Powledge 1965). In Sunflower County, home of the Citizens Council, an organizer

since that strategy would allow the Freedom Democrats to assemble the evidence themselves, rather than to have to rely on the House Elections Subcommittee, according to McLemore.

16 Interview with Mike Sayer, New York, NY, 19 Dec. 1996.

17 "Congressional Challenge Progress Report," Morey Papers, State Historical Society of Wisconsin, March 1965.

18 Project Report, SHAW-COFO, COFO Folder, State Historical Society of Wisconsin, 22 Feb. 1965.

reported, "Every hearing was a victory. The voter registrar . . . could not interpret the Mississippi Constitution."[19]

The symbolic challenge to officials' qualifications and authority that took place in the hearings had tangible consequences. "After the hearings were done with we went to work spreading the news to the people that wasn't there," an organizer reported.[20] According to a field report from Panola County, "Such hostile witnesses as the Sheriff, registrar, D.A., and several of the more notorious plantation owners put on a good show for the 250–300 Negroes packed in the hearing room. People came from all over the county to see the spectacle. At the conclusion, the crowd burst into We Shall Overcome."[21] And in Bolivar County, organizers were enthusiastic:

> It's beginning to look like a Bolivar County-wide organization (particularly FDP-wise). For instance, people from all over the county came to hear the depositions being taken for the FDP Challenge. People came and went throughout the day, but there were never less than 100 in the room, and at some times, more than 180 (absolute capacity). Afterwards, everyone piled into each other's cars and traveled 20 miles to Rosedale for a rally attended by 200-plus people, outdoors and in the rain, the first such meeting held there.[22]

The legal rituals of formal hearings and depositions made public the mechanics of white supremacy and forced white officials to acknowledge and justify them. Revealing a small chink in the armor of white supremacy was enough to persuade some black citizens that the system was not invulnerable. That in turn made going to an MFDP meeting, helping to launch an MFDP-sponsored economic cooperative, or attempting to register to vote more compelling.

Those who have assessed the MFDP's congressional challenge have suggested that it may have strengthened congressional support for the Voting Rights Act, but that its purpose and chances of success were eliminated with the introduction of voting legislation in the spring of 1965 (Lawson 1976). And indeed, Congress voted in September 1965 to dismiss the challenge (the vote was 228 to 143, with 51 members not voting and 10 responding "present" [Stavis 1987:664]). But such assessments have missed the importance of the challenge in helping to build a network of MFDP offices and activists throughout the state. The MFDP would later be the lead plaintiff in a series of suits that attacked and eventually overturned vote-dilution measures en-

19 Linda Seese to Dear Friends, Seese Papers, State Historical Society of Wisconsin, 11 Feb. 1965.

20 Charles Nelson Hartfield to Dear Freedom Fighting Friend, Kaplow Papers, State Historical Society of Wisconsin, 17 Mar. 1965.

21 "A Brief Report on the Panola Project," SNCC Papers, reel 66, no. 256, 16 Feb. 1965.

22 "Cleveland Project Report," SNCC Papers, reel 63, no. 438, n.d. Feb. 1965.

acted by the Mississippi legislature immediately following the 1965 Voting Rights Act (Parker 1990). Thus, a quasi-litigational strategy helped to make possible an organized statewide response to the limitations of a later legislative "victory." The action-compelling and organization-building functions of the challenge were neither dependent on its victory nor rendered meaningless by its defeat.

Rights Talk Outside the Courtroom

Southern civil rights activists and the residents they sought to organize also talked about rights outside of courtrooms and formal legal settings, in mass meetings and churches, in barbershops, on buses to plantations, and on people's porches. How were rights invoked in these contexts? Was political struggle rendered abstract, individualistic, and dependent on the munificence of the state by casting it in terms of rights claims, as CLS writers worry? Records of organizers' and residents' invocation of rights suggest not. Of course, rights talk varied by person and setting, but several overall patterns are striking. First is the integration of abstract claims to citizenship with more tangible, material gains. "Mississippi Negroes do not deal in abstracts (e.g., the moral wrongness of their being denied access to public accommodations, the national implications of their voting disenfranchisement), but in local realities (e.g., they can't get a job, or they're starving, etc.)," SNCC organizer Charles Cobb wrote.[23] "We went from door to door telling people of their rights to vote and how with the vote they would get better schools, jobs, paved streets and all those things citizens should have," read a typical field report in 1962.[24] Yet, becoming a "first-class citizen" was often framed as a separate, sometimes overriding, goal. An organizer described his approach, "I said we can have better jobs and better everything. And we will become first class citizens."[25] And, in a movement newspaper in Hattiesburg, an editorialist opined: "The only way for the Negro to achieve the status of first class citizenship in Miss. is for him to realize his own responsibility and ability to correct the injustices that have been thrust on him for over a hundred years. Or are we satisfied with second-class citizenship?"[26] One woman planned to register, she said, "so she can be a first class citizen of the United States."[27]

[23] Charles Cobb to Staff Coordinator, SNCC, SNCC Papers, reel 17, nos. 125–28, 8 Nov. 1963.

