

Peaceful Protest vs. Political Violence:  
Why Some American Social Movements Want to Watch the World Burn

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**Abstract**

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This project explains the conditions under which American social movements that begin their mobilization through peaceful, lawful acts of protest become politically violent. To do so, I propose and develop a new, unifying framework called the state legitimacy framework. The state legitimacy framework contends that protest strategy escalation from peaceful, lawful protests to civil disobedience occurs once a movement/ movement faction begins to lose faith in the state's absolute lawmaking capacity. Furthermore, if and when a movement or movement faction loses faith in the state as a system of governance, it is highly likely to engage in a politically violent protest strategy. There are three factors that shape a movement's perception of the state's legitimacy or lack thereof: 1) types of rights claims embedded in the movement's demands, 2) the movement's perception of the state's response to the movement's demands and its activists,

and 3) the movement's religious and/or ideological commitments. The three cases examined here, the Abolitionist Movement, the Prohibitionist Movement, and the Civil Rights Movement, demonstrate how the state legitimacy framework is both generalizable across American social movements and critical in developing movement-specific causal theories of protest strategy escalation.

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elephant,” which has helped me get over the finish line. For all this and so much more, I could not ask for a better mom.

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**Introduction:**

**The State Legitimacy Framework of  
Protest Strategy Escalation**

“As a way of interpreting democracy,  
it is rather like trying to keep a church going without faith.  
In politics as in religion, loss of faith tends to lead to  
corruption and surrenders the ground to revivalism.”

Margaret Canovan, “Trust the People! Populism and the Two Faces of Democracy”

**Why Turn to Violence in a Democracy?**

Abolitionists in the early 1830s emerged committed to peaceful and lawful acts of protest. They initially mobilized through nation-wide mailing campaigns to the public, submitted anti-slavery petitions to the state, and debated the merits of self-defense in the face of violent anti-abolitionist attacks. By the end of the 1850s, the movement engaged in the illicit Underground Railroad, Abolitionist-sponsored and executed violence in the Kansas-Nebraska territory and calls for revolution in the wake of *Dred Scott*. Shortly thereafter, John Brown’s intended slave insurrection in Harper’s Ferry supported by prominent Abolitionist leaders culminated in the bloody American Civil War (Fellman, 1979). Likewise, early Civil Rights leaders in the early twentieth century wanted nothing more than status as full and equal citizens in post-Reconstruction America. Yet, by the late 1960s, part of the movement called for liberation from this political system through revolutionary means (Kang, 2012; Umoja, 2013). Why did these movements which began thoroughly committed to the American state and creed become, at least in part, politically violent? Furthermore, why did the women of the Prohibitionist Movement engage in politically violent property destruction during the mid-point of the movement’s century-long mobilization while the men did not, and then de-escalate their

protest strategy to peaceful, lawful acts of protest after a decade of saloon smashing? In short, why do American social movements that emerge committed to the American democratic project and its principles turn to a politically violent strategy that can include calls for revolution in some cases?

These questions lay at the heart of project, which is about American social movement protest strategy escalation with a focus on the root causes of politically violent acts of protest. I argue that the key determinative factor that explains an American social movement's adoption of a politically violent protest strategy is the movement's belief in the state's legitimacy, which is comprised of the state's adherence to popular sovereignty, its fealty to the American social contract, and its ability to extend full political, social, and economic recognition to its citizens. The state must demonstrate this legitimacy along two dimensions, which are the just laws it produces and just operation of the system writ large. When a movement perceives state failure over time on the first dimension, it is highly likely that that movement will engage in acts of civil disobedience, which are still peaceful but unlawful in their intentional defiance of specific, unjust laws. A movement will most likely become politically violent when it deems the state as illegitimate and perceives state failure in both the unjust laws the state produces and also in the state itself as a system of governance. While a civilly disobedient movement (and certainly a peaceful, lawful movement) recognizes the failings of the state, it still believes the state itself can be restored or elevated so the movement seeks a reconciliation with the state through its acts of protest. A politically violent movement, however, seeks some kind of liberation from the current governing structure, and the more this kind of movement moves towards full revolution, the more extreme its politically violent tactics will become.

Since I argue that a movement's perception in the state's legitimacy is the determinative factor (key independent variable) to explain a movement's protest strategy escalation (dependent variable), it is necessary to explain what effects this perception. The way a movement assesses the state's legitimacy is movement and context specific; yet there is a set of core factors (mediating and moderating variables) that routinely shape these perceptions, including the types of rights claims that a movement demands, the state's response to the movement's demands and activists, and the movement's religious and ideological commitments. While there is not one deterministic, formulaic pathway to violence for American social movements, this constrained constellation of forces explains how a movement's perception of the state's legitimacy can change. Then, a movement's protest strategy evolves in accordance with these changes in a movement's faith in the state's legitimacy. Therefore, the movement's perception of the state's legitimacy and the forces that influence that perception, which I present here, comprise a unifying theoretical framework for explaining protest strategy escalation. When this framework is applied, it becomes clear how certain factors included in the constellation of forces listed above manifest themselves in case-specific ways and evolve, altering the movement's perception of the state's legitimacy. This, in turn, effects the movement's protest strategy. Examining specific of case studies within the context of this unifying theoretical framework helps explain the pathway to violence for individual movements and movement factions and the absence of violence for others. This unique approach to the study of social movements is the core contribution I make to the academic discourse.

This project also departs from previous scholarship in its in-depth, comprehensive study of American social movements and their protest strategies, an approach that is surprisingly rare in social movement scholarship (see Klandermans and Smith, 2002: 6). Previous studies either

delve into one case study and provide rich detail and a specific causal argument (see McAdam, 1983, etc.) or include an American social movement or movements as case studies in examinations of social movements across western liberal democracies (see Tilly and Wood, 2009, etc.). Both of these approaches are valuable and contribute substantially to our understanding of social movements; however, the single American social movement study tends to lack generalizability and the social movements across western liberal democracies study makes causal inference more challenging since there is considerable variation from state to state. It is my hope to begin to address this gap in the literature first with an in-depth, qualitative analysis of several case studies in which I apply the state legitimacy theoretical framework. Then, I will use this framework to explain each movement's protest trajectory and develop a specific theory for why each movement did or did not escalate its protest strategy. Finally, I will make intra- and inter-case comparisons of movements throughout American history from the 19<sup>th</sup> and 20<sup>th</sup> centuries to verify the validity and application of my general theoretical framework.

I focus on American social movements because this approach simplifies the factors in the state legitimacy framework. These movements mobilize generally against the same state that is bound by roughly the same Constitution (subject to amendment) and protest in a social context that more or less recognizes the validity of the values and principles articulated in the country's founding documents. There are other reasons to limit the scope of this study to American social movements. First, the American founding is unique in that it occurred around the time social movements as a political phenomenon emerged (Tilly and Wood, 2009), and the prevalence of protest, religious and other associations, and multiple access points to the state has fostered a culture of political protest from the beginning (Tarrow, 1998). Secondly, the founding was based an invocation of the right to revolt, as described in the Declaration of Independence, which

provided a template of the government before the state was formed. In this way, the American Revolution was the assertion of popular sovereignty just like the social movements that followed, and the call for revolution tied to the use of political violence mirrors later politically violent movements that emerged in political life.

Thirdly, the American founding is the first founding with a written constitution that acts as a social contract. Much like social contract theories in which individuals come together to create and consent to the social contract, the Constitutional Convention and subsequent ratification of the Constitution and the Bill of Rights represents this theoretical moment in which the people create a sovereign (in this case, the people themselves) and consent to the state on the basis of a constitutional contract that outlines citizen rights and state powers. The American social contract comprised of the Declaration of Independence and the U.S Constitution (I flesh this out in depth below) establishes perimeters of state legitimacy social movements invoke consistently throughout American history through present day. This stable, concrete American social contract creates unique continuities across American social movements that facilitates the development of a unifying framework of protest strategy escalation.

Fourthly, American institutions and codified constitutional rights, specifically the judiciary and 1<sup>st</sup> Amendment rights, protect rights associated with and necessary for protest (Collins and Skover, 2013), which both recognize the continued need of the consent of the governed and designate state-approved forms of dissent. When a movement has to escalate its protests beyond these legal and peaceful means, it indicates a perceived problem with the political system itself. Finally, civil disobedience as a protest strategy originated in and is considered a unique feature of American politics (Arendt, 1972, etc.); therefore, examining this particular protest strategy in an exclusively American context should capture more of the nuance

of this complex mode of protest. Civil disobedience is of particular interest even in a study focused on political violence since it is generally the strategy a movement adopts after it abandons a strictly peaceful, lawful protest strategy but is unwilling to become politically violent. Additionally, civil disobedience indicates the loss of faith in absolute state legitimacy without rejecting the entire political system, which provides an essential point of contrast for politically violent protests predicated on a more holistic faith in the state itself.

### **Social Movements and State Legitimacy**

Before we go any further, it is worth explaining what social movements are and why they are significant in a democratic context. To start, the most basic agreed upon claims about social movements are that social movements initially operate outside of formal institutions, make demands because of some perceived grievance, and adopt some kind of public demonstration, performance, or protest tactic to make their appeals to those in the seat of power as well as the public in general (Lipsky, 1968; Tarrow, 1983, 1989, and 1998: 93; Gamson, 1990; Tilly, 2006). Movements in a democratic context emerge to reassert the sovereignty of the people (Tilly and Wood, 2009: 13) and represent “admitted failures of American democracy to produce orderly change” due to “departures from the ideal conditions of pluralism (Gamson, 1990:5).” Furthermore, democratic movements highlight the discrepancies between the democratic principles articulated by the state and its less than democratic practices as well as those between the promises of citizen sovereignty and the practices of managing the business of government (Canovan, 1999; Kirkpatrick, 2008; etc.). Finally, movements contribute to democracy by establishing coalitions across groups, engaging formally excluded citizens, and mobilizing new groups within the political sphere (Tilly and Wood, 2009: 142).

While movements can highlight perceptions in the democratic failings of the state and assist in addressing these failings through peaceful and lawful means, the patterns of protest strategy escalation that violate the law (civil disobedience) and the state's monopoly on force (political violence) indicate that American movements tend to view the state as a means to a democratic end. A movement's willingness to engage in unlawful or violent acts of protest also demonstrates a belief that the preservation of democratic principles and individual rights supersedes that of the state. Furthermore, comparable to Scheingold's (1974) myth of rights, the relationship between the citizen and state is not self-executing, and it is act of social movement protest that identifies a comparable "myth of the social contract." The democratic, representative state relies not only on explicit rights guarantees but also on citizens' belief in institutional legitimacy. As Canovan (1999) eloquently noted: "As a way of interpreting democracy, it is rather like trying to keep a church going without faith. In politics as in religion, loss of faith tends to lead to corruption and surrenders the ground to revivalism (16)." While civilly disobedient movements keep the faith in the face of enduring rights violations, politically violent movements do not. Rather, these movements call for revolution on some scale—the political equivalent of a religious revival. I argue that such calls for revolution require activists to believe the state is illegitimate and in violation of its primary directive depicted in the American social contract.

Therefore, a movement's belief in the state's legitimacy, or lack thereof, is the determinative factor (key independent variable) that distinguishes peaceful movements from violent movements; once a movement believes the state is illegitimate, it will endorse a political violent protest strategy, barring an unwavering commitment to a pacifist ideology. American movements almost always emerge with a commitment to a peaceful, lawful protest strategy. As

stated earlier, social movements perceive the state's legitimacy (or lack thereof) along two dimensions, which are the state's lawmaking capacity and its monopoly of force. At first a movement will reject the state's absolute authority over its lawmaking capacity and respond to illegitimate laws by adopting a civilly disobedient protest strategy, which is peaceful and submits to the state's general rule of law while it violates specific, unjust laws. If and when a movement becomes politically violent it is because it no longer respects the state's rule of law and its monopoly of force and begins to reject the political system itself. Unless and until a movement becomes politically violent it engages an "unmobilized constituency" (Tarrow, 1983; 7) to target an initially unresponsive state in the hopes that both will adopt the movement's demands and recognize its activists and/or those for whom it advocates as legitimate political, social, and economic actors. This orientation is predicated on the movement's faith that the current political system, while flawed, is open to remediation and therefore salvageable in its current form. Therefore, the movement seeks reconciliation with the system once the state and its laws and practices have been reformed. Once this faith is lost the desire for reconciliation vanishes, or at least fades as a priority, and a new desire for non-negotiable change or revolution supplants it and produces a politically violent protest strategy.

I conceptualize state legitimacy, or the state's recognized right to rule, in the American context as the state's reliance on popular sovereignty, its adherence to the American social contract, and a robust recognition of its citizens, all of which are interrelated. As stated above, social movement scholars explained that social movements mobilizing in a democratic context do so as a way to (re)assert the will of the people and reestablish popular sovereignty. Democratic states such as the U.S. rely on the consent of the governed for their legitimacy, placing the locus of ultimate political power in the hands of its citizens, to whom political

institutions and elites are accountable. The execution of popular sovereignty is itself contentious because, as Locke notes, while the state comes to fruition through unanimous consent, lawmaking must operate on the consent of the majority because it is impossible to rule by unanimous consent (Locke, 331).

This assumes that the will of the people is actually a collection of wills (see Rousseau on this point). Assuming that political wills reflect self-interest, when a matter concerns more than one set of interests the will of the governed is at odds with itself. This makes democratic governance predicated on the will of the people challenging to execute without the principle of majoritarianism. This solution is not without its own shortcomings since the majority will can tyrannize a minority just as much as despotic elites can (Tocqueville, Book 1, Chapter XV), so that even the practical application of popular sovereignty through majoritarianism does not guarantee a just outcome (see Rawls, 1971, etc.). In fact, theorists like Locke (1690), Mill (“On Liberty”), Tocqueville (see above), and others recognize the eventual inevitability of a tyrannical majority. The solution is to constrain lawmaking to the social contract, the agreement that binds the state to its citizens and citizens to each other.

Social contract theory predicates the purpose of the state and then sets the terms of state-citizen and citizen-citizen relations. Despite their differences, social contract theorists like Hobbes and Locke contend that the state is necessary to protect individual natural rights and order both the social and political spheres (on this topic see Arendt, 1972). According to Locke, the social contract is intended to restrain other citizens and the state from violating individual liberties, establish a rule of law over both the state and its citizens, and requires that the state’s actions reflect the will of the people (Locke, 1690). The contract also necessitates that citizens surrender their right to enforce their rights to the state (Locke, 1690), vesting the state with a

monopoly of force (see also Weber, 1919). This does not confer upon the state unconditional authority and discretion, however, since the state must abide by the law of nature, which endows individuals with rights independent of civil government and society (Hobbes, 1651; Locke, 1690). I contend that this anti-positivist view of rights grounded in natural law is a prerequisite for movements critiquing the state's lack of rights recognition and protection and, for some, engaging in illegal and/or violent acts that violate the social contract or the laws its governing systems produce.

Social contract theory also construes a mythical origin story of the state, much like Plato's noble lie<sup>1</sup>, that contends the consent of the governed is necessary beyond the state's inception and must be conferred throughout the state's tenure because the people's consent legitimizes the state, particularly a democratic republican state. Collective citizen consent is not unconditional since, as Arendt contends, true, meaningful consent implies the possibility of dissent (1972: 88; see also Rawls, 1971; Moulin-Doos, 2015). Interestingly, in America the 1<sup>st</sup> Amendment "works to legitimize certain kinds of speech or action that were previously contrary to law (Collins and Skover: 2013, 113)" and provides legal protection for the actions and words of dissent (Ibid). Furthermore, regular elections are intended to represent the state's need for positive expressions of consent to maintain the state's legitimacy and demonstrate its reliance on popular sovereignty. Social movements' peaceful and lawful protests outside of and within formal political institutions and processes are instances of these dissent-oriented rights in action, demonstrating that the system provides legal mechanisms for the people (re)aligned the state to its contractual obligations.

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<sup>1</sup> Plato. *Republic*. Barnes and Noble Classics: New York, 2004.

Since Locke's social contract theory supposes that the protection of individual rights necessitates the creation of the state, the state's violation of those individual rights can become the basis for dissolving the contract. As Moulin-Doos (2015) explains "Because individuals hold natural rights, Locke envisages that the individual can oppose the authority if this authority does not respect his rights. The political authority is legitimate as long as it has the support of the individuals— support that can be retracted at any moment if the government does not assume its duty of protecting natural rights (49-50)." In other words, the state's failure to uphold its terms of the contract, specifically the protection of individual rights, brings into question state legitimacy into question. And the more egregious and sustained the failure, the more the movement is likely to see the state as illegitimate. Locke described a right to revolt when the state continually violates the contract and laws of nature (Locke, 1690). These points are vital to understand American social movements since they tend to mobilize in response to a perceived breach of the social contract and prescribe a remedy. Additionally, it invokes a paradigm of the spirit of laws, which ought to advance the primary directive of the state— the protection of natural rights. As I demonstrate throughout this project, what constitutes a natural right is often contested by the opposition presenting a counter-claim as a right, like the anti-abolitionist charge that Abolitionism violated property rights by seeking to deprive slave-owners of their slaves (see Abolitionist Movement chapter).

I contend that both the Declaration of Independence and the U.S. Constitution together constitute the written American social contract. First, while it is not legally binding, the Declaration of Independence is a part of the American social contract since it articulates the purpose of the state, its intended relationship to its citizens, and the powers and obligations of the state and the rights and responsibilities of citizenship. The Declaration is also unique in that it is

the document that dissolves one social contract, the one between British colonists and the British state, and clears the way for a new social contract, invoking the Lockean right to revolt based on the “long train of abuses”<sup>2</sup> colonists experienced under British rule. Secondly, the U.S. Constitution is the legal and literal manifestation of the American social contract, beginning with a preamble that demonstrates the critical role of the consent of the governed in the construction of the government and the purpose of the state. The rest of the document outlines the powers and obligations of the state, and the amendments, also subjected to the same process of ratification in which the consent of the governed is conferred, explicitly identify the rights of citizenship. In short, the Declaration of Independence states the valid terms of service of a social contract, which the Constitution aimed to fulfill.

What is more, movements throughout American history frame their demands and rights claims by invoking the Declaration of Independence well as the U.S. Constitution, as the cases in this project illustrate. This indicates that movement leaders and activists view these documents as the agreed upon promises for what the state owes the citizens what citizens owe each other. Additionally, movements not only point to specific clauses and rights while framing their demands upon the American social contract, but also extrapolate principles from these documents that posit that citizenship is more than a slate of legal rights. This panoramic view of citizenship requires political, social, and economic recognition and integration by both the state and society, with the state upholding the formal “contract” and society fulfilling that contract’s

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<sup>2</sup> “*Secondly*, I answer, such *revolutions happen* not upon every little mismanagement in public affairs. *Great mistakes* in the ruling part, many wrong and inconvenient laws, and all the *slips* of human frailty, will be *born by the people* without mutiny or murmur. But if a **long train of abuses**, prevarications and artifices, all tending the same way, make the design visible to the people, and they cannot but feel what they lie under, and see whether they are going; it is not to be wondered, that they should then rouse themselves, and endeavour to put the rule into such hands which may secure to them the ends for which government was at first erected; and without which, ancient names, and specious forms, are so far from being better, that they are much worse, than the state of nature, or pure anarchy; the inconveniencies being all as great and as near, but the remedy farther off and more difficult.” Locke, Section 225, 1689. (emphasis added)

“social” component. It is within this philosophical framework that American movements emerge with a near universal peaceful, lawful protest strategy. What is more, is it this framework through which civilly disobedient movements reject the state’s absolute legislative and executive powers when the state produces illegitimate laws and politically violent movements justify calls for revolution.

Finally, both social movement and democratic citizenship scholars illuminate the importance of recognition in both movement mobilization and protest strategy escalation. Anthony Oberschall (1973) explains that movement leaders and activists not only seek redress of their grievances from formal political actors and institutions as a means to their demand-driven end but also require recognition for its activists and those the movement represents. True recognition of movement leaders and activists requires that the state negotiates in good faith and refrains from destroying its opposition. This is typically the most difficult and most essential hurdle for a movement to overcome in the institutionalization process, i.e., demand accommodation (Ibid). John S. Dryzek (1996) echoes these sentiments and claims that full inclusion into the state “involves more than the attainment of basic citizenship rights” and must also include participation in political and deliberative processes. State accommodation of a movement’s rights-based demands is insufficient if that accommodation is not also coupled with state recognition of movement activists as legitimate political actors on a continuing basis because, as Sidney Tarrow (1983:45) notes, “guaranteeing institutional participation” is “more durable” than “granting substantive rights.” Additionally, Judith Shklar (1989) conceptualizes recognition as a full citizen in both legal standing and social standing, illustrating the importance of the public square’s acceptance of one’s citizenship not only in political matters but also in social and economic matters, as well. This multi-dimensional understanding of recognition is

essential for a more complex and nuanced conception of state legitimacy is a departure from purely demand-centric social movement analysis.

Therefore, the recognition which movements seek transcends its ability to affect policymaking and law enforcement to include the movement's activists along with their demands into the democratic project. An expansion of recognition beyond demand acceptance is critical to explain movements in which activists were successful in codifying their rights claims and even gaining material benefits but still engaged in protest strategy escalation. This phenomenon has already been studied by scholars and is referred to as "relative deprivation," which scholars have defined as when two groups are improving but one does so at a faster rate (Geshwender, 1964:249) or "a perceived discrepancy between men's value expectations and their value capabilities" (Gurr, 1970: 13), in which men have less capability to meet the expectations of "the goods and conditions of life to which people believe they are rightfully entitled." Relative deprivation can also result from uneven improvements for an aggrieved group, like with Davies' J-curve or rise and drop hypothesis, in which "revolution is most likely to take place when a prolonged period of rising expectations and rising gratifications is followed by a short period of sharp reversal, during which the gap between expectations and gratifications quickly widens and becomes intolerable (Davies: 1979: 415)." Tocqueville noticed a similar pattern in the events leading up to the French Revolution with the following: "Patiently endured so long as it seemed beyond redress, a grievance comes to appear intolerable once the possibility of removing it crosses men's minds. For the fact that certain abuses have been remedied draws attention to others and they now appear more galling; people may suffer less, but their sensibility is exacerbated (Tocqueville, 1971: 96)" Together these theories and observations demonstrate that a movement can still perceive a state to be illegitimate even as the state meets the movement's

demands. This insight suggests that movements seek meaningful admittance into the state and is the essential to the conception of recognition that I presented here.

### **Constellation of Causes: Factors that Influence the Perception of State Legitimacy**

While a movement's perception of the state's legitimacy determines whether a movement will endorse a politically violent protest strategy, this provides only a partial explanation of protest strategy escalation. A thorough understanding of protest escalation requires addressing why movements diverge on their perceptions of state legitimacy in the first place. I contend that a set of intervening (both mediating and moderating) variables, which include 1) a movement's rights claims and demands, 2) its perception of state responsiveness, and 3) its religious and ideological commitments, determine a movement's (un)belief in the state's legitimacy. To identify and describe these conditions, I look to what previous scholars have theorized about changes in protest strategies. The current academic debate on social movement protest strategy centers on the degree to which factors internal to and external from the movement determine a movement's behavior. The important internal factors scholars identified include the movement's leadership, its ideology, intra-movement communication channels, and its overall structure and organization. Peter K. Eisinger (1973) synthesized the external factors into a concept called the "political opportunity structure," or POS, which Doug McAdam (1998) summarized as the degree of openness or closure of political institutions, degree of elite alliance stability, elite allies of the movement, and the state's ability and tendency to be repressive.

Scholars have posited that the dyadic relationship between movements and the political opportunity structure (POS) is the most significant factor in shaping movement mobilization. They have found that this relationship affects the internal workings of the movement, such as its organization, ideological commitments, generation of the intra-movement discourse, and creation

of collective action frames, which, in turn, shapes its protest choices (Eisinger, 1973; see also Tarrow, 1983 and 1998; McAdam, 1996 and 1998; Tilly, 2003 and 2006, etc.). Changes in the political opportunity structures, such as the emergence of a counter-movement (Zald and McCarthy, 1987) and some kind of response to the movement's demands from public officials (Gamson, 1990), influence several components of a movement, from its members' collective identity, demands, collective action frames, and, of interest here, protest tactics (Snow and Benford, 1986, 1988, 2000). Additionally, scholars have also stressed how state repression, a component of the POS, radicalizes protest strategies. For instance, Sabine Karstedt-Henke (1980) argues that a state's repressive response towards a more radical wing of a movement and a more accommodating response to a more moderate movement wing can drive the former wing towards strategic escalation. Donatella della Porta (1998) fleshed out the role of policing protest and how repressive policing, a result in part from police discretion and lack of instructions, leads to real time protest strategy radicalization during demonstrations. Charles Tilly (1978) also recognizes how government repression can effectively control mobilization and increase the cost of collective action, directly affecting the protest strategies available.

Since these initial POS-centric studies, subsequent scholarship shifted the debate to incorporate more of the impact of internal factors on protest strategy. This produced the current consensus that a fusion of internal and external factors is responsible for protest strategies and their radicalization. Ruud Koopsman (1993: 637) contends that "the interplay between facilitation, repression, and the chance of success defines a set of external constraints that combine with activists' choices among three strategy options— innovation, increased participation, or increased militancy." McAdam added the level of vulnerability within the broader political and economic context to a movement's POS. Then, he examined the strength of

a movement's internal communication channels across its organizations and found that the interaction between both of these external and internal factors explain changes in protest activity (McAdam, 1983). Similarly, Meyer and Staggenborg (1996) contend that a movement's ideology and resources (internal factors) coupled with changes in the POS (external factors) effect the "choice of arena" and "shifts in targets" for movement mobilization. In this way, the context imposed on a movement does not play a deterministic or even the only significant role in shaping movement protest strategy decisions. This approach to balancing the POS with internal factors also recognizes the agency and intention movements exercise in the acts of protest they utilize.

It is from this scholarly work on a movement's internal characteristics and its POS that I derive the constellation of factors (the intervening variables) that shape a movement's perception of state legitimacy or lack thereof (the key independent variable). As outlined earlier, these factors are a movement's rights claims embedded in its demands, its perception of state responsiveness to the movement's activists and demands, and a movement's religious and ideological commitments. First, the movement's rights claims embedded within its demands reflect the movement's response to an unsolved crisis and reflect the movement's internal beliefs and organization. The ways in which a movement presents these demands to the public and the polity generally reflect common religious, moral, and political creeds like the American social contract, illustrating the external influence on the expression of internally generated demands. Secondly, a movement's perception of state responsiveness is another way to capture the POS, which is left to the internal mechanisms of the movement to interpret. Finally, while a movement's religious and ideological commitments certainly originate from within the movement and seem rigid, movement leaders and activists can reconfigure, reinterpret, or outright reject the movement's religious and other ideological tenets as it reacts to the state's

responsiveness to the movement's activists and demands, demonstrating an external effect on this initially internal factor.

### *Movements' Rights Claims and Demands*

While all movements emerge and mobilize around a singular or set of demands, the specificity and substance of those demands can vary greatly from movement to movement. I contend that this variation is vital in understanding the civilly disobedient and politically violent potential of initially peaceful, lawful movements. The two relevant dimensions of a movement's demands are whether or not those demands are citizen-based rights claims and whether or not those rights claims are explicitly grounded in the American social contract (the Declaration of Independence and the U.S. Constitution). First, citizen-based rights claims include the enforcement of African American men's 15<sup>th</sup> Amendment right to vote (Schmidt, 2016), protecting and enacting existing rights such as the Abolitionist Movement's calls for due process in the wake of the Fugitive Slave Act of 1850 (Wilson, 1999), and the reinterpreting of rights, like *Brown v. Board's* overturning of the separate but equal doctrine based on the 14<sup>th</sup> Amendment (Klarman, 2004). Citizenship demands require not only state and legal intervention but also social recognition and full standing in the political, economic, and social spheres, which the Civil Rights Movement referred to as full, first class citizenship (see Civil Rights Chapter). Even though American movements draw on democratic principles in forming demands, not all demands are directly and explicitly about citizenship, such as the Tea Party's calls for lower taxes and the repealing of the Affordable Care Act (Dimaggio, 2011:55-56; Foley, 2012) and the Prohibitionist calls for criminalizing the sale and manufacturer of alcohol (Pegram, 1998).

Secondly, how a movement's demands relate to the American social contract depends on how movement leaders and activists cite the actual text of the U.S. Constitution and the

Declaration of Independence in reference to movement demands. A movement's demands can draw on specific rights like the Civil Rights Movement and the 15<sup>th</sup> Amendment right to vote (Schmidt, 2016), apply its principles to expand citizenship, like the Abolitionists calls for equality for African Americans (see Abolitionist Movement chapter), or re-imagine an idea or principle in the contract, like Prohibitionists invoking the public welfare clause in the preamble to ban liquor sales and manufacturing (see Prohibition Movement chapter). Movements like the Tea Party can also draw upon American founding principles like calling for lower taxes in reference to the Declaration without claiming a violation of citizen rights (Foley, 2012), since Tea Partiers were not taxed without representation. The fact that social movements that do not have a demand or rights claim that directly relates to the American social contract still use that frame reinforces the importance of the contract in citizen-state relations. It is my view that this consistent contractual framing also connotes that most American movements affirm the existing social contract as legitimate (at least at first) and initially mobilize in order to see it fully enacted or expanded in fidelity with its principles. Nevertheless, it is the direct citation of explicit rights in the social contract that give movement demands protest strategy escalation potential.

Even though other kinds of demands can still indicate general elements of state legitimacy such as the state's responsiveness to popular sovereignty, citizen-based rights claims reflect the more consequential recognition component of state legitimacy. While these claims are like all movement demands in that they also seek policy changes, they are unique in their additional desire to extract from the state a new or unfulfilled element of the state/citizen and citizen/citizen relationships. Furthermore, when these rights claims are explicit in the American social contract they are considered part of the more literal and concrete bargain citizens have struck with the state and with each other, so violating such rights is a more definitive breach of

contract. A clear and continual breach of contract that has not been remedied once that breach has been contested through protests (both in the streets and through formal legal and political channels; see below for explanation of this “dual capacity”) undermines the movement’s perception of the state’s legitimacy because the state’s lack of adherence to the American social contract. I contend that a longer duration and larger extent of this breach based on citizen-based rights claims act as mediating variables that will often lead to a movement’s loss of faith in the state’s legitimacy, which results in a movement’s escalation in its protest strategy.

This is not to say that movements with non-citizenship demands or citizenship demands that are not directly grounded in the American social contract are not important. Nor does this signify that movements with explicit citizenship demands are predestined to take up arms against the state. Rather, it is these movements that have protest strategy escalation potential that is realized as the movement rejects the state’s absolute lawmaking authority (civil disobedience) and/ or the state’s overall operation (political violence). I argue that the reason these rights claims are a necessary but in themselves insufficient condition for protest strategy escalation is that the state’s primary directive, according to social contract theory, is to protect the rights of citizens. The rights explicit in the agreement between the state and its citizens are those that, through the constitutional amendment process, have been ratified by the people and have become the state’s responsibility to protect. Continued state failure to uphold its end of the contract erodes the contract’s legitimacy since it can no longer fully regulate state action nor can it meaningfully mediate the citizen-state relationship.

*Movement Perception of State Responsiveness to Activists and Demands*

Protests are acts of dissent that, among other things, are inherently goal oriented (Tarrow, 1983; Gamson, 1990; Garner, 1996), and in nearly every case, achieving these goals requires state accommodation of movement demands. Even movements that do not initially call for policies to meet their demands will often frame their demands in legal and/or policy terms because movement leaders and activists recognize that state action is necessary to formalize those demands. As such, whether or not a state accommodates a movement's demands, in which ways, and to what extent has a substantial effect on subsequent protests, as the previous sections demonstrate. The process of cooptation in which political elites and institutions absorb diluted derivatives of movement demands, the selective adoption of movement demands by the political system, the possible disconnect between codified law and practice (Gamson, 1990), and the decentralized American state that includes multiple levels of government (Meyer and Staggenborg, 1996; see also Tarrow, 1998; Banaszak, 1998) that can operate in contradiction to and in support of movement demands simultaneously makes operationalizing and assessing government responsiveness to movement demands challenging, to say the least.

The solution I propose here is to turn to how movement leaders and activists perceives the government's responsiveness to its demands instead of focusing on government action or inaction. I find this approach valuable because not only does it circumvent the problems addressed above, but it also captures something often missed in social movement scholarship. Focusing on the movement's perception is logical since the movement's leaders and activists are protesting because of a perceived problem, articulating specific demands aimed at solving that problem, and are an important authority on if and to what extent the state has accommodated movement demands. This approach also encompasses the movement's desire for recognition beyond its formal demands, which helps explain nuanced and variable protest strategy escalation

and de-escalation in a decentralized American state. The limitations of this approach are that the proper state response can become a bit of a moving target. Sometimes concrete policy accommodations and activist integration may not be enough to satisfy the movement, and it can be difficult to differentiate between true acceptance of demands, a watered-down cooptation, lip service, and tokenism. However, given the challenges outlined above and the fact that movements rely on their own perception of state accommodation of demands in assessing how effective and successful their current protest strategy is, this way of operationalizing the state's response to movement demands captures the crucial elements of this variable.

There are four ways, broadly conceived, that a movement can perceive the state's response to its demands. They are accommodating, ignoring, rejecting/ acting in contradiction to, and the empty acquiescence of demands. The first, demand accommodation, is what every movement seeks and represents the movement's institutionalization—the mark of a successful movement. It requires the full execution of movement demands, like Farmers' Alliance demands for the direct election of U.S. Senators and subsequent adoption of the 17<sup>th</sup> Amendment (McMath, 1993). Another form accommodation can take is co-optation, in which the movement gains full acceptance into the political system but gains no new advantages (Gamson, 1990:29), such as the Tea Party's acceptance into the Republican Party post-2010 midterm elections. Even in 2019, the Tea Party faction of the Republican Party has still failed to enact key parts of its agenda, such as the repeal and replacement of the Affordable Care Act, yet still remains a key party faction in Congress and the Republican voter base (Blum, 2016).

A final way a movement can interpret state action as accommodative is lip service, in which political elites affirm movement demands without institutionalizing the movement, yet do not formalize these demands in any politically meaningful way. In any case, as a movement is

institutionalized, it tends to move away from acts of protest and embrace “conventional strategies” (Koopsman, 1993: 644), while de-escalating from more radical protest strategies. In the case of cooptation or institutionalization, an escalation in protest strategy is rare since the movement believes it has achieved some kind of recognition as a legitimate political actor even if its demands are not fully met.

The second way a movement can perceive state action is that the state has not made any attempt to affirm or reject the movement’s demands and is simply ignoring them instead. When a movement believes its demands are either being accommodated or ignored, the movement will not adopt a more radical protest strategy, although being ignored will likely result in the movement adjusting its tactics within its overall protest strategy. Once accommodated, a movement has achieved the recognition it seeks, even if that recognition only includes a seat at the table through lip service. If ignored, the movement is likely to become more disruptive in its demonstrations, but the lack of outright state rejection generally keeps the movement from adopting a more radical protest strategy. I call this adoption of more disruptive protests as “tactical escalation,” in which a movement still remains peaceful and lawful yet engages in more extreme tactics within that strategy. An example of this is the Civil Rights move from petitions to marches and boycotts during and shortly after World War II (see Civil Rights Movement chapter), all of which were peaceful and lawful, yet varied in the burdens they placed on the public and the state.