[24] "This is a report on Ruleville . . . " SNCC Papers, reel 7, no. 29, Aug. 1962.

[25] "Interview with boys at the MFDP Laurel Office," transcript of Project South, recording no. 403, July 1965.

[26] *Voice of the Movement*, Hattiesburg, MS, 27 Aug. 1963, SRC Papers, reel 179, nos. 1007–9.

[27] Milton Hancock to Robert P. Moses, Voter Education Project, SRC Papers, reel 179, no. 1153, 24 Apr. 1963.

"First-class citizen"—the phrase appears frequently in Southern civil rights movement talk.[28] Does its use indicate a dependence on the state to warrant one's very personhood, what Gabel sees as rights' grave liability? The fact that residents often referred to first-class citizenship as an identity garnered in and through the struggle rather than as one dependent on the actions of voting registrars or federal judges suggests not. "Although we've suffered greatly, I feel that we have not suffered in vain. I am determined to become a first class citizen," one resident wrote.[29] Her suffering was vindicated by her determination—had already been vindicated—not by the eventual possibility that she would be able to vote without fear of reprisal. First-class citizenship was an identity in the making, something claimed now, rather than a means to an end. Such an identity required recognition, but recognition not necessarily from the state (which was outright hostile at the local level and unreliable at the national level). Instead, recognition of first-class citizenship came from kinfolk, congregation, community, and movement.

Mass meetings were crucial in this respect. They "created a context in which individuals created a public face for themselves, which they then had to try to live up to" (Payne 1995:260–61). "That night we went out to the mass meeting in Lee County," an organizer wrote. "J. C. Morer reported for Lee—and he's pretty smart. He made all the people who *hadn't* registered stand up."[30] People were called to stand up in mass meetings because the physical act signaled the political act, to declare themselves part of the movement and willing to suffer the consequences. First-class citizenship demanded confrontation, not entreaty. An Albany, Georgia, mass meeting leader told participants, "Don't you go down to that court house with your head down, scratching when you don't itch. Stand up! and speak up!"[31] Standing up for one's rights was the goal, not merely means to it. "I'm going to stand up alone if nobody stands beside me," said a Hattiesburg, Mississippi, resident. "I could be killed any day but I'm not going to live the life of a mouse in a hole."[32]

Surprisingly perhaps, mass meeting speakers related not the ease with which they had registered to vote but the burdens of first-class citizenship. In Ruleville, Mississippi, "Mrs. Fannie Lue

[28] The term probably goes back to antebellum legal definitions of free blacks as "third class" and therefore unentitled to civil and political rights. See *Cox v. Williams,* 4 Iredell Eq. 15, 17 (N.C., 1845); *Bryan v. Walton,* 14 Ga. 185, 198 (Ga., 1853); *State v. Jowers,* 11 Iredell 555 (N.C., 1850).

[29] Fannie Lou Hamer field report, Ruleville, MS, SRC Papers, reel 179, nos. 1338–40, 30 Sept. 1963.

[30] Joyce Barrett field report, SRC Papers, reel 178, no. 635, 11 Mar. 1963.

[31] Prathia [Hall] to Howdy, SNCC Papers, reel 37, no. 321–22, 4 Mar. 1963.

[32] *Voice of the Movement,* Hattiesburg, MS, SRC Papers, reel 179, nos. 973–74, 27 Aug. 1963.

Hamer [sic], the lady was put off a plantation because she went down to register, spoke to the group and asked them to try to get every person in Ruleville to try to register, she also told of some of the things that had happened to her as a result of her attempt to register."[33] Prathia Hall reported on a meeting in Albany, Georgia: "The audience was almost transfixed in admiration and awe as Agnew James, Mama Dolly, D[eacon] Evans, and D[eacon] Brown gave testimony of their trials and their determination."[34] Stories of participation emphasized costs born and tribulations suffered, and they ended with expressions of people's determination to continue struggling. An activist from Lowndes County, Alabama, related to a mass meeting: "I told them this morning, I've been in the field too long. Today I'm going to Selma and if I die tonight, well then I can also die tomorrow. I'm going to stand for my rights until I go down."[35] Rights-talk was the language of collective determination.

A third striking feature of southern movement rights discourse is its merging of religious and legal idioms. Duties of citizenship were reinforced by duties of faith. "Then [SNCC organizer] John Hardy . . . gave us a talk on good citizens. He said to be a good citizen you had to be a good Christian."[36] A SNCC staffer in Lee County, Georgia, in 1962 described a new pastor's "wonderful sermon on the importance of improving life on earth, of making a witness as a Christian, and of being willing to stand up and be counted. Without ever mentioning the word voter registration he so beautifully connected Christianity with the Negro's responsibility to become a first class citizen."[37] For many local activists there was no meaningful distinction between the legal and spiritual bases of the struggle. A black minister in Stonewall, Mississippi, described his decision to become involved in voter registration: "I began to think about the conditions that we were in, how badly we had been intimidated and how we had been deprived of everything that was ours, both our Constitutional rights and our God-given rights. So I just thought, well something got to be done about it."[38] Contrary to Critical Legal Studies writers' concerns about rights' abstraction, rights here were firmly connected to material goals like street paving. And contrary to critics' views of rights as dependent on the munifi-

[33] "Report on Progress in Ruleville and Other Counties," SRC Papers, reel 177, no. 1615, 22–29 Nov. 1962.

[34] Prathia [Hall] to Howdy, SNCC Papers, reel 37, no. 321–22, 4 Mar. 1963.

[35] "Staff People's Meeting, SNCC office, Selma," SNCC Papers, reel 37, no. 188, 24 May 1965.

[36] Affidavit of Edith Simmons Peters, SNCC Papers, reel 40, nos. 187–90, Sept. 1961.

[37] "Memo from Lee County Voter Registration Project," SNCC Papers, reel 7, no. 497, 17–26 Aug. 1962.

[38] "Interview with Reverend J. C. Killingsworth," transcript of Project South, recording nos. 363–64, June 1965.

cence of the state, black Mississippians sought recognition of their status as rights-bearers from kin, community, and congregation rather than from an intransigent state.

A fourth feature of the idiom of southern organizing relates to critics' concern that activists often mistake "having" rights for realizing the aspirations that drew them to the movement in the first place. In this case, to the contrary, no one seemed under any illusion that securing the right to vote was the same thing as freedom. Civil rights workers referred frequently to fighting for the "right to organize."[39] In this view, voting rights were a precondition for mobilization rather than its end. At a Jackson, Mississippi, mass meeting in 1965, one speaker declared, "[I]f we don't win the rights that we are fighting for, the rights to protest, the rights to hand out literature, if we don't win these things, then we are going to be trapped for another six to eight or ten years to come."[40] Shortly after passage of the Voting Rights Act, Mississippi activist Lawrence Guyot declared to an approving audience, "The only thing we've won is the right to begin to fight in the way that we want to fight."[41] Securing enforcement of blacks' constitutional rights was just the first step to equality.

What made possible a rights talk that avoided the abstract, individualistic, and state-dependent biases with which CLS writers claim it is saddled was not only the multivalent character of rights and activists' skills in exploiting that multivalency, although both were obviously important. It was also the institutional settings within which rights claims were formulated and recognized. Numerous writers have described the southern black church as a "free space" (Evans & Boyte 1986; Morris 1984), an institutional setting removed from the direct surveillance of authorities where people were able to envision alternative futures and plot strategies for realizing them. Organizers arriving in Mississippi communities knew that securing a church to hold a mass meeting was crucial, and field reports document their struggles to gain the trust of local clergy (Polletta 1999b). It was not only the space for the mass meeting that was important but also the legitimacy conferred on the movement. Although the tenets of Christianity could be interpreted to counsel against militant activism (and were often used to do just that), with ministers' assent, they could also be harnessed to the most radical aims.

[39] "Hattiesburg Meeting," Lipsky Papers, State Historical Society of Wisconsin, fall 1964.

[40] "MFDP Rally, Jackson, MI," transcript of Project South, recording no. 80, 15 June 1965.

[41] "Mass Meeting, Jackson, Mississippi," transcript of Project South, recording no. 117, June 1965.

Rights Beyond the Limits of the Law

By 1965, the movement had secured two landmark pieces of legislation and national support for an integrationist agenda. Organizers in the deep South had galvanized local movements, documented a variety of electoral abuses to the Justice Department, set up economic cooperatives and food distribution to help people bear the economic penalties for participation, and, in some counties, had gotten significant numbers of people onto the voting rolls. But continuing white repression, southern states' newly erected legal roadblocks to black electoral power (Parker 1990), and the defeat of the MFDP challenge convinced many civil rights workers—especially in the SNCC—that black Southerners' only hope for substantive political gains lay in electoral efforts independent of the national Democratic Party. Their evolving political agenda drew on black nationalist ideas and white new leftist ones. But it was framed in terms of rights, albeit an expanded understanding of rights. SNCC workers' push for recognition of the "unqualified" gained a national hearing for aspirations that went beyond what Harold Cruse has called the "noneconomic liberalism" of the civil rights movement (1987:75). Far from tempering activists' political aspirations, rights-talk framed challenges to the very meaning of political representation and equal opportunity.