The other two ways a movement can perceive the state’s reaction to the movement are necessary for protest strategy escalation. They include 1) an outright rejection of movement rights claims and demands usually by acting in opposition to them and 2) a rejection of the movement’s activists, a concept I call “empty acquiescence.” Both of these types of state

responsiveness are crucial mediating variables that explain a movement's loss of faith in the state's legitimacy that is required for a movement to become civilly disobedience or politically violent. The first of these is relatively straightforward, and the quintessential example of this is both the passage of the Fugitive Slave Act of 1850 and the *Dred Scott* decision in 1857 during the Abolitionist protests. These state actions extended the rights of slaveholders by denying rights of accused slaves and rejected the possibility of citizen claims for African Americans, respectively (Mayer, 1998). With each of these official state actions, the federal government not only refused to accommodate the Abolitionist demands but acted contrary to those demands, which denotes a clear rejection of the movement's core tenets. This violated Oberschall's minimum requirement of recognition because, although the state at least refrains from destroying the opposition (1973), state actions criminalized a key form of Abolitionist resistance in 1850 and denied the possibility of recognizing African American rights at the most basic level in 1857.

Empty acquiescence exists in an odd place between accommodation and rejection because in this condition, the state meets the formal demands of the movement in a meaningful and official way, which fulfills the legal dimension of recognition. However, the lack of both the intended benefits of those met demands and the incorporation of movement leaders and activists into the political, economic, and social spheres signifies that the full status of citizenship, a vital dimension of recognition, has yet to be realized. Interestingly, as the Civil Rights Movement demonstrates in the wake of the Civil Rights Act of 1964 and Voting Rights Act of 1965, simply achieving the codification of demands is not always enough (Geschwender, 1964 & 1968; Davies, 1979). If a movement makes concrete gains in terms of policy but does not reap the benefits it believed those gains would bring, like the promise of full participatory citizenship, I suggest that the movement will still perceive this response as negative. Empty acquiescence may

actually be the most damning of the four possibilities of movement perception of state action because it shows the limitation of the current political system to afford the full recognition a movement seeks beyond its accommodation of material demands. This concept of empty acquiescence introduced in this project is based on the relative deprivation work from scholarship on revolution and the Civil Rights Movement cited above, yet it is distinct in its focus of the state's treatment of a movement's activists and the degree to which they receive the full recognition required for full citizenship.

### *Movements' Religious and Ideological Commitments*

In order to understand the role of religion and ideology on social movements, it is necessary to explain the significance of religion and other secular political philosophies in America. Consequently, I find that American social movements throughout most of American history tend to frame their demands within the moral context of religion or another moral ideology like social justice that supersedes state authority and use this moral framing as the focus on their public persuasion efforts (a peaceful, lawful tactic called moral suasion explained below) before movements target the state (see following case study chapters). When these public appeals fail to elicit the intended result, social movements couple their philosophically and/or religiously reasoned demands with legal justifications as they call on the state for action.

I suggest that this pattern of moralized secular and/or religiously rooted demands is significant because it encourages movements to form demands independent of the state and legal justifications. For those activists who place the importance of religious faith above their allegiance to the state as its citizens, these religious arguments for the movement's demands can become a mediating variable in negatively affecting the movement's perception of the state's

legitimacy if the state does not align with these moral demands. Likewise, activists who adhere to a set of secular philosophical principles that they believe transcend state sovereignty tend to behave similarly. This type of anti-positivist view increases the likelihood of protest strategy escalation. However, if activists' religious or secular beliefs bar them from any forms of violence or state defiance, this ideological commitment to pacifism becomes a moderating variable that will keep those activists from engaging in protest strategy escalation independent of their belief in the state's legitimacy. I will show throughout each study that both of these types of religious and secular beliefs significantly impact how a movement assesses the state's legitimacy and, in turn, why that necessitates a specific protest strategy.

Furthermore, I agree with Jo Freeman, who wrote: "Once an ideology begins to form, it may redirect the group's strategy, or it may merely confirm it. In either case, there is not the simple linear relationship between ideology and strategy that is so often assumed; rather, there is a dynamic one in which it is not always clear which is the chicken and which is the egg (1979)." While this project does not attempt to iron out the endogenous relationship between a movement's protest strategy and its ideology, it does recognize that strategy decisions are undergirded by ideological justifications. Therefore, this project examines how movement leaders and activists employ religious and secular principles as well as political philosophies like social contract theory as justification for specific protest strategies. Finally, I contend that the more a movement's principles and/or a movement's ideological orientation align with those currently expressed by state actors and institutions, the more of a negative response from the state a movement needs to find the state to be illegitimate. In turn, the less that a movement's religious and/or ideological commitments are compatible with the current political system, the less the state will have to do in order for that movement's leaders and activists to find the state to

be illegitimate. Once a movement in either one of these scenarios believes the state is legitimate they will almost always engage in protest strategy escalation. The Civil Rights Movement provides an example, in which Martin Luther King, Jr. (MLK) identified with the American creed and majority religion, while Malcolm X did not. In response to the same conditions, MLK endorsed a peaceful, civilly disobedient strategy while Malcolm X called for acts of political violence (see Civil Rights chapter).

### **Protest Strategies**

Before delving into this project's dependent variable, protest strategy, it is necessary to define some key terms, specifically "protest strategy" and "protest tactic." According to Garner, the difference between the two is as follows: "This term (tactics) means the methods of accomplishing a precisely defined intermediate or short-term goal. A strategy is the overall plan; tactics are specific techniques for attaining specific goals. Strategies change when there are major shifts in society to which the movement must respond (Garner, 1977: 33)." Drawing on these definitions, I use the term "strategy" to refer to a protest category in relation to the law and the use of violence. I contend that a movement's conscientious choice to follow the law or disregard it and abstain or engage in physical forms of violence are the fundamental choices movements make when they create general plans for mobilization. "Tactics," however, are the specific acts of protest that comport to the movement's, or movement faction's, prior commitment vis-à-vis the law and violence. For instance, the Prohibitionists petitioned local and state governments to adopt anti-liquor laws (Pegram, 1998) and the Civil Rights Movement encouraged boycotts, both of which were within the bounds of the law and did not require or

affirm protesters' use of violence, so both specific tactics are examples of a peaceful, lawful protest strategy (See Table 2 for full list and brief description of protest strategies and tactics).

Table 2: Protest Strategies (Dependent Variable) and Their Tactical Variation

	Peaceful, Lawful	Civil Disobedience	Political Violence
Tactical Variation	<ol style="list-style-type: none"> <li>1. Moral Suasion</li> <li>2. Legal Suasion</li> <li>3. Tactical Escalation</li> </ol>	<ol style="list-style-type: none"> <li>1. Peaceful, public violations of unjust laws re: movement demands</li> </ol>	<ol style="list-style-type: none"> <li>1. Property</li> <li>2. Physical bodies</li> <li>3. Terrorism</li> </ol>

A key feature of American social movements this project illuminates is that as movements mobilize and their strategies escalate, movements tend to fracture and only certain movement factions will adopt a more radical form of protest. Therefore, it is rarely useful to think of a movement as being monolithic; rather, it is more accurate to consider a movement as being comprised of a constellation of organizations, a concept the literature refers to as a social movement organization (SMO). SMOs, the broad umbrella of distinct organizations that together comprise a social movement, are united in their demands, emerge in response to the same crisis, and tend to begin united in both their ideology and protest strategy. It is common for different organizations within a SMO to use different tactics within the same overarching strategy to take advantage of a variety of mobilization opportunities and for some organizations to be successful while others collapse (Freeman, 1983). As such, different organizations within the same movement tend to radicalize both ideologically and strategically at varying rates and to divergent degrees (see Koopsman, 1993). When a movement radicalizes, typically some of a movement's organizations remain committed to a peaceful, lawful protest strategy while other movement

organizations adopt a civilly disobedient or politically violent protest strategy. These fractured movements, whose factions engage in distinct protest strategies, are vital to own understanding of social movements and their protests since they provide an opportunity for intra-case comparisons with natural controls that confirm and strengthen this project's central claims.

Furthermore, my examination of social movement protest strategies relies on three assumptions: protest strategies and tactics are intentional, they are agreed upon by movements or movement factions before protests, and these choices have significance. This closely reflects Ronald K.L. Collins and David M. Skover's (2013) observation that "the expression (of dissent) is intentional; that is it critical, and that it is public (3)." First, movement leaders and activists conscientiously, and often carefully, select specific protest strategies and tactics for reasons identifiable in primary sources. For instance, the NAACP's media campaign against lynching in the early 20<sup>th</sup> century, according to movement leaders and activists, was for the expressed purpose of informing the public of these horrific acts and swaying sentiments in favor of the movement (Francis, 2014). Secondly, protest strategies and tactics are agreed upon before protests. While circumstances on the ground like countermovement attacks and police violence that may affect the implementation of these choices, most of the time a vast majority of protesters adhere to the agreed upon strategy. Even when Abolitionist printers were under attack in the 1830s, many in the movement rejected violent retaliation, a principle the movement held with near anonymity, and some even denied the right to self-defense in the face of these attacks (McKivigan, 1999). Finally, I claim that the strategic and tactical choices movements make are significant in what they illuminate about a movement's belief in state legitimacy, a claim I develop in full throughout each case I examine.

*Peaceful, Lawful Protest Strategy*

Within in each protest strategy category, there are also a variety of tactics that a movement can employ that are both peaceful and lawful; yet, all of these tactics explicitly reject the use of physical violence, with the exception of self-defense and intentionally abide by the law in its entirety. In this way, peaceful, lawful movements recognize and abide by the full authority of the state in its lawmaking capacity and its general operation, which indicates such movements have full faith in the state's legitimacy. First, it is necessary to qualify that movements employing a lawful protest strategy may unintentionally violate the law, like not obtaining the proper protest permits, out of ignorance rather than out of a desire to violate any statute. Therefore, accidental law breaking still qualifies as lawful protest since, as the next subsection explores at length, civil disobedience necessitates the premediated, open defiance of laws specifically deemed unjust as an antecedent to protest.

Secondly, an endorsement of or permission for movement activists to use self-defense in response to direct and immediate physical threats for the purpose of quelling those specific threats during protests do not disqualify a movement from being categorized as a peaceful movement. Not only do several states and localities permit this use of self-defense, but these acts are not part of planned demonstrations, are not about advancing movement demands, and are reasonable acts of self-preservation (or the preservation of others) distinct from dissent. There are movements and movement factions that invoke the principle in a broader sense that is proactive or a delayed reaction to threats not currently manifested, which I contend are examples of an endorsement of political violence, which I address in this section's last subsection.

The range of tactics a peaceful, lawful protest strategy includes demonstrates the unique nature of social movements as political phenomenon in that they can operate inside and outside

of formal political institutions and processes, often simultaneously. I suggest that this “dualistic capacity” (Dryzek, 1996; Tarrow, 1998) maps onto two types of suasion other scholars developed (see McKivigan, 1984; Coker, 2007; McAdam, 2009; etc.). The first is moral suasion, in which movements try to persuade the public to adopt movement demands so the movement can use public opinion to leverage the political system for change. Moral suasion relies on moral arguments such as those based in religion and calls on a higher power and/or set of transcendent, secular values and principles (see Mabee, 1970; Coker, 2007) and includes the circulation of pamphlets and newspapers, speeches and rallies, and media campaigns. The second, legal suasion, involves movements engaging formal political institutions and processes (Coker, 2007) and relies on formal legal appeals, legal arguments, and includes petitioning the legislative and executive branches of government, filing suits in the court system, and involvement in electoral politics.

A noteworthy observation here is that American movements will often employ a moral suasion strategy first, typically making public appeals based on a (perceived) shared moral code that span from religious teachings to secular conceptions of rights, justice, and citizenship before turning to legal suasion tactics. Sometimes the choice to adopt a legal suasion tactic is a reaction to the failings of moral suasion efforts, but it can also work in tandem and complimentary to moral suasion. I suggest that the dualistic capacity of social movements and moral suasion as a consistent tactic employed across American social movements also indicates that movements not only seek formal, legal acceptance of their demands but desire social acceptance, as well (Shklar, 1989). For instance, the Gay Rights Movement’s impact on both state policy as well as social norms and attitudes in cities like Chicago is another example of this robust conception of recognition at work in movement mobilization (Dufour, 1998: 70-71). Furthermore, I contend

that this dual capacity expressed in moral and legal suasion protest tactics is the basis for civil disobedience and political violence in movements that escalate to these protest strategies, an argument I flesh out shortly.

Some movements remain peaceful and lawful during their entire tenure. I argue that movements that mobilize over several distinct instances of protest without protest strategy escalation share two common factors. First, these movements do not perceive a negative response from the government, which also includes the empty acquiescence of partially fulfilled demands and/or lack of activist integration into the political system. Secondly, such movements also seek reconciliation with the current political system because movement leaders and activists maintain a full faith in the state's legitimacy. This legitimacy includes the state's ability to pass just laws and revoke unjust laws as well as its ability to operate justly across its political processes and institutions. If a movement rejects the state's absolute authority over lawmaking, the first step of rejecting the state's legitimacy, it will escalate its protest strategy to civil disobedience.

### *Civilly Disobedient Protest Strategy*

Civil disobedience is the most nuanced of the three protest strategies in that it is in part placing civil disobedients in defiance to part but not all of the state (Perry, 2013) as it operates in tension with the violation of intolerable laws while upholding the rule of law (Kirkpatrick, 2008). A civilly disobedient act is "a public, nonviolent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government (Rawls 1971: 364)." Such acts are committed collectively, and "compatible with the spirit of American laws (Arendt, 1972: 99)." Civil disobedience also "originates from a conviction that

there are circumstances when the moral responsibility to disobey illegitimate laws must be adhered to out of obedience to higher laws (King, 1999; see also Perry, 2013:18).” Although acts of civil disobedience are violations of the law, they are intentionally non-violent and those who engage in them submit to the rule of law writ large by accepting their punishment for their illicit activity. In fact, going to jail is often an objective of civil disobedients because it illuminates the injustice of the law. During the Civil Rights Movement, Martin Luther King, Jr. and his associates wanted to flood the jails in Birmingham, Alabama to highlight unjust racial discrimination and garner national publicity to pressure the system for positive and substantive policy changes (Nimtz, 2016).

I contend that civil disobedience is a protest strategy that represents a dual failure of moral and legal suasion, which embodies the Hobbesian problem of “double vision.”” According to Hobbes, a serious danger lies in the subjects of the commonwealth dividing their allegiance between the state and the church. For Hobbes, the stability of the state is of utmost importance, and that stability is threatened when another power like the church vies for its own sovereignty over the state’s subjects. As he explains, “Temporal and spiritual government are but two worlds brought into the world, to make men see double and mistake their lawful sovereign” (Hobbes, Ch. 39, pg. 498). Divided loyalties can result in dividing the state, or, as Hobbes puts it, “...whereof it is said, a kingdom divided in itself cannot stand” (Hobbes, Ch. 18, pg. 236). When the state and the church produce contradictory commands, the people will try to follow both commands or may even disobey the state because their salvation is on the line (Hobbes, Ch. 43, pg. 602). This would create instability, which Hobbes wants to avoid at all costs, regardless of the type of sovereign reigning over the state. While the American state throughout its development has not dealt as harshly with religion as Hobbes does here, I contend his concept of

“double vision” is a new way to think about civil disobedience and political violence, with an important caveat that non-religious ideologies can also undermine a movement’s commitment to a peaceful, lawful protest strategy.

I suggest that movements that engage in both moral and legal suasion during their peaceful, lawful protest strategy stage have protest strategy escalation potential, which is fully realized when a movement no longer believes that the state is capable of producing entirely legitimate and just laws. First, civil disobedience relies on both a higher moral law, which in the American context tends to include both divine law and the natural rights tradition but also includes secular conceptions of justice and rights that promote widespread American anti-positivism. It affirms that while specific laws violate a higher moral law, the political system itself can be redeemed, contingent upon it aligning itself with the proper principles. When a movement engages in moral suasion, it develops these higher moral law arguments to support its demands and makes those points independent of state authority and action. Furthermore, the transcendence of this moral code, steeped in either religious or secular ideologies for American movements, situates the state not as the originator of justice, but rather an entity obliged to act in accordance with a pre-existing conception of justice— the cornerstone of anti-positivism.

Secondly, legal suasion requires arguments that place movement demands within the scope of legitimate state action and recognize the legitimacy of formal political processes and institutions. A moral code predicated on a transcendent view of justice, the law of nature, and inherent individual rights act as the perimeters for just and legitimate lawmaking (Locke, pg. 356-358). In the American context, the principles of good governance are articulated in the Declaration of Independence while the state’s powers and responsibilities as well as citizens’ rights are enumerated in the U.S. Constitution. Therefore, movements can judge the state’s

actions, and ultimately its legitimacy as a lawmaker, on how well the state squares with its founding moral code and embodies its legal constraints and responsibilities.

Consequently, civil disobedience is a feature of social contract theory and represents what I call a pre-revolutionary moment for the state to (re)assert its legitimacy, which is derived by both popular sovereignty and its primary directive, the protection of natural rights. It is my observation that this is a manifestation of what Hobbes termed “double vision,” in which fealty to a higher power (God), or a transcendent secular ideology (i.e., rights based social justice),<sup>3</sup> and fealty to one’s idyllic legitimate state become the grounds for violating the social contract, something Hobbes feared (Hobbes, 1651). While the Hobbesian social contract is far more authoritarian than the Lockean-influenced American contract in that Hobbes places allegiance to a single sovereign above all else for citizens, his theory still permitted acts of state defiance when the state violated its primary directive (Hobbes, 1651; see also Nunes da Costa, 2018). Likewise, Locke’s theory protects the (collective) right to revolt under comparable and enduring circumstances (Locke, 1690). Since acts of civil disobedience challenge the state’s absolute authority to produce just laws but does not find the state itself to be entirely unjust or illegitimate, they represent a pre-revolutionary moment in which movement activists operate outside of the state until they accept punishment for doing so for the purpose of rebuilding part of the state, all the while desiring to maintain most of the current political system. I suggest that civil disobedience marks a crucial point in which the state can restore/establish its legitimacy in the eyes of activists or re-entrench activists’ grievances, which delegitimizes the state and tends to produce political violence.

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<sup>3</sup> To be clear, Hobbes did not include secular ideologies and philosophies in his concept of “double vision;” that is my addition to this theory.

It is one thing to have a clean definition of civil disobedience on paper and capture all of its nuance, and it is quite another for a civilly disobedient movement/movement faction to adhere to all of these criteria in a dynamic, highly variable political context. One scholarly critique to the definition above emerged in the 1960s when activists would not submit to the punishment for their acts of civil disobedience (Perry, 2013: 247). Since this project is primarily concerned with the legality and peaceful dimensions of protest, even if activists resist their punishment, I will still classify their protest strategy as civilly disobedient as long as their actions fit the rest of the definition. Another limitation in applying this definition is that acting in public may undermine the point of acting at all, like with the Abolitionist Movement's Underground Railroad, which required secrecy to be effective. Again, I still consider this an act of civil disobedience. Finally, many consider the Boston Tea Party as the quintessential act of American civil disobedience, even though its destruction of property was not entirely peaceful. Since property destruction is a violation of another's rights and the state's monopoly of force (Weber, 1919), I will consider such acts as an act of political violence. Fortunately, movements and movement factions that employ a civilly disobedient protest strategy go through a thoughtful, deliberative process when deciding to engage in this strategy and when planning on how to execute it, which makes this protest strategy relatively easy to identify and trace, given sufficient primary sources.

### *Politically Violent Protest Strategy*

The difference between civil disobedience and political violence is that, despite a crisis of faith in the current political system, civilly disobedient activists believe the system can be saved and seeks reconciliation with the state. Politically violent actors, however, tend to believe the system is intolerable in its current formation and violence is the only viable means of change. Some

violent activists believe that the state itself is beyond repair and that the contract has been too severely violated, which usually elicits calls for revolution upon which they justify their acts of political violence. These calls for revolution result from the movement losing faith in the state's legitimacy not only as a lawmaker but also as the source of political power. While civil disobedience undermines the state's absolute authority over policy, political violence in all forms challenges the state's monopoly of force, a move towards dissolving the social contract and throwing society back into the state of nature, which is a stateless, war-like space.<sup>4</sup> In his examination of rebellions and revolutions, Ted Robert Gurr echoes this sentiment, saying "Theoretically, all such acts (of violence) pose a threat to the political system in two senses: they challenge the monopoly of force imputed to the state in political theory; and, in functional terms, they are likely to interfere with and, if severe, to destroy normal political processes." While not every act of political violence can or should be seen as an existential threat to the state, a politically violent act is in direct defiance of the state's authority and the rule of law since a violent actor commits a "violation" against the types of force deemed legitimate (Bienen, 1968, see also Tarrow, 1978:174). Moreover, as Gurr notes, political violence as a "concept subsumes revolution, ordinarily defined as fundamental sociopolitical change accomplished through violence (1970:4)," further cementing the relationship between a politically violent protest strategy resulting in part from unmet movement demands and activist recognition and revolution.

Therefore, the political violent protest strategy, in which social movements/ movement factions engage in "deliberate physical injury to property or persons" and employ violence

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<sup>4</sup> "...for *rebellion* being an opposition, not to persons, but authority, which is founded only in the constitutions and laws of the government; those, whoever they be, who by force break through, and by force justify their violation of them, are truly and properly *rebels*: for when men, by entering into society and civil-government, have excluded force, and introduced laws for the preservation of property, peace, and unity amongst themselves, those who set up force again in opposition to the laws, do *rebellare*, that is, bring back again the state of war, and are properly rebels..." (Locke, Section 226, 1689)

instrumentally (Gamson, 1990, pgs. 74, 81), is the most extreme and the most unique of all the protest strategies. Unlike the first two strategies, once a movement/movement faction adopts this strategy, revolution is in the very least viewed by some activists as an acceptable alternative to the intolerably illegitimate state. In fact, some activists openly call for it. This is a clear departure from other acts of protest since it requires that the movement/movement faction rejects the legitimacy of the state, desires the dissolution of the current social contract in some way, and calls for a new contract, at least in part, under the currently unfulfilled or new terms and conditions. As such, a politically violent strategy is both instrumental and an ideological reaction to a movement's mobilization failures. First, it is an instrumental response to previous strategies failing to elicit the desired results (Gamson, 1990: 81), which includes a lack of integration, and a lack of mutually beneficial solutions (Pruitt, 1986). Second, this strategy is also an ideological response to lack of meaningful recognition (Oberschall, 1973) by both the state and society (Shklar, 1989). As a result, acts of political violence in protests "pull the rule of the people and the law apart (Kirkpatrick, 2008)," which, to varying degrees requires revolutionary sentiments.

Political violence as a protest strategy encompasses a wide range of tactics, all of which undermine the state's monopoly on force (Weber, 1919). These include the following: property destruction, physical harm of another, and terrorism. Property destruction is fairly straightforward, in that it is the intentional destruction of property over which the person(s) engaging in the destruction do not own the property, such as defacing police cars, breaking store front windows, or a Prohibitionist smashing alcohol bottles in saloons (see Sismondo, 2011 on saloons). The physical harm of another is any kind of intentional physical injury inflicted on anyone ranging from counter-protesters, the police or other state actors, and those responsible for either refusing to capitulate to movement demands or acting in violation of those demands.

While the targets of this harm vary, political violent actors chose these targets selectively and purposively. Terrorism is unlike other forms of political violence because it is indiscriminate and often times the victims of that violence are innocent and become collateral damage in a terrorist group's campaign (Kirkpatrick, 2008). Additionally, Evans (1983) argues that terrorism as the following characteristics: it seeks capitulation from a group larger than the victims of its acts, includes an element of fear, uses spectacular events to publicize its cause, can be a tool for both progressive and conservative groups, and is a tactic both state and non-state actors employ.

Even though I place property damage in the same category as terrorism, I am by no means drawing a moral equivalence between the two; rather, such categorization recognizes the illegality and physical violation of the state's monopoly of force (Weber, 1919) of each politically violent tactic. These two dimensions together differentiate each protest strategy in this project because they capture two crucial features of movement behavior vis-à-vis the state's legitimacy. Furthermore, peacefully breaking a specific, unjust law and accepting the corresponding punishment as an act of civil disobedience undermines the state less than using any type of physical force typically reserved for state actors and not accepting the legal consequences willingly. Likewise, I am not critiquing or judging a movement/ movement faction when I classify it as politically violent or ascribe to it any protest strategy, radicalism, or extremism. For instance, when I use the word "terrorism," unlike the government and media, I am not making a value judgment; rather, I am identifying a tactic. Some scholars like Tilly avoid using terms like "terrorism" and "riot" because those terms come pre-loaded with negative connotations, which motivates political actors to use these labels against their political opponents (Tilly, 2003:18-19). Even though I recognize the condemnation typically associated with the

charge of terrorism, I still argue that it is an important category to include in works on political violence because it describes a unique, noteworthy form of political violence.

A final tactical distinction I must make is between self-defense to an immediate, specific threat and delayed threat. The latter constitutes what I call proactive self-defense, which is a pre-planned act of violence framed as a right to self-defense based on a belief that the state cannot defend its citizens' rights (see Malcolm X in the Civil Rights chapter). This type of self-defense is then often wielded against targets in anticipation of and before those targets engage in violence of their own. As mentioned above, this first type of self-defense is not unlawful in many concepts and is not associated with the advancement of the movement's cause but rather the immediate self-preservation of its members to a specific and direct threat. Once self-defense is delayed and is removed from any specific and immediate threat, it resembles more of an act of revenge. Instead of seeking protection through the political system, the movement/ movement faction sees no other peaceful means of redress, so this type of self-defense becomes an act of political violence. Similarly, when activists seek a proactive self-defense that instigates instead of responds to immediate and specific acts of violence against the movement this also qualifies as a form of politically violent protest.

## **Research Methods and Case Selection**

### *Research Methods*

I analyze the escalation, or lack thereof, of social movement protest strategies by drawing on combination of normative theoretical grounding, empirical primary content analysis, and intra- and cross-case comparisons. First, as I explained above, situating American social movements and their protest strategies within democratic and social contract theories illuminates

the rationale behind movement's protest choices and reflects the ways a movement views itself, its demands, and the state. In this project I incorporate these theories by examining the political philosophers like John Locke from which these ideas originate, including prior scholarship on the topic at hand, and analyzing primary sources from movements that explicitly cite or implicitly draw upon these theories and their principles. This is the basis for my argument that the Declaration of Independence and U.S. Constitution comprise the American social contract, which frames American social movement emergence, formulation of demands, and protest strategies.

Secondly, I analyze primary sources which include speeches, letters, essays, newspaper articles, treatises, and official government documents from movement leaders and members as well as government officials, to empirically test the key claims in this project. These sources are cited throughout the project and are listed in Appendix A. The primary source analysis for movement sources in this project focuses on the following five components: the demand or demands a source makes on the state, movement faction ideology, the protest strategies and tactics the source calls for or rejects, the rationale behind accepting or rejecting specific protest strategies and tactics, and the views of the state the source articulates. I also include primary sources originating from other political actors, typically representatives or bodies of the state, to explain the anti- or pro-movement sentiments harbored, expressed, and sometimes codified by the state. I accessed these primary sources from published collections of movement writings and from secondary sources.

Thirdly, in order to make a persuasive causal argument, I engage in dual-level case comparisons that takes advantage of natural controls to highlight the key independent variables necessary for protest strategy escalation and ensure generalizability. The first level of this

analysis is the intra-case comparisons, in which I compare different factions of the same movement that share the same demands and, at least initially, ideology, yet diverge on the appropriate protest strategy. I observe that as a movement escalates from a peaceful, lawful protest strategy to a civilly disobedient strategy or from civil disobedience to political violence it fractures and only part of the movement (a movement faction) adopts a more radical protest strategy while the other movement faction(s) maintain the current strategy or strategies. Because the movement factions that engage in divergent protest strategies generally have the same demands, begin with the same ideology, and experience the same response from the state, media, and the public, these factors are naturally controlled for in intra-case analysis. Such a design highlights the impact of this project's key independent variable, a movement's perception of the state's legitimacy and the role of the intervening variables (a movement's rights/ demands, perception of state response, and religious/ideological commitments) on the dependent variable, a movement's protest strategy.

The second level of analysis relies on cross-case comparisons, in which I compare distinct movements and movement factions to other movements and movement factions, both historical and contemporary, to check the validity of the state legitimacy theoretical framework. This supports my claim that while there is not a singular pathway to a politically violent protest strategy, there is still a constrained range of values the intervening variables must take for an American social movement to lose sufficient faith in the state's legitimacy, the determinative factor, for a movement to engage in civil disobedience or political violence. Moreover, these inter-case comparisons I make throughout this project's substantive chapters uncover the patterns unique to American social movements, which include the consistent invocation of the American

social contract and the dualistic capacity of movements as they operate outside of and within formal political processes and institutions.

### *Case Selection and Project Outline*

For this project I will examine the Abolitionist Movement, the Prohibitionist Movement, and the Civil Rights Movement, all of which had roots in the Christian church, framed their demands through the American social contract, and included rights claims in their appeals for state action. Each of these movements emerged with peaceful, lawful acts of protest first with moral suasion campaigns and then with legal suasion tactics. While the state responses to each movement's demands varied, all of these movements changed their tactics and strategies during the several decades in which they mobilized, and at least part of each movement endorsed and engaged in a politically violent protest strategy. I will demonstrate that the politically violent factions in the Abolitionist, Prohibitionist, and Civil Rights Movements all lost faith in the state's legitimacy as both authoritative lawmaker and a system of governance. The three factors that facilitated these factions' perceptions of an illegitimate state are 1) their perceptions of the state's response to their movement's demands and activists, 2) unfulfilled rights claims derived from the American social contract, which constituted the state's breach of contract, and 3) activists' religious and secular ideologies that justified disobedience from a state that did not comply with higher codes of justice.

The three facilitating factors of the state legitimacy framework explain the changes in each movement/ movement faction's belief in the state's legitimacy, which in turn shaped each

movement/ movement faction's protest strategy. The Abolitionist Movement lost faith in the state's legitimacy because of 1) the state's series of official acts and court decisions in the 1850s contrary to the movement's demands, 2) the state's outright and explicit denial of the movement's rights claims in addition to new rights violations against blacks, and 3) the Abolitionists' religious beliefs that the state's actions were increasingly contrary to both the American social contract and divine law. Interestingly, only a group of saloon smashing women became politically violent in the Prohibitionist Movement because 1) the state failed to enforce its anti-liquor laws, 2) these women lacked the rights and recognition of full citizens to engage formal political channels through peaceful means, and 3) the militant women Prohibitionists believed that the state was derelict in its duty to provide for the general welfare, so it was up to them to protect their families and communities through "laws of their own making (see Prohibitionist Chapter)." Finally, the political violent Civil Rights faction lost faith in the state's capacities in every way because 1) it perceived that even positive state action was insufficient to extend the full rights and recognition to African Americans and solve other rights-based demands—the embodiment of empty acquiescence, 2) the failure of the black community to obtain first-class citizenship resulted in the faction adopting new rights claims of full independence, which required revolution and guerrilla warfare, and 3) it adopted a new Marxist social contract that encouraged violence against what they viewed as the oppressive, capitalist American state. The following chapters explain how this constellation of causes led each movement, at least in part, to believe that the American state itself was illegitimate, which produced variant politically violent protest strategies.

## Chapter 1: The Abolitionist Movement:

### A “Holy” and “Contractual” Rebellion

“Rebellion to tyrants is obedience to God.”  
Thomas Jefferson

#### **Introduction**

Abolition began as a movement committed to ending slavery, the slave trade, and establishing racial equality for blacks through exclusively peaceful protests predicated on moral and legal suasion. After nearly twenty years of peaceful, lawful protests, Abolitionists engaged in acts of civil disobedience by supporting the Underground Railroad in 1850. By the end of the decade, movement-wide calls for a violent revolution emerged on the eve of the Civil War. This raises the question: Why would a movement intent on extending the rights and recognition of citizenship under the existing political system later encourage a revolution to dissolve that system? The answer lies in how the Abolitionist Movement’s perception of the state’s legitimacy evolved during the decades of the movement mobilization and protest. I argue that the Abolitionist Movement’s loss of faith in the state’s legitimacy as lawmaker resulted in the movement’s adoption of a civilly disobedient strategy in 1850, while its loss of faith in the state’s legitimacy as a governing institution by the end of the decade resulted in a politically violent strategy. The three mediating factors that explain the Abolitionists’ increasing perception of state illegitimacy are 1) the movement’s citizen-based, contract-oriented rights claims, 2) its perceived negative government response to its demands, and 3) its belief that the state had violated the social contract and shared Christian morality.

The first mediating factor, the movement's rights claims within its demands, emerged during the movement's nascence and drew on the principles of equality and liberty explicit in the American social contract. These demands show that the Abolitionists sought to extend these principles along with the full recognition of citizenship to blacks, both freed and enslaved. This type of rights claim derived from this contract established a paradigm for the movement to use in its assessment of the state's legitimacy since the state has already committed itself to these ideals. While it is not deterministic, these kinds of right claims embedded in the movement's demands confer protest strategy potential on the Abolitionist Movement since its emergence because the state's continued violation of these rights after the movement's mobilization could be perceived to be a breach in contract and could invoke the right of citizens to rebel — first against specific, unjust laws, and then against the system itself.

The second mediating factor, the state's response to the Abolitionists and their demands, is intriguing in that it is the state's outright rejection of the movement's demands, not the activists or their tactics, that contributed to the movement's lack of faith in the state's legitimacy. Once the state, more specifically the federal government, acted in opposition to the Abolitionists' demands with the passage of the Fugitive Slave Act of 1850, the movement adopted a civilly disobedient strategy because, for these activists, this unjust act indicated that the state undermined its lawmaking legitimacy. This suggests that not all negative state responses to the movement's protests produce protest strategy escalations. In fact, when both the federal and various state governments suppressed the Abolitionists' peaceful, lawful acts of protest, they were also violating the protesters' 1<sup>st</sup> Amendment rights. Yet, these rights violations did not lead to an escalation in the Abolitionists' protest strategy.

This demonstrates that in some cases, even the denial of previously enjoyed rights—a process I call “de-recognition”—can be tolerated by activists if they still have faith in the current political institutions to right these wrongs; however, when the state produces laws antithetical to the movement’s demands, faith in the current political system, or at least in its capacity to produce just, contract-based laws, becomes strained. At some point, the continued passage of unjust laws contrary to the movement’s demands not only erode a movement’s faith in the state’s lawmaking capacity and can also undercut a movement’s faith in the system itself. In the case of the Abolitionists, the subsequent Kansas Nebraska Act of 1854 and the Supreme Court’s *Dred Scott* decision in 1857 facilitated the move from the movement’s loss of faith in the state’s just legislative authority to loss of faith in the state’s governing capacity. This shift in its perception of the state’s legitimacy also explains the movement’s protest strategy escalation from civil disobedience to political violence.

Finally, the movement’s religious and ideological commitments acted as both mediating and moderating variables not only in regards to the activists’ perception of the state’s legitimacy itself but also in how activists could respond to the belief in state illegitimacy. When the movement emerged in the early 1830s, it committed itself to peaceful, lawful acts of protest, which first appealed the public’s sense of morality and then called on the state to act. Despite the anti-abolitionist mob violence and state oppression Abolitionists faced, the movement did not change its protest strategy. In subsequent decades, the movement fractured along religious lines. Those who interpreted the Bible as saying that only God’s Kingdom was significant and that believers must abstain from earthly kingdoms developed a commitment to pacifism that kept them from engaging in not only illegal or violent acts of protest but even some lawful, peaceful protest tactics. A majority of Abolitionists believed that the government was acting in defiance

of God's law, which had more authority than any earthly law, and believed they had a Christian duty to obey divine law even when it contradicted the state's law. While religious pacifism hindered the first group of Abolitionists from engaging in a politically violent protest strategy, the religious faith of other Abolitionists facilitated a move to civil disobedience and then political violence because they viewed obedience to divine law, upon which they predicated their demands, more important than obedience to unjust federal and state laws that they perceived violated both divine law and the American social contract.

This chapter begins with an explanation of the conditions in which the Abolitionist Movement emerged and the demands the movement articulated, which demonstrate how this new movement represents a distinct departure from its anti-slavery predecessors. The next sections are organized into the three protest strategies the Abolitionists employed during the movement's tenure. First, like most movements, the Abolitionist Movement employed a peaceful, lawful protest strategy exclusively from the 1830s through the 1840s, during which it engaged in moral and legal suasion tactics. I suggest that the use of these peaceful, lawful tactics laid the ideological foundation for later protest strategy escalation because of the "double vision" they produced among Abolitionist activists. Then, after the passage of the Fugitive Slave Act in 1850 that opposed Abolitionist demands and furthered the state's social contract violations, the movement lost faith in the state's absolute authority as lawmaker and engaged in acts of civil disobedience. Finally, the Kansas-Nebraska Act of 1854 and the Supreme Court *Dred Scott* decision in 1857 represented a more severe social contract violation, a rejection of popular sovereignty, and a crucial failure to recognize full citizenship, all of which undermined the Abolitionists' faith in the state's legitimacy as a political system. This produced Abolitionist advocacy for revolution that undergirded a politically violent protest strategy. In this chapter, I

will demonstrate that the Abolitionist Movement became politically violent because of its belief in the American state's illegitimacy. This belief was the result of the federal government's negative response to the movement's rights claims explicit in the American social contract, the movement's commitment to a higher divine and natural law, and their religious beliefs that facilitated the Abolitionist Movement's protest strategy escalation first to civil disobedience and then to political violence.

### **Abolitionism Emergence: Ideology and Demands**

Anti-slavery movements and efforts on the North American continent pre-date the American Revolution. Cultivated in Quaker churches and communities, these early anti-slavery efforts attempted to sway public opinion against the enslavement of Africans in the American colonies. Anti-slavery Quakers also sought political concessions by petitioning the Second Continental Congress, in 1774, before the United States was an independent country. One of the Abolitionists' early accomplishments is that it pressured all northern states adopting laws for gradual emancipation by 1804 (Stewart, 1976). These early attempts to eradicate slavery focused on a more gradual end to slavery and the slave trade and, by the beginning of the nineteenth century, advocated for the re-colonization of Africa by the enslaved and freed black communities. While re-colonization may seem well intentioned, the motivation behind this strategy was to purge white society of the free black community since the latter was believed to be incapable of life in a civil society (Filler, 1960).

By the beginning of the 1830s, the Abolitionist Movement embodied a new brand of anti-slavery movement that emerged in response to the failure of anti-slavery re-colonization efforts to quell slave insurrections, to stave off black militant rhetoric, and to condemn slavery as sinful

(Filler, 1960; Stewart, 1976). The primary purpose of the Abolitionist Movement was the immediate abolition of the slaves and the end of the slave trade, a stark contrast to the more gradual approach of prior anti-slavery efforts. Also, unlike its predecessors, Abolitionists abandoned the mission of re-colonization, instead demanding racial integration as well as equal rights and equal treatment of all blacks within the United States (Stewart, 1976). William Lloyd Garrison, one of the most consequential Abolitionist leaders, led this charge and founded *The Liberator*, an Abolitionist newspaper that operated from 1831 through the Civil War. In its first edition published on January 1, 1831, Garrison wrote the following:

“To the Public: Assenting to the "self-evident truth" maintained in the American Declaration of Independence, "that all men are created equal, and endowed by their Creator with certain inalienable rights -- among which are life, liberty and the pursuit of happiness," I shall strenuously contend for the immediate enfranchisement of our slave population. In Park-street Church, on the Fourth of July, 1829, in an address on slavery, I unreflectingly assented to the popular but pernicious doctrine of gradual abolition. I seize this opportunity to make a full and unequivocal recantation...”<sup>5</sup>

This statement is noteworthy not only because it was one of the first of many personal conversions to immediate emancipation, but also because it invoked the principles foundational to the American social contract— equality and liberty— in articulating these new demands and equates those principles with Abolitionist demands.

Other Abolitionists echoed these sentiments in subsequent years. One of the most prolific early Abolitionist organizations was the American Anti-Slavery Society (AASS) established in 1833 during a founding convention in which the organization produced a “Declaration of Sentiments.” The declaration is essential for understanding how the movement framed the

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<sup>5</sup> Printed in Cain, William E., editor. *William Lloyd Garrison and the Fight against Slavery: Selections from the Liberator*. Bedford Books of St. Martin’s Press: Boston, 1995.

problem of slavery, expressed its demands, and described its early protest strategy, the last of which I explore in the following section. First, activists asserted “that no man has a right to enslave or imbrute his brother...” and that “surely the sin is as great to enslave an American as an African...” Both of these statements parallel Locke’s critique of slavery (*Two Treatises*, Chapter IV) and equate white and black Americans by calling black slaves the white Americans’ “brothers” and denying a distinction between white and black slavery. The declaration goes on to state:

“That all those laws which are now in force, admitting the right of slavery, are therefore before God utterly null and void; being an audacious usurpation of the Divine prerogative, a daring infringement on the law of nature, a base overthrow of the very foundations of the social compact, a complete extinction of all relations, endearments and obligations of mankind, and a presumptuous transgression of all the holy commandments— and that therefore they ought to be instantly abrogated.”

This clause is significant because it contextualized Abolition within a religious discursive frame, much like calling slavery a sin in the previous statement does, and at the same time fused a faith-based position with the governing social contract. First, Abolitionists claimed that slavery does not align with the “law of nature” so it is therefore “before God utterly null and void,” and a “transgression of all the holy commandments.” This placed slavery in a moral and religious realm and situated that realm above that of the state by claiming laws contrary to God are illegitimate. As such, this exemplified the mediating role of religious beliefs on a movement’s belief in state legitimacy, or lack thereof. Next, characterizing slavery as “a base overthrow of the very foundations of the social compact” clearly exemplified that Abolitionists believed that slavery was a violation of the social contract, and that violation must be remedied. This Hobbesian “double vision” framing of Abolitionist rights claims established the religious and

legal standards for the state's legitimacy, which played a critical role in the movement's protest strategy escalation, a point I develop and defend throughout the rest of this chapter.

Secondly, like Garrison's remarks above, the AASS also imported the Declaration of Independence into its demands, like with its claim that "the right to enjoy liberty is inalienable." Drawing from Locke once more (Locke, pg. 306, etc.), the organization also claimed: "Every man has a right to his own body—to the products of his own labor—to the protection of law and to the common advantages of society." The AASS went further than demanding rights for enslaved black and acknowledged that blacks had the right to property and products of their labor, while also calling for full equality for all blacks, enslaved and freed. The organization's remarks included: "That all persons of color... ought to be admitted forthwith to the enjoyment of the same privileges, and the exerciser of the same prerogatives, as others; and that the paths of preferment, of wealth, and of intelligence, shall be opened as widely to them as to persons of a white complexion." This demand for racial equality—the recognition of full citizenship—was another feature that distinguished Abolitionists from prior anti-slavery advocacy. What is more, the Abolitionists' contract-based conception of recognition articulated here is a key component in how the movement assessed the state's legitimacy throughout the movement's tenure. Finally, the declaration included a description and justification of the movement's early protest strategy and tactics, which I explore in the next section.

While all Abolitionists affirmed these principles not all agreed on the movement's protest strategy and tactics after the first few years of mobilization. Therefore, like with most movements comparable to the Abolitionists' scope and longevity, it is most appropriate to characterize the movement as being comprised of several dynamic organizations that were generally united in their demands, protests strategy, and ideology when the movement emerged.

However, as I discussed before, as a movement mobilizes it is likely to fracture along organizational lines as these organizations diverge on differences in ideology and strategy. Instead of tracing the multiple Abolitionist organizations, I will focus on three movement factions, which are the “non-resistants” or Garrisonians, mainstream white Abolitionists, and black Abolitionists. These divisions capture most of the variation in intra-movement ideology and strategy and represent the lines upon which the movement most clearly fractured. There were certainly disagreements and tension within these categories, however, that I will describe as they relate to movement leader and activists’ ideology and adoption of specific protest strategies.

The first faction, the “non-resistants,” were pacifist Christians led by Garrison (consequently, this is why this group also called themselves “Garrisonians”) that did not believe in any coercion from the state or anyone else. Unlike its Abolitionist counterparts, non-resistants embraced an extreme belief in individualism and advocated for gender equality (Stewart, 1976: 93). The Declaration of Sentiments adopted by the Peace Convention of 1838 summarized this faction’s attitude toward the state with the following: “We cannot acknowledge allegiance to any human government; neither can we oppose any such government by a resort to physical force. We recognize but one KING and LAWGIVER, one JUDGE and RULER of mankind. We are bound by the laws of a kingdom which is not of this world...” The declaration also stated: “...we cannot sue any man at law, to compel him by force to restore anything which he may have wrongfully taken from us or others” but instead non-resistants committed themselves to “passive submission to enemies.” Therefore, despite their name, non-resistants were ideologically opposed to any form of state participation and any act of civil disobedience or political violence. Therefore, this faction did not engage in any form of resistance to the state beyond rhetorical repudiation since they believed God’s kingdom was the only legitimate authority. Such a belief

led them to self-select out of participation in the earthly, temporal state. Consequently, the adherence to this pacifist religious commitment demonstrates the moderating effect of religion not on a movement faction's belief that the state is illegitimate but rather on its willingness to escalate its protest strategy in response to this belief.

Secondly, mainstream Abolitionists agreed with the early peaceful, lawful protest strategy but did not adopt Christian pacifism. As such, they were willing to engage formal political institutions and were not ideologically opposed to all forms of violence or disobedience, although they were pragmatically opposed to these protest strategies at first. This movement faction became a substantial majority (around 90%) of the movement by the late 1840s after a decade and a half of protests (Johnson, 2009).

The third faction, black Abolitionists, were most often the target of anti-slavery retaliation, occupied a more politically and socially precarious position than white activists, and had less recognition as full citizens. This faction was also more directly affected by slavery and the slave trade since whites were not enslaved, nor were whites captured and enslaved like some free blacks were (Dick, 1974: 143, Harrold, 2001). As a result, black Abolitionists were quicker to encourage slave violence and revolution against an illegitimate state, although their white counterparts were not too far behind endorsing the same forms of political violence.

The Abolitionist Movement is unique because unlike other movements, the injured party for which the movement existed was not the primary population mobilized for the movement's cause. In other words, even though the enslaved and freed black populations suffered the most at the hands of the slaveholders, significant numbers of white men and women rallied around the Abolitionist cause and sought full recognition of citizenship for a group for which they were not a part. This is not to say that slavery had no negative impact on white Americans; being part of a

nation that supported slavery and the slave trade was a point of moral outrage for white abolitionists. The costs white Americans had to pay for pro-slavery institutions and practices, however, certainly cannot compare to the evils experienced by the black community (Dick, 1974), like free African Americans being forced into slavery without due process under the Fugitive Slave Act of 1850 (Wilson, 1999). As a result, many white Abolitionists encouraged, or at least permitted, black Abolitionists and slaves to turn to more radical protest strategies that they found inappropriate for white Abolitionists. In addition, these uneven costs black and white Abolitionists bore pushed the former to adopt more radical protest strategies and tactics before the latter—although, white Abolitionists often followed the lead of their black counterparts (Wilson, 1999).

## **Peaceful, Lawful Protests**

### *1830s: Moral Suasion and Public Appeals*

Early Abolitionists framed slavery and the slave trade as not only a constitutional issue but a serious moral and religious issue, one that would lead to certain individual and societal damnation if not addressed. Framing slavery as a sin facilitated a moral suasion approach for initial protests since sin, an impediment to salvation, is not something the secular state can remedy. Movement leaders equated the denouncement of slavery with repentance, thus making it a requirement for salvation. For instance, in 1829, black Abolitionist David Walker's *Appeal*<sup>6</sup> relied on religious principles with statements such as, "...I call God, I call Angels, I call men to witness, that the destruction of the Americans is at hand, and will be speedily consummated

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<sup>6</sup>David Walker's *Appeal in Four Articles*. Written in Boston, State of Massachusetts, September 28, 1829. Third and Last Edition, with Additional Notes, Corrections, &c. Boston: Revised and Published by David Walker, 1830. <http://nationalhumanitiescenter.org/pds/triumphnationalism/cman/text5/walker.pdf>

unless they repent.” In a piece published on September 3, 1831, Garrison warned, “Wo to this guilty land, unless she speedily repent of her evil doings! The blood of millions of her sons cries aloud for redress! *IMMEDIATE EMANCIPATION* alone can save her from the vengeance of Heaven, and cancel the debt of ages!”<sup>7</sup> Additionally, in its 1833 “Declaration of Sentiments” quoted above, the American Anti-Slavery Society proclaimed that one of its primary aims was to save the nation from its transgressions.

While Abolitionists certainly recognized the nation’s collective culpability for the protection and perpetuation of slavery, Abolitionists also framed the issue of slavery in individualistic terms. Much like the church’s acknowledgement that salvation is reserved for both the individual and the church, anti-slavery Christians believed that freeing the slaves must be both a personal and collective endeavor. Therefore, Abolitionists hoped to sway slaveholders and slavery supporters through repentance rhetoric. A letter from prominent Abolitionist leader James Birney wrote on December 9, 1835<sup>8</sup> illustrates this point. Birney wrote, ““I safely hazard the assertion, that in the multiplied publications of the American Anti-Slavery Society-... no other object is proposed, and this only through the power of truth applied to the understanding and conscience of slaveholders, to persuade them to do their duty.” In 1831, Garrison echoed a similar sentiment when he wrote, “We have appealed to Christians, philanthropists, and patriots, for their assistance to accomplish the great work of national redemption through the agency of moral power—of public opinion—of individual duty.”<sup>9</sup> The duty to which Birney and Garrison refer is the duty to end the slave trade and free those already enslaved.

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<sup>7</sup> Printed in: Cain, William E., editor. *William Lloyd Garrison and the Fight against Slavery: Selections from the Liberator*. Bedford Books of St. Martin’s Press: Boston, 1995.

<sup>8</sup> Printed in: *A Collection of Valuable Documents*. AMS Press: New York, 1972. Published by Isaac Knapp

<sup>9</sup> Printed in: Cain, William E., editor. *William Lloyd Garrison and the Fight against Slavery: Selections from the Liberator*. Bedford Books of St. Martin’s Press: Boston, 1995.

The movement began its moral suasion efforts as an anti-slavery crusade in churches, encouraging congregations to purge themselves of their slaveholding members, denounce slavery, and end racial segregation within churches. “Pray ins” and “pray outs” were among some of the earliest tactics Abolitionists employed to pressure churches to adopt the movement’s anti-slavery and anti-segregation principles. During these “pray ins” and “pray outs,” Abolitionists would either occupy the space “in” the church or directly “out”side of it, demonstrating their condemnation of the church’s segregation practices through prayers (Mabee, 1970). Then, activists took their message to the streets. The AASS’s 1833 declaration explained the movement tactics with the following: “We shall circulate, unsparingly and extensively, antislavery tracts and periodicals. We shall enlist the pulpit and the Press in the suffering and the dumb. We shall aim at a purification of the churches from all participation in the guilt of slavery.” In doing so, they vow to “...spare no exertions nor means to bring the whole national to a speedy repentance.” In this way, Abolitionists compared their cause to the American Revolution (the dissolution of an unjust contract and the creation of a just one), yet they expressly depart from the latter’s violent tactics by emphasizing “...the abolition of slavery by the spirit of repentance” not arms. This early basis of Abolitionism in religion set the stage for the movement’s religious commitments to lead its activists to find the state illegitimate as state action bolstered the immoral pro-slavery forces in the 1850s, a point I return to in a later section.

Despite the Abolitionists’ commitment to peaceful, lawful protests and an outright rejection of any calls for violence, pro-slavery forces accused the movement of encouraging slave insurrections. What made pro-slavery forces particularly sensitive to this rhetoric of resistance were the several slave insurrections that occurred in recent decades. Incidents like the slave uprisings along Louisiana’s German Coast in 1811 (Rodriguez, 1999), Nat Turner’s slave

revolt in Southhampton County, Virginia, in 1831 (Dick, 1974), the successful Creole slave mutiny in 1841 (Harrold, 1999), and Haitian uprising (Dahl, 2017) made southerners in particular paranoid about organizing and violent rhetoric coming from the free black community (Rodriguez, 1999). This deep-seated anxiety over the possibility of a slave revolt became a driving factor for anti-abolitionist counter-protests, which were often far more extreme than Abolitionist protests. In response, Garrison retorted: “Make the slave free and every inducement to revolt is taken away.”<sup>10</sup>

As the Abolitionist Movement’s activities and reach expanded during 1835, so did anti-abolitionist resistance. Anti-abolitionist efforts quickly became violent, and many erupted into riots in spite of the Abolitionists’ peaceful protest tactics (Dillon, 1990; Wilson, 1999). Some infamous anti-abolitionist acts included incidents like the one in Charleston, South Carolina, where, on July 29, 1835, a mob broke into the post office and stole the satchels filled with Abolitionist mailers that had just arrived from New York. The mob then hung likenesses of Garrison and Arthur Tappan, another Abolitionist leader, and burned the Abolitionist newspapers under them (Stewart, 1976). Anti-abolitionist mobs attacked Abolitionists’ public meetings, and Abolitionist printing presses also came under attack. These riots were not confined to the South, as there were plenty of anti-abolitionist slavery riots in the North, as well. As a result, the mid to late-1830s are referred to as the “mob years” of the Abolitionist Movement, and justifiably so (Demos, 1964). Despite counter-protest violence, Abolitionists continued their fierce commitment to non-violence; the matter of self-defense, however, became one of the first issues around which the movement began to splinter.

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<sup>10</sup> Quote from Stewart, James Brewer. *Holy Warriors: The Abolitionists and American Slavery*. Hill and Wang: New York, 1976, pg. 45.

One of the most well-known cases on the subject concerns Elijah Lovejoy. In Alton, Illinois, in November 1837, Lovejoy's printing press, responsible for Abolitionist publications, came under siege by an angry anti-abolitionist mob. The initial struggle resulted in the death of a young local named Bishop, killed by either Lovejoy or one of his men. In response, the mob brutally murdered Lovejoy (Demos, 1964). Lovejoy's death at the hand of an angry mob sparked a compelling debate amongst Abolitionists of the merits of self-defense. A few of the most extreme Garrisonians condemned Lovejoy's actions wholesale; however, such extremists represented a fringe minority, even among non-resistants. Most Abolitionists lauded Lovejoy as a martyr, although some did see his act of self-defense as diminishing his heroism (Demos, 1964; Friedman, 1982; McKivigan, 1999). This tension between non-resistance idealism and more moderate pragmatism only intensified after the Lovejoy episode.

As violence against post offices, Abolitionist lecturers, and Abolitionist newspapers increased, both mainstream and non-resistant Abolitionists re-evaluated their opposition to using self-defensive acts against violent anti-abolitionist mobs. Others, however, held fast to an unconditional commitment to non-violence. While a movement endorsing the use of self-defense in direct response to a threatening act of violence does not constitute a politically violent protest strategy (as outlined in the introduction), some rejected such an endorsement because they believed any use of force was wrong. While it may seem to be an inconsequential divide, the internal split over the merits of self-defense foreshadow deeper divisions between non-resistant and more moderate Abolitionist forces. This tension between idealism and pragmatism would continue to characterize the Abolitionist Movement and eventually fracture the movement.

Non-resistant calls for passivity in the face of anti-abolitionist riots and violence had a more pragmatic grounding, as well. Abolitionists believed that such a contrast between

themselves and the anti-abolitionist crowd endowed some semblance of moral superiority upon the Abolitionist cause. This approach was effective in drumming up public sympathy for the Abolitionists under siege as reports of anti-abolitionist attacks appeared in newspapers. The spike in counter-movement violence certainly caused physical harm to Abolitionist property and members, but it was in fact this spike in violence that drew the media's attention to the Abolitionist cause, which gave the movement free press. As a result, the Abolitionists swayed some of the public to their side (Stewart, 1976).

Not all the backlash the Abolitionists faced came from counter-protesters, riots, and mob violence; key political actors on both the state and federal government levels also mounted serious opposition against the movement. Most government opposition against the Abolitionists targeted the mailings and private newspaper operations the movement sponsored on the grounds that its rhetoric was extreme, divisive, and undermined societal tranquility. It was upon these grounds that South Carolina's state legislature passed a resolution in December 1835 censoring Abolitionist materials because Abolitionist writing had "an obvious tendency to excite the slaves of the southern states to insurrection and revolt."<sup>11</sup> Likewise, Postmaster General Amos Kendall lauded the destruction of Abolitionist mail as a patriotic act of self-defense against subversive elements that sought to undermine the rule of law (Ferrell, 2006). President Jackson praised Kendall and called upon Congress to pass laws limiting the movement's ability to exercise its free speech and free press rights (Dillon, 1990; Ferrell, 2006), arguing that Abolitionist tracts were: "...attempts to circulate through the mails, inflammatory appeals, addressed to the

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<sup>11</sup> Printed in *Annals of America*, Vol. 6: *The Challenge of a Continent*. William Benton, Publisher. Encyclopedia Britannica, Inc.: Chicago, 1968.

passions of the slaves, in prints and in various publications, calculated to stimulate them to insurrection and produce all the horrors of a servile war.”<sup>12</sup>

The Abolitionist Movement viewed any attempts at shutting down their printing presses and any government interference as an infringement on their 1<sup>st</sup> Amendment rights, and rightly so. In response to President Jackson’s condemnation of the movement and call for anti-abolitionist legislation, Abolitionists published a public letter to the president, accusing him of trying to usurp power that did not belong to him and mischaracterizing the movement. The letter also claimed, “The success of the attempt already made to establish a censorship of the press is not such as to invite further encroachment on the rights of the people to publish their sentiments.”<sup>13</sup> As it turns out, Congress sided with the Abolitionists on this particular issue and made no such law banning the printing and circulation of Abolitionist literature, nor did any legislatures in northern states. There were some southern states, however, that did follow South Carolina’s and President Jackson’s lead (Dillon, 1990). Interestingly, even though this negative government response to Abolitionism involved the suppression of activists’ constitutional rights, the repression of tactics did not lead to the movement adopting a more extreme protest strategy.

Since both the anti-abolitionist riots and government censorship were insufficient in radicalizing subsequent movement-sanctioned actions, I contend that there is a meaningful difference between the government outright rejecting a movement’s demands and the government limiting or eliminating the movement’s use of particular tactics. While both are clearly a way to undermine the movement, they do so in ways that appear to elicit different responses from a movement, at least in the case of the Abolitionists. When the government

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<sup>12</sup> Printed in *Annals of America*, Vol. 6: *The Challenge of a Continent*. William Benton, Publisher. Encyclopedia Britannica, Inc.: Chicago, 1968.

<sup>13</sup> Printed in *Annals of America*, Vol. 6: *The Challenge of a Continent*. William Benton, Publisher. Encyclopedia Britannica, Inc.: Chicago, 1968.

threatened Abolitionist tactics, the movement responded by using formal legal channels in an attempt to reverse the repressive rules levied against their protest methods. Since an attack on movement tactics is less of a direct assault on the movement, Abolitionists did not ratchet up their protest strategy. Rather, they registered formal appeals in the hopes that the government would rescind its ban on Abolitionists' protest activities. This response indicates a continued commitment of both movement members and leaders to challenge the political system through the system's established institutions and processes, indicating that they still believed the system and its processes were legitimate.

This is not to say that stripping Abolitionists of their 1<sup>st</sup> Amendment rights utilized during the movement's protests is not a negative response to the movement's demands. Based on the language of President Jackson and other political leaders, anti-abolitionism was the driving force behind such measures. The government's rejection of a movement's demands and a movement's tactics had variant effects, however. Tactical restrictions serve to redefine the state-movement conflict because policing protests produces another barrier between the movement's demands and state actions that a movement must overcome before it can attend to the policy matters for which it initially mobilized. The way to overcome this barrier is for a movement to re-establish its right to protest. Since the Abolitionist Movement wanted to continue pressuring the existing political structure to accept its demands after the state acquiesced to the movement's calls to re-establish its right to protest, the movement opted for peaceful and legal means to clear this new barrier. This is evident from the petitions, letters, and speeches Abolitionists presented to both the state and public in the hopes of reasserting the movement's 1<sup>st</sup> Amendment rights. Again, the movement's commitment to peaceful protest tactics— even when its right to protest is under

fire— indicates that the movement still affirmed the legitimacy of the existing political system and political process despite explicit instances of state repression.

### *1830s/1840s: Legal Suasion and Party Politics*

Instead of escalating their protest strategy in the wake of anti-abolitionist mobs and government censorship, Abolitionists adopted a new peaceful, lawful protest tactic in the mid 1830s and 1840s called legal suasion. This approach focused on influencing the political system directly through more involvement in formal processes and institutions. It is noteworthy that moral suasion, based on moral and religious arguments independent of the current political order, did not disappear, nor did the Abolitionists' religious framing of slavery. Instead legal suasion emphasized the complimentary influence of the social contract doctrine on the movement's demands and the utility of formal political channels for codifying those demands. These new tactics included the circulation and submission of petitions to various levels of government, Abolitionist testimony during formal legislative proceedings, eagerly testifying in front of any legislature that would have them (McKivigan, 1984). In this way, Abolitionists entered the political arena and pushed for the following demands from the AASS's 1833 declaration, which stated "to legislate exclusively on the subject of the slavery which is tolerated within its limits" and for the U.S. Congress "to suppress the domestic slave trade between the several states, and to abolish slavery in those portions of our territory which the Constitution has placed under its exclusive jurisdiction."

This multi-level government approach had mixed results especially in the face of growing anti-abolitionist resistance. For instance, in 1842 the Supreme Court ruling on the *Priggish v. Pennsylvania* case established the "right to self-help," in which "slave owners could reclaim

fugitives without judicial procedure” as long as they did so peacefully (Wilson, 1999: 110). This ruling also declared that the federal government, not the states, was responsible for enforcing constitutional fugitive slave provisions (Ferrell, 2006: 90). In response to this case, Abolitionists were successful in persuading several states in the North to pass personal liberty laws, “which prohibited state aid to the enforcers of the national law of 1793 (IBID).” While this was not an outright rejection of slavery, or even of white Southerners reclaiming alleged fugitive slaves, this is an example of Abolitionists working within the current political system to elicit a positive response from some state legislatures. However, since slavery was a national issue, a state-level approach would be ultimately insufficient. Nevertheless, personal liberty laws removed much of the North’s direct complacency with slavery and foreshadowed Massachusetts’ defiance of the Fugitive Slave Act of 1850.

Not all facets of the state were this accommodating to the movement. Like their mailing campaign, Abolitionists faced government backlash over the petitions they submitted to Congress and state legislatures. The most notable example of the government’s repression of Abolitionist petitions was the gag rule passed by the U.S. House with 117 to 68 vote in 1836, which read, “Resolved, That all petitions, memorials, resolutions, and propositions relating in any way, or to any extent whatever to the subject of slavery, shall, without being either printed or referred, be laid on the table, and that no farther action whatever shall be had thereon.”<sup>14</sup> Senator John C. Calhoun, a staunch anti-abolitionist, articulated the rationale behind the gag rule when he tried to persuade the Senate to take similar steps to quell Abolitionist appeals. Calhoun believed that these petitions threatened national unity, arguing, “As widely as this incendiary spirit has spread... unless it be speedily stopped, it will spread and work upward till it brings the

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<sup>14</sup> Printed in: A Collection of Valuable Documents. AMS Press: New York, 1972. Published by Isaac Knapp

two great sections of the Union into deadly conflict.” Furthermore, fearing what would happen if Abolitionists appeals were taken seriously by Congress, he warned, “Be assured that emancipation itself would not satisfy these fanatics; that gained, the next step would be to raise the Negroes to a social and political equality with the whites; and, that being effected, we would soon find the present condition reversed.”<sup>15</sup> Therefore, Calhoun argued that violating Abolitionists’ 1<sup>st</sup> Amendment rights for these higher purposes.

Even though the circumvention of Abolitionists’ rights to petition their government under the 1<sup>st</sup> Amendment induced non-Abolitionists like John Quincy Adams, then a member of the House of Representatives, to speak out against the gag rule, it became a standard practice in both chambers of Congress (Ferrell, 2006). Violations of the gag rule by members of the House were taken seriously well into the 1840s. In fact, when Abolitionist Representative Joshua Giddings submitted a resolution in 1842 to protect the rights of slaves aboard slave ships who revolt in international waters, the House censured him (Stewart, 1999). This demonstrated that even those individuals within formal political institutions sympathetic to the Abolitionist cause had very little, if any, ability to enact the movement’s agenda.

Despite a continued rejection of the movement’s tactics, Abolitionists continued to engage in peaceful, lawful acts of protest. In fact, a sizable majority remained committed to engage with political institutions, further evidence that state repression of tactics alone was insufficient for Abolitionist protest strategy escalation. Also, like the case of government attacks against the movement’s free speech and free press rights, Abolitionists pushed back on the government’s disregard for Abolitionist petitions. In June 1836, the American Anti-Slavery Society called upon its members to stay the course with the following statement:

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<sup>15</sup> Printed in *Annals of America*, Vol. 6: *The Challenge of a Continent*. William Benton, Publisher. Encyclopedia Britannica, Inc.: Chicago, 1968.

“Suffer not the present outrage... The chairman on the committee boasted that the number of petitioners the present session, for the abolition of slavery in the District was only 34,000! Let us resolve, we beseech you, that at the next session the number shall be A MILLION.”<sup>16</sup>

Many Abolitionists realized that the success of their anti-slavery petitions relied on electing more congressmen sympathetic to the movement’s cause. At first, Abolitionists sought accommodations from both the Whig and Democratic Party candidates. Based on the treatment the movement experienced from President Jackson and Congress, it should come as little surprise that most major party candidates adhered to anti-abolitionist positions. In fact, the Democratic Party Platform in 1840 denounced the Abolitionist Movement.<sup>17</sup> Even though the Whig Party was less explicitly anti-abolitionist, the need to remain competitive against the Democratic Party in Southern states and the influence of prominent southern Whigs kept the party in general from supporting the Abolitionist Movement (Holt, 1999). Despite a handful of notable exceptions, most of the politicians who agreed to adhere to the Abolitionist’s demands and principles failed to do so once in office (Harrold, 2001). In response to the major parties’ uncooperativeness, Abolitionists mounted write-in campaigns for candidates committed to the movement’s demands (McKivigan, 1984), which resulted in government officials finding creative ways to block the Abolitionist vote (Perry, 1995).

As such, Garrison aptly observed, “It has never been a difficult matter to induce men to go to the ballot box; but the grand difficult ever has been, and still is, to persuade them to carry a

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<sup>16</sup> Printed in: *A Collection of Valuable Documents*. AMS Press: New York, 1972. Published by Isaac Knapp

<sup>17</sup> “Resolved... that all efforts by abolitionists or others, made to induce congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences, and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanency of the union, and ought not to be countenanced by any friend to our political institutions.” Democratic Party Platforms, 1840 Democratic Party Platform Online by Gerhard Peters and John T. Woolley, The American Presidency Project  
<http://www.presidency.ucsb.edu/ws/index.php?pid=29572>

good conscience thither, and act as free moral agents, not as tools of the party.”<sup>18</sup> It was for this reason that Abolitionists could not gain traction within the major parties. As a result, Abolitionists formed their own political party, named the Liberty Party, which began in 1839<sup>19</sup> and began fielding its own candidates in 1840 (Dillon, 1990). Out of all the anti-slavery parties in the nineteenth century, the Liberty Party’s platform reflected the Abolitionists’ goals and demands the most accurately. Those demands reflected in the Liberty Party’s platform included the following: “the absolute and unqualified divorce of the general government from slavery, and also the restoration of equality of rights among men in every state where the party exists, or may exist... (carrying out) the principle of equal rights into all its practical consequences and applications...” Like in its previous acts of protest, Abolitionists invoked the American social contract in its calls for equality and liberty, and interestingly called for the “restoration” of such principles, indicating the state’s move away from its obligations. The platform also included a call to end slavery in every state, territory, and District of Columbia, and the end of the slave trade. The party’s updated 1843 platform echoed Abolitionists’ previous call for the recognition of a “human brotherhood” as the bedrock for both Christianity and democracy, reflecting the common mores of the time.<sup>20</sup>

Black Abolitionists also proved to be valuable members of the Liberty Party in the 1840s. Contrary to common segregation practices of the day, Liberty Party conventions and proceedings were desegregated and, in most cases, treated its black male members with the same regard as it did its white male members and encouraged interracial socialization. This equal treatment

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<sup>18</sup> Printed in: Cain, William E., editor. *William Lloyd Garrison and the Fight against Slavery: Selections from the Liberator*. Bedford Books of St. Martin’s Press: Boston, 1995.

<sup>20</sup> “RESOLVED, That human brotherhood is a cardinal principle Of true democracy, as well as of pure Christianity, which spurns all inconsistent limitations; and neither the political party which repudiates it, nor the political system which is not based upon it, can be truly democratic or permanent.” 1843 Platform of the Liberty Party Adopted in Convention, 30 August 1843, Buffalo, N. Y. <http://alexpeak.com/twr/libertyparty/1843/>

became strained when several states revoked the right for free black men to vote (Johnson, 2009). As Abolitionists began to consolidate as a voting bloc, some Northern state-level courts and legislatures began to deny free black men their voting rights. For instance, Pennsylvania passed a law restricting the right to vote to only white men in 1837. In response, on March 14, 1838, black Abolitionists published, “Appeal of Forty Thousand Negroes, Threatened with Disenfranchisement” which read in part, “We honor Pennsylvania and her noble institutions too much to part with our birthright as her free citizens, without a struggle. To all her citizens the right of suffrage is valuable in proportion as she is free; but surely there are none who can so ill afford to spare it as ourselves.”<sup>21</sup> This appeal and others like it failed to reverse these anti-black voting laws. Like prior limits on Abolitionist tactics, black Abolitionists pursued legal and peaceful channels to reclaim the rights they used to achieve their demands and still sought the full recognition of citizenship within the existing political structure, indicating faith in the state’s general legitimacy.