As early as 1963, when the federal government was still pressing for proof of a sixth-grade education as qualification for voting, SNCC workers were vocal in their opposition to literacy qualifications. "Every adult should have the vote regardless of education," Bob Moses wrote. "Mississippi has not provided adequate education for Negroes, therefore it does not have the right to demand literacy and interpretative qualifications for voting."[42] Mississippi native Lawrence Guyot, college-educated and from a family of black politicians, was initially reluctant to call for the abolition of literacy requirements.[43] But the sheer hypocrisy of registrars passing illiterate whites while denying the vote to blacks, who had been educated in inferior schools, changed his mind. White officials repeatedly cited blacks' lack of "qualifications" in explaining their absence from politics. Mississippi Governor Ross Barnett's statement that most of the state's blacks were "unqualified" to vote, and that "We don't believe in having ignorant people elect our officials," was typical.[44] Even with equal

[42] "Statement of Purpose of the Freedom Ballot for Governor," SNCC Papers, reel 38, nos. 370–72, 1963. See also "Outlook for May 3rd Primary Elections," *SNCC News Service*, SNCC Papers, reel 18, no. 1141, Apr. 1965 (describing SNCC's justification for calling for voting rights without qualifications).

[43] Interview with Lawrence Guyot, Washington, D.C., 1 May 1998.

[44] "Ross Says Negroes Oppose Agitators," *Greenwood Commonwealth*, SRC Papers, reel 179, no. 761, 27 May 1963.

access, SNCC workers realized, the voting rolls would remain disproportionately white if registrars failed to take into account decades of Jim Crow.

Organizers also battled black residents' own fears that they weren't "qualified" to vote. A Mississippi organizer described her strategy: "[S]how them that qualification has a different meaning, that you don't have to be a college graduate to be qualified. Maybe in some cases you don't even have to read and write to be qualified."[45] An MFDP speaker at a 1965 rally went further: "[W]e gotta cut that stuff out, talkin' 'bout who qualified an who ain't. Every Negro in Mississippi that been hurt by the political system is qualified to talk about it."[46] "It is just a simple fact," a SNCC voting handbook asserted, "which everyone knows if he will think about it, that each and every grown man and woman is just as 'qualified' as anyone else to decide what he wants his life to be like."[47] Calling for the elimination of literacy requirements and asserting the rights of the "unqualified" was a powerful challenge to white Southerners' claim that blacks were unfit for political participation. Building collective identity around what had been a disqualifier for political participation was a potent mobilizing device.

The strategy came to have additional purposes, challenging black elites' monopoly on movement leadership, and warranting claims to economic enfranchisement along with political rights. With respect to the first, organizers in the deep South found that black "leaders" (to whom they began referring in quotation marks)—ministers, teachers, and heads of fraternal organizations—were often unwilling to take the lead in confrontational protest. "Strong" people who subjected themselves to certain reprisal by housing workers, hosting meetings, and canvassing neighbors were as likely to be domestics, sharecroppers, or unlettered farmers. Often dismissed as unsuitable for leadership roles by local and national black leaders, they were proving the bulwark of the southern struggle. "I think the kind of people we were bringing to register to vote was embarrassing to their Negro Voters League, which we were supposed to be working with," an organizer wrote in 1963.[48] In a discussion of the upcoming challenge in the spring of 1964, Bob Moses told his coworkers, "Note that Jackson Negroes are embarrassed that Mrs. Hamer is representing them—she is too much a representative of the masses."[49]

[45] "Interview with Anonymous White Female Volunteer," transcript of Project South, recording no. 405, July 1965.

[46] "MFDP Meeting, Jackson, Mississippi," transcript of Project South, recording no. 485, 29 Aug. 1965.

[47] "Working Sheet for Alabama Party and Election Handbook," SNCC Papers, reel 18, nos. 929–31, Jan.–Feb. 1966.

[48] Charles Cobb to Staff Coordinator, SNCC, SNCC Papers, reel 17, nos. 125–28, 8 Nov. 1963.

[49] "SNCC Staff Meeting," SNCC Papers, reel 3, nos. 975–92, 9–11 June 1964.

MFDP delegates to Atlantic City included not only NAACP activist Aaron Henry, ministers, and businessmen but also sharecroppers, domestics, and the unemployed. SNCC workers were adamant that the latter not be pushed aside when the MFDP began to attract national support. By representing the poorest of Mississippi's residents, people without the "qualifications" that accompanied middle-class status, the MFDP repudiated traditional criteria for leadership. For organizers, the leaders of this campaign were its constituents. "The whole point of the MFDP is to teach the lowest sharecropper that he knows better than the biggest leader exactly what is required to make a decent life for himself," said Moses (quoted in Kopkind 1965).

The seriousness of their challenge to political representation as it was conventionally understood was evident in Atlantic City. MFDP delegate Fannie Lou Hamer reported that NAACP head Roy Wilkins had told her "[Y]ou people are ignorant, you don't know anything about politics, you put your point over, why don't you pack up and return to Miss.?"[50] Charles Sherrod similarly remembered the "black dean of politics, Congressman Charles Dawson of Chicago" urging the MFDP delegates to accept the compromise and to "follow leadership."[51] "We are taught that it takes qualifications like college education, or 'proper English' or 'proper dress' to lead people," SNCC's Jimmy Garrett wrote soon after. "These leaders can go before the press and project a 'good image' to the nation and to the world. But after a while the leaders can only talk to the press and not with the people" (quoted in Newfield 1965:493). Five months later, during the Selma, Alabama, protests, SNCC workers argued with Martin Luther King, Jr., that illiterate blacks should be at the forefront of the campaign.[52] In May, a SNCC worker reported being told by two SCLC officials that "we don't think the country is ready to have illiterates voting."[53]

Reports like these were increasingly common in SNCC workers' discussions as they contrasted their willingness to work with the most disenfranchised southern black residents with the elitism of the mainstream civil rights organizations. When SNCC workers learned that at a meeting of the "Big Five" civil rights organizations (SNCC, SCLC, CORE, the NAACP, and the Urban League) an NAACP bigwig had pooh-poohed the idea of convening local black Mississsipian activists to plot strategy for the state

50 "Interview with Fannie Lou Hamer," transcript of Project South, recording no. 49, June 1965.

51 Charles Sherrod, "Report on the Democratic National Convention," Mary E. King Papers, State Historical Society of Wisconsin, Oct. 1964.

52 "Wednesday Night at the Torch Motel, [Selma, Alabama]," SNCC Papers, reel 3, nos. 1037–38, 10 Feb. 1965.

53 "SNCC Staff Institute," transcript of handwritten notes by Mary E. King, King Papers, State Historical Society of Wisconsin, 10–15 May 1965.

(complaining that "he had been listening to people from Mississippi cry for seventeen years"), they were indignant but even more convinced of their own mission.[54] Organizational comparisons had always figured in SNCC's programmatic discussions: "We are not King or SCLC." "Our job . . ."; "Our essential way of working . . ."; "[O]ur responsibility . . ."; "One of the important things about SNCC . . ."; "There is a vacuum . . . and SNCC has a responsibility . . ."; "Our job is to challenge . . ."; "[W]e are the most consistent voice which is in opposition to the U.S. government. . . . That voice carries with it certain responsibilities. . . ."; "We have an obligation . . ."; "[O]ne of the reasons this organization is different from any other essentially . . ."; "We are not the Students for a Democratic Society. We are not the Salvation Army. We are not American Friends Service Committee. . . ." "[A]s the most militant of the civil rights organizations, SNCC has an obligation. . . ." "[I]t is in keeping with SNCC's historic record that we move on the most critical place first."[55] SNCC workers defined their distinctiveness in terms of their militancy, their willingness to challenge everything and everyone, but also, and increasingly, in terms of their identification with the most disenfranchised black residents. Martha Prescod Norman says of SNCC's organizing logic: "If you include the needs and desires of the most oppressed people, you'll have a more radical movement. . . . It would make the movement more radical."[56] SNCC workers carved a distinctive movement identity by pressing the rights of a "new" collective actor.

As SNCC workers turned away from Democratic Party alliances and appeals to northern liberals in favor of independent politics and "Black Power," in late 1964 and 1965, the aspirations of the "unqualified" figured prominently in their evolving political vision. A lack of qualifications was becoming a code for poverty, describing both an unjust condition and the basis for radical organization. Charlie Cobb wrote in late 1965, "What 'qualifications' do the sharecroppers have (education, economic influence, etc.) to suggest that their needs (making a living, not being

[54] "Staff Meeting," transcript of handwritten notes by Mary E. King, King Papers, State Historical Society of Wisconsin, 10 Oct. 1964. See also Forman 1985:399–405.