Legal impediments to black Abolitionists’ ability to vote and the non-resistants’ commitment to abstain from electoral politics combined with a narrow party platform that did not appeal to many outside the movement contributed to the Liberty Party’s dissolution in 1848. By that time, however, political alliances began to shift as a result of the Mexican War in 1846, which raised the possibility of adding new slave states to the Union by annexing Texas, a state many expected would be admitted as a slave state. Northern free states feared the annexation of more slave states because this would dilute their influence in Congress (Dillon, 1990; Harrold, 2001). This led to the championing of popular sovereignty by many Northerners, a doctrine that asserted that the settlers and residents of territories should be free to determine whether or not

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<sup>21</sup> Printed in *Annals of America*, Vol. 6: The Challenge of a Continent. William Benton, Publisher. Encyclopedia Britannica, Inc.: Chicago, 1968.

that territory would permit slavery instead of that decision being dictated by the federal government (Harrold, 2001). While the growing prevalence of anti-extensionist sentiments in the North in the latter half of the 1840s was not well received by all Abolitionists, the movement's more pragmatic leaders and members saw this backlash generated by the Mexican War as an opportunity to extend the Liberty Party's limited appeal and influence to include these "free soilers" (Filler, 1960).

By 1848, the free soiler and Abolitionist coalition founded the Free Soil Party. Unlike the Liberty Party's platform's unwavering condemnation of slavery and racial inequality, the 1848 Free Soil Party platform limited its condemnation to the federal government's usurpation of states' rights to decide the slavery question for themselves.<sup>22</sup> Like the Liberty Party, however, the Free Soil Party's tenure as a political party was short. The demise of the Free Soil Party coincided with the fall of the Whig Party and a realignment of the Democratic Party. These shifting electoral elements shuffled party bases and coalitions, which led to the rise of the Republican Party in 1854 (Dillon, 1990). Unlike its predecessors, the Liberty Party and Free Soil Party, the Republican Party transcended minor party status and succeeded the Whig Party as one of the two major political parties. Even with its larger base of support than both the Liberty Party and Free Soil Party, the Republican Party did include the following anti-slavery position in its 1856 party platform:<sup>23</sup> "That we deny the authority of Congress, of a Territorial Legislation, of any individual, or association of individuals, to give legal existence to Slavery in any Territory of the United States, while the present Constitution shall be maintained." This call to end slavery

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<sup>22</sup> "Resolved, That slavery in the several states of this Union which recognize its existence depends upon the state law alone, which cannot be repealed or modified by the federal government, and for which laws that government is not responsible. We therefore propose no interference by Congress with slavery within the limits of any state." <http://alexpeak.com/twr/fsp/1848/>

<sup>23</sup> Republican Party Platforms, Republican Party Platform of 1856 Online by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/273293>

was much stronger than the popular sovereignty doctrine promoted by the Free Soil Party, yet the newly minted Republican Party did not go so far as to promote racial equality like the Liberty Party did in the 1840s.

Engaging in the policymaking process and electoral politics demonstrated the Abolitionist Movement's willingness to accept the power of the state and abide by the rules of the political system. In addition, even though the movement faced state-sponsored opposition, a majority of Abolitionists were able to appeal to formal political institutions and engage with formal political processes. In this way, entering the formal political processes and institutions legitimizes the state even while the movement tries to remake particular facets of the legal code and political procedures. While Abolitionists did not achieve all of their legislative goals by entering electoral politics, they did gain some ground on some key issues. For instance, despite its short tenure as a third party, the Liberty Party eliminated the gag rule in Congress in 1844 (Filler, 1960). Also, the party did pave the way for the rise of the Republican Party in the early 1850s. Even though the Republican Party was less willing to endorse all components of the Abolitionist platforms, it played a key role in the eventual abolition of slavery after the Civil War (McKivigan, 1984). What is more, the Democratic Party's repudiation of abolitionism, its protection of pro-slavery forces within slave-states (Mayer, 1998: 473), and the election of Abolitionist backed Republican Abraham Lincoln in 1860 (Dillon, 1990: 188) further stoked the country's divisions over the issue of slavery and contributed to the outbreak of the Civil War in 1861.

*The Rise of Disunionism*

Despite their name, non-resistants consistently refrained from the use of any force, including self-defense as a response to mob violence, and any action within formal political institutions and channels. While other Abolitionists established the Liberty Party, Garrison and his fellow non-resistants not only condemned major parties for their explicit defense of slavery, but also questioned the legitimacy of voting in the first place (Perry, 1995). The central objection Garrison had to voting was its coercive ability to force minorities to submit to the will of the majority. Accordingly, in 1843 he exclaimed, “We tread the tendency to ballots. They are but one remove from bloodshed.” Furthermore, he added, “...every ballot, however gently deposited, encloses, in fact, a bullet, for the heart of the offender against the law to which it gave birth” (Demos, 1964). To his credit, Garrison’s biting rejection of voting was consistent with his prior calls for all good Christians to devote themselves to the Kingdom of God and detach themselves from all earthly kingdoms (see above). Garrison’s increasingly ideological radicalization drove away more moderate Abolitionists, and even some non-resistants, from supporting his views on the political system, which created an unamicable intra-movement rift. As noted above, the non-resistant faction of the Abolitionist Movement only comprised a tenth of the entire movement by the late 1840s (Johnson, 2009).

Another critical issue Garrison and his non-resistant followers had with the current political system is that it tied anti-slavery advocates with pro-slavery advocates because both belonged to the same union (Perry, 1995). This led to a kind of guilt by association, which produced Garrison’s famous call for, “No Union with Slaveholders!” Garrison made the case for “disunionism” in the January 10, 1845 edition of *The Liberator*, which read in part:

“Tyrants! Know that the rights of man are inherent and unalienable, and, therefore, not to be forfeited by the failure of any form of government, however democratic. Let the American Union perish... It was conceived in sin, and brought forth in iniquity; and its career has been marked by unparalleled

hypocrisy, by high-handed tyranny, by a bold defiance of the omniscience and omnipotent God... Henceforth, the watchword of every uncompromising abolitionist, of every friend of God and liberty, must be, both in a religious and political sense- ‘NO UNION WITH SLAVEHOLDERS!’”

Garrison based his unwavering condemnation of the American state on the grounds that its “hypocrisy” between the practices of the government and its principles affirmed by its social contract, in which the state breached its contract and denied “the rights of man” despite their codification in the U.S. Constitution. Furthermore, Garrison described this “failure... of government” in religious terms, observing not only the political but also the spiritual sins the pro-slavery state committed in “bold defiance” of God, calling for the Abolitionist disunion from America “both in a religious and political sense.”

This fits with my claim that a movement or movement faction’s belief in state illegitimacy is grounded in a lack of recognition (here, of rights) and in the social contract’s prime directive, which is the protection of “inherent and inalienable” rights. Such a belief in the state’s complete illegitimacy can produce either calls for revolution so that activists can abolish an illegitimate and unsalvageable state or at least separatist intentions. Despite these repeated and unwavering calls for disunion from Garrison and his non-resistants, this movement faction still adhered to a strict religious pacifism clearly grounded in principles, which kept their calls for revolution from manifesting themselves into politically violent acts of protest. Another intriguing observation is that Garrison’s language reflects a failure of both moral and legal suasion even though Garrison and his followers did not engage in the latter, nor did they find it desirable to do so. As explained above, non-resistants’ interpretation of the Bible, which spoke of the supremacy of God’s Kingdom over earthly powers, provided the basis for their pacifism and overall

withdrawal from political life. This would preclude their employment of civil disobedience, as well.

The non-resistant Abolitionists, caught in the paradoxical stalemate of rejecting the state entirely and denying any legal or forceful way to reform or overthrow it, reveal an important component in the relationship between a movement's perception of the state's illegitimacy and a movement's escalation of its protest strategy to political violence. I contend throughout this project that this perception is a determinative factor in protest strategy escalation, particularly to a politically violent strategy, and that a movement or movement faction will only become political violent once it views the state as illegitimate. However, this unifying framework is not entirely deterministic in that a movement or movement faction's pacifist religious or ideological beliefs can moderate the effects of its belief in state illegitimacy, preventing a protest strategy escalation. However, the non-resistant movement faction shrunk considerably during this time, and by the time the rest of the movement endorsed a politically violent protest strategy in the mid-1850s more non-resistants defected. Therefore, I suggest that the tension between state rejection and unwavering pacifism is rare and often not sustainable.

It is important to emphasize that throughout the 1840s, disunionism was the minority view for Abolitionists, and many prominent leaders and activists still believed in the promise of rights and principles necessary to abolish slavery articulated in the American social contract. In a letter to non-resistant leader S.P. Chase, Abolitionist Lysander Spooner wrote:

“For instance, the Constitution provides, that “the right of the people to be secure in their persons, &c., against unreasonable searches and seizures shall not be violated;” and that “no person shall be deprived of life, liberty, or property, without due process of law;” and that “the United States shall guaranty to every

State in this Union a republican form of government.” Now, who can doubt, that this language does, on the face of it, and by every rational and just construction of it, give power to abolish every part of American Slavery?”

Spooner went on to write that the passages in the Constitution on the issue do not require slavery, nor exclude its abolition (IBID). This indicates that despite the continued legal protection of slavery and the state’s unwillingness to fulfill its contractual obligations, most Abolitionists maintained a faith in the government based on a belief that the political system was designed in a way that facilitated the end of slavery. Mainstream Abolitionist faith in the state’s legitimacy expressed here and elsewhere began to waver in 1850 and rapidly declined in subsequent years. Ironically, the first Abolitionist calls for revolution based on the belief of state illegitimacy were made by those who denied any meaningful way to dissolve the state; yet, disunionism foreshadowed the sentiments of those Abolitionists who were willing to defy the law and ultimately take up arms against the state.

### **Civil Disobedience**

The critical development that sparked the wide acceptance of civil disobedience throughout the Abolitionist Movement was the Fugitive Slave Act of 1850, a more severe version of the Fugitive Slave Act of 1793 that personal liberty laws in the North had significantly undercut. This law represented a pivotal point for the Abolitionist Movement because it directly contradicted movement demands, stripped more rights from alleged fugitive slaves and white Americans alike, and compelled compliance making Abolitionists complicit in upholding slavery. In other words, the law violated citizenship-based rights explicit in the American social contract to a greater degree than the state had done before in regards to slavery and Abolitionists’ rights, mediating the movement’s perception of declining state legitimacy.

Furthermore, this new pro-slavery law demonstrated that the federal government was not only unwilling to remedy its perceived breach of contract, but also that it compounded this contractual violation. This resulted in Abolitionists' loss of faith in the state's absolute authority over lawmaking, the type of legitimacy loss that spurs acts of civil disobedience. What is more, Abolitionists claimed this new law also violated the common Christian morality and God's law, which provided activists with further cause and justification to defy the act. I contend that Abolitionist demands, framed in both religious and political terms and advanced by prior moral and legal suasion tactics, afforded the Abolitionist Movement with a capacity to engage in a civilly disobedient protest strategy, which the Fugitive Slave Act of 1850 as a pro-slavery policy activated.

#### *1830s/1840s: Civilly Disobedient Slaves*

Before white Abolitionists *en masse* engaged in acts of civil disobedience in 1850, many of them encouraged slaves to defy their masters and escape their enslavement, although they pleaded that slaves do so peacefully if possible. Furthermore, Abolitionists tended to limit the permissible extent of slave defiance specifically to laws that kept them enslaved. Abolitionist leader Gerrit Smith, in his "Address to the Slaves in the United States of American," delivered in New York in January 1842, also provided a religious basis for civilly disobedient fugitive slaves with the following argument:

"Do not infer, from what we have said against violent attempts to recover your freedom that we object to your availing yourselves of any feasible, peaceable mode to accomplish it. We but concur with the great apostle (Paul), when we say: 'If thou mayest be free, use it rather.' ... we, nevertheless, call on every slave, who has the reasonable prospect of being able to run away from slavery, to make the experiment."

Since slaves were not a party to the American social contract, Smith appealed to something higher than the law of the land, divine law as expressed in the New Testament (1 Corinthians 7:21), which still required that *if possible*, Christians must strive to be at peace with all men (Romans 12:18; italics added).

He goes on to say: “First. We ask the God of the oppressed to have mercy on you, and deliver you. Second. We ask our National and State Legislatures to exert all their respective constitutional power for the overthrow of slavery...” Here Smith affirms the role of divine intervention, a manifestation of divine and natural law, necessary to free the slaves. At the same time calling for the legislative dissolution of slavery, the latter a viable option for white male citizens but not for slaves. This implies that those who were a party to the contract should pursue peaceful and legal means during the 1840s, the strategy endorsed by the movement writ large at the time. Smith concluded his speech with: “Have no conscience against violating... any other slaveholding law. Slaveholders are but pirates; and the laws, which piracy enacts, whether upon land or sea, are not entitled to trammel the consciences of its victims.”<sup>24</sup> Equating slaveholders to pirates characterizes them as operating outside of the (natural and divine) law, inferring the same for slavery as an institution, which provides further justification for slaves’ civil disobedience.

Likewise, in an article titled, “Rights of a Fugitive Slave” and published in the *New York Evangelist* on February 24, 1842, Abolitionist Nathaniel E. Johnson declared, “From such a law, the slave, therefore, has a right to escape if he can... So long as he is within the grasp of that law, he is in an enemy’s land, and has a right to use the necessary means for peaceful escape. The law of nature will even justify him in using violence, if escape can be accomplished in no other

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<sup>24</sup> Printed in: Harrold, Stanley. *American Abolitionists*. Pearson Education Limited: Edinburgh, 2001

way.”<sup>25</sup> In this way, it is not simply bad laws that permit civil disobedience, but rather it is oppressive laws contrary to the laws of nature, to which the execution of state power is bound, that required those who are oppressed to resist the injustice of the state. Furthermore, slaves had no recourse to challenge these unjust laws while residing in the “enemy’s land” because they occupied a state of nature, in which there is no legal recourse. According to Johnson, meant that slaves could take extra-legal measures to right these injustices. I suggest that his claim that “the law of nature will even justify him in using violence” draws upon the Hobbesian and Lockean right to revolt against natural rights violations from the state.

Because of the stark differences in their relationship to the state, Abolitionists believed that black slaves were justified in unlawful acts against proslavery laws that anti-slavery white citizens were not. The fact that white Abolitionists viewed the state’s protection of slavery as a violation of natural and divine law that, in the 1830s and 1840s, stripped slaves of their natural rights only seemed to indicate an illegitimate state for the slave, not the white Abolitionists. Therefore, for many white Abolitionists, only slaves were allowed to engage in civil disobedience against pro-slavery statutes and commit limited, purely instrumental acts of violence only when required to escape slavery. White Abolitionists recognized the failings of the state, yet still found its institutions and processes legitimate, which is evident in their continued use of legal suasion and foray into party and electoral politics throughout the 1840s. Once the federal government passed the Fugitive Slave Act of 1850, white Abolitionists saw their relation to the state as being far more tenuous.

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<sup>25</sup> Printed in: Harrold, Stanley. *The Rise of Aggressive Abolitionism: Addresses to the Slaves*. University Press of Kentucky: Lexington, 2004

*Fugitive Slave Act of 1850*

Legal protections for slaveholders were not new. Before the emergence of the Abolitionist Movement in the early 1830s, the United States operated under the Fugitive Slave Act of 1793. According to this act, a slave owner could reclaim his fugitive slave even if that slave sought refuge in a free state as long as the slave owner did so promptly. There was an unwritten understanding, however, that if that slave reached a Northern state, settled down, and proved to be an asset to the community, the slave owner relinquished his claim to his slave (Cochran, 1972). Among other laws on the books, the Fugitive Slave Act of 1793 became the target of Abolitionist efforts because this law protected the rights of slave masters and, thus, limited those of the fugitive slave (Stewart, 1976; Harrold, 2001). For instance, the Liberty Party's platform adopted in 1843 explicitly argued that "providing for the surrender of a fugitive slave... rob(s) a man of a natural right – namely, his right to his own liberty – and is therefore absolutely void," (see footnote above) a statement that contends the incompatibility with the natural law-based American social contract and laws that forced fugitive slaves back into slavery.

On September 18, 1850, Congress passed the Fugitive Slave Act of 1850 that not only contradicted the demands made by the Abolitionist Movement, but also strengthened the rights and recourse of slave owners for recapturing their alleged runaway slaves. What is more, even in free states the law specified that during court proceedings for fugitive slave cases the rights of alleged fugitive slaves to testify on their own behalf were null and void, making it possible to enslave free blacks who were not fugitive slaves. The new act also forced other citizens, Abolitionists included, to assist in the (re)enslavement of blacks by declaring that, "All citizens were commanded to aid and assist in the prompt and efficient execution of this law whenever

their services should be required.” Anyone found harboring or assisting any alleged fugitive slave could be subjected to pay a fine up to \$1,000 and up to a six-month prison sentence. To make matters worse for the cause, the law also included were perverse incentives for judges to rule in favor of slave masters. Judges could collect ten dollars for every case found in favor of a slave master but only five dollars for every case found in favor of the alleged fugitive slave.<sup>26</sup>

Unsurprisingly, Abolitionist backlash to the Fugitive Slave Act of 1850 was much more severe than it was to its 1793 predecessor for these and other reasons. Lysander Spooner, a dedicated Abolitionist leader, penned “A Defence for Fugitive Slaves Against the Acts of Congress of February 12, 1793, and September 18, 1850”<sup>27</sup> in 1850, which explained some of these reasons and outlined what Abolitionists must do in response to the new law. The first complaint Spooner levied against both laws is that they are unconstitutional because both laws allow “ruffians and kidnappers” to violate individual liberties. What made the 1850 act more repugnant is that it also strips alleged fugitive slaves of their 5<sup>th</sup> Amendment due process rights, which made even free blacks subject to enslavement under this act because of the lack of legal recourse (IBID). Furthermore, Lysander viewed the 1850 law as promoting lawlessness among officers of the government against the people as well as infringing upon the people’s 2<sup>nd</sup> Amendment right to protect themselves from unrestrained arms of the state. Another egregious component of the new law that set it apart from its predecessor is the new law required other citizens to take part in the law’s execution or, in the least, abstain from any and all activities that may hinder a slave master’s ability to recover an alleged fugitive slave. This would force non-

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<sup>26</sup> Mount, Steve. "The Fugitive Slave Act of 1850." *USConstitution.net*. 8 January 2010. <https://usconstitution.net/fslave.html>

<sup>27</sup> Lysander Spooner, *A Defence for Fugitive Slaves, against the Acts of Congress of February 12, 1793, and September 18, 1850* (Boston: Bela Marsh, 1850). 8/3/2020. <<https://oll.libertyfund.org/titles/2225>>

slaveholding citizens to either become complicit in promoting slavery or guilty of breaking the law, and the former would stain the hands of the Abolitionists with the sin of slavery.

Spooner recognized two possible ways to respond to the government when it engages in unconstitutional acts. First, he claimed that an unconstitutional act “can be remedied by a repeal of it;” yet Spooner did not believe the Abolitionists were able to push for such a repeal, “...because, if an unconstitutional act be binding until invalidated by repeal, the government may, in the meantime disarm the people, suppress the freedom of speech and the press, prohibit the use of the suffrage, and thus put it beyond the power of the people to reform the government through the exercise of those rights.” In other words, if citizens must always abide by the law and use legal methods to undo unconstitutional laws, the state could pass laws to shut down those legal methods and with them any hope of rectifying unconstitutional statutes. Based on the ways the government already usurped all of these rights in the 1830s and 1840s, Spooner’s claims concerning Abolitionists’ inability to use formal political channels to reverse these laws seem appear to be well founded.

Second, if this first method proves unsuccessful—as Spooner clearly believed it would—he argued, “This right of the people, therefore, to resist usurpation, on the part of the government, is a strictly constitutional right. And the exercise of the right is neither rebellion against the constitution, nor revolution it is a maintenance of the constitution itself, by keeping the government within the constitution.” Here Spooner contends that citizens’ responsibility to respect the full force of state authority only applies when the latter is keeping up its end of the bargain. These remarks reflect a lack of faith in the state’s absolute lawmaking authority because its pro-slavery laws violated constitutional (social contract) standards—a violation that undermines the state’s legitimacy and justifies civil disobedience. They also reject a politically

violent protest strategy that would overthrow the Constitution through rebellion and instead advocate for the state's (re)alignment with its principles, indicating faith in its more general operation. In this way, the Fugitive Slave Act of 1850 represented a continued misalignment of the state to the American social contract. Spooner's desire to keep "the government within the Constitution" indicates his desire to reform and then reconcile with the state, the characteristic distinction between civil disobedience and political violence.

Elsewhere, movement leaders echoed these calls for civil disobedience. The Massachusetts Anti-Slavery Society expressed its support for a resolution passed by another Abolitionist organization on October 14, 1850, that explained the religious rationale behind violating the Fugitive Slave Act. The following statement provides the religious justification for civil disobedience:

"RESOLVED, That our moral sense revolts against the new Fugitive Slave Act, believing it to involve the height of injustice and inhumanity, since it violates the golden rule of Christianity, of doing unto others as we would have them to us, and the command of God himself, uttered from Mount Sinai, 'The shalt not deliver unto his master the servant that hath escaped from his master unto thee.'"<sup>28</sup>

Here Abolitionists reject the Fugitive Slave Act of 1850 because it defied the contemporary the golden rule, a core element of the public morality that regulated social and political interactions. Furthermore, the law contradicted the law of God, which Abolitionists had already equated with natural law and placed above the state's rule of law. Abolitionists had already expressed in the 1830s their belief that the supremacy of God's laws above earthly laws meant that when earthly laws contradict divine laws they are unjust. Once the state not only rejected Abolitionist demands, but also passed a new law in opposition to those citizen-based demands tied to natural

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<sup>28</sup> Reprinted by Negro Universities Press, A Division of Greenwood Press, Inc., Westport, CT, 1970.

rights, the state had knowingly produced an unjust law. Abolitionists viewed the new, unjust pro-slavery law that forced them to actively comply in maintaining the institution of slavery as a direct violation of an Old Testament “command of God himself,” (Deuteronomy 23:15), and as such, Abolitionists were morally compelled to obey divine law instead of the state’s law.

Abolitionists also applied social contract theory to explain the injustices embodied in the Fugitive Slave Act of 1850. The 19<sup>th</sup> Annual Report presented to the Massachusetts Anti-Slavery Society on January 22, 1851, articulated this argument. In this report, Abolitionists present a defense of civil disobedience rooted in social contract theory. Under the section titled, “The Operate of the Fugitive Bill,” part of the Annual Report reads:

“What is the chief end of civil government but personal security? What distinguishes a civilized from a barbarous society, but the dependence which each member each member reposes in the protection of all the rest?... The utter insecurity of the slave is too apparent to need illustration... There can be no peace until this matter is put at rest.”<sup>29</sup>

This quote illustrates that the movement saw the new Fugitive Slave Act as a policy that undermined the state’s legitimacy because it contradicted the very purpose of the state, which was to remove the insecurity inherent in the state of nature. For Abolitionists this new policy not only re-entrenched the exclusion of slaves from the contract, but also threw black citizens into a legal void, rendering them stateless in many regards through a process of “derecognition.” Furthermore, the state did not keep some of its members from harming other members in the retrieval of alleged fugitive slaves, another key feature of the social contract. This undercut the state’s legitimacy as the absolute authority as lawmaker for Abolitionists, a necessary condition for civil disobedience. However, this did not seem to apply to all of the individual states in the

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<sup>29</sup> Reprinted by Negro Universities Press, A Division of Greenwood Press, Inc., Westport, CT, 1970.

Union since Abolitionists continued to utilize formal political channels to fight for their cause. This resulted in the passage of resolutions and personal liberty laws in defiance of the Fugitive Slave Act of 1850 in states like Ohio and Massachusetts (Cochran, 1972),<sup>30</sup> comparable to laws passed by Northern states in response to the 1793 law (Filler, 1960; Wilson, 1999; Ferrell, 2006).

One of the last clauses of the Massachusetts Anti-Slavery Society's October 14, 1850 resolution cited above also expressed the Abolitionists' willingness to submit themselves to the state for punishment even in the breaking of an unjust law. That clause reads, "Resolved, That we prefer to meet all the penalties imposed from the performance of the obligations which Christianity enjoins, rather than escape the punishment by a violation of those sacred duties which we owe to our fellow-men."<sup>31</sup> Spooner asserted a similar sentiment, writing, "As everybody who shall resist an officer in the execution of these fugitive slave laws, will be liable to be tried for such resistance, and to be thus laid under the necessity of proving the unconstitutionality of the laws to the satisfaction of the tribunal by whom he is tried..." Since willingness to accept the penalty for acts of civil disobedience is a vital component of a civilly disobedient strategy, it is necessary to emphasize that most Abolitionists did submit to the consequences of their actions. However, unlike other acts of civil disobedience that require a public act of defiance, the Underground Railroad had to operate in secret to accomplish its purpose; even so, I contend that as it met the other conditions for civil disobedience previously outlined, these acts constitute a civilly disobedient protest strategy.

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<sup>30</sup> Printed in *Annals of America*, Vol. 8: "A House Dividing." William Benton, Publisher. Encyclopedia Britannica, Inc.: Chicago, 1968.

<sup>31</sup> 19<sup>th</sup> Annual Report, Presented to the MA Anti-Slavery Society January 22, 1851 Section: The Operation of the Fugitive Bill. Resolution Passed October 14, 1850. Reprinted by Negro Universities Press, A Division of Greenwood Press, Inc., Westport, CT, 1970.

It is clear that the religious, moral, and legal justifications Abolitionists made for their protest strategy escalation to civil disobedience in response to the federal government's passage of the Fugitive Slave Act of 1850 originated from the same rationale foundational to the movement's earlier lawful moral and legal suasion tactics. This rationale, which I characterize as a form of Hobbes' "double vision," established theological and political standards for state action and an expectation for how the state should respond to the movement's citizen-based rights claims central to their demands. Once the state officially acted not only defiance but also in contradiction to the movement's demands with the passage and enforcement of the Fugitive Slave Act of 1850 despite two decades of anti-slavery activism and mobilization, Abolitionists no longer viewed the state as the legitimate absolute arbiter of law. In this way, Abolitionists' religious and ideological commitments and their perceived negative state response to their demands based on citizen-based rights claims facilitated the movement's loss of faith in the state's legislative legitimacy, which facilitated an adoption of a civilly disobedient protest strategy. While this loss of legitimacy was limited to the state's capacity as an authoritative lawmaker for some Abolitionists, limiting these movement actors to acts of civil disobedience, some members of the movement lost faith in the state's ability to regain its legitimacy through its existing configuration and called for a politically violent protest strategy.

### **Political Violence**

The 1850s witnessed a culmination of unmet Abolitionist citizen-based rights claims as well as a continued and compounding state negation of the movement's demands through more pro-slavery policies and decrees. To add insult to the Abolitionists' injury, there was "an increase of over 400,000 black people held in bondage" from the 1830s to the 1850s (Steward, 1976:

152), a clear expansion of slavery despite Abolitionist efforts. This produced an increased perception among Abolitionists that the state was acting both in breach of the American social contract and in contradiction to divine and natural law led to a movement-wide belief of state failure. First, some activists endorsed targeted violence in response to the Fugitive Slave Act of 1850 because they viewed that act as an unconstitutional contradiction to the principles and rights enumerated in the American social contract. Secondly, Abolitionists viewed the Kansas-Nebraska Act of 1854 as antithetical to popular sovereignty and evidence of a federal government ensnared by slaveholders. Finally, the *Dred Scott* Supreme Court decision handed down in 1857 became an intolerable state act of derecognition for the black community and the Abolitionist Movement. These three state actions in concert undermined the Abolitionists' belief in the state's legitimacy not only as the authoritative lawmaker but also as a democratic institution that faithfully upheld the social contract, reflected the will of the people, and promoted and protected the rights of citizenship.

The negative state response to Abolitionists' rights claims in the state's continued breach of the American social contract (Fugitive Slave Act of 1850), its perceived nullification of popular sovereignty (Kansas-Nebraska Act of 1854) and its derecognition of any sense of citizenship of blacks (*Dred Scott*) resulted in the Abolitionist Movement's loss of faith in the state's legitimacy, which led to calls for revolution and political violence. As the state legitimacy/ protest strategy framework predicts, a call for revolution accompanied each of these endorsements of a political violence from movement leaders and members and justified this protest strategy escalation. Unlike the movement's prior protest strategy escalation to civil disobedience, Abolitionists condemned the entire political system, deemed it unsalvageable, and called for its dissolution. These calls for state dissolution, or "disunionism," emerged much

earlier in non-resistant Abolitionist newspapers and organizations (see above), yet the non-resistants' religious commitment to pacifism precluded those who called for revolution from becoming politically violent. Political violence as a consequence of these calls for "disunionism" emerged first as those whose religious beliefs permitted unlawful action under certain circumstances advocated for revolution and then as non-resistants disavowed their religious commitment to pacifism. In this way, religious beliefs no longer moderated the movement's protest strategy escalation but instead mediated the movement's endorsement of political violence in comparable ways to the movement's prior adoption of a civilly disobedient strategy.

#### *Fugitive Slave Act of 1850*

While many Abolitionists advocated for peaceful but unlawful acts of civil disobedience against the new pro-slavery policy, some Abolitionists saw the Fugitive Slave Act of 1850 as the tipping point necessary for the adoption of a politically violent protest strategy. However, those who were willing to engage in political violence in the wake of the new act Abolitionists narrowed their calls for violence as a last resort and only in regards to the enforcement of this specific law. An editorial by black Abolitionist William J. Watkins published on June 2, 1854, justified such violence against those who tried to enforce the Fugitive Slave Act. Watkins asserted, "We believe in peaceably rescuing fugitive slaves if it can be peaceably affected; but if it cannot, we believe in rescuing them forcibly. We should certainly kill the man who would dare lay his hand on us, or on our brother, or sister, to enslave us."<sup>32</sup> Watkins' preference for "peaceably rescuing fugitive slaves" indicates that his willingness to use political violence was

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<sup>32</sup> Printed in: *The Black Abolitionist Papers*, Vol. 4, C. Peter Ripley, editor, The University of North Carolina Press: Chapel Hill, 1991.

more instrumental than revolutionary, at least based on the statements available. He also called for the specific killing of those who would forcibly take blacks into slavery, slavery itself being in contradiction to the divine and natural law (see Locke, Chapter IV). The passage of the 1850 Act was, therefore, a manifestation of the state violating blacks' natural rights, which in turn violated the state's primary directive.

In response to the new law, several clashes between slave catchers and anti-slavery forces involved intentional uses of force. An early violent incident perpetrated by Abolitionists occurred in 1851 in Christiana, Pennsylvania, in which a group of black Abolitionists resisted returning a fugitive slave to his master. The clash left the slave's master dead and the master's son seriously injured (McKivigan, 1999). Another famous case involved a Virginian slave, Anthony Burns, who escaped to Boston and secured a job before his master came to claim him in 1854 (Filler, 1960). Despite Burns' master's willingness to receive payment from Abolitionists for Burns' freedom, the federal government took over the case. In doing so, it turned a Boston courthouse into a federal prison, and eventually shipped Burns back into slavery. Between the time Burns was arrested and the time he was escorted under heavy surveillance away from Boston, both black and white Abolitionists took arms against the deputies guarding the courthouse. The deputies were able to fend them off, and in the confusion, an Abolitionist was killed (Mayer, 1998).

In 1858, a similar incident took place in Oberlin, Ohio. Slave catchers apprehended a fugitive slave, John Price, and took him to Wellington on their way to Kentucky, their final destination. Before the slave catchers could board the train in Wellington, a mob of armed anti-slavery men demanded the release of the fugitive slave at gunpoint. Price was set free and shortly thereafter successfully fled to Canada. A federal judge indicted thirty-seven of Price's rescuers in

the aftermath of the incident (Padgett, 1999). These and other armed and violent incidents demonstrate that Abolitionists not only threatened political violence against slave catchers and government officials facilitating in the re-enslavement of alleged fugitive slaves, but they also were willing to act on such threats. Furthermore, the general containment of political violence nearly exclusively to fugitive slave cases and incidents indicated that these Abolitionists viewed the state's failure to be narrow and issue-specific. That contained conception of state failure radically changed in 1854.

#### *Kansas-Nebraska Act of 1854*

In 1854, Congress passed the Kansas-Nebraska act that opened up that territory to settlement and also allowed Kansas settlers to decide whether the territory would enter the Union as a free state or a slave state under the doctrine of popular sovereignty (Tegtmeier, 1999). Republicans and Abolitionists largely opposed this bill because they saw it as a Southern power grab in favor of pro-slavery policies. The most significant fear the bill's opponents had was that if the bill passed, it would repeal sections of the Missouri Compromise and open up the possibility that all the land gained with the Louisiana Purchase may become pro-slavery territory (Dillon, 1990). Despite these objections, however, Congress passed the bill and turned Kansas into a settling free-for-all between those who wished to see the territory become a free state and those who wished to it become a slave state. This began a settling race between the pro-slavery and anti-slavery settlers, each trying to increase their number so as to have the decisive majority on the slavery question. This settlers' race erupted into violence as both groups attempted to

establish control over the territory. Calls to resort to violence also came from outside the territory, as Abolitionists and their adversaries sent supplies and settlers into Kansas, sanctioning violence as they did so. Because of the frontier-style warfare between pro-slavery and anti-slavery forces in the newly acquired territory, people referred to Kansas as “Bleeding Kansas” in the wake of the Kansas-Nebraska Act of 1854 (Demos, 1964; Friedman, 1982; Mayer, 1998; McKivigan, 1999; Ferrell, 2006).

Widespread violence was not the only problem plaguing the Kansas Territory; the law also unequivocally favored the pro-slavery lobby over the Abolitionists. Senator Charles Sumner, a devoted Abolitionist, delivered a speech called, “The Crime Against Kansas” on the Senate floor on May 19-20, 1856 in which he made this case. First, he explained how the law undermined anti-slavery interests. The senator also described how the effects of the bill strengthened the rights of the slave masters at the expense of the slaves and in defiance of the will of the governed—a key component of state legitimacy. He argued: “Sir, the Nebraska Bill was in every respect a swindle... Urged as opening the doors to slave masters with their slaves, it was a swindle of the asserted doctrine of popular sovereignty. Urged as sanctioning popular sovereignty, it was a swindle of the asserted rights of the slave masters...” According to Sumner, this new act not only promoted the “rights of the slave masters,” a clear violation of Abolitionist demands, but also misrepresented the will of the people (popular sovereignty), a foundational principle of the social contract. This speech was met with so much pro-slavery fury that Senator Sumner was caned on the Senate floor two days after he made these remarks.<sup>33</sup> Abolitionist leaders invoked his injuries as proof that the state had succumbed to the repressive slave power.

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<sup>33</sup> Printed in the notes of *Annals of America*, Vol. 8, No. 73. Charles Sumner: The Crime Against Kansas William Benton, Publisher. Encyclopedia Britannica, Inc.: Chicago, 1968.

Senator Sumner was not alone in his condemnation of the act. In its 1855 Annual Statement, the Massachusetts Anti-Slavery Society declared the following: “The past year was a momentous one to our cause, and was a long stride towards the ultimate downfall and ruin of the Nation... The passage of the Nebraska Bill... signaled the triumph of the slave power over freedom and her friends.”<sup>34</sup> Unlike the Abolitionist critique of the Fugitive Slave Act of 1850, the movement saw the Kansas-Nebraska Act of 1854 not as the disease itself but a symptom of a more systematic state failure. A year later some Abolitionists in Massachusetts held a Disunion Convention in 1856 during which they concluded that the nation lacked a common sense of cohesion socially and legally and the “existing Union” failed to unite such a nation under one government. Therefore, they concluded, “intelligent and conscientious men” must leave the Union,<sup>35</sup> a reason-based revolutionary appeal in response to what they saw as a wholly illegitimate state. While this convention did not represent the entire movement, and those in attendance already held strong disunion tendencies, Abolitionists elsewhere also viewed the Kansas-Nebraska Act of 1854 as a law produced by an increasingly illegitimate state.

Other Abolitionists began questioning the validity of the democratic process in regards to the Kansas Territory. This demonstrates a rapidly declining faith in the state’s legitimacy not just in its capacity as the authoritative lawmaker but also in its very systems of governance that should rely on the will of the governed. In its 1856-1857 Report, the Anti-American Slavery Society, largely controlled by non-resistant forces by then, issued the following statement on the Kansas Nebraska Act of 1854:

“... that an attempt to frame a Constitution by delegates thus elected would be a gross outrage upon the people, and that the

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<sup>34</sup> Reprinted by Negro Universities Press, A Division of Greenwood Press, Inc., Westport, CT, 1970.

<sup>35</sup> Annual Report presented to the American Anti-Slavery Society, 1866: Section: Massachusetts Disunion Convention

admission of Kansas under a Constitution so framed, unless first submitted to a fair vote of the bond ride residents, would be an act of injustice and despotism so flagrant and alarming, as to justify her people in a resort to the extremist measures for the protection of their rights.”<sup>36</sup>

This statement demonstrates that the Abolitionist Movement saw the Kansas-Nebraska Act of 1854 not simply as a repudiation of its demands, but also as a corruption of the democratic system. More specifically, Abolitionists believed that fair elections, the vehicle through which democratic institutions are subjected to and then reflect popular sovereignty, were at risk of being undermined so as to admit Kansas as a slave state. Interestingly, even non-resistants believed this Act justified citizens to “resort to extremist measures for the protection of their rights,” which I take as an early indication of non-resistants drifting away from their pacifistic principles.

The Kansas issue did in fact prove to be a conversion point for non-resistant Abolitionists, as some of the most prominent non-resistants ended up abandoning Garrison’s stringent peace principles after experiencing the turmoil that plagued “Bleeding Kanas.” For instance, Charles Stearns, a staunch non-resistant committed to Garrison’s peace principles, publicly endorsed Abolitionist use of violence in Kansas after visiting the territory (Demos, 1964; Perry, 1995). Likewise, long time Garrisonian Angelina Grimke Weld abandoned her non-resistance-only principles and acquiesced to a more pragmatic perspective on violence. She conceded that the Abolitionist goals of eliminating slavery would justify even the violent means utilized in Kansas (Demos, 1964: 522). Other non-resistants were among the Abolitionists who send funds to support and arm anti-slavery settlers in Kansas (Harrold, 2001: 82). In short, the

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<sup>36</sup> The Anti-American Slavery Society Report, 1856-1857. Section: Kansas. Printed by Kraus Reprint Co., New York, 1972.

Kansas-Nebraska Act of 1854 all but extinguished the non-resistant strain of Abolitionism (Demos, 1964), purifying the movement of its pacifism, the moderating variable that had previously prevented Abolitionists' loss of faith in the state's legitimacy from resulting in political violence. The abrogation of Abolitionists' historical commitment to pacifism coupled with the movement-wide spread of disunionism from what leaders and activists viewed as a hypocritical, unsalvageable state fueled frontier violence. This frontier violence, which Fellman (1979) describes as a "rehearsal for the Civil War," foreshadowed the ideological divides and some of the battlefields in the war to free the slaves.

Collectively, these statements highlight the Abolitionists' disenchantment with a state they believed to have been sufficiently overrun with pro-slavery interests, was guilty of manipulating the Constitution to advance those interests, and was willing to manipulate electoral results to defy the will of the people, evident in its passage and enactment of the Kansas-Nebraska Act. This compounded the Abolitionists' objections to the Fugitive Slave Act of 1850, which had already demonstrated to the movement that the state was able of producing laws contrary to the movement's demands as well as the divine law of nature and American social contract. Prior state actions like the gag rule that stripped Abolitionists of their 1<sup>st</sup> rights as citizens to limit protest activity as well as these new laws also demonstrated the state's derecognition of citizenship. For the Abolitionist movement, the federal government had failed to fulfill the three tongs of state legitimacy: 1) its adherence to the social contract, 2) its reliance on popular sovereignty, 3) and its full recognition of citizenship. The shift in movement rhetoric from criticism of a specific law in 1850 to criticism of the system itself in 1854 demonstrates the Abolitionists' waning faith in the state as the legitimate lawmaker and then the movement's diminishing faith in the state as the legitimate governing institution. In a few short years, more

anti-abolitionist state action further entrenched the movement's political violent protest strategy and sharpened its calls for revolution.

*Dred Scott, 1857*

The next substantial blow to the Abolitionist Movement occurred in 1857, when the Supreme Court of the United States ruled in favor of a slave master in *Dred Scott v. Sandford*. According to Chief Justice Taney, author of the majority opinion in *Dred Scott*, the 5<sup>th</sup> Amendment ensured that slaveholders could not be deprived of their property, which included slaves, without due process. Furthermore, Taney wrote:

“In the opinion of the Court, the legislation and histories of the times, and language used in the Declaration of Independence, show that neither the class of persons who had been imported as slaves nor their descendants, whether they had become free or not, were then acknowledged as a part of the people nor intended to be included in the general words used in that memorable instrument.”<sup>37</sup>

Taney's use of the Declaration of Independence to deny citizenship to freed blacks placed them out of the American social contract indefinitely. As Henry Mayer (1998) observed, “This was the most sinister aspect of *Dred Scott*, for Taney clearly sought to undercut the philosophical and moral basis of abolitionism by separating black people from the federal Constitution except in the degraded capacity of chattel (471).” Finally, the decision declared that Congress was unable to prohibit slavery in American territories (Mayer, 1998). As a result, the decision emboldened pro-slavery violence in the Kansas Territory and plunged the frontier into a more gruesome state of guerilla warfare (Mayer, 1998: 474). Because this case provided legal protection to slaveholders and denied the protections afforded by citizenship to the black community writ

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<sup>37</sup> Printed in *Annals of America*, Vol. 8, No. 86. Robert B. Taney: *Dred Scott v. Sandford*, William Benton, Publisher. Encyclopedia Britannica, Inc.: Chicago, 1968.

large, Abolitionists viewed *Dred Scott* as a product of the tightening grip of the slave power around the federal government (Stewart, 1976; Mayer, 1998). This cast serious doubts on whether slavery could be abolished in the North (Mayer, 1998: 473).

In “Negro Protest Over the Dred Scott Decision” printed by *The Liberator* on April 10, 1857, black Abolitionists expressed their contempt for the treatment they received from the federal government before the court ruling and indicated that *Dred Scott* would be the final straw. The resolution black Abolitionists passed on the subject read, “Resolved, that this atrocious decision furnishes final confirmation of the already well-known fact that, under the Constitution and government of the United States, the colored people are nothing and can be nothing but an alien, disenfranchised, and degraded class.” In response to this ill treatment, the same resolution called for the following:

“Resolved that no allegiance is due from any man, or any class of men, to a government founded and administered in iniquity, and that the only duty of the colored man owed to a Constitution under which he is declared to be inferior and degraded being, having no rights which white men are bound to respect, is to denounce and repudiate it, and to do what he can by all proper means to bring it into contempt.”<sup>38</sup>

Here, black Abolitionists clearly reject the Constitution and the government under its authority because government action not only stripped the black community of all its rights and legal protections, but also barred any enfranchisement of the black community into and within the polity. The full “derecognition” expressed in Taney’s majority opinion, which confirmed black Abolitionists’ indictment of the state, condemned blacks to a perpetual state of nature while still under the control of a government that denied their humanity and, by extension their natural

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<sup>38</sup> Printed in: *Annals of America*, Vol. 8: “A House Dividing.” William Benton, Publisher. Encyclopedia Britannica, Inc.: Chicago, 1968.

rights. This represented more than a breach of the existing social contract and highlighted the state's systematic failure in adhering to the contract at all for blacks despite nearly thirty years of Abolitionist mobilization.

A speech by black Abolitionist Robert Purvis delivered on May 12, 1857, echoes this sentiment in his condemnation of the United States as its despotic pro-slavery Constitution.

He exclaimed:

“Sir, I treat as an absurdity, an idle phantasy, the idea of the Constitution of this American Union being anti-slavery; on the contrary, I assert that the Constitution is fitting and befitting those who made it- slaveholders and their abettors- and I am free to declare, without any fears of successful contradiction, that the Government of the United States, in its formation and essential structure as well as in its practice, is one the basest, meanest, most atrocious despotisms that ever saw the face of the sun. (Applause.) And I rejoice, sir, that there is a prospect of this atrocious government being overthrown, and a better one built up in its place. I rejoice in the revolution which is now going on.”<sup>39</sup>

In contrast to previous statements from Abolitionists that affirm the Constitution and assert that its clauses and principles are compatible with the cause, Purvis condemned both the American social contract and the state it created. Instead, he claimed that slaveholders are responsible for the Constitution and continue to benefit from it. Furthermore, he argued that the government itself, “in its formation and essential structure as well as in its practice” is despotic, a condemnation of the state itself, which went beyond Spooner's indictment of a specific law, the Fugitive Slave Act of 1850. While Spooner's criticism challenged the state's legitimacy as lawmaker, Purvis found the state itself to be illegitimate. The solution to an illegitimate state, as Purvis explained, is to revolt so that the current state would be overthrown “and a better one built up in its place.”

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<sup>39</sup> Printed in: *The Black Abolitionist Papers*, Vol. 4, C. Peter Ripley, editor, The University of North Carolina Press: Chapel Hill, 1991.

Black Abolitionists were not the only ones seeking to liberate themselves from the state. In his article titled, “Dred Scott and Disunion” published on March 12, 1858, Garrison renewed his calls for disunion between the North and South because of Taney’s ruling. Garrison contended, “We shall be told that this is equivalent to a dissolution of the Union. Be it so! Give us Disunion with liberty and a good conscience, rather than Union with slavery and moral degradation.... We must break this wicked alliance with men-stealers, or all is lost.”<sup>40</sup> Such rhetoric coming from Garrison is not a surprise; what makes it particularly notable is that these renewed calls for revolution resonated with a movement that had become increasingly disenchanted with the state and had already culled most of its adherents’ pacifistic commitments. This federal state failure could no longer be subdued with more localized state action, like Ohio’s passage a resolution nullifying the court decision on April 17, 1857, which expressed the views held by most Northern states.<sup>41</sup> Furthermore, *Dred Scott* did more than enflame the movement’s politically violent strategy enacted in the Kansas territory. This “last straw” facilitated some movement leaders to go beyond empty calls for revolution and actually draft plans for a slave insurrection.

### *John Brown and the Slave Insurrection*

Abolitionist calls for a slave insurrection began with the emergence of the movement. These calls were seen as a last resort, were only made by the most radical movement leaders like David Walker and Henry Highland Garnet, and had very little support within the movement.

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<sup>40</sup> Printed in: From Cain, William E., editor. *William Lloyd Garrison and the Fight against Slavery: Selections from the Liberator*. Bedford Books of St. Martin’s Press: Boston, 1995.

<sup>41</sup> Printed in the notes of *Annals of America*, Vol. 8, No. 88. Ohio Resolution on the Dred Scott Decision William Benton, Publisher. Encyclopedia Britannica, Inc.: Chicago, 1968.

Nearly all those advocating such violence were black Abolitionists who were more directly and personally affected by slavery than their white co-activists. For instance, Walker's *Appeal*, written and circulated in 1829, called for slaves to escape from slavery and includes calls for America's destruction unless the country repents. Walker's pamphlet also included militant rhetoric and direct threats against white America. Garnet also had a reputation for militancy (Dick, 1974). In his "Address to the Slaves" on August 16, 1843, he appealed to the slaves to rise up against their masters. This call was somewhat limited by circumstances, since Garnet said, "We do not advise you to attempt a revolution with the sword, because it would be inexpedient. Your numbers are too small, and moreover the rising spirit of the age, and the spirit of the gospel, are opposed to war and bloodshed." His famous rallying cry from that speech was, "Let your motto be RESISTANCE! RESISTANCE! RESISTANCE! No oppressed people have ever secured their liberty without resistance..."<sup>42</sup> The convention failed to pass such an endorsement of slave violence, but the motion failed on a slim margin (Dillon, 1990; McKivigan, 1999).

Even though most of these early calls for slave violence came from black Abolitionists, black Abolitionist organizations did not endorse slave insurrections. In the wake of Nat Turner's 1831 revolt, white Abolitionists faced pressure to make public statements on the matter. Most of these statements denounced slavery and encouraged slaves to escape, but did not reinforce calls for a violent uprising. Abolitionist leaders like Garrison were unwilling to condemn a slave insurrection (Mayer, 1998), yet they reassured slaves that they would be free without any bloodshed.<sup>43</sup> Throughout the 1850s, however, white Abolitionists became more willing to embrace slaves taking up arms in response to the federal government's proslavery policies and

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<sup>42</sup> Printed in: Harrold, Stanley. *The Rise of Aggressive Abolitionism: Addresses to the Slaves*. University Press of Kentucky: Lexington, 2004

<sup>43</sup> Published in *The Liberator* on June 2, 1843 (Copeland, David A. *The Antebellum Era: Primary Documents on Events from 1820 to 1860*. Greenwood Press: Connecticut, 2003.)

positions. The anti-abolitionist policies and practices of the violent decade made a violent slave rebellion not only more justifiable, but for some Abolitionists, also inevitable.

In 1852, Rev. George W. Perkins' posited in a piece titled, "Can Slaves Rightfully Resist and Fight?" the following: "How can slavery now be peacefully and rightfully removed? Does not every attempt to hush such agitation, and insist on the finality of anti-slavery measures, make more sure the awful fact that slavery is to work out its own emancipation in fighting and blood?" His statement reflected the wide-spread Abolitionist belief in the inefficacy of the current political system to eradicate slavery through peaceful, legal means. With the emergence of "Bleeding Kansas" a couple years later, an "emancipation in fighting and blood" seemed more evitable. Perkins went on to say that: "...until we are prepared to condemn our ancestors as guilty rebels, and abhor their insurrection as a wicked resistance to the ordinance of God, can we blame any class of people for successful revolt against oppressive government?" The comparison of a slave insurrection to the American Revolution, the first instance in which Americans dissolved a social contract, justifies the movement's use of political violence a strategy compatible with natural and divine law. As such, the Abolitionist call to violence, like its endorsement of civil disobedience, is in part a culmination of a failed legal and moral suasion campaign and the product of an unfulfilled religious and legal "double vision" of state legitimacy.

Key Abolitionist leaders like Thomas Wentworth Higginson, Lysander Spooner, and Theodore Parker became more convinced of the need for a slave revolt by the end of 1858 (Rossbach, 1982). While these Abolitionists finally had the will to fan the flames of revolution, they still lacked a way of sustaining a revolutionary spark. Higginson believed that slaves could revolt, given the right leader, and the leader he championed was John Brown, the man

responsible for high profile, fatal confrontations in the Kansas Territory (Fellman, 1979). Brown's intentions went beyond freeing the slaves to include taking the fruits of slave labor from slave owners. This more radical stance on stealing from slaveholders and his violent, erratic nature made it more difficult for Higginson and others to unite the Abolitionists behind Brown. Despite these hurdles to a Brown-led slave revolt, several high-profile Abolitionist leaders provided the funds and furnished Brown's soldiers with weapons for the Harpers Ferry raid (Rossbach, 1982; Dillon, 1990).

Brown's Harpers Ferry raid in 1858 that began on Sunday, October 16 and lasted until Tuesday, October 18 did not go as planned. The intention was for Brown and his men to storm a federal armory in Virginia, and then use those weapons to arm the slaves in Maryland and northwest Virginia (Friedman, 1982; Rossbach, 1982). The fatal flaw to the plan's execution was that no slaves came to participate in the uprising, and Brown was left to fight the Virginia militia and armed farmers with only twenty-one men. By Tuesday, most of Brown's men were dead, and he had been captured (Rossbach, 1982). Before the end of the year, the Virginian government hung John Brown (Stewart, 1976). After Brown's death, Abolitionists like John S. Rock believed John Brown's revolt as the necessary method the Abolitionists must use and viewed Brown's death to be the first death in a new revolution.<sup>44</sup> Even Garrison lauded Brown's martyrdom and the spirit behind his attempted revolt even though Garrison did not endorse a call to arms.<sup>45</sup> Additionally, a minority of black Abolitionists also revered the Harpers Ferry raid,

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<sup>44</sup> Speech by John S. Rock, Boston, MA, March 5, 1860 (The Black Abolitionist Papers, Vol. 5, Printed in: The Black Abolitionist Papers, Vol. 4, C. Peter Ripley, editor, The University of North Carolina Press: Chapel Hill, 1991.)

<sup>45</sup> William Lloyd Garrison's "John Brown and the Principle of Nonresistance" December 16, 1859. Printed in Grant, Joanne. *Black Protest: History, Documents, and Analyses, 1619 to the Present*. Faucet Publications, Inc.: Connecticut, 1974.

using it to threaten a bloodier revolt to free the rest of their people if the state refused to do so (Dick, 1974). In this way, it was not the event itself but the symbolic and rhetorical effect Harpers Ferry had on Abolitionists that mattered the most. Finally, such a willingness to revolt, demonstrates the desire of many in the movement to liberate themselves from the state. In 1861, the “emancipation in fighting and blood” Perkins and other Abolitionists had predicted and even promoted was realized in the American Civil War, which should be understood, at least in part, as a culmination of the Abolitionist Movement’s demands and politically violent protest strategy. In fact, many Brown followers fought for the Union in the Civil War (McKivigan, 1999: 288).

## Conclusion

Abolitionist Parker Pillsbury said it best at the Annual Meeting of the Massachusetts Anti-Slavery Society February 13, 1857:

“ We may have to look this subject of violence very seriously in the face, and may as well familiarize our minds with it. We must abolish slavery. If by peaceful provisions in the Constitution, we have tied our hands from the use of any needful instrumentality, we had better untie them.... We have had the annexation of Texas- and the war with Mexico- and the passage of the Fugitive Slave Law... Then she repealed the Missouri Compromise... Then came the outrages in Kansas- and then the worst outrage in Congress, the triumph of central ruffianism... How much must be poled on the already enormous mountain of outrage inflicted on us by the South before the Republicans will see that Disunion is needful?”<sup>46</sup>

Despite Pillsbury’s eloquence and the series of government policies and actions in opposition to Abolitionist demands, some Abolitionists still opposed any use of violence and would not sign

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<sup>46</sup> *The Liberator*, Boston, Friday, February 4, 1859, Vol. XXIX, No. 5. WM. Lloyd Garrison, Editor. <http://fair-use.org/the-liberator/1859/02/04/the-liberator-29-05.pdf>

on to a resolution that would endorse a politically violent protest strategy. In fact, some Abolitionists like Francis Jackson wanted to continue to petition “the Legislature to enact a law which shall prevent the rendition of the fugitive slave,” because Jackson believed, “... that ‘no revolution was ever worth the shedding of one drop of human blood; and when I hear out friends counseling armed resistance as the only means of establishing universal liberty, I am not only opposed to them on mere policy, but also from principle: for is not the right to life as inalienable as that to liberty?’”<sup>47</sup> As well intentioned as Jackson’s remarks are, bloodless revolutions are not really revolutions since they cannot topple and then rebuild political systems. Most Abolitionists realized this reality as they embraced a politically violent protest strategy to enact their calls for revolution, although the movement had begun the way Jackson desired it to end—commitment to the preservation and perfection of the existing state through peaceful and lawful acts of protest.

The Abolitionist Movement’s escalation from a peaceful, lawful protest strategy to civil disobedience and then ultimately to a politically violent protest strategy demonstrates that the movement’s perception of the state’s legitimacy was the determinative factor in the movement’s protest strategy escalation. Once the movement lacked faith in the state as the authoritative legislative power when Congress passed the Fugitive Slave Act of 1850, the movement adopted a civilly disobedient strategy. Then, after the passage of the Kansas-Nebraska Act of 1854, and the Supreme Court decision on *Dred Scott* in 1857, Abolitionists increasingly viewed the federal government’s actions as endemic violations of the social contract, defiance of popular sovereignty, and failure to recognize the rights of its citizens. As a result, the movement lost faith in the legitimacy of the state itself as a governing system, which produced Abolitionists’ calls for

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<sup>47</sup>*The Liberator*, Boston, Friday, February 4, 1859, Vol. XXIX, No. 5. WM. Lloyd Garrison, Editor. <http://fair-use.org/the-liberator/1859/02/04/the-liberator-29-05.pdf>

revolution and political violence. The state legitimacy framework predicts the Abolitionists' protest strategy escalation trajectory and provides the building blocks for a causal theory that explains how the Abolitionist Movement lost faith in the state's legitimacy.

First, the Abolitionist Movement emerged with a set of demands that included rights claims for both freed and enslaved blacks explicit in the American social contract, a factor that is necessary but insufficient condition for protest strategy escalation. Then, Abolitionists employed moral and legal tactics during their peaceful, lawful protest stage, which produced both the religious reasoning and anti-positivist natural law foundations necessary for later acts of civil disobedience. While this civil disobedience potential existed in the 1830s and 1840s, it was not until the Fugitive Slave Act of 1850 in which the state acted in opposition to Abolitionist rights claims that the movement adopted this unlawful protest strategy. It was not until the Kansas-Nebraska Act of 1854 and *Dred Scott* in 1857 that the movement lost faith in the state's legislative but also governing legitimacy. This produced calls for revolution against an unsalvageable state that justified and necessitated a political violent protest strategy. Finally, the Abolitionist Movement became politically violent because of it lost faith in the American state's illegitimacy as a the result of the federal government's negative response to the movement's rights claims explicit in the American social contract, the movement's commitment to a higher divine and natural law, and Abolitionists' rejection of religiously motivated pacifism that permitted protest strategy escalation.

## Chapter 2: The Prohibition Movement:

### Raising the Bar on the American Social Contract

“All things are lawful for me, but not all things are helpful;  
all things are lawful for me, but not all things edify.  
Let no one seek his own, but each one the other’s well-being.”  
1 Corinthians 10:23-24

#### **Introduction**

After almost a century of mobilization, the Prohibitionists finally codified their demands into a ratified 18<sup>th</sup> Amendment that forbade the sale and manufacturing of alcohol in the United States. After thirteen years of Prohibition filled with bootlegging, speak easies, and other illicit liquor black markets, the 21st Amendment nullified the 18<sup>th</sup> Amendment and, in doing so, soundly rejected the central demand of the Prohibitionist Movement. So why was the postbellum repeal of local liquor laws and the nullification of the 18<sup>th</sup> Amendment insufficient in escalating the Prohibitionist Movement’s protest strategy? And why did the most Prohibitionists remain peaceful for so long before the 18<sup>th</sup> Amendment when the Abolitionists became political violent after a few decades of mobilization? Furthermore, why did some women activists engage in politically violent saloon smashings during the 1850s and 1860s but then de-escalate their protest strategy in the 1870s? Finally, why is it that a movement that was willing to violate social norms and property laws for the cause never considered overthrowing the state?

I argue that the reason most of the Prohibition Movement remained committed to a peaceful, lawful protest strategy was because its leaders and members never lost faith in the state’s legitimacy. The faction of women who engaged in political violence did so because they saw the state as illegitimate in its capacity to enforce its own laws and its willingness to extend full citizenship to women, which would have enabled them to utilize more effective means of

peaceful and lawful protest. The women activists who engaged in politically violent saloon smashings in the 1850s and 1860s did so in the wake of unenforced dry laws, which they viewed as tantamount to a negative state response to the movement's demands. What is more, these militant women activists engaged in a politically violent protest strategy not only because their moral suasion tactics did not result in the accommodation of their demands, but also women had no politically and socially recognized right to seek legal recourse against the damage done by drunken men. Even though the moral suasion efforts of Prohibitionist men had also failed, these men were able to vote, petition the state, and access formal political institutions, which sustained their belief in the state's legitimacy. Prohibitionist women had a different experience with the state that eroded their perception of state legitimacy.

Saloon smashing women believed that the state had failed to enforce its democratically produced dry laws, had ignored its duty to protect and promote societal welfare for which women paid the price, and had forgone its own founding principles in not extending adequate rights of citizenship to women so they could address the liquor problem and other issues that affected them. Once these women gained social recognition from their male co-activists as full and equal movement participants and as various localities and states began to extend legal and political rights in the 1870s, these politically violent protesters de-escalated their protest strategy and re-committed themselves to peaceful, lawful acts of protest. Interestingly, these women activists limited their political violence to property destruction while narrowly targeting objects specifically tied to the movement's demands. This indicates that these instances of politically violent property destruction were not intended to represent revolutionary acts, but rather instrumental acts to elicit the desired response from the state. I will return to this point shortly.

Another key factor that explains the limited and non-revolutionary nature of political violence in the Prohibitionist Movement, its de-escalation, and the absence of a civilly disobedient protest strategy is that the movement leaders and its members did not draw on a higher moral code that would supersede the state's authority, nor did the movement's formal demands and protest descriptions include any rhetoric that would encourage its members to disobey the state. Unlike the Abolitionist Movement that invoked divine law and the Word of God as superior to the state's policies and principles decades before the movement engaged in a civilly disobedient protest strategy or endorsed political violence, the Prohibition Movement refrained from this Hobbesian double vision rhetoric even though it framed its demands using religious rhetoric and began its mobilization in the church.

This is likely because the Prohibitionists were not mobilizing against state action or explicit state failure to uphold the promises of citizenship and the principles of the American social contract, but rather their demands required an expansion of the existing system and a broader reinterpretation of the state's responsibilities, namely its duty expressed in the Preamble to the Constitution "to promote the general welfare" and "secure the blessings of liberty" through a sober society. This invocation of the American social contract, however, did not highlight a breach in contract but rather justified the movement's calls for state intervention. Instead of drawing on Locke's liberal interpretation of the social contract that American Revolutionaries and Abolitionists had cited, the Prohibition Movement invoked the more abstract influence of Rousseau's republican social contract theory. Because the movement's demands focused on promoting individual and collective virtue through sobriety and did not include citizen-based rights claims explicit in the American social contract, the movement could not accuse the state of

failing to uphold its contractual obligations when the state did not accommodate the movement's demands.

A third key factor that explains the limited and short-lived protest strategy escalation in the Prohibition Movement is the partially positive response of the state the movement was able to elicit from the 1850s through the first two decades of the twentieth century. Of course, the dry laws were not uniformly adopted across the country, nor were they consistently enforced. Unsurprisingly, these laws ginned up opposition from the liquor interests and the politicians that benefits from the industry. Subsequently, by the end of the Civil War most of the dry laws at the federal, state, and local level disappeared completely (see below). Nevertheless, the political system's limited and uneven acceptance of the movement's demands demonstrated the state's capacity to accommodate the movement's demands and reinforced the movement's leaders and members' ability to engage with the state in good faith. This is in stark contrast to the Abolitionist Movement's dealings with the state, in which the federal and several state governments criminalized Abolitionist petitions, mailings, and rhetoric, passed laws that directly contradicted the movement's demands, and with *Dred Scott* proclaimed that the Constitution would and could not justify the calls to end slavery and establish equal black citizenship (see Abolitionist Chapter). The most substantial positive response the Prohibitionists elicited from the state was the ratification of the 18<sup>th</sup> Amendment that banned the sale and manufacture of alcohol across the country.

In the end, the ratification of the 18<sup>th</sup> Amendment that sparked thirteen years of nation-wide prohibition (McGirr, 2016) marked not only a positive response from the state but also the institutionalization of Prohibition. As such, I contend that while the 18<sup>th</sup> Amendment and the national prohibition it produced was both underenforced and short-lived, it was the vital moment

in which the Prohibition Movement became institutionalized, which effectively ended the movement. As prior scholars note, institutionalization typically marks the end of a movement (Gamson, 1990) by de-escalating any prior protest strategy (Gillespie, 1983) and incorporating the movement's demands and/or activists into the state's formal democratic and deliberative processes (Oberschall, 1973). This process of institutionalization does not guarantee the enactment or enforcement of the movement demands, since by their very nature, movements emerge and mobilize outside of the political mainstream and do not have to compromise or negotiate with parties outside of the movement when forming and making demands. This, of course, changes once a movement's demands and activists enter the formal policymaking process. Consequently, incorporating a movement into the political mainstream tends to tame activists and dilute demands (Gamson, 1990), so even this form of accommodation does not guarantee the full acceptance of a movement's demands (see also Tarrow, 1989 on institutionalization and Schlozman, 2015 on movement-party relations).

I begin this chapter with an explanation of the Prohibition Movement's ideology and demands, which includes the movement's republican interpretation of the American social contract that justified the state's invention on the alcohol issue. The subsequent sections are organized by the protest strategies and tactics the movement employed both before and after the Civil War. During the antebellum period, the movement engaged in both moral and legal suasion, much like the Abolitionists did during their initial mobilization. By the 1850s, some states and localities adopted anti-liquor laws and ordinances, but the lack of their enforcement and the lack of women's legal and political standing led some women Prohibitionists to engage in politically violent saloon smashings. In many ways, the Civil War reset the stage for Prohibition as its legal gains at most levels of the state had been repealed. However, this did not

result in a protest strategy escalation for the postbellum Prohibitionist Movement because its leaders and members still believed that state itself was legitimate; even the saloon smashing women de-escalated their protest strategy during Reconstruction. Furthermore, the state had already demonstrated its capacity to accommodate the movement's demands as long as the movement could apply enough pressure to the current political system. As such, during this period the movement remained committed to a peaceful, lawful protest strategy yet intensified its specific tactics in order to apply adequate pressure to the system. By the first quarter of the 20<sup>th</sup> century, the incorporation of both the Prohibitionist Movement's demands and its activists into the formal political system institutionalized the movement, which marked the end of the social movement. Consequently, no movement existed to adopt a more extreme protest strategy during the Prohibition Era or its end with the ratification of the 21<sup>st</sup> Amendment.

### **Prohibition Emergence: Ideology and Demands**

While the consumption of alcohol in the United States territory pre-dated the American founding, the drinking habits of many Americans fundamentally changed in the years spanning the American Revolution and the War of 1812. Drinking in general increased with the advent of the saloon, economic instability, and booming urban growth. Not only were men in particular consuming more alcoholic beverages, they were also consuming hard liquor like whiskey that had a much higher alcohol content. Money that would have normally been spent on family necessities went to drink, and as a result, many women and children paid the price of being tied to drunkard, unemployed breadwinners without any legal independence or recourse (Coker, 2007: 14-16; Pegram, 1998: 13). Prostitution and gambling, both considered sinful behavior detrimental to the soul, were also fairly common in saloons (Murdock, 1998: 17). In this way,

this new, relatively high consumption of hard liquor and spirits started as an individual problem that quickly became an individual, familial and societal problem. It is within this context that the first temperance societies emerged, based in New England churches and initially organized by Quakers (Coker, 2007: 14-16; Pegram, 1998: 13), similar to the founding of the Abolitionist Movement. These early organizations like the American Temperance Society (ATS) utilized peaceful, lawful moral suasion tactics and called on individuals to sign pledges committing them to abstain from hard liquor and spirits and to consume only moderate amounts of beer, wine, and cider.

To convince drunkards of their need to change their ways and sign these pledges, activists tied sobriety to salvation and abstention from alcohol as necessary for good Christian character. Such sentiments became the religious basis of the movement that, in contrast to Abolitionism, did not invoke a divine authority antithetical to state action but rather emphasized individual and societal moral responsibility. While some in the movement initially disagreed on whether or not moderate consumption of beer and wine was permissible, the movement remained committed to the singular cause of curbing alcohol consumption. Early Temperance activists believed, according to official meeting minutes, that it was their duty “to produce such a change of public sentiment, and such a renovation of the habits of individuals and the customs of the community, that in the end temperance, with all its attendant blessings, may universally prevail.”<sup>48</sup> This demonstrates that Temperance emerged as a social reform movement focused on changing “public sentiment” and renovating “habits” and “customs” because its activists believed that perfecting society would bring about the second coming of Christ. In contrast to the Abolitionist Movement that sought state action shortly after it organized because it saw slavery

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<sup>48</sup> From a Boston Temperance meeting, Jan. 10, 1826, Fehlandt, August F. *A Century of Drink Reform in the United States*. Eaton and Mains: New York, 1904, pg. 52.

as a state-sponsored and state-protected institution, the Temperance Movement mobilized exclusively within churches and civil society for decades.

By 1836 the movement had moved outside of sanctuaries and coalesced around total abstinence from alcohol and prohibition by pushing for the criminalization of its sale (Beer, 1996; Mattingly, 1998; Pegram, 1998; Coker, 2007). With this new convergence around a singular, uniform demand, the Temperance Movement transformed into the Prohibition Movement.<sup>49</sup> This move from the church to the statehouse required a philosophical justification for state invention to limit the economic rights of those who profited from the liquor industry. To do so, Prohibitionists extended their prior claims that abstaining from alcohol was an individual moral good and Christian duty to include that imposing legal limits on the liquor industry was a public good and a citizen's duty. In this way, while movements like the Abolitionist Movement mobilized on the rights of citizenship, the Prohibitionist Movement mobilized on the responsibilities of citizenship. The challenge for Prohibitionists was that the American social contract enumerates the rights of citizenship but not many of its responsibilities.

Even though there was nothing in the Declaration of Independence or U.S. Constitution at that time that mentioned alcohol, the Prohibitionists still invoked social contract theory and the American social contract to justify their calls for state action. In contrast to the Abolitionists' Lockean liberal social contract theory that emphasized individual liberty and required a restrained state responsive to the will of the governed, Prohibitionists drew on the republican roots of American democracy and Rousseau's social contract that emphasized the general

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<sup>49</sup> One key point is the difference between temperance and prohibition or "teetotalism." As the names suggest, temperance advocates called for abstaining from hard liquor and spirits but permitted moderate, or temperate, consumption of more mild alcoholic beverages like wine, beer, and cider. Teetotalers, however, advocated for complete abstinence and prohibition of any and all alcoholic beverages. Still, some prominent post-bellum organizations like the Women's Christian *Temperance* Movement (WCTU) from identified itself as a part of the Temperance Movement. Which indicates that the movement used "temperance" and "prohibition" interchangeably throughout its tenure.

welfare or common good (Rousseau, Ch. 7-8, etc.). For the Prohibitionist Movement, the state's duty to protect and promote civic virtues and the citizens' responsibility to better themselves for the benefit of their compatriots compelled state action to eradicate the evils of alcohol from the nation.