[55] Executive Committee Meeting, SNCC Papers, reel 3, nos. 410–26, 12–14 Apr. 1965; Staff Meeting, Carson Collection, 12–15 Feb. 1965; "Minutes of the Meeting of the SNCC Executive Committee," SNCC Papers, reel 3, nos. 313–28, 27–31 Dec. 1963; 3rd District Staff Meeting, SNCC Papers, reel 3, nos. 1030–32, 8–9 Dec. 1964; Executive Committee Minutes, SNCC Papers, reel 3, nos. 0857–68, 19 Apr. 1964; Executive Committee Minutes, SNCC Papers, reel 3, nos. 0857–68, 19 Apr. 1964; "Position paper prepared for staff retreat at Waveland," SNCC Papers, reel 72, nos. 441–85, 6–13 Nov. 1964; Central Committee meeting notes, SNCC Papers, reel 72, nos. 173–205, 22 Sept. 1967; SNCC Meeting, audiotape no. 180, Forman Collection, 8–13 May 1966; Central Committee meeting notes, SNCC Papers, reel 72, nos. 173–205, 22 Sept. 1967; John Lewis, Staff Meeting, Carson Collection, 12–15 Feb. 1965; "Confidential Memorandum to: SNCC Exec Re: SNCC and the Big 10 of the March on Washington," SNCC Papers, reel 3, no. 274, 6 Sept. 1963; Executive Committee Minutes, Carson Collection, 18–19 Apr. 1964.

[56] Interview with Martha Prescod Norman, Hartford, MA, 6 Mar. 1992.

given a subsistence) be met? Where is their authority to command the resources that exist in this country?" (Cobb 1966:13). Organizer Jim Monsonis says now that the discussion about qualifications "really was a discussion around class."[57]

SNCC's Lowndes County, Alabama, project—incubus and exemplar of Black Power—was animated by an idiom of the unqualified. Courtland Cox wrote:

> The Negroes of Lowndes County want a political grouping . . . that is responsive to the needs of the poor, not necessarily the black people, but those who are illiterate, those who have poor educations, those of low income, that is to say, those who are "unqualified" in this society . . . In the past, poor Negroes have always formed the base of a pyramid on which those who are "qualified" are able to gain all the advantages of the Negro vote.[58]

Stokely Carmichael criticized the first part of the civil rights movement from his vantage point as Lowndes County project director: "Its goal was to make the white community accessible to 'qualified' Negroes and presumably each year a few more Negroes armed with their passport—a couple of university degrees—would escape into middle-class America and adopt the attitudes and life styles of that group" (1971[1966]:39). For Carmichael, who had grown up among white leftists, Marxist categories of class simply did not explain stratification in southern communities. To talk about "qualifications" captured poor blacks' double exclusion from the movement and from mainstream politics. It was a way to talk about class without reducing race to it. At the same time, the "unqualified" were not necessarily black. "The legion of unqualified does not exclusively consist of poor Negroes, but many, and I would contend the majority, is whites," Courtland Cox wrote.[59]

These comments, made in the context of SNCC's southern organizing work, suggest important continuities between a rights frame, the participatory democratic frame that would animate community organizing efforts around the country (Fisher 1994), and the Black Power frame with which the other two are usually contrasted (McAdam 1982; Peterson 1979; Oberschall 1978; Matusow 1984). They also counter characterizations of the southern civil rights movement as uninvolved in efforts to transform the economic order (Weisbrot 1990; Burns & Burns 1991; Cruse 1987).

SNCC workers did indeed envisage a widespread redistribution of wealth, a vision inspired and warranted by their recogni-

[57] Interview with Jim Monsonis, Great Barrington, MA, 14 Mar. 1995.

[58] Courtland Cox, "What Would It Profit A Man . . .," SNCC Papers, reel 18, no. 746, n.d. 1966.

[59] Courtland Cox, "Some Thoughts," SNCC Papers, reel 62, no. 935, n.d. (circa 1965).

tion of the rights claims of those traditionally excluded from mainstream and movement politics. They did not simply invent new rights claims out of whole cloth, but rather pressed insights developed in organizing and in contrast to the frames of other groups. SNCC organizers in Mississippi had a great deal of freedom in running campaigns; they could develop programs, identify targets, and form alliances based on their perceptions of local needs. They would not have survived otherwise: young, without obvious resources or connections to the federal government or any other source of authority, they were ill-positioned to "lead" anyone. By contrast, NAACP activists in Mississippi often found themselves stymied by national directives that were slow in coming, vacillating, and out of touch with local conditions (Payne 1995). Indeed, most of SNCC's mentors in the state—Amzie Moore, E.W. Steptoe, and Aaron Henry—were nominally NAACP officials who found in young civil rights workers a refreshing, and ultimately very effective, willingness to defer to and build rather than impose leadership.