In order to call upon the American state to such action, Prohibitionists cited the Preamble of the U.S. Constitution, which says: "We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, *promote the general welfare*, and *secure the blessings of liberty* to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."<sup>50</sup> The American state's commitment to "promote the general welfare" became the Prohibitionists' justification for legally limiting alcohol consumption, albeit indirectly through its sale and manufacturing. Additionally, activists argued that drunkenness impaired the ability of citizens to act on their rights, or enjoy the "blessings of liberty," which further bolstered their case for local liquor laws and subsequent federal action.

For instance, in his address to the U.S. Congress on January 9, 1873, temperance advocate and New York Senator Conkling explained the basis for calling on the state to intervene in accordance with the Prohibition Movement's demands. The crucial element of his speech reads:

"That the use of intoxicating liquors, as a beverage, is a prolific source of pauperism and crime, resulting directly or indirectly in the destruction of the happiness of many thousands of your constituents that the manufacture, importation, and sale of such liquors, to be sued as a beverage, is inimicable to the public welfare...that it is the proper function of government, after the divine Model, not to legalize iniquity for the sake of gain<sup>51</sup> but to restrain and prohibit that which tends to

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<sup>50</sup> Italics added for emphasis

<sup>51</sup> This refers to the tax revenue the government received from the liquor industry.

the demoralization of the people and to promote the general welfare.”<sup>52</sup>

Along similar lines, Prohibitionist speaker Dr. Merrick argued the same point while highlighting the more tangible harms the sale of alcohol had inflicted upon society:

“That it (drunkenness) is destructive of individual welfare, of domestic peace and social order; that it is the most prolific source of pauperism and crime; that it demands an enormous waste of the public resources, and heavily burdens the people with needless taxation, thus retarding human progress and greatly depressing the standard of civilization, is unquestionable.”<sup>53</sup>

While these statements parallel prior Prohibitionists’ anti-alcohol pledges, they focused on the political costs of drinking as well as the need for and justification of state intervention. First, both Senator Conkling and Dr. Merrick explained that drinking is a leading cause of poverty and crime, both of which upset the social order and are within the purview of the state to correct. Secondly, Dr. Merrick claimed that responding to the harmful effects of drinking comes at a great cost to the people and places an unreasonable burden on the state. Thirdly, they contended that the effects of alcohol were at odds with the promotion of both the individual and the general welfare, the latter being something that the Preamble ties the federal government to promote. Finally, Senator Conkling contended that alcohol was responsible for the “destruction of happiness,” which I suggest is at odds with the Declaration of Independence’s stated purpose of the government to protect the rights to “life, liberty, and the pursuit of happiness.” In short, both of these quotes elevate the alcohol issue to a public safety issue, which would necessitate

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<sup>52</sup> “Legislation in Congress” by Aaron M. Powell, Page 202 in *One Hundred Years of Temperance: A Memorial Volume of the Centennial Temperance Conference Held in Philadelphia, PA, September, 1885*. New York: National Temperance Society and Publication House, 1886.

<sup>53</sup> Printed in: *Women and Temperance: or, The Work and Workers of the Woman’s Christian Temperance Union*. By Francis E. Willard, President of the National WCTU, Fifth Edition, Women’s Temperance Publication Association: Chicago, MDCCCLXXXVI. Copyrighted, 1883, by the Park Publishing Co., Hartford, CT., Page 272.

government intervention, according to the movement's understanding of the government's role in promoting the nation's "general welfare."

The Prohibition Movement also tied citizenship, and the rights and responsibilities it entails, with the Preamble's "general welfare" clause. In an essay titled "Natural and Reserved Rights," prohibitionist Rev. Joseph Cummings explained: "Man surrenders no rights on becoming a member of society, for he has none to surrender. He never had a right to do anything against its welfare.... It is said a man has a right to do as he pleases, if he does not interfere with the welfare of society."<sup>54</sup> While this quote reflects the basis of the social contract much like Abolitionist statements did, the emphasis here is not on Locke's concept of individual rights but rather Rousseau's concept of individual responsibility to the body politic (Rousseau, Ch. 8). Comparable to the Prohibitionists' belief in the Christian's responsibility to the church in its mission to purify society to hasten the return of Jesus Christ, this republican view of citizenship emphasized each citizen's duty to promote the interest of the polity. It is also worth noting that the movement contended that this duty did not undermine the citizen's freedoms guaranteed by the state, which is an important rhetorical point to make since the movement wanted to limit private enterprise through government regulations.

A unique obstacle the Prohibition Movement faced is that unlike other movements that engage in rights claiming to expand the recognition and protection of unrealized rights like the Abolitionist Movement, Prohibitionists had to use the discourse of rights to limit the liberty of others to drink, or in the very least, manufacture and sell alcohol. The way the movement navigated around this roadblock is by denying that such a right existed. One way the Prohibition

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<sup>54</sup> "Natural and Reserved Rights (No. 65)" by Rev. Joseph Cummings, D.D., Printed in *Temperance Tracts issued by the National Temperance Society and Publication House*. New York: J.N. Stearns, Publishing Agent, 58 Reade Street

Movement denied the right of liquor dealers and saloonkeepers to sell alcohol was by arguing that alcohol enslaved its drinkers and kept them from enjoying *their* rights. An example of this line of argumentation was articulated in a Prohibitionist petition submitted to the Senate and House of the State of Illinois during the mid 1870s, which read, in part: “The personal liberty the dealer really seeks is his own liberty to enslave a class... Ours is a country where each man is supposed to be king over one— that one himself— but when the integers in the problem of free gov’t are systematically converted into ciphers by the effects of strong drink and education of the saloon...”<sup>55</sup> According to this logic, the personal liberty laws aimed at protecting the liquor interests actually undercut the liberty of those who drank because they would lose their liberty to the saloon. This line of reasoning continued to justify the movement’s protests and calls for national prohibition until the repeal of the 18<sup>th</sup> Amendment.

Finally, unlike the Abolitionist Movement that fractured along ideological and, then later along tactical and strategic lines, the Prohibition Movement remained largely cohesive for most of its tenure, fracturing more on gender than ideological divisions. For instance, by the beginning of Reconstruction, virtually all prohibitionists agreed on the need to engage in electoral politics and use the voting booth as political leverage, but they disagreed on whether to work through one of the established major parties or form an independent political party. Even so, eventually many of those resisted to participating in electoral politics still ended up supporting the Prohibition Party (Odegard, 1928; Kerr, 1985; Pegram, 1998; Coker, 2007). Compared to some Abolitionists’ refusal to engage in any electoral politics and even disassociate themselves from the state as much as possible, these divisions are less pronounced. However, in the 1850s, the

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<sup>55</sup> Printed in: *Women and Temperance: or, The Work and Workers of the Woman’s Christian Temperance Union*. By Francis E. Willard, President of the National WCTU, Fifth Edition, Women’s Temperance Publication Association: Chicago, MDCCCLXXXVI. Copyrighted, 1883, by the Park Publishing Co., Hartford, CT., Page 368.

men and women activists in the movement engaged in divergent protest strategies; the men remained committed to a lawful legal suasion approach, while the women engaged in civilly disobedient acts of saloon smashing (Dannenbaum, 1981). As I explain later, I suggest that these differences in protest strategies resulted from the differences in citizenship between men and women at the time. Once women gained more equitable recognition both within the movement and in the ballot box in some states and municipalities, they de-escalated to a peaceful, lawful protest strategy.

### **Antebellum Peaceful, Lawful Protests**

#### *Moral Suasion: Sobriety and Salvation*

The Temperance Movement's initial response to the social and economic disruption caused by alcohol consumption was to convince individuals of their responsibility to refrain from drinking hard liquor. As stated above, activists in the 1820s saw it as their duty "to produce such a change of public sentiment, and such a renovation of the habits of individuals and the customs of the community, that in the end temperance, with all its attendant blessings, may universally prevail."<sup>56</sup> This emphasis on altering "public sentiment" so that individuals and communities would accept the movement's condemnation of alcohol and then act accordingly became the basis for the movement's early moral suasion efforts. The belief expressed here, that activists had a responsibility to encourage individuals and communities to act in ways that benefit all, eventually evolved into a belief that the movement could coerce such behavior through state intervention. During its first stage of mobilization, the Temperance Movement believed its efforts to persuade the public to act accordingly would be sufficient, so instead of circulating and

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<sup>56</sup> From a Boston Temperance meeting, Jan. 10, 1826, Fehlandt, August F. *A Century of Drink Reform in the United States*. Eaton and Mains: New York, 1904, pg. 52.

submitting petitions to the state, activists produced and published pamphlets, preached temperance from the pulpit, and championed personal pledges to committed its signees to abstain from alcohol consumption.

These personal pledges that described the problems associated with alcohol and committed its pledgees to abstain from these intoxicating beverages quickly became the primary moral suasion method the movement employed. Even before the manifestation of the early organizations that comprised the Temperance Movement, Quakers and farmers made pledges to refrain from consuming “distilled spirits” and serving such beverages to their farm hands.<sup>57</sup> During the 1820s, these pledges evolved into personal commitments to avoid all hard liquor and spirits and practice moderation in consuming less intoxicating alcoholic beverages. By the 1836, these pledges called for complete abstinence from all alcohol (Pegram, 1998). One of the leading Prohibitionist organizations was the American Temperance Society, or ATS, formed by ‘The American Society for the Promotion for Temperance’ on February 13, 1826. In that same year, the ATS published the following pledge and encouraged members of the public to sign it:

“We whose names are hereunto annexed, believing that the use of ardent spirits as a drink, is not only needless, but hurtful to the social, civil, and religious interests of men; that it tends to form intemperate appetites and habits, and that while it is continued, the evils of intemperance can never be done away; do therefore agree that we will not use or traffic in it; that we will not provide it as articles of entertainment, or for persons in our employment; and that in all suitable ways we will discountenance the use of it in the community.”

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<sup>57</sup> Litchfield, CT Farmers’ Association, 1789

“We do hereby associate and mutually agree, that hereafter we will carry on our business without the use of distilled spirits, as an article of refreshment, either for ourselves or for those whom we employ; and that, instead thereof, we will serve our workmen with wholesome food and the common, simple drinks of our production.”

Printed in: *One Hundred Years of Temperance: A Memorial Volume of the Centennial Temperance Conference Held in Philadelphia, PA, September, 1885*. New York: National Temperance Society and Publication House, 1886.

According to this statement, the harm done by alcohol does not solely affect those who consume it but also those who do not because the drunkard is unable to fulfill his duties as a member of society, a citizen of the state, and a member of the church. Instead, the “intemperate appetites and habits” not only keep the drunkard from fulfilling these responsibilities but also produce undesirable behavior that undercuts the interests of society outright, which compromised Rousseau’s republican conception of citizenship. The movement saw the individual’s responsibility to society as leverage to induce more commitments to abstain from alcohol, applying social pressure to a social problem. Furthermore, this pledge calls on both individuals and communities to commit themselves to temperance, which suggests that abstention from alcohol drinks was also a collective action problem because obtaining the benefits of temperance required community compliance.

Temperance activists also framed the consumption of alcohol as a sin, or in the very least tied to acts of sin, which also tied teetotalism to salvation. The purpose of this approach was not only to lend moral credence to the movement’s position on the alcohol issue, but also to weigh the eternal costs of sin against the temporal benefits of drink. Early evidence of this connection between alcohol and sin can be found in a letter titled “Temperance and Revivals,” written by Temperance leader Rev. Asahel Nettleton in 1829, which said:

“I wish that all the young converts who profess religion would make it a point of conscience not to taste of intoxicating drink. This is the way in which many have dishonored the cause of Christ.... Could I learn that all the converts in your parish had jointly adopted this resolution, it would be to themselves, to you, and to me a most delightful evidence of the sincerity of the Christian profession, as well as of genuine conversion.”<sup>58</sup>

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<sup>58</sup> No. 10. Temperance and Revivals By Rev. Asahel Nettleton, 1829, Printed in: *Temperance Tracts issued by the National Temperance Society and Publication House*. New York: J.N. Stearns, Publishing Agent, 58 Reade Street.

According to Rev. Nettleton, alcohol consumption constitutes a sin because it is responsible for Christians behaving in ways that “dishonored the cause of Christ.” Therefore, the problem with drinking is not the act itself, but rather to the acts that it produces.<sup>59</sup> Furthermore, the reverend also implicitly questions the “sincerity of the Christian profession” of any Christian who would not make a commitment to refrain from “intoxicating drink.” In other words, a Christian’s salvation did not necessitate teetotalism; however, a declaration of faith without a commitment of abstinence would throw the former into question. In fact, Rev. Nettleton asserted that signing a temperance pledge was “a most delightful evidence” of true faith produced by a “genuine conversion” to Christianity. Even so, this passage still asserts that the choice to abstain from alcohol is still “a point of conscience.” Again, there is recognition of individual agency, although the movement created religious pressure on the individual to make the right choice.

Comparable to the Abolitionists’ calls for national repentance, the religious reasoning that formed the basis of the Prohibition Movement went beyond individual salvation and extended to the religious community, to which each individual Christian had a responsibility. A notable part of this responsibility was to assist the church in hastening the second coming of Jesus Christ, which post-millennial churches at that time believed they must do (Pegram, 1998:17). Post-millennialism is a Christian doctrine that asserts that Jesus Christ will only come again once the world is purified from its unrighteousness; consequently, this doctrine also affirms the perfectibility of society. Since sizable swaths of the Christian church saw intemperance as unrighteousness, it pushed for eradicating intemperance in order to form a more perfect world to which Jesus Christ may return. Consequently, this desire for a perfect society became a central motivation to Christian temperance advocates. As such, individuals,

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<sup>59</sup> This is likely based on Scripture like Ephesians 5:17-18 “Wherefore be ye not unwise, but understanding what the will of the Lord is. And be not drunk with wine, wherein is excess, but be filled with the Spirit.”

particularly Christian individuals, had an obligation to their community to purify themselves in order to hasten Christ's return. The same American Temperance Society cited above expressed this sentiment in the following statement:

“... and I call upon the Christian to abstain, not only for his own sake, but for the sake of the world, for the sake of the example, as the means, but the only means, of effecting a reformation of mankind from intemperance. I believe the time is coming when not only the drunkard but the drinker will be excluded from the church of God- when the gambler, the slave dealer, and the rum dealer will be classed together... I would pray for it as devoutly as for the millennium... as a great and most glorious jubilee.”<sup>60</sup>

While previous statements focused on the individual and societal costs of drinking, this statement emphasized its negative effects on the world. Since alcohol consumption led to sin and impropriety, and these consequences kept mankind from being reformed, drinking hindered the coming of the new age of the universal church.

By 1836, teetotalism, the complete abstinence of all alcohol beverages, and secularized Prohibition organizations supplanted these religious calls for refraining from hard liquor and consuming the occasional glass of wine, beer, and cider with moderation. This new brand of prohibition still focused on the public good but instead of relying on religious rhetoric, it worked to reclaim masculinity from the saloon and appealed to reason through science. One of the leading secularized Prohibitionists organizations, the Washingtonians, represented middle and working-class reformed drunkards and engaged in similar, although secular, moral suasion tactics as its religious predecessors like the ATS. When the Washingtonians were founded in 1840, (Odegrard, 1928; Beer, 1996; Pegram, 1998, Coker, 2007), they pledged to refrain from drinking all alcohol beverages with the following: “We whose names are annexed, desirous of

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<sup>60</sup> Printed in *Permanent Temperance Documents of the American Temperance Society*. Arno Press, a New York Times Company, New York, 1972. Vol. 1, 1835, Page 27 of “Fourth Report-1831”

forming a society for our mutual benefit, and to guard against a pernicious practiced which is injurious to our health, standing, and families, do pledge ourselves as gentlemen, that we will not drink any spirituous or malt liquors, wine, or cider.”<sup>61</sup>

Like the ATS’ 1826 pledge, the Washingtonians emphasized both a personal responsibility to abstain from drinking and the collective benefits of dry living. However, the new pledge tied sobriety to science by emphasizing the health benefits of avoiding alcohol. This science-based appeal to reason also relied on scholarly publications like Dr. Benjamin Rush’s article titled “An Enquiry into the Effects of Spirituous Liquors upon the Human Body, and Their Influence Upon the Happiness of Society,” and other articles in bona fide medical journals that described all the maladies caused by drinking (Beer, 1996; Pegram, 1998, Coker, 2007). Also, instead of framing prohibition in religious terms, this pledge framed prohibition in gendered terms, claiming that good men concerned with their social standing and families will refrain from all alcoholic beverages. Furthermore, the men who signed the pledge gave their word as gentlemen to meet the terms of the agreement, which tied an elevated status to its signees and tied their anti-drinking commitments to their integrity as civilized men.

This new connection between being a good man and refraining from drinking was an important rhetorical shift for the movement not only because men were mostly plagued by alcoholism, but also because a man’s ability to hold his liquor was at the time a sign of his strength and masculinity. Of course, as more men consumed hard liquor and spirits to prove their masculinity, they found it increasingly difficult to hold a steady job, which threatened the security of their families since women were unable to be the family’s breadwinner. Ironically,

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<sup>61</sup> Printed in: *One Hundred Years of Temperance: A Memorial Volume of the Centennial Temperance Conference Held in Philadelphia, PA, September, 1885*. New York: National Temperance Society and Publication House, 1886.

the increased consumption of hard liquor and other alcoholic beverages that bolstered a man's masculinity emasculated him economically. What is worse, drunk husbands and fathers tended to be more abusive to their families (Murdock, 1998). As the Washingtonian's pledge above demonstrates, a man's responsibility to his familial obligations also fell under his individual responsibility as a man, which they believed should lead men to abstain from alcohol.

Framing intemperance as a familial or domestic sphere issue also permitted women to engage with the issue of intemperance in the public sphere. Since society saw the political sphere as inherently masculine, women were unable to engage in political affairs; however, since the domestic sphere was perceived to be inherently feminine, women could use their moral authority as mothers, wives, and even daughters to bring the intemperance issue to the public square (Murdock, 1998; Coker, 2007). Reformed drunkards invoked the family in their calls for other men to sign the movement's pledges. Famous essays, plays, and poems like "Ten Nights in a Bar Room and What I Saw There" by Timothy Shay Arthur stirred up emotions and acted as propaganda pieces the movement used during its public events (Beer, 1996). The main message behind such pieces was that men had a duty to their families and to society to choose a life of temperance. Former drunkards who became prominent speakers for the movement also spoke of their conversions through a familial frame. One famous reformed drinker, Willis Hawkins, claimed that the turning point that led to his sobriety was when his daughter begged, "Papa, please don't send me after whiskey today." Even though tens of millions heard these kinds of public speeches, they did not have the lasting effects for which the Prohibition Movement had hoped (Sismondo, 2011: 143).

*Legal Suasion: Crafting Local Liquor Laws*

By the mid-1830s, some leaders and members of the Temperance Movement believed that adherence to abstinence pledges through willpower alone was insufficient, and they turned to quell intemperance through legal means. According to Thomas R. Pegram (1998), this shift from “moral suasion to legal coercion” occurred as a reaction to teetotalism eclipsing temperance commitments, with an influx of working-class members to the cause, and as a consequence of the partial secularization of the movement in general. Ironically, while the Washingtonians were responsible, at least in part, for the secularization of Prohibition, they were staunchly opposed to state intervention for the cause. Once this organization had dissolved by 1843, the movement coalesced around a change in its peaceful, lawful tactics (Fehlandt, 1904: 90). It was at this point that the movement leaders and members saw the futility of strictly appealing to an individual’s salvation and duty to the church while temptations to revert back to drinking rose with the rapidly increasing number of saloons. In order to achieve its primary objective of a dry society, the movement supplemented its calls for individuals to volunteer to abstain from drinking with state and local bans on the sale and manufacturing of alcohol (Beer, 1996; Mattingly, 1998; Pegram, 1998; Coker, 2007). The shift from relying solely on religiously framed and secularized, gendered pledges to the coercive power of the state represented a shift in the movement’s protest tactics from moral suasion to legal suasion.

Activists defended this shift in peaceful, lawful protest tactics in both principled terms, citing the Constitution’s “general welfare” and “blessings of liberty” clause (see above), and pragmatic terms, citing the limits of moral suasion. Prohibitionist George Root explained the pragmatic reasons for legal suasion in the following poem titled “Hurrah for Prohibition.”

“We’ve tried persuasion long enough,  
No use to try it longer;

It will not stop the traffic, and  
 We must have something stronger...  
 ... Rumsellers care not for our pray'rs  
 Or tears or admonition;  
 But there's a pow'r can make them quake-  
 'Tis legal prohibition!"<sup>62</sup>

Root's poem demonstrates that in order to tackle the alcohol problem effectively, the Prohibitionist Movement had to do not only convince the people that it was in their best interest to avoid alcohol but also stem the flow of liquor at its source. George Bungay expressed a similar sentiment in his verse: "Moral suasion for the man who drinks. Mental suasion for the man who thinks. Legal suasion for the drunkard-maker. Prison for the statue-breaker."<sup>63</sup> Prohibitionist James McCaleb Wiley was far harsher in his assessment of the limits of moral suasion. He wrote: "In this sense, moral suasion is moral balderdash. 'Words, my lord, words' - worse than words, they are a delusion. How long have they been sounded in the public ear and sounded in vain? The drunkard's mental and physical condition pronounces them an absurdity... Reason with a man when all reason has fled, and it is doubtful whether he or you is the greater fool."<sup>64</sup> While the tone of these three activists varies greatly, taken together these statements reflect a growing consensus throughout the Prohibitionist Movement that the movement should shift its attention to applying legal suasion efforts to those behind the bar.

The kind of state intervention for which the movement desired specifically targeted the sale of liquor<sup>65</sup> and focused on local municipalities and counties (Beer, 1996; Pegram, 1998;

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<sup>62</sup> Printed in: Ewing, George W. *The Well-Tempered Lyre: Song and Verse of the Temperance Movement*. SMU Press: Dallas, 1977, pg. 155.

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<sup>64</sup> Printed in: *The American Temperance Magazine and the Sons of Temperance Offering*. American Temperance Offering, and Sons and Daughters of Temperance Gift for 1852. New York: P.T. Sherlock, Publisher, 86 Nassau-Street. 1852, pg. 137

<sup>65</sup> It is worth noting that throughout its tenure, the movement did not push for, nor did any part of the government pass, making drinking liquor illegal. This introduced some enforcement challenges during the Prohibition Era after the Eighteenth Amendment came into force since only those selling and purchasing liquor could be arrested and charged, while those consuming liquor could not be (Murdock, 89).

Coker, 2007; Sismondo, 2011). The first method of legal suasion the movement focused on denying the dispensing of liquor-selling licenses distributed at the local level. Prohibitionists pressured local selectmen in Massachusetts and other states to stop making recommendations to county commissioners on who should receive these licenses in hopes that the number of state-sanctioned saloons and other liquor dispensaries would dry up, quite literally. While such a localized approach took time to impact entire states, it did end up drying up sizable portions of states like Massachusetts. In several cases, municipalities not only ceased distributing liquor licenses but also criminalized the sale of liquor without a license (Pegram, 35).

In response, “liquor men” filing suit, claiming a constitutional right to sell their wares. Eventually these suits originating from liquor men in New Hampshire, Massachusetts, and Rhode Island argued their case before the Supreme Court in 1845 (Pegram, 1998: 41). Much to the plaintiffs’ dismay, Chief Justice Roger B. Taney upheld these laws based on the principle of states’ rights. In his majority opinion, Chief Justice Taney argued: “If any state deems the retail and internal traffic in ardent spirits injurious to its citizens, and calculated to produce illness, vice, and debauchery, I see nothing in the Constitution of the United States to prevent it from regulating and restricting the traffic, or from prohibiting it altogether if it thinks proper.”<sup>66</sup> This ruling solidified the Prohibition Movement’s localized legal suasion tactics, at least for the time being.

Because dispensing liquor licenses was left to the discretion of county commissioners, some of whom were unsympathetic to the prohibitionist cause, movement advocates were not always successful. In response to some of these failures to limit liquor licensing, prohibitionists circulated petitions for a popular vote on local option laws so that the people could decide on the

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<sup>66</sup> Printed in: Fehlandt, August F. *A Century of Drink Reform in the United States*. Eaton and Mains: New York, 1904., Page 120.

issue (Pegram, 1998: 35). While this measure to take the issue to the people failed in the Massachusetts legislature in 1835, the local option law model that emerged in the 1830s became a staple of the movement's mobilization efforts fifty years later and garnered quite a bit of short-term success. The antebellum Prohibition Movement did not stop at drying up local counties and municipalities, however. Prominent Prohibition Movement leader and Portland, Maine Mayor Neal Dow upped the ante by taking the prohibitionist cause to the state level after policing unlicensed liquor sales proved futile. As the result of Dow's persistence and political acumen, Maine passed a law in 1850 that prohibited not only the sale but also the manufacture of alcohol within the state except for medicinal purposes, and bolstered the state's ability to seize and prosecute those involved in the liquor trade. The passage of this prohibition law, known appropriately as the "Maine Law" triggered similar prohibition pushes across the country, and by 1855, twelve other states had adopted their own versions of the "Maine Law." In states like Illinois, where statewide prohibition measures failed, prohibitionists succeeded in implementing local option laws to dry up at least part of the state (Fehandt, 1904; Beer, 1996; Mattingly, 1998; Pegram, 1998; Coker, 2007)

As one might expect, these prohibitionist victories did not escape the wrath of the liquor industry. Saloonkeepers employed a variety of tactics to counter these restrictive policies. One of the more creative solutions was exploiting the loopholes in the dry laws of the land by selling crackers or other foods for the same price as a beer and then providing patrons with a complementary alcoholic beverage (Beer, 1996). Since the saloonkeeper was technically not selling the alcohol itself, he did not technically violate the letter of the law even though he clearly violated the spirit of the law. A more aggressive approach saloonkeepers adopted to take on the law was to challenge its constitutionality in the courts. In 1854 and 1856, courts in

Massachusetts and New York, respectively, weakened these laws by striking down the search and seizure clauses that proved to be a vital component to enforce prohibition legislation (Pegram, 1998). As a result of these successful challenges to state prohibition efforts, Prohibitionists began to take the enforcement of these laws into their own hands by paying informers to report violations to the state (Pegram, 1998: 41).

The Prohibition Movement's issues with enforcing new dry laws extended beyond the non-compliance of saloonkeepers to include corrupt local party machines and politicians operating on the other side of the bar. The Democratic Party in particular committed the most egregious acts of corruption by holding elections in taverns and saloons in order to intoxicate men and then force them to vote several times over (Sismondo, 2011). Needless to say, these voters, sometimes drunk to near fatal degrees, were certainly not voting according to their own interests, or even sometimes on their own volition, as the party regularly kidnapped these men and dragged them to the bar before dragging them to the ballot box. Prohibition leaders and members believed that these new dry laws would do more than just clean up society, but also the government. Prohibition author Rev. Joseph Cummings contended: "Temperance legislation is necessary to redeem the country from the reproach of having proved, what its enemies allege, that a republican government is a failure.... Corrupt, unprincipled leaders would lose all their power if the sale of intoxicating liquors should be prohibited."<sup>67</sup> It should come as no surprise that those politicians and local party machines who benefitted from the liquor industry blocked prohibitionist legislation before it passed and actively undermined the enforcement of any dry laws that did pass (Pegram, 1998; Sismondo, 2011).

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<sup>67</sup> "Natural and Reserved Rights (No. 65)" By Rev. Joseph Cummings, D.D., Printed in Temperance Tracts issued by the National Temperance Society and Publication House. New York: J.N. Stearns, Publishing Agent, 58 Reade Street

It is clear that the Prohibition Movement elicited a mixed response from local, state, and federal levels of government, as evident in varied success of the movement's no license and local option campaigns as well as its statewide prohibition efforts. While the movement could gain traction at the local and state level, prohibitionists found it more challenging to get a foothold in national politics, particularly in the Democratic and Whig Parties, in part because the alcohol issue did not fit squarely into either party's agenda. In the 1830s and 1840s, the Whig Party was more sympathetic to the cause, endorsing the movement's former call for temperance and moderation, which stood in contrast to the Democratic Party claiming to be the "party of liberty," a pointed critique of prohibitionist calls to limit liquor selling liberties (Pegram, 36). Even though the national arms of the major parties embraced these official party lines, in the wake of thirteen states passing "Maine Laws," the alcohol issue proved to challenge these partisan loyalties, and politicians from both sides of the aisle became more amenable to prohibition (Pegram, 40). All in all, the Prohibition Movement experienced an increasingly, albeit uneven, positive response to its demands until the late 1850s.

### **Antebellum Political Violence: Saloon Smashing**

What is surprising is that in the wake of the passage of dry laws Prohibitionists escalated their protest strategy to politically violent saloon smashing starting in the 1850s. As its name suggests, this unlawful protest tactic typically took the form of vigilante Prohibitionist activists, all of which were women, destroying alcohol and bars with axes and hammers (Dannenbaum, 1981). While some isolated incidents of saloon smashing occurred in the 1860s, most of these politically violent acts of protest occurred between 1853 and 1859 across dozens of northern and mid-western towns where judges and elected officials repudiated and/or refused to enforce dry

laws. These militant women engaged in targeted property violence took the enforcement of these laws into their own hands because they believed that the state was incapable of doing so and would not permit women to participate in the political process. The fact that women were responsible for this protest strategy escalation is significant. At the time, women did not have the full rights and recognition of citizenship, had little formal recourse when harmed by their drunkard family members, and had virtually no legal standing, which severely limited women's ability to engage in a legal suasion campaign. Prohibitionist women even lacked standing within the movement and were denied platforms to speak in mixed company. This relegated women to the movement's moral suasion efforts, which had already proved to have little lasting effects on individual and societal drinking habits. To add insult to injury, the legal efforts directed at drying up the country had limited impact, which made women more desperate to protect their homes and men from the perils of liquor (Dannenbaum, 1981; see also Pegram, 1998).

Prohibitionists would later laud the heroism of these early saloon smashings and emphasized the religious piety of the women who engaged in these acts of politically violent property destruction. One account, written by prominent Prohibitionist Dr. Lewis in 1874, provides the justification, methods, and results of a saloon smashing that is representative of the other available accounts of saloon smashings. He wrote:

“It is happily true that in more than one of the early Crusades, hatchet brigades of devout praying women helped answer their own prayers for the utter destruction of their dread enemy- intoxicating liquor... In vain the women prayed and pleaded with the business men of the town. Homes were ruined and terrible crimes were committed by men under alcohol's influence. Then the mothers, wives, and daughters ‘struck.’ One fair morning in May 1859, (forty women) quietly marched down the main street of the village...

“... At each point of attack, half the women engaged the proprietor of the building in conversation and heated argument, while the second group proceeded at once to the business in hand. Cellars were entered, kegs of beer rolled out, and barrels of whiskey knocked in. As the liquor gurgled into the streets, a crowd, suddenly

gathered, sent up cheer after cheer of encouragement for the hatchet brigade and its effective efforts.

“An exciting public meeting was held that night in the village church. No one uttered an adverse word about the forty brave women of Baraboo. Papers were numerously signed pledging the boycotting of liquor-selling groceries, and their groceries soon went out of the liquor business.”<sup>68</sup>

This account focused on the moral authority established through prior moral suasion campaigns upon which these women acted, the lawlessness they fought by their vigilantism, the targeted and methodological application of this protest tactic, and the public support it garnered.

The lack of enforcement of dry laws was not the only factor that propelled women to politically violent property destruction, for if it were, Prohibitionist men would have also engaged in saloon smashings. As historian Jed Dannenbaum explained: “The primary cause of the female attacks on saloons in the 1850s had been the isolation of women from meaningful participation in the temperance movement, the floundering of prohibition in a male-dominated political environment, and the increasing danger the drink trade posed to middle class youth (1981: 244).” This escalation in women’s protest strategy also followed the Seneca Falls Convention of 1848, in which women across the country formed rights claims independent from yet inspired by their activism within the Prohibition Movement. The emerging rights consciousness among these women illuminated the limits of the current laws to recognize their rights and legal standing as citizens and to enact and enforce prohibition. As a result, *Templar’s Magazine* reported that “the ladies have taken the rumsellers into their own hands and enforced laws of their own making (Dannenbaum, 1981).” The vigilante women explained that these “laws of their own making” were compatible with the Constitution and its principles, promoted

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<sup>68</sup> Printed in Gordan, Elizabeth Putnam. *Women Torch-Bearers: The Story of the Woman’s Christian Temperance Union*. Second Edition. National Woman’s Christian Temperance Union Publishing House. Illinois: 1924, pg. 11-12

the general welfare of the state and society, and required illicit enforcement because the dangers of alcohol were too great and the state's response to this problem was too slow (IBID).

In this way, this movement faction became politically violent because the state failed to enforce dry laws, which produced an empty acquiescence effect in which state action did not actually elicit the protesters' intended results and also because those who engaged in this violence (women) had no formal political recourse to readdress their ill-accommodated demands. What is more, the state would not afford the explicit rights of citizenship outlined in the American social contract to women, which would have given these activists more viable peaceful protest options. Finally, these women were the only Prohibitionists who believed their duties to their families and societies overrode their obligations to the state, (Dannenbaum, 1981; see also Murdock, 1998) and therefore the only members of the movement to articulate such a position comparable to Hobbes' double vision. While the reasons for state defiance varied, this anti-positivism is comparable to the Abolitionists' invocation of divine and natural law to justify their use of political violence. These saloon smashings continued sparingly into the 1860s; however, I observe that the decline of this strategy coincides with the increase of women's political rights beginning the last quarter of the century. This process of protest strategy de-escalation that parallels an increase in state recognition of women's citizenship demonstrates that the political system can salvage its legitimacy in the eyes of activists even if the state does not capitulate to the movement's demands.

The saloon smashing women of the Prohibitionist Movement provide some key insights into the use and meaning of a politically violent protest strategy. First, the state's response to a movement's demands and its protest tactics can have varying effects on a movement's protest strategy depending on how this response shapes other factors that influence protesters'

perceptions of state legitimacy. For instance, the state criminalized the Abolitionist Movement's peaceful, lawful tactics that should have been protected by the 1<sup>st</sup> Amendment but this did not result in a protest strategy escalation, whereas some positive, albeit limited, state acceptance of Prohibitionist demands with the passage of dry laws was insufficient to quell an escalation to saloon smashing. Secondly, political violence is a near universal response to state failure, although that state failure can vary in scope and does not always necessitate a revolution and the remaking of the American social contract. Militant Prohibitionist women saw the state's failure in terms of its inability to extend its purpose to include drying up the country as a way to promote social well-being and to extend full citizenship to women. Interestingly, this specific rather than systemic state failure that centered on narrow demands elicited a politically violent response that was also narrow and limited only to the kinds of property the movement and the state had outlawed.

Finally, I contend that there is a qualitative difference between property violence and physical violence against people in that the former tends to highlight the limits of the state and rule of law while the latter tends to reflect a belief in an unsalvageable state and accompanies calls for revolution. In some key ways, the targeted, demand-oriented application of this property violence parallel civil disobedience in that both were the direct response of perceived unjust state action, were limited to specific laws concerning movement demands, and neither sought to overthrow or nullify the more general rule of law. On this last point, the saloon smashing women worked within legal system to escape punishment instead of nullifying the rule of law. Fortunately for these women, few of them faced legal consequences because of their well-connected, respected husbands, several of whom were lawyers (Dannenbaum, 1981). In one case, a lawyer defending these women compared their actions to the Boston Tea Party, the

quintessential example of American civil disobedience that engaged in property destruction (Dannenbaum, 1981: 243). Furthermore, this kind of property destruction and civil disobedience are not revolutionary in and of themselves but are instead instrumental in pointing out, in no uncertain terms, a specific intolerable part of the state that must be reformed. These parallels between the Prohibitionist saloon smashings and the philosophy and methodology behind acts of civil disobedience solidifies my earlier observation that political violence often follows and is informed by civil disobedience.

### **Civil War Interlude**

By the end of the 1850s, with the nation staring down the barrel of the Civil War gun, slavery became the issue responsible for partisan realignment, overtaking prohibition on both the state and national stage (Murdock, 1998: 132). In the wake of the Civil War, the alcohol issue took a backseat to the increasingly divisive slavery issue, and by 1865, all but five states that had enacted “Maine laws” repealed them (Murdock, 1998; Pegram, 1998). The federal government, which had begun to support the Prohibition Movement’s cause by “drying up” the military, passed the Internal Revenue Act of 1862, which taxed distilled and malt liquor and authorized the distribution of federal liquor licenses, a move that undermined the cause (Pegram, 45). To make matters worse for the activists, public support and political backing that once undergirded the Prohibition Movement dwindled significantly in the face of the war. As a result, movement membership and organizations crumbled. Once the smoke from the war cleared, the movement, in many ways, was back at square one (Fehlandt, 1904). While the country rebuilt itself in the late 1860s and 1870s, the movement experienced its own reconstruction.

The postbellum Prohibition Movement maintained the same set of demands, overall ideology, a commitment to a peaceful, lawful protest strategy, and a reliance on both moral suasion and legal coercion that it had before the war. The most notable change across the new movement organizations that emerged during this time period is the increased agitation and intensity their leaders and members applied to the movement's existing modus operandi. First, the Prohibition Movement became far more active in electoral politics to the point of forming its own independent, third party with the hopes that it would rival the two major political parties. Secondly, organizations like the Women's Christian Temperance Society (WCTU) became far more forceful and direct with their moral suasion tactics in ways that openly challenged social and gender norms, what I call social disobedience. Thirdly, the Anti-Saloon League engaged in electoral and legislative politics in such an aggressive fashion that historian Peter Odegard (1928) coined the phrase "pressure politics" to describe it. I contend that while new more aggressive tactics emerged, the movement's continued adherence to peaceful, lawful acts of protest demonstrate its continued faith in the state's legitimacy, which is evident in the movement's efforts aimed at influencing policymaking through formal political channels. Interestingly, this intensification of peaceful, lawful tactics occurred as saloon smashing women activists de-escalated their protest strategy and while the men continued to work within the existing system.

### **Postbellum Peaceful, Lawful Protests**

#### *Party Politics: The Third- Party Strategy*

During Reconstruction, Prohibition Movement leaders and members entered electoral politics with the hopes of regaining and magnifying their antebellum victories. The rationale

behind the prohibitionist's electoral strategy was that if the movement could increase the number of prohibition-friendly elected officials across governmental positions, the movement would consequently increase its influence over the legislative process, which could translate into a resurgence of postbellum "Maine Laws" (Fehlandt, 1904; Coker, 2007). Prohibitionist leader Francis Willard eloquently expressed the need for the movement to enlist an effective political party for the cause when she wrote, "There is not a State under prohibition today which does not owe that priceless boon to party action.... we know that it takes a party to submit that question, a party to enact that statute which alone renders it practical, and a party to enforce the statute when secured."<sup>69</sup> Although Willard made this statement after the founding of the Prohibitionist Party to urge that other prohibitionists support the new party, the sentiments articulated here demonstrate the movement's belief in the necessity of a political party to advance and sustain prohibition. At first, the movement leaders and members pursuing this strategy sought out prohibitionist accommodations from the two major political parties, but this party infiltration strategy proved to be largely fruitless for six reasons.

First, the major party most sympathetic to the prohibition cause before the Civil War was the Whig Party, but with the emergence of the Republican Party in 1852, its tenure as a party had expired. Secondly, the new major political party, the Republican Party, was ambivalent in its support of the Prohibition Movement because of the backlash it feared at the polls, particularly from German voters, a group that was firmly and adamantly anti-prohibition (Murdock, 1998; Pegram, 1998). Thirdly, even with the antebellum party realignment, the alcohol issue still

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<sup>69</sup> From "A Century's Evolution of the Temperance Reform" By Francis E. Willard, Printed in: *One Hundred Years of Temperance: A Memorial Volume of the Centennial Temperance Conference Held in Philadelphia, PA, September, 1885*. New York: National Temperance Society and Publication House, 1886.

remained outside of the contemporary party ideological divisions, and, as a result, prohibition was unable to anchor itself to either major party definitively (Kerr, 1985). Fourthly, liquor interests organized the United States Brewers' Association and engaged in elections themselves, committing "...that we will sustain no candidate, of whatever party, in any election, who is in any way disposed toward the total abstinence cause."<sup>70</sup> Such competition from the liquor lobby kept enough candidates sympathetic to the brewers' cause (Kerr, 1985). Fifthly, local political machines tended to operate within or near saloons and attributed their success, at least in part, to the drunkards whom the Prohibitionists wanted to reform and remove from those saloons (Pegram, 1998). Needless to say, many politicians and party leaders were hesitant to bite the hand that served them both drinks and voters. Sixthly, saloons and alcohol sales provided a bountiful tax-base, something elected officials were reluctant to abandon (Kerr, 1985; Pegram, 1998).

Unable to infiltrate the existing party system, dry Republicans split with their party and formed the Prohibition Party in 1869 (Kerr, 35; Murdock, 19; Pegram, 145). During a Right Worthy Grand Lodge of Good Templars meeting, a gathering of some of the most prominent Prohibitionist men, that was held on May of 1869, a sizable majority of national Prohibition Movement leaders agreed to form an independent political party. The statement below, taken from the official minutes of the meeting, provides an explanation of the rationale behind forming this new political party:

"The moral, social and political evils of intemperance and the non-enforcement of liquor laws are so fearful and prominent, and the causes thereof are so entrenched and protected by governmental authority and party interest, that the suppression of these evils calls upon the friends of temperance; and the duties connected with home, religion, and public peace demands that old political ties and associations shall be sundered, and a

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<sup>70</sup> Printed in: Pegram, Thomas R. *Battling Demon Rum: The Struggle for a Dry America, 1800-1933*. Ivan R. Dee, Publisher: Chicago, 1998., Page 145.

distinct political party, with prohibition of the traffics in intoxicating drinks as the most prominent feature, shall be organized.”<sup>71</sup>

According to this statement, the prohibitionists attributed their lack of success in moving either of the established parties in a more pro-prohibitionist direction to the inability to compete with liquor and saloon interests that already had a substantial foothold in the political system. It is critical to highlight that even though the sentiment expressed here and elsewhere by Prohibitionists condemned both the major political parties and their role in promoting intemperance and even “governmental authority,” the movement nonetheless maintained and reinforced its faith in the overall system of government by actively participating in politics when it formed its own political party. In this way, prohibitionists made a distinction between state actors and the state itself, acknowledging the inadequacies of the former and the promise of the latter. Therefore, it is appropriate, based on the call for a “distinct political party” and the absence of calls to overthrow the political system, to interpret the phrase “governmental authority” in this context to mean those who currently hold power in official positions and not the inherent authority vested in the actual governmental institutions. If it did mean the latter, the movement would certainly not funnel its efforts into occupying governmental institutions through the formal election process.

While the Evangelical wing of the movement was a latecomer to the party, eventually the entire movement supported the electoral approach (Coker, 2007)— although there were some disagreements on what the party’s platform should include (Kerr, 1985; Pegram, 1998). Like other third parties, the Prohibition Party suffered from the double bind of being either too singularly focused on a narrow set of issues, which did not draw in the more general voting

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<sup>71</sup> Printed in: Fehlandt, August F. *A Century of Drink Reform in the United States*. Eaton and Mains: New York, 1904, Page 251.

population or extending the party's platform to satiate a wider audience yet alienating movement activists. On top of these internal issues, the party was unable to make a sufficient impact on the election of 1888. After that, the party's opportunity to embody the national reform efforts citizens desired waned with the rise of populism, as did its intention to supplant the Republican Party as a major political party (Kerr, 1985: 64). During that same election year, however, the Republican Party began to soften towards the cause, however (Pegram, 1998: 80). In the same way in which Abolitionism eclipsed the Prohibition Movement by the end of the 1850s, the Populist Party overtook the Prohibition Party by the 1890s (Coker, 2007: 99).

Like the Abolitionist Movement, the entrance into the formal political process fractured the Prohibition Movement along tactical lines; however, Prohibition Party defection occurred for two distinct reasons, neither of which echoed the famous calls for disunion from the non-resistant Abolitionists. First, Evangelical prohibitionists questioned the place of state intervention on the issue of alcohol. Although they did eventually end up supporting the party, this brief division across movement organizations did exist (Coker, 2007). Secondly, in 1884, a group of prohibitionists defected from the party because they feared that the alcohol issue had become too entangled with partisan politics. Led by the newly inaugurated WCTU leader Ellen Foster, some prohibitionists returned to the Republican Party when the party adopted a more favorable position on the issue of alcohol (Pegram, 1998: 80). Both of these causes for tactical divergence do not include denunciations of the state, nor do they represent any intra-movement ideological shifts, but rather some relatively minor disagreements on the specific means to achieve shared ends.

Despite its short tenure and limited electoral success, the Prohibition Party contributed something more enduring to the cause through its effects on the public writ large. The party was

an effective tool in educating the general population about what the movement described as a corrupt relationship between the nation's liquor interests and the political system (Kerr, 1985). These claims revealed the true nature of the local party machine and patronage system that operated largely within saloons and engaged in acts of corruption (see above). Ironically while the Populist Party stole the Prohibition Party's electoral thunder, the anti-establishment sentiments and charges of elite corruption promoted by the Prohibitionists bolstered the Populists while Prohibitionists engaged in electoral politics during the progressive era. In addition to its effects on public sentiment, the Prohibition Party also cultivated a voting bloc that subsequent Prohibitionists organizations could use themselves (Kerr, 1985). A final point worth mentioning is that those responsible for the organization and support of the Prohibition Party saw their efforts as a component of the movement's overall moral suasion strategy, further evidence that the Prohibitionist Movement was primarily a social reform movement.

#### *Moral Suasion Tactical Escalation: Social Disobedience and De-escalation*

In the 1870s, in the aftermath of the Civil War and its subsequent reversals antebellum anti-liquor laws, the Woman's Christian Temperance Union (WCTU), also referred to as the Women's Crusade, emerged and revitalized the personal pledge-based moral suasion tactics antebellum activists employed in over two dozen states across the country (Beer, 38). Its advocates describe the organization's founding as a Pentecostal experience (see Acts 2:1-13) in which God instructed them to go out and "pray in the places where their husbands, sons, and brothers were tempted by their ruin." Unlike the antebellum, church-based moral suasion campaigns, the WCTU women took their moral appeals directly to the saloon and addressed the drunkard at the bar as well as the saloonkeeper pouring the drinks (Murdock, 1998). These new

tactics included public marches, persuasive discussions with those who sold liquor to sign pledges for the cause, and daily visits to saloons and other alcohol-selling businesses filled with prayer, song, persuasion, Scripture readings (Gordan, 1924:7-8). Despite the are several instances in which saloonkeepers and saloon patrons assaulted the women of the WCTU, the organization was successful in getting both individual converts to join the cause and in persuading some saloonkeepers to close their saloons. Additionally, the organization became an active participant in the movement's legal coercion tactic alongside both the Prohibitionist Party and the Anti-Saloon League (Pegram, 1998). In fact, as women became recognized actors within even the male-dominated arms of the movement and slowly gained political rights in the 1870s, Prohibitionist women abandoned saloon- smashing for peaceful, lawful acts of what I call *social disobedience*.

While this approach may not seem controversial today, it was improper and unseemly for women to venture out in the public sphere, especially when they were not accompanied by men, even worse for them to go into saloons, and absolutely unacceptable from them to participate in matters of politics and business. As such, this new and more aggressive form of moral suasion proved to be difficult to execute since these women had to contend with restrictive gender norms that precluded them from being active in the political and public sphere (Murdock, 1998: 75). WCTU leaders and members had to sustain their femininity to preserve the moral authority associated with womanhood while protesting in ways that many considered to be too bold and aggressive for women. In this way, even though the WCTU did not engage in acts of civil disobedience,<sup>72</sup> the organization did engage in acts of *social* disobedience by violating social

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<sup>72</sup> There are accounts of WCTU being arrested because they were allegedly in violation of sidewalk ordinances, although the protesters claimed they did not break the law. In fact, they say that they had staged their protests in accordance with these laws (Perry, 2013: 159).

norms as a way to escalate the ante-bellum moral suasion protest tactics. Unlike acts of civil disobedience, in which protestors intentionally violate specific laws publicly to protest the legitimacy of those laws and then accept the punishment for their unlawful behavior, social disobedience entails the violation of social norms and customs not state sanctioned laws. Despite this more aggressive peaceful, lawful protest tactic, the organization explicitly encouraged women to put “womanliness first,” as Willard put it, while penning essays or speaking publicly on behalf of the cause so they could utilize the moral authority innate in the societally acceptable forms of femininity (Mattingly, 1998: 65).

The pinnacle of the WCTU’s social disobedience protests occurred in the winter of 1873/1874, which also turned out to be a particularly cold and brutal winter. Despite the harsh weather, scores of WCTU crusaders persistently “prayed for drinkers to take abstinence pledges, saloon keepers to close their doors permanently, and local politicians to enforce restrictive ordinances and revoke saloon licenses (Kerr, 1985: 44).” Protesters also held vigils outside of saloons during which the women crusaders sang hymns, said public prayers, and read religious essays— all acceptable activities for women at that time (Murdock, 1998: 75)— although it was unacceptable for women to occupy the male-dominated public sphere, which included the saloon. Crusader Mrs. Judge Thompson from Ohio recorded an account of such activity that took place on December 23, 1873, below:

“On they (WCTU protesters) marched in solemn silence up Main Street, first to Dr. Wm. Smith’s drug store. After calling at all the drug stores, four in number, their pledge being signed by all save one, they encountered saloons and hotels with varied success, until by continuous, daily visitations, with persuasion, prayer, song, and Scripture readings, the drinking places of the town were reduced from

13 to 1 drug store, one hotel, and 2 saloons, and they sold ‘very cautiously’.”<sup>73</sup>

This account is one of many success stories the organization recorded and celebrated, and over the course of the winter of 1873/1874, the WCTU is credited with closing approximately 30,000 saloons (Kerr, 1985: 44). Of course, this is not to say that all protests and run-ins with saloonkeepers went well for these women. There are several instances in which saloon patrons, owners, and even the owner’s wives would “baptize” protesters with cold beer in the dead of winter, throw food or stones, and scald these women with boiling hot water. One drunkard went as far as to horsewhip his wife, a WCTU member, in public during one of the organization’s protests. According to some, these women deserved such treatment because of their “unwomanly” and unseemly public conduct. Comparable to the Abolitionists in the 1830s and 1840s, the WCTU women who suffered from physical assaults during their engagements in and outside of saloons did not resort to violent retaliation (Sismondo, 2011: 145).

Unlike the antebellum era in which the women of the Prohibition Movement were excluded from engaging in legal suasion tactics, the postbellum protesters of the WCTU gained sufficient standing among the men of the movement and in society in general to frame their demands in legal and political terms. As I claim earlier, this newly available avenue of peaceful, lawful protest was vital in de-escalating Prohibitionist women from their politically violent saloon smashing tactics. Furthermore, I contend that the inclusion of women activists in the Prohibition Movement’s legal suasion tactics and the slow yet steady introduction of women’s suffrage in some states and municipalities that specifically permitted women to vote on education and alcohol measures were sufficient steps towards the recognition of citizenship the

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<sup>73</sup> Printed in: *The American Temperance Magazine and the Sons of Temperance Offering. American Temperance Offering, and Sons and Daughters of Temperance Gift for 1852*. New York: P.T. Sherlock, Publisher, 86 Nassau-Street. 1852, Page 57.

women sought and lacked when they engaged in saloon smashing. As women were permitted into the political arena, they became more committed to supporting the state. For instance, the WCTU valorized patriotism and led women's auxiliary organizations during World War I (Gordan, 1924). The efficacy of the WCTU's social disobedience tactics also curbed the necessity for more radical forms of dissent. Some of the early evidence of women's protest strategy de-escalation comes from an official meeting held in 1875, the WCTU expressed the intend to engage in legal suasion tactics in the resolution below:

“Resolved, That, whereas, the object of just government is to conserve the best interests of the governed; and whereas the liquor traffic is not only a crime against God, but subversive of every interest of society; therefore, in behalf of humanity, we call for such legislation as shall secure this end: and while we will continue to employ all moral agencies as indispensable, we hold prohibition to be essential to the full triumph of this reform.”<sup>74</sup>

This parallels the reasoning other prohibitionists used to justify the necessity for state intervention on the alcohol issue. Additionally, like prior protesters, the WCTU articulated a particularly republican view of the state, which obligated it to intervene to “conserve the best interests of the governed,” and lent credence to the organization's calls for anti-alcohol legislation. This statement also implicitly recognized that the organization's moral suasion approach that relied on personal pledges and the circulation of prohibition propaganda was an insufficient solution to the problem.

Much like the other organizations that mobilized on behalf of prohibition, the WCTU worked in and through formal political and legal channels to achieve their goals. Even though the women of the WCTU could not vote themselves, the organization did encourage those who

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<sup>74</sup> Printed in: Odegard, Peter H. *Pressure Politics: The Story of the Anti-Saloon League*. Columbia University Press: New York, 1928, Page 38.

could to vote in ways that would support the cause. These crusading women used their femininity as a way to pressure men to vote in accordance with the cause with statements like: “We propose to stop this auctioneering for the best beloved of tender mothers’ hearts... The enlightened influence of society must be condensed and brought to hear through the electric battery of the ballot-box along the tingling wires of law.”<sup>75</sup> Here, the WCTU was able to use their “womanliness” as an asset by citing the pains the alcohol issue inflicted that were particular to mothers to encourage men to vote in favor of prohibition. Another natural extension of motherhood was education. The WCTU also emphasized the importance of educating the youth of the country on the evils of alcohol. In fact, one of the first major victories the organization achieved was the adoption and implementation of a nation law by the turn of the century that required teachers to instruct their pupils on the dangers associated with alcohol consumption (Beer, 1996: 39).

The WCTU also participated in the formal political process by supporting the Prohibition Party and by leveraging politicians through lobbying efforts until the organization’s leader, Frances Willard, died in 1898 (Kerr, 1985: 158). Part of the organization’s efforts were directed at convincing politicians to enforce the anti-alcohol laws already on the books. Other resources were devoted to establishing a permanent presence in legislative politics. These activities included circulating and submitting petitions to lawmakers, testifying before Congress, and maintaining a paid lobbyist in Washington, D.C. (Murdock, 1998: 22). The rationale behind the utilization of petitions, and the WCTU’s legislative tactics in general, is well summed up in a quote from Willard’s publication, which said, “Similar (positive) results would attend the circulation of a petition to the country or municipal authorities on any phase of our manifold

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<sup>75</sup> Printed in: Francis E. Willard, President of the National WCTU, Fifth Edition, Women’s Temperance Publication Association: Chicago, MDCCCLXXXVI. Copyrighted, 1883, by the Park Publishing Co., Hartford, CT, Page 495.

cause. Let us remember that... are but transferring the Crusade from the saloon to the sources whence the saloon derives its guaranties and safeguards.”<sup>76</sup> In order to hit the saloon where it would hurt the most, in the halls of Congress, the WCTU allied with another prohibitionist organization that proved to be adeptly skilled at infiltrating the political system: the Anti-Saloon League.

As the women of the movement re-committed themselves to a peaceful, lawful protest strategy, there was one Prohibitionist woman who continued to engage in these political violent saloon smashings and in doing so acted independently of the WCTU and the Prohibition Movement. In 1897, Carry Nation, armed with a hatchet, visited several local saloons and started to hack away at the liquor bottles and the saloon itself without harming the saloonkeeper or the bar’s patrons (Murdock, 1998: 23). Claiming to be acting on God’s authority to destroy illicit saloons, Nation took her show on the road, committing “hatchetations” in several more states (Murdock, 1998), chanting “Smash! Smash! For Jesus’ sake, smash!” (Beer, 1996: 42). The relationship between Nation and the WCTU was ambivalent in the best of times. While Nation was aligned ideologically with the organization and the Prohibition Movement in general, she acted more like a lone wolf than part of any official group— although she did experience some short-term support from the WCTU in the form of assistance with legal fees. Even though the WCTU lauded Nation’s commitment to the cause and its principles, it did not take long for the organization to denounce Nation and sever its ties with her altogether. While Nation and the WCTU parted ways because of divergent protest strategies, this does not indicate a movement fracture, since one activist is not enough to constitute a movement faction. It is more appropriate

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<sup>76</sup> Printed in: *Women and Temperance: or, The Work and Workers of the Woman’s Christian Temperance Union*. By Francis E. Willard, President of the National WCTU, Fifth Edition, Women’s Temperance Publication Association: Chicago, MDCCCLXXXVI. Copyrighted, 1883, by the Park Publishing Co., Hartford, CT, Page 366.

to characterize as an individual parting of ways instead of an organizational split since Nation only had, at most, one individual follower and copy-cat during her saloon-smashing sprees (Murdock, 1998: 23).

*Legal Suasion Tactical Escalation: Pressure Politics*

In the same way that the WCTU intensified the movement's moral suasion tactics, the Anti-Saloon League (ASL or League) intensified the movement's legal suasion tactics. Founded in 1893 for the purposes of creating and enforcing anti-alcohol legislation, the ASL proved to be a powerful political player on behalf of prohibition (Fehlandt, 1904). In its founding meeting, the Anti-Saloon League described its legal suasion tactics in the following goals: "(2) The enforcement of laws already on the statute books; (3) the enactment of further legislation as public sentiment may warrant in order that our people may be saved from the evils of drink habit and delivered from the debauching curse of the drink traffic..."<sup>77</sup> Of course, the ASL was not the first Prohibition Movement organization to embrace these goals; however, the organization's approach to obtaining these goals diverged from its prohibitionist predecessors. Most notably, the ASL focused exclusively on the saloon and not the drunkard, pushing traditional dry legislation but not pressuring individuals to abstain from alcohol consumption through prohibitionist pledges (Odegard, 1928), a clear departure from earlier moral suasion efforts. This is not to say that the League was not concerned with public opinion on the alcohol issue; however, narrowing its scope of work exclusively to legal coercion meant that the organization could pour all of its resources into a singular purpose.

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<sup>77</sup> Printed in: Odegard, Peter H. *Pressure Politics: The Story of the Anti-Saloon League*. Columbia University Press: New York, 1928, Page 4.

Also, unlike the movement's third-party approach the ASL's style of electoral politics was, in the words of prohibitionist and leader and ASL co-founder Rev. Howard H. Russell, "non-partisan, bi-partisan, and omni-partisan" (Kerr, 1985: 98). In fact, the League encouraged its voters to "forsake their party in at least one campaign and vote for a man who is personally distasteful to them, who does not belong to their church and their lodge, and who stands right, instead of a man on their own party ticket who perhaps belongs to their church, belongs, perhaps, to all their lodges, and is personal friend, but who stands wrong."<sup>78</sup> Its goal was to work within the two-party system and become a critical component of both major parties so it could leverage the political system to adopt its anti-alcohol legislation. Forming its own independent political party would not achieve the same results, as the movement already witnessed. It is clear, however, that the ASL viewed the major political parties and a means to an end, and, if necessary, a disposable one at that (Odegard, 1928; Kerr, 1985). According to Russell, the ASL would "either antagonize (its) force inside of the present parties, or out of them" (Kerr, 1985:42).

To do so, the ASL endorsed Prohibition-friendly candidates and campaigned against the candidates who voted in favor of the liquor interests. The League would also pressure those already running in races to "go dry" to receive the League's support. If the ASL were unable to find a dry candidate for a particular race, it would attempt to recruit such a candidate during primary elections and conventions and was even willing to run an independent candidate of its own. If a candidate already on the ballot did "go dry" the prohibitionists would withdraw their candidate since the hope was for both major parties to adopt the cause, one candidate and elected official at a time, if need be (Odegard, 1928). In between elections the ASL remained vigilant in tracking the voting records of elected officials to make sure the politicians who received their

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<sup>78</sup> Printed in: Pegram, Thomas R. *Battling Demon Rum: The Struggle for a Dry America, 1800-1933*. Ivan R. Dee, Publisher: Chicago, 1998, Page 115.

support deserved it and to identify which politicians needed to be challenged in the next election. Elected officials paid attention to the ASL because of the organization's ability to have, in many cases, such a decisive say in electoral outcomes.

The ASL's electoral successes come down to three main factors: its ability to mobilize a faithful voter base, its effective organizational structure, and the tenacity of its leaders, namely Wayne Bidwell Wheeler. First of all, due in part to the Prohibition Party's previous political activities, the ASL was able to draw on a reliable voting bloc. Churchgoers comprised a sizable portion of this voting bloc, and the League was successful at garnering the support of many church leaders and their flocks, and translating that support into financial donations and votes (Odegard, 1928; Kerr, 1985). While some in the Christian community criticized the politics of prohibition preached from the pulpit, the League fired back and argued: "The mission of the church is to right wrongs and to establish the Kingdom of Heaven among men...If that leadership compels him (the pastor) to take an active part in movements of civic reform, his duty may be in the political arena as well as in the pulpit."<sup>79</sup> The connection the ASL made between religion and politics secured enough of the religious community's commitment to the cause for the ASL to hold some political power during elections. As a result, when the ASL threatened to go after politicians and candidates who did not support the Prohibition Movement agenda, everyone knew they had the votes to back such threats.

Secondly, the ASL was far less democratic than other organizations associated with the movement like the WCTU and the Prohibition Party and instead operated on a more corporate model of organization, which made the ASL far more efficient and effective (Sismondo, 2011). The ASL was able to maintain several departments that pursued different activities, from

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<sup>79</sup> Printed in: Odegard, Peter H. *Pressure Politics: The Story of the Anti-Saloon League*. Columbia University Press: New York, 1928, Page 34.

lobbying to public relations, and had an impressive track record of raising funds (Odegard, 1928; Kerr, 1985). Furthermore, ASL produced and disseminated a high volume of propaganda and informative literature, which assisted the prohibitionists in their efforts to persuade the public to join the cause and communicate to those who already had (Odegard, 1928; Kerr, 1985). The propaganda the League produced was highly attuned to its contemporary political climate. Northern Prohibitionists exploited anti-immigrant sentiments in equating German brewers in America with the enemy during World War I (Beer, 1996: 60). Likewise, Southern Prohibitionists drew on the dominant anti-black sentiments, portraying blacks as immoral drunkards, a tactic used to justify black disenfranchisement and drum up white support for the cause (Provine, 2011). Additionally, its corporate instead of democratic structure also made it easier for ASL leadership to divert the organization's resources from one chapter or facet of the League to another to address more pressing concerns. This made the ASL able to respond to shifting political realities more rapidly and more decisively.

Thirdly, prominent ASL leader, Wheeler, set a far more aggressive tone for the organization's legal suasion tactics and became far more apt at leveraging politicians than previous prohibitionist leaders like Neal Dow. Under Wheeler's leadership, the ASL's legal suasion approach resembled legal strong-arming. This approach came to be known as "pressure politics," which entails "a technique that involved a combination of aggressive fund-raising, back-room deals, and intimidation, and it wasn't above resorting to the occasional fraud and trickery" (Sismondo, 2011: 194). Wheeler became so effective at pressure politics that he is credited with single-handedly ending political careers of politicians like Ohio Governor Myron T. Herrick (Beer, 1996: 57). Wheeler's strategy extended beyond electoral politics to legislative politics and included finding friendly committees into which ASL legislation may be introduced,

producing bills without amendments, garnering support from both political parties to avoid the perception of partisanship, and making votes on anti-alcohol legislation highly public and subject to public scrutiny (Odegard, 1928: 115). It is this forceful approach that signifies the ASL's engagement as a form of tactical escalation.

Comparable to the movement's antebellum legal suasion efforts, the ASL focused on local, state, and national politics. Some of the local legislation the League pushed was four-mile laws that created a four-mile saloon-free radius around churches and schools, which gained some traction but failed to have the desired long-term effect (Coker, 2007). When the League's local and state legislation strategy did not dry up the states, it turned to amending state constitutions through referendum campaigns in the 1880s (Murdock, 1998; Pegram, 1998). An organized and well-financed liquor lobby defeated many of these efforts. When the League was able to achieve legislative victories, it then had to contend with the lack of teeth some of these measures had. Based on prior accounts, it should come as no surprise that the ASL also faced enforcement issues when it was able to pass anti-alcohol legislation. Unlike Carry Nation, however, in the 1880s, the ASL's Rev. George Haddock, the "fighting preacher," visited saloons that operated outside of the law, gathered evidence on the illicit sale of alcohol, and used formal legal channels, namely the courts, to charge and convict saloonkeepers and shut down saloons. This approach became effective enough that saloons hired brutes to beat potential witnesses in the cases brought against saloons. Haddock himself met a worse fate, as he was shot and killed for his efforts (Sismondo, 2011: 145-146).

The culmination of the ASL's legislative achievements was, of course, the ratification of the 18th Amendment that outlawed "the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and

all territory subject to the jurisdiction thereof for beverage purposes.” In addition, the amendment gave “the Congress and several States... concurrent power to enforce this article by appropriate legislation.” Furthermore, the amendment also went a step further than most state measures and prohibited the importation of alcohol for personal use (Murdock, 1998). The amendment passed Congress in December of 1917 and then went to the states for ratification (Coker, 2007). Encouraged by the ASL’s propaganda and political power, 46 states, instead of the necessary 36 states, voted to ratify the amendment by 1919, and on January 17, 1920 at midnight, the amendment went into effect (Murdock, 1998: 89).

Before the 18<sup>th</sup> Amendment was ratified by the necessary 36 states, Congress passed the Wartime Prohibition Act on November 21, 1918, which outlawed the manufacture and then the sale and of alcohol the following year. As Thomas Pegram suggests, there are two things to note with the passage of this act. First, the U.S. Congress began drying up the nation before the Eighteenth Amendment went into effect. Second, the Wartime Prohibition Act passed with substantial congressional support even though President Wilson opposed it, which lent credence to the claim that: ““The average member of Congress is more afraid of the ASL than he is even of the President of the United States,” as a journalist remarked in response to the vote (quoted in Pegram, 1998: 147).” It is clear that the ASL was responsible for the creation of the pro-prohibitionist Congress that passed the most radically anti-liquor legislation and policies even when other political actors were not on board. Clearly, the ASL had become the political power player Russell and Wheeler had envisioned.

Of course, the enforcement issues prior prohibition policies faced paled in comparison to the deliberative defiance the 18<sup>th</sup> Amendment produced, and with the ratification of the 21<sup>st</sup> Amendment on December 5, 1933, the 18<sup>th</sup> Amendment became moot. This also marked the

decline and eventual end of the Prohibition Movement. In this way, the 18<sup>th</sup> Amendment marked both the movement's ultimate triumph and the beginning of the end of approximately a century of mobilization and activism. Even though the ASL's constitutional victory was somewhat short-lived, the very fact that the organization was able to persuade the U.S. Congress to pass its prohibition policies and amend the U.S. Constitution is a clear indicator of the ASL's impressive ability to apply its high-pressure approach to the movement's legal suasion strategy.

### **National Prohibition: Institutionalization and Repudiation**

Despite the Prohibitionist Movement's success in amending the American social contract and thus expanding the scope of the state in order to ensure formal legal protection of the movement's envisioned social reform, the lack of state power to quell the sale and consumption of alcohol ultimately made the movement a failure. Ironically, during the Prohibition Era the movement had successfully shut down saloons, the target of its decades of protests, but this did not dry up the country as the liquor black market flourished. The higher prices for illicit liquor drove the lower classes to make their own alcohol, which the laws did not anticipate. Crime rings cropped up and corrupted politicians and government officials at local, state, and federal levels across the legislature, judiciary, and executive branches (McGirr, 2016). Nevertheless, with the newly minted 19<sup>th</sup> Amendment that guaranteed the women's right to vote (Porter and Munn, 2019), the Prohibition Era represented the incorporation of the movement's demands and activists into formal policy and the policymaking process, respectively. As Oberschall (1973) noted, even if all of a movement's demands are not met, or in this case meaningfully enforced, but the state recognized the activists as legitimate political actors, that can be enough to institutionalize a movement. This process pulls a movement from the streets and folds it into the

state. Once this occurs, the movement ceases to exist without renewed, grassroots mobilization outside of formal political institutions and political processes. Of course, this did not happen for this cause.

The short-lived Reconstruction Era in which Abolitionists gained a relatively high, albeit incomplete and brief, accommodation for its racial equality demands parallels the Prohibition Era in some notable ways. In both cases, despite the fact that state's accommodation of the movements' demands was incomplete and temporary, it was sufficient to institutionalize both movements, which is the terminal point of a social movement. While post-Reconstruction racial oppression spurred new protests, such dissent did not come from a revitalized Abolitionist Movement but rather from a new, independent Civil Rights Movement. After Prohibition no such movement emerged because of the lack of comparable political repression and lack of social will to eradicate liquor from the land. Since the Prohibition Movement mobilized as a social reform movement that relied on both individual and collective conversion to its cause, the lack of public approval for its cause proved damning for any future prohibition efforts. The divergence on each movement's belief in the state's legitimacy proved to be the key difference between the Abolitionists' politically violent strategy prior to its institutionalization and the peaceful, lawful protests employed by the Prohibitionists.

## **Conclusion**

In summary, the lack of citizen-based rights claims explicit in the American social contract in the movement's demands, the movement's perception of a positive response, however serpentine, by the state to the movement's demands, and the lack of an expressed religious commitment to a higher, divine law facilitated most of the Prohibitionists' consistent belief in the

state's continued legitimacy. All of these mediating factors had a divergent effect on the Abolitionist Movement and contributed to that movement's loss of faith in the state's legitimacy, which justified a civilly disobedient and then politically violent protest strategy. While these factors manifested themselves differently across these two movements, together they explain why the Abolitionists eventually viewed the state as wholly illegitimate and then engaged in political violence whereas most Prohibitionists maintained a belief in state legitimacy and remained peaceful. Furthermore, this demonstrates the capacity of the state legitimacy/protest strategy framework to generate specific theories to explain movements that escalate to a politically violent protest strategy as well as those that do not.