SNCC workers' deference to the "unqualified" came from their recognition that those most willing to court the risks of movement participation were not the traditional black elite. Appropriated by white new leftists, however, an idiom of the unqualified would shape challenges to decisionmaking in universities, on draft boards, and in the Pentagon. SDS's Tom Hayden wrote in 1965,

> The Vietnam War is run from the LBJ ranch, the Pentagon, and the US Mission in Saigon, without any real participation by representatives of the American and Vietnamese people. In the same way, the Administration decided that the Mississippi Freedom Democrats, in their present radical form, have no "legal" right to a place in the Democratic Party and the Congress. So, too, are poor people kept out of the poverty program unless they behave properly. University students as well are excluded from decisions about the kind of education they pay for and need (1966b:35–36 [1965]).

Those who opposed the war in Vietnam, Hayden went on, were "disqualified" as "students, professors, or housewives . . . Communists [or] narrow nationalists" (37). To be sure, statements like these echoed the 1962 Port Huron statement, with its vision of a "society . . . organized to encourage independence in men and provide media for their common participation" (quoted in Hayden 1988:97). And SNCC workers themselves were influenced by SDS's idiom of participatory democracy and its commitment to "letting the people decide" (Miller 1987). But having rejected the "labor metaphysic" of the old left, the new left repeatedly turned to the civil rights movement and especially to southern blacks as the movement's moral visionaries. Challenges to the old left's misplaced faith in bureaucracy, its myopic focus on secur-

ing federal programs that were no more realistic than a revolution from the bottom up, its obsequious allegiance to the Democratic Party, and its stodginess would all be made in the name of the alternatives forwarded by activists in the deep South (Kazin 1995). As SDS President Carl Oglesby put it in 1965, "I see SNCC as the Nile Valley of the New Left. And I honor SDS to call it part of the delta that SNCC created. . . . At our best, I think, we are SNCC translated to the North" (quoted in Isserman 1992:25).

Hayden's evolution is interesting in this regard. Having concluded in 1961 that "it is not as though we can change things . . . it is not as though we even know what to do: We have no real visionaries for our leaders" (1966a:4 [1961]), a year later he had come to see the southern movement as providing the agenda and leaders he sought. "[T]he southern movement has turned itself into that revolution we hoped for. . . . We had better be there" (quoted in Hayden 1988:56). By 1965, he saw the larger meaning of SNCC's challenge in its questioning of qualifications: "What will happen to America if the people who least 'qualify' for leadership begin to demand control over the decisions affecting their lives? What would happen to Congress with all those sharecroppers in it? What would happen to bureaucracies if they had to be understood by the people they are supposed to serve? . . . These questions are among the most upsetting ones that this country can be asked to face, because probably the most thoroughly embedded, if subtle, quality of American life is its elitism—economic, political, social, and psychological" (Hayden 1965:118).

Making demands in the name of the unqualified connected Mississippi to Vietnam, connected disenfranchised black Southerners to middle-class black and white students (since they, too, were "unqualified" for technocratic decisionmaking), and connected rights to claims that went beyond conventional rights talk. "The movement," Hayden wrote (in its broadest sense as black and white, student and poor people's, northern and southern movements), "aims at a transformation of society led by the most excluded and 'unqualified' people" (1995:95 [1966]).

Limits of Rights Expansion

By 1967, the "unqualified" formulation had been abandoned, a victim in part of its very popularity. New leftists' eager appropriation of the term made it increasingly unappealing to SNCC workers at a time when they were rejecting white alliances and were coming under attack from black nationalist groups for their continuing ties to the white left. Instead, SNCC workers now talked about "human rights"; and in 1967 they declared themselves a "human rights organization." The declaration stemmed less from a belief that human rights claims were likely to gain

legal recognition than from a desire to relate to Third World liberation movements.[60] Just as new leftists distinguished themselves from the old left by embracing the aspirations and language of the southern civil rights movement, SNCC workers distanced themselves from the mainstream civil rights movement and the white new left by appropriating a rhetoric of black nationalism and Third World liberation. This suggests that the multiorganizational context within which activists formulate goals, strategies, tactics, and styles may discourage particular rights formulations if those formulations come to be associated with a movement group unpopular for other reasons.

SNCC's nationalist commitments eventually overtook its prior emphasis on economic disenfranchisement (Polletta 1994). However, the language of the unqualified had always left it in some ways unequipped to press for challenges to black Southerners' economic condition. A person's lack of qualifications was originally held to be an illegitimate basis for exclusion, and one that could effectively be overcome by actual participation in protest politics. Political participation would supply the disenfranchised with the qualifications they needed to participate. As Moses put it, "It is important to keep them moving forward. You become qualified as you do."[61] Gradually the term also came to refer to those made powerless by their poverty. But what was not made clear was how political participation would end economic deprivation. Obviously, the educational benefits of political activism did not extend to transforming the economic status of the impoverished. But the danger of equating a lack of qualifications with poverty was the suggestion that one could be encouraged to overcome one's lack of qualifications (poverty). In other words, all that was needed for the black poor to change their economic status was to realize that they were just as qualified as the next person, and to act on that basis. The danger of a too heavy reliance on this notion of the unqualified was a psychological reductionism that made a person's sense of personal empowerment synonymous with tangible social change. The task, in this view, would be less to demand remediation of a structural condition than to exhort individuals to overcome their lack of political capital through political participation. SNCC workers