Of course, some women Prohibitionists did engage in acts of politically violent saloon smashings during the 1850s and 1860s in response to state not enforcing the anti-liquor laws it passed to accommodate the movement's demands, an example of empty acquiescence, and the women's lack of social standing and political rights. The women's inability to access institutionalized political channels like Prohibitionist men could with legal suasion efforts, the state's unwillingness to enforce its own laws, and the Prohibitionist women's broader rights claims for women explains why they turned to targeted acts of property violence. Furthermore, these women believed there was an unjustifiable gap between the principles articulated by the state and the state's practices, namely the state's commitments to citizens' rights and to the promotion of the general welfare of the people. As such, they perceived the state's illegitimacy in ways that required the expansion of what these women saw as an inexcusably limited state that would not enforce its prohibition laws and extend the rights and recognition of citizenship to women who were disproportionately affected by the alcohol issue.

Once Prohibitionist women gained political standing within the movement, made some headway with their rights claimed directed at the state, and the movement began gaining public and political support in the 1870s and 1880s, these women activists de-escalated their protest strategy and returned to an exclusively peaceful and lawful strategy. This isolated instance of protest strategy escalation within the Prohibitionist Movement demonstrates both the importance of the state's response to the movement's demands and its recognition of activists' citizenship to a movement's (or movement faction's) belief in the state's legitimacy. It also illustrates how this faith can be restored, which results in a de-escalation in activists' protest strategy.

Consequently, the political violence utilized by this faction of Prohibition women is noteworthy for two reasons. First, it demonstrates that like civil disobedience, political violence can be a response to narrow state failures, relatively speaking, and can be an instrumental means to an end within the current political system (see Gamson, 1990). In this way, political violence varies in its scale and magnitude. The fact that these women activists engaged in targeted property violence that violated the movement's demands instead of violence against people as a means to overthrow the political system exemplifies this point. Secondly, the de-escalation of women activists during the 1870s as a result of women's increasing inclusion in the Prohibition Movement and slow but successful rights claims for women across the country shows that activists' perception of state legitimacy can shift when the state positively responds not just to demands but also to activists' calls for meaningful recognition. This is in stark contrast to the Abolitionists who endorsed political violence as a way to dismantle and rebuild the existing state. This divergence suggests that less extreme, politically violent tactics like property destruction occur in response to (limited) state failures that may not always require revolution.

## Chapter 3: The Civil Rights Movement: Redemption or Revolution

“The civil rights movement was based on faith. Segregation and racial discrimination were not in keeping with our faith, so we had to do something.”  
John Lewis

### **Introduction**

In some notable ways, the Civil Rights Movement’s protest strategy escalation was unique and distinct from the Abolitionist and Prohibitionist Movements. The Civil Rights Movement did not radicalize its protest strategy as the state adopted policies that contradicted the movement’s demands, as with the Abolitionist Movement. Nor were the Civil Rights factions that engaged in protest strategy escalation ignored or unrecognized by the state relative to the peaceful, lawful movement faction, like with the Prohibitionist Movement. On the contrary, the civilly disobedient Civil Rights faction emerged a few years after the federal government affirmed the movement’s demands as it nullified the separate but equal doctrine upon which Jim Crow was based and required the integration of the public education system. Similarly, the movement’s politically violent faction fully emerged in 1966 shortly after passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, both of which represent the federal enforcement of the 14<sup>th</sup> and 15<sup>th</sup> Amendments, which lie at the heart of the movement’s demands. As such, this movement raises some pointed questions about protest strategy escalation.

First, why did the Civil Rights Movement engage in an exclusively peaceful and lawful protest strategy despite decades of discrimination and violence and then escalate to civil disobedience and political violence in the 1960s as the federal and several state governments began adopting the movement’s demands? Secondly, even though the entire movement

experienced the same level of racial oppression from state and non-state actors and the same state response to its demands, why did organizations across the Civil Rights Movement vary on their chosen protest strategy? In other words, unlike the Abolitionist Movement, why did only a part of the Civil Rights Movement become politically violent in the 1960s? I argue that each movement faction had the protest strategy potential because the entire movement mobilized on rights-based demands explicit in the American social contract. The reason that the movement fragmented into peaceful and lawful, civilly disobedient, and politically factions by the 1960s is due to the differences in how each faction perceived the state's responsiveness to the movement's demands and activists and each faction's unique religious and/or ideological commitments. The differences among the factions across these two factors produced divergent perceptions of the state's legitimacy as the absolute lawmaker and system of governance, which in turn resulted in divergent protest strategies.

The peaceful, lawful Civil Rights Movement faction emerged in the early 1900s with the founding of the National Association for the Advancement of Colored People (NAACP) in 1909 and engaged in moral and legal suasion tactics under the leadership of activists like W.E.B. Du Bois, Charles Houston, and Oswald Garrison Villard. Throughout the 1950s and 1960s this faction saw the incremental gains of its litigative legal suasion strategy as a promising indicator that the state would accommodate the movement's demands without the movement resorting to illicit or violent acts of protest. This faction asserted that other activists needed to be patient and give the system time to adjust its policies and extend the full rights and recognitions of citizenship to African Americans. While peaceful, lawful activists did engage in tactical escalation after World War II, much like the Prohibitionists after the Civil War, these new tactics included marches, boycotts, and picketing, none of which were unlawful or violent. Unlike the

civilly disobedient and politically violent organizations, the NAACP and its supporters did not express an ideology that championed a higher moral code above that of the state that would justify state defiance; rather, the organization sought to align the state's practices with its own social contract (see below for citations).

The civilly disobedient faction materialized in 1960 led by activists like Martin Luther King, Jr., James M. Lawson, Jr. Lawson, James Farmer (to name a few) and included the Southern Christian Leadership Conference (SCLC), the Student Nonviolence Coordinating Committee (SNCC), and the Congress for Racial Equality (CORE), and Albany Nonviolent Movement. This faction was not satisfied with its peaceful, lawful co-activists' pleas for patience and declared that African Americans should no longer abide by unjust laws contrary to both divine law and the American social contract itself. While civil disobedients intentionally and publicly defied laws that were antithetical to the movement's rights-based demands, they still respected the state's rule of law and monopoly of force evident in their submission to arrest for their illicit acts of protest. In fact, this Civil Rights faction sought reconciliation with and integration into the American state and society and believed that a more coercive, civilly disobedient protest strategy was a necessary means to that end. This was the result in the faction's perception that the American state as a system of governance and the social contract upon which it was predicated were both legitimate entities, whereas specific state policies and practices were not. As such, unlike the peaceful, lawful faction, the civilly disobedient faction did not believe that the state was wholly legitimate in its lawmaking capacity. Finally, although the religious and philosophical beliefs of the civilly disobedient activists permitted the use of unlawful tactics, these same beliefs hindered their endorsement of a politically violent protest strategy. For some members of SNCC and CORE, these ideological constraints against the use of

violence even as a means for self-defense disappeared by the mid-1960s (see below for citations).

The impetus of the politically violent faction began in the early 1960s, and by 1966 its rhetoric, demands, and violent tactics had fully developed with the founding of the revolutionary Black Panther Party by activists Huey Newton and Bobby Sealy. Prominent Civil Rights leader Malcolm X along with Robert Williams were among the first to advocate for the use of violence because black voters in the early 1960s still lacked meaningful access to the ballot and were subject to police brutality. The first forms of violence they endorsed were as means to a specific policy end and as a means of self-defense, during which the Revolutionary Action Movement (RAM) formed. It was on the issue of self-defense that two of the previously non-violent, civilly disobedient organizations, SNCC and CORE, joined the politically violent faction. Self-defense against law enforcement quickly escalated to guerrilla warfare against the police. The rising popularity of black power, black nationalism, Marxism/Maoism, and anti-colonialism within the faction intensified its violent tactics and produced calls for violent revolution, which the Black Panther Party articulated and advocated. By the 1970s, the Black Liberation Army (BLA), an underground military organization, sought to make this a reality. Interestingly, this ratcheting up of violence within this faction occurred despite the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965 (see below for citations).

I contend that the politically violent faction's ideological commitments and perception of the state's inadequate and oppressive actions produced a perception among politically violent activists that the state was not only an illegitimate system of governance, but also that the American social contract was illegitimate and needed to be supplanted through violent revolution. First, the politically violent protesters adhered to ideologies that justified the use of

force as a valid means to a just end and concluded that the principles articulated in the American social contract were themselves unjust. Secondly, despite the creation of new social welfare programs and federal legislation aimed at accommodating the movement's demands, the conditions inner-city blacks faced were largely the same (Self, 2003). In this way, this faction viewed the state's responses to the movement's demands and activists as an empty acquiescence that did not have the intended results. What is more, this faction developed new demands that focused on ending police brutality and economic depravity that it believed the state had not sufficiently addressed. This constellation of causes marked a clear point of departure of the politically violent faction from the rest of the movement and drove this faction to reject the civilly disobedients' calls for integration and call for independence instead.

This chapter begins with a brief description of the Civil Rights Movement's emergence in the early 1900s, the set of crises to which it was a response, its early ideological commitments and initial demands. While the specific policy demands and targets of protest evolved throughout the movement's tenure, its central call for full, first-class citizenship remained constant even for the political violent faction, which is why I start my analysis of the movement during the post-Reconstruction Era. The next sections of this chapter explore the protest strategies and tactics for each movement faction, the conditions in which protest strategy escalation occurred, and primary source analysis of movement leaders and activists who explained their perceptions of state actions, their ideological commitments, and their protest strategy decisions. The evidence and analysis presented in this chapter demonstrates how the constellations of causes depicted in the state legitimacy framework produced different kinds of perceptions of state legitimacy and, in turn, divergent protest strategies across the three Civil Rights factions.

## Civil Rights Emergence and Demands

During Reconstruction, African Americans voted, ran for office, held positions on school boards, juries, city councils, and U.S. Congress, enjoyed economic standing comparable to white citizens, and freely exercised the social, political, and economic rights and responsibilities associated with full citizenship (Foner, 1998; Berman, 2015, see also Schmidt, 2016). This enfranchisement of the newly emancipated black community, albeit varied throughout the country and tenuous in the South (see Foner, 1988), proved to be short lived due to several factors. These factors included shifts political coalitions and electoral pressures, white supremacist backlash, the legal codification of segregation, shifts in public opinion, and the federal government's declining power over Southern state practices (Foner, 1998; Klarman, 2004; Berman, 2015). As a result, despite the postbellum constitutional amendments and similar state and local civil rights ordinances, the American state at virtually every level failed to protect the rights extended to African Americans on paper, making these rights essentially null and void in practice (Foner, 1998; Schmidt, 2016). By 1896, Supreme Court of the United States decision in *Plessy v. Ferguson* provided the legal basis for nullifying these rights by declaring the constitutionality of the "separate but equal" doctrine (Klarman, 2004). The decision re-entrenched and expanded Jim Crow laws and practices in the South, which created an alternative legal framework that systematically undermined the rights and recognition connected to citizenship for African Americans.

This resulted in judicial and extra-judicial violence against black bodies that included lynching and denial of due process rights, limits on voting through poll taxes and voter intimidation, regulation to an economic racial caste system with sharecropping, inadequate education for black pupils, and black codes that created separate and unequal private and public

accommodations based on race (Klarman, 2004). The racial violence and discrimination to which the black community was subjected came from both formal state and local laws, the actions of politicians, judges, and law enforcement acting on behalf of the state, and private citizens and white supremacist organizations like the Ku Klux Klan (KKK) and its “reign of terror” against African Americans and their political allies (Foner, 1998; Dulaney, 1993). Taken together, these conditions comprised a comprehensive crisis for African Americans that regulated them to second class citizenship politically, socially, and economically. They were also flagrant violations of the American social contract, specifically its 14<sup>th</sup> and 15<sup>th</sup> Amendments the country had recently ratified to resolve problems that plagued the postbellum black community.

Framing the significant post-Reconstruction problems that the black community faced as violations of the American social contract is appropriate because this reflects the rhetoric the Civil Rights Movement used to frame its demands throughout its decades of mobilization starting the in first decade of the twentieth century. In fact, even though the specific issues and policy demands varied throughout the 20 century, I contend that this consistent framing of rights claims based on the American social contract and the movement’s demands for first class citizenship for black citizens places the emergence of the Civil Rights Movement in the early 1900s, not the 1950s. Scholars like Christopher W. Schmidt (2016) and Doug McAdam (2009) contend that the movement to which we refer as the Civil Rights Movement did not begin until the 1950s with *Brown v. Board of Education*, the bus boycott inspired by Rosa Parks, and the focus on individual rights in African American protests after World War II (McAdam, 2009). Megan Ming Francis (2014), however, demonstrates a continuity between the NAACP’s early twentieth century efforts as an ongoing “struggle for African Americans to gain the right to citizenship (2014: 9),” and the Civil Rights post-World War II mobilization efforts. My analysis

here follows Francis' claims in favor of the long view of the Civil Rights Movement that dates the movement's origins to the late nineteenth century towards the end of the Reconstruction Era.

Therefore, in order to understand the emergence of the Civil Rights Movement and the basis for its demands, it is necessary to examine the two postbellum constitutional amendments around which the movement framed its rights claims and used as a paradigm for state legitimacy.

The 14<sup>th</sup> Amendment, ratified in 1868, reads in part (emphasis added):

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. *No State* shall make or enforce any law which shall abridge the *privileges or immunities of citizens of the United States*; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the *equal protection of the laws*.”

The last Civil War Amendment, the 15<sup>th</sup> Amendment, was ratified in 1870 and states: “1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. 2. The Congress shall have power to enforce this article by appropriate legislation.” Both of these amendments were written to extend the rights of citizenship to former slaves and other people of color, to express that states were responsible to protect these rights, and to ensure that Congress had the power to enforce the provisions in the post-bellum amendments. Furthermore, the phrases in the Fourteenth Amendment like “life, liberty, or property,” and “due process of law” echo language in both the Declaration of Independence and Bill of Rights and enumerate the specific rights of citizenship and the responsibilities they place on the state to affirm such rights. Other phrases like “no state,” “privileges or immunities of citizens,” and “equal protection of the laws” add a new dimension to these pre-existing constitutional rights by compelling states to protect rights and explicitly extending equal protection to citizens regardless of race.

Furthermore, the language of these amendments, specifically the second clause of the 15<sup>th</sup> Amendment, gives the federal government authority to enforce these rights and provides recourse for states and localities that violate these rights.

The Niagara Movement, a vital precursor organization to the NAACP, was established in 1906 and articulated many of the problems and demands that became central to the Civil Rights Movement throughout the rest of the century. W.E.B Du Bois., a professor, prolific author, and intellectual who later became a key Civil Rights Movement leader gave a speech during a Niagara Movement convention held at Harper’s Ferry,<sup>80</sup> West Virginia on August 16, 1906. In his speech he outlined the problems and demands that would become central to the Civil Rights Movement. First, he claimed:

“We will not be satisfied to take on jot or tittle less than our full manhood rights. We claim for ourselves every single right that belongs to a freeborn American, political, civil, and social: and until we get these rights we will never cease to protest and assail the ears of America. The battle we wage is not for ourselves alone but for all true Americans. It is a fight for ideals, lest this, our common fatherland, false to its founding, become in truth the land of the thief and the home of the slave...”<sup>81</sup>

Next, Du Bois outlined the movement’s demands, saying: “In detail, our demands are clear and unequivocal. First, we would vote; with the right to vote goes everything: freedom, manhood, the honor of your wives, the chastity of your daughters, the right to work, and the chance to rise, and let no man listen to those who deny this.” Third, Du Bois went on to list the rest of the black community’s demands, which included access to public accommodations, freedom in public, the equal enforcement of laws, and education for their children.

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<sup>80</sup> Recall this is the location where John Brown, icon of the Abolitionist Movement, attempted to lead a slave revolt in 1859. The Niagara Movement selected the location for their conference based on this historical event. (See Abolitionist Movement Chapter)

<sup>81</sup> 11: “We Claim Our Rights,” Du Bois, Niagara Movement, Harper’s Ferry, WV, Aug. 16, 1906. Printed in: Foner, Philip S., editor. *W.E.B. Du Bois: Speeches and Addresses*, 1890-1919. Pathfinder Press: New York, 1970.

Finally, Du Bois expressed the movement's commitment to non-violence:

“We do not believe in violence, neither in the despised violence of the raid nor the lauded violence of the soldier, nor the barbarous violence of the mob, but we do believe in John Brown, in the incarnate spirit of justice, that hatred of a lie, that willingness to sacrifice money, reputation, and life itself on the altar of right.”<sup>82</sup>

What is worth noting about these excerpts of Du Bois' address to the Niagara Movement is his characterization of the state of African American rights, the relation of those rights to the American founding, the demands he makes on behalf of the black community, and his commitment to non-violence. Furthermore, his rights claims align with specific clauses of the American social contract, like the right to vote (15<sup>th</sup> Amendment), “the chance to rise,” i.e., the pursuit of happiness (Declaration and 14<sup>th</sup> Amendment), and the “every single right” of American citizenship (14<sup>th</sup> Amendment).

Despite the efforts of the Niagara Movement, African Americans still faced discriminatory state practices with the continuation of black codes, Jim Crow, and a lack of due process rights as well as suppression and violence from non-state actors, the worst of which was mass mob lynching that primarily targeted black men (Wright, 1993; Klarman, 2004; Francis, 2014; Kirchke, 2014). The violence against black bodies reached a boiling point on August 14, 1908, the day a race riot broke out in Springfield, Illinois, that left two people lynched, led to 2,000 African Americans fleeing the city, and took over 4,000 militiamen two days to quell (Francis, 2014: 3). In the aftermath of the race riot, members of both the white and black communities met during a convention in 1909 to discuss how to combat racial violence and the continued and systematic violation of African American rights. The goal of the 1909 convention,

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<sup>82</sup> 11: “We Claim Our Rights,” Du Bois, Niagara Movement, Harper's Ferry, WV, Aug. 16, 1906. Printed in: Foner, Philip S., editor. *W.E.B. Du Bois: Speeches and Addresses*, 1890-1919. Pathfinder Press: New York, 1970.

like that of previous Civil Rights organizations, according to Civil Rights leader William English Walling, was “to establish a relation between organizations already in existence as well as among individuals who, while working for the colored population primarily in some other direction, were also firmly decided to stand for the Negro’s political and civil rights.”<sup>83</sup>

During the NAACP’s founding convention in 1909, newly emerging Civil Rights leaders and activists articulated a set of demands that clearly called for the enforcement of the postbellum amendments that had extended the protections and privileges afforded to citizens to African Americans, at least on paper. Those demands, which the conference described as the “first and immediate steps” are as follows:

- “1. That the Constitution be strictly enforced and the civil rights guaranteed under the Fourteenth and Fifteenth Amendment be secured impartially to all,
2. That there be equal educational opportunities for all and in all the states, and that public school expenditure be the same for the Negro and the white child,
3. That in accordance with the Fifteenth Amendment the right of the Negro to the ballot be on the same terms as other citizens be recognized in every part of the country.”<sup>84</sup>

A key component of the 1909 convention, besides its demands and plan to achieve its demands, was the attendees’ commitment to integration between the white and black communities. More specifically, the dominant topics of discussion included uniting white and black labors around their common interests, work for economic and social justice for all races, and to bring about a new, inclusive political system and social order for all races and classes (Carle, 2013: 256). This and other calls for integration from Civil Rights leaders over the course of the century only come from movement leaders who rejected the use of violence for the cause.

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<sup>83</sup> Printed in: Carle, Susan D. *Defining the Struggle: National Organizing for Racial Justice, 1880-1915*. Oxford University Press: New York, 2013, pg. 252.

<sup>84</sup> Printed in Carle, Susan D. *Defining the Struggle: National Organizing for Racial Justice, 1880-1915*. Oxford University Press: New York, 2013, pg. 259.

There is a fairly obvious logic to this way of thinking. If a group wanted to change the current political, social, and economic order in ways that do not dismantle those systems but rather alter them so they are more inclusive, it makes sense that that group would not turn to violence as a means of integration because violence is usually seen as a way to destroy systems, not fix them. This indicates that the NAACP still had faith in the current systems despite some key systematic failures. The organization's calls for the enforcement of the U.S. Constitution also supports this claim. In this way, those who advocated for integration found the current political system as legitimate even though its positions and actions were not because no one would call to be integrated into a system that could not be salvaged. The Civil Rights Movement's calls for full integration into the American state, society, and economy remained a constant central theme for both its peaceful, lawful and civilly disobedient movement factions while its politically violent faction called for independence.

### **Peaceful, Lawful Protest Strategy: Pre-WWII Moral and Legal Suasion**

The NAACP's 1909 founding convention, which marked the beginning of the Civil Rights Movement, laid out the movement's central purpose of actualizing full citizenship for African Americans, outlined specific policy demands that the convention's participants saw as the "first and immediate steps" towards this purpose, and articulated the rationale behind and explanation of the movement's peaceful, lawful protest strategy. As stated above, the new movement's first priority was the enforcement of the 14<sup>th</sup> and 15<sup>th</sup> Amendments that extended specific rights of citizenship to the black community, such as the right to life (a civil right in both the Declaration and 14<sup>th</sup> Amendment), "equal education opportunities," and the right to vote (see the conference demands above). Civil Rights leaders believed that one reason these demands

remained unfulfilled was because of public ignorance on the subject, so they thought that the first step should be to convince the public to support its cause.

They hoped that a rise in public support for the movement's demands would put sufficient pressure on the state to enforce its own constitutional rights. Therefore, similar to the Abolitionist and Prohibition Movements that preceded it, the Civil Rights Movement's first mobilization efforts focused on the peaceful, lawful moral suasion approach. Bishop Walters, the chair of the 1909 convention, explained the movement's moral suasion strategy, saying: "the need of the hour is the creation of a healthy public sentiment in favor of the enforcement of the 14<sup>th</sup> and 15<sup>th</sup> Amendments to the federal Constitution. We should hold public meetings in different sections of the country, and have the best-informed men... prepare papers and discuss subjects bearing on the problem."<sup>85</sup> Walters also proposed that the NAACP print its own publications and create a lecture bureau (Carle, 2013: 258), comparable to the Abolitionists' mailing campaign and Prohibitionists' dry rallies (see prior chapters).

The problem of lynching disproportionately affected black men and was a clear violation of the right to life and due process became one of the first issues to which Civil Rights Movement applied its moral suasion tactics. Lynching not only denied the right to life, a fundamental right of citizenship articulated in the Declaration of Independence and affirmed in the 14<sup>th</sup> Amendment, but also due process rights guaranteed by the 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> Amendments. Throughout Reconstruction and into the first half of the twentieth century, one of the most egregious and immediate problems was the persistence of extrajudicial lynchings that, in many cases, were not only ignored by the state but often facilitated by the state (Bermanzohn, 2000). Black men were the targets of a vast majority of all lynchings, some of which happened

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<sup>85</sup> Printed in: Carle, Susan D. *Defining the Struggle: National Organizing for Racial Justice, 1880-1915*. Oxford University Press: New York, 2013, pg. 258.

spontaneously, others of which occurred outside of courthouses. According to the Tuskegee Institute, there were “at least 3,442 lynchings from 1882 to the 1950s. It has been calculated that between 1890 and 1919, 1,748 black men, women, and children were lynched by whites, roughly one every six days (Kirchke, 2014: 55).”

Ironically, a negative consequence of freeing all the slaves was that black bodies were liberated from not only enslavement and but also the legal protection that corresponded with being another man’s property (Rushdy, 2012). This resulted in white mobs falsely accusing black men of crimes, typically sexual in nature, and often times taking the law into their own hands by mutilating and lynching black men (Klarman, 2004; Rushdy, 2012). In some cases, these extrajudicial lynchings occurred in defiance of formal political institutions attempting to reassert the rule of law on behalf of black victims. The practice of lynching in America, dating back to the revolution, also signified the denial of American citizenship and status as those who were not considered Americans were subject to lynching (Rushdy, 2012). As such, lynching represented both the literal and symbolic denial of citizenship and the basic human right to life.

The NAACP launched its anti-lynching moral suasion campaign by producing and circulating its own monthly magazine called *The Crisis*, which was first published in November 1910 and included a series of informative articles, essays, and cartoons meant to inform the public on the horrors of lynching and persuade the people to support anti-lynching measures and legislation (Kircke, 2014). A common way the publication references religion was in its portrayal of lynched African American men as being Christ-like. One cartoon showed a lynched black man with the image of Christ behind him, under which was inscribed, “Inasmuch as ye did it unto the least of these, My brethren, ye did it unto Me.” Another cartoon depicted a black Christ figure lynched with a cross outline in the background, a black Mother Mary at the foot of

the cross, and an inscription that said “Crucified, Murdered, Lynched.” A second type of image, patriotic images, depicted lynched African Americans as the true patriots and argued that lynching was un-American since it circumvented the rule of law. I contend that this frame illustrates the movement’s desire for integration of the black community into the polity once the state and society fully recognized black citizenship. Those who express this sentiment do so because they believe the state, while flawed, is still legitimate and capable of necessary change. (Kircke, 2014: 55).

Along with these cartoons and real images of lynching, the publication also provided statistics on lynching and other heinous, violent crimes against African Americans as well as essays from Civil Rights leaders and activists (Kircke, 2014). One essay from the 1930s argued: “Lynching can and will be eliminated in proportion as all elements of the population are provided opportunities for development and are accorded fundamental human rights... For, fundamentally, lynching is an expression of a basic lack of respect both for human beings and for organized society” (Kirchke, 2014: 69). This remark indicates that the Civil Rights Movement saw lynching as a violation not only of the American social contract but the spirit of the very idea of a social contract or civilized order, placing African Americans in a near state of nature condition.

Du Bois authored several of these essays, and in one published in a 1916 edition of *The Crisis*, he explained the movement’s moral suasion tactics that began to morph into legal suasion tactics. He wrote: “We place frankly our greatest reliance in publicity... Then we shall try to convict lynchers in the courts; we shall endeavor to get better sheriffs and pledged governors; we shall seek to push laws which will fix the responsibility for mob outbreaks, or for the failure to suppress them; and we shall ask the national government to take cognizance of this national

crime.”<sup>86</sup> Du Bois also distinguished between bad actors within the current political system and the system itself and advocated for the movement to use the power of the state to meet its demands. Congruent with the cartoons that depicted African Americans as patriots, these calls for institutional activism is indicative of the movement’s belief in a legitimate state that could fulfill its social contract responsibilities if properly aligned.

Du Bois’ calls for legal suasion were fitting since, like Abolitionists’ pleas for slaveholders to repent and free their slaves and Prohibitionists’ pushing pledges for individuals to abstain from alcohol and save their souls, early Civil Rights efforts to win over the public via moral suasion were largely ineffective (Francis, 2014). As a result of the continued lynching of black men and the persistent apathy of the general public on the issue, Civil Rights activists focused more on seeking formal redresses for their grievances by turning their attention to lobbying Congress, petitioning the president, and litigating cases through the federal court system (Francis, 2014) since, as Ida B. Wells-Barnett, a Civil Rights leader, remarked, “lynching is color-line murder ... (and) it is a national crime and requires a national remedy” (Bermanzohn, 2000: 32). In 1921, the NAACP turned its attention to the U.S. Congress and commenced a lobbying campaign to pass a national anti-lynching bill, but by the time the House passed an anti-lynching bill and sent it to the Senate the Southern Democrats filibustered the measure, which effectively killed all three anti-lynching bills. The fact that no president from the 1920s to 1940 came out in support of anti-lynching legislation also lessened the chance of passing such a bill in both chambers. (Bermanzohn, 2000; McAdam, 2009; Francis, 2014).

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<sup>86</sup> Printed in: Amy Helene Kirchke, “Art in *Crisis* during the Du Bois Years.” Protest and Propaganda: W.E.B. Du Bois, *The Crisis*, and American History.” Amy Helene Kirschke and Phillip Luke Sinitiere, editors: University of Missouri Press: Columbia, 2014, pg. 60.

The movement continued its institutional approach and pivoted to the courts to engage in what I call *litigative* legal suasion. Civil Rights leader Oswald Garrison Villard proposed that the NAACP engage in fundraising to “have at its (the NAACP’s) disposal sufficient money to employ the highest legal talent obtainable and to pay the heavy cost of carrying up to the Supreme Court case after case,” in order to bring about the enforcement of the Fourteenth and Fifteenth Amendments. Villard believed that the Supreme Court would be “compelled to decide whether there shall be two degrees of citizenship in this country,”<sup>87</sup> and based on his commitment to pursuing legal suasion, it is clear Villard believed these court decisions would elevate African Americans to first-class citizenship. This use of legal suasion resembles the Prohibition Movement’s local option campaign and the Abolitionist Movement’s petitions on ending the slave trade and freeing the slaves. Also, like these two previous movements, the Civil Rights Movement engaged in a peaceful, lawful protest strategy that included both moral and legal suasion (see McAdam, 2009 for moral suasion reference), although the movement focused more on the former during its initial mobilization efforts.

To combat this continued denial of due process rights for African Americans, the NAACP engaged another kind of legal suasion by litigating cases through the court system, several of which reached the Supreme Court. Some of the most consequential cases include: *Moore v. Dempsey* (1923) that determined mob-dominated trials are in violation of the defendant’s due process rights; *Powell v. Alabama* (1932) that bolstered a defendant’s right to legal council by applying the 14<sup>th</sup> Amendment; *Brown v. Mississippi* (1936) that declared confessions extracted from torturing the accused were invalid; and *Norris v. Alabama* (1935) that

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<sup>87</sup> Printed in: Carle, Susan D. *Defining the Struggle: National Organizing for Racial Justice, 1880-1915*. Oxford University Press: New York, 2013, pg. 258.

overturned convictions in which blacks were barred from serving on juries (Klarman, 2004: 99, 117). That being said, in many cases, like that of blacks being selected for jury service, states and localities still found creative ways to resist implementing Supreme Court rulings, a theme that continued after World War II (see Klarman, 2004).

When the Civil Rights Movement realized that its litigative legal suasion tactics were more effective than its other approaches, it turned to legal action on access and equality in education, another issue prioritized in the NAACP's founding statement.<sup>88</sup> Segregation in education and woefully inadequate funding, protection, and even the existence of black schools proved to be a problem through the post-Reconstruction era and the first two-thirds of the twentieth century (Klarman, 2004). For Du Bois, education was a way for individual African Americans to resist racial subjugation that would lead to both economic and social second-class citizenship.<sup>89</sup> Furthermore, Du Bois believed that equal access to education would be necessary to move even further away from the system of slavery and the racial caste system of Jim Crow.<sup>90</sup> Civil Rights leader and lead legal strategist for the NAACP Charles Houston summarized the movement's protest strategy and tactics as well as the rationale behind calls for educational integration in an essay titled "Educational Inequalities Must Go!" published in the October 1935 edition of *The Crisis*. He wrote:

"The NAACP proposes to use every legitimate means at its disposal to accomplish actual equality in education for Negroes. A legislative program in

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<sup>88</sup> "2. That there be equal educational opportunities for all and in all the states, and that public school expenditure be the same for the Negro and the white child," Printed in Carle, Susan D. *Defining the Struggle: National Organizing for Racial Justice, 1880-1915*. Oxford University Press: New York, 2013, pg. 259.

<sup>89</sup> Printed in: Foner, Philip S., editor. *W.E.B. Du Bois: Speeches and Addresses, 1890-1919*. Pathfinder Press: New York, 1970, pg. 172.

<sup>90</sup> For Du Bois and other Civil Rights leaders and activists, education was a way to uplift the black community in ways that the rest of society would recognize and respect. In the June 1912 edition of *The Crisis*, Du Bois stated: "Never forget that if we ever compel the world's respect, it will be by virtue of our heads and not our heels."<sup>90</sup> Printed in: Amy Helene Kirchke, "Art in *Crisis* during the Du Bois Years." *Protest and Propaganda: W.E.B. Du Bois, The Crisis, and American History.* Amy Helene Kirschke and Phillip Luke Sinitiere, editors: University of Missouri Press: Columbia, 2014, pg. 90.

being formulated. Court action has already begun... Activity in politics will be fostered due to the political set-up of and control over public school systems. The press and the public forum will be enlisted to explain to the public the issues involved and to make both whites and Negroes realize the blight which inferior education throws over them, their children, and their communities.”<sup>91</sup>

Here Houston outlined the same moral and legal suasion strategies the movement utilized during its anti-lynching campaign, which focused on engaging the public and formal political institutions to meet movement demands. Also of note here is that Houston characterized the movement’s protest strategy as entailing “every *legitimate* means at its disposal,” which supports the claim that even into the late 1930s, the Civil Rights Movement relied on a peaceful, lawful protest strategy even as it shifted its attention from lynching and voting to education. Comparable to the NAACP’s approach to criminal procedure outlined above, the movement’s central organization focused on legal suasion by litigating cases on racial discrimination in public education in both state and federal courts. These litigative efforts on education before World War II were significant in that the courts formally recognized the state and effects of racial discrimination but proved limited in their impact since they were easily undermined by states and localities exploiting loopholes in court rulings in favor of the NAACP’s clients (see Klarman, 2004: 160-163; Wright, 1993).

A third issue the NAACP prioritized during its founding convention was the reinforcement of the 15<sup>th</sup> Amendment, which, since its ratification in 1870, had yet to enfranchise all black men. During Reconstruction, some states like Delaware, Tennessee, and Maryland placed restrictions on voting that intentionally kept African Americans from voting (Foner, 1998) like poll taxes, grandfather clauses, and literacy tests (Klarman, 2004). Non-state

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<sup>91</sup> Charles Houston, ‘Educational Inequalities Must Go!’ *Crisis* (Oct 1935), pp. 300-301. Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992.

actors were also responsible for the blowback against black voters. In 1868, the first year African Americans voted in Arkansas, the KKK unleashed a “reign of terror” in response to black enfranchisement, specifically targeting the black community and those found in sympathy with black voters (Foner, 1998; Dulaney, 1993). Economic reprisals, threats and violence against black voters became common in southern states. (Berman, 2015: 16-17).

The right to vote was more than a symbol of citizenship and manhood (see Du Bois’ statement above<sup>92</sup>), or ends in and of themselves, but also was a means to access the political system and gain other political goods. To start, due to their disenfranchisement, blacks were barred from juries, which were far more unjustly punitive against black defendants, and black Americans lost funds for their public schools because voter rolls determined both jury summons and public school funding allocations (Klarman, 2004: 33). Furthermore, as Max Barber, the editor of the African American publication, *Voice of the Negro*, explained during the NAACP’s 1909 founding convention: “you will give a man the right to vote.... (and) he will see that the proper man goes to Congress, a man who will see that American citizens are protected in their rights, then you will get these other things.” Enfranchisement as well as “these other things” would have to wait. There were a handful of cases in which the Supreme Court stepped in and invalidated white primaries such as in *Nixon v. Herdon* (1927) and *Nixon v. Condon* (1932); however, both rulings were largely ignored in practice. The two early cases on poll taxes, *Williams v. Mississippi* (1898) and *Breedlove v. Suttles* (1937), did not meaningfully affect African American’s access to the ballot box, as both focused