[60] "The cause is not 'civil rights' but human rights, as Malcolm X said," a SNCC worker wrote in late 1965. "There is an international struggle in which our American struggle is only a small part" (Elizabeth Sutherland to Bob, Dona, Courtland, Mary, and all, SNCC Papers, reel 61, no. 1083, n.d.). SNCC's bid to align itself with Third World liberation movements raises a larger question: when do movement organizations emphasize their similarities with other groups rather than their differences? One circumstance would be when the emulated organization is in a different *movement.* Associating with Third World liberation movements and organizations was a bid for prestige within an American context, just as new leftists' identification with the black civil rights movement gave them cachet among white students.

[61] "Alabama Staff Workshop," SNCC Papers, reel 36, nos. 1213–20, 21–23 Apr. 1965.

were certainly aware that dealing with the graphic poverty of the South required more than moral exhortation. But representing poverty as a lack of qualifications and, implicitly, as stemming from a lack of qualifications, made it difficult to forward a structurally based account of poverty.

Again, this was not the reason for activists' abandonment of the term. However, it does suggest one of the risks of extending rights claims from one institutional sphere to another; namely, that complex causal processes are reduced through the use of analogy. Like the structural conditions of interorganizational competition and remoteness from national centers of political power, the institutional autonomy that allows for ready transposition of claims from one sphere to another carries with it both resources for and obstacles to activists' advancement of expanded rights frames.

Conclusion

I have argued that rights claimsmaking was effective in mobilizing people for non-litigational activities such as registering to vote, participating in economic boycotts, demonstrating against segregated facilities, and forming parallel political parties. Rights claimsmaking inserted enough uncertainty into long-standing relations of domination to give people a sense that change was newly possible, and provided recognition for efforts whose immediate yields were far from clear. The recognition of rights claims and claimants by movement, congregation, and community worked to warrant actions not easily justified in terms of a narrowly rational cost-benefit analysis. Rights discourse was effective in pushing organizers to widen their agenda to institutional arenas and aggrieved groups not originally targeted. Rather than narrowing their strategic focus, as CLS writers worry, an engagement in rights struggles pushed them to enlarge it. Finally, rights claims contributed to a master frame of protest that would go on to animate contemporaneous and subsequent protests.

Stella Capek (1993) traces the "environmental justice frame" that animated a Texarkana, Arkansas, anti-toxics campaign in the 1980s to the "civil rights frame" of the 1960s, with its rhetoric of dignity and full citizenship. Yet anti-toxics activists' assertion of a "right to information" and their demand both for access to information that affected them and for substantive, not merely formal, participation in EPA decisionmaking echoes the more capacious notion of rights that developed in the student wing of the civil rights movement.

I want to underscore several features of the processes by which such understandings were developed. Organizers did not arrive in Mississippi communities with a blueprint for effective rights talk. They learned strategies, tactics, and underlying politi-

cal visions from such seasoned local activists as Aaron Henry (longtime NAACP member and MFDP leader) and Amzie Moore (who persuaded Bob Moses to start a Mississippi voter registration campaign) (Payne 1995; Dittmer 1994). Student organizers' genius was in deferring to those activists, shaping a movement identity that made radicalism synonymous with a deference to local people's needs, and projecting local struggles and aspirations to a national audience. In this movement, as in others (Johnston 1991; Scott 1990), it was the syncretism of local protest traditions and such "master frames" as rights (Snow & Benford 1992) that proved so potent.

Southern civil rights organizers developed new understandings of the relations between rights and political representation in a field of competitive organizational relations. When they asserted the rights, and then leadership, of the unqualified, they forged a political vision in contrast to that of mainstream civil right organizations as well as white segregationists. Working "in the field" remote from the firmly political orientations of state and movement centers of power, organizers were at greater liberty to draw from a variety of narratives and normative traditions. Indeed, such ecumenism was necessary to craft pitches that resonated with long-nurtured narratives of deliverance in which the lines between the political and spiritual springs of action were blurry.

Contrary to CLS writers' argument that the "false consciousness" (Freeman 1988; Gabel 1984; Gabel & Kennedy 1983–84; Gabel & Harris 1982–83) motivating rights claims "cut[s] people off from access to their own experiential knowledge" (Freeman 1988:322–23), I have argued both that experiential knowledge is always already shot through with ideological assumptions *and* that rights consciousness can give new cast to people's experience in ways that motivate radical and effective action.

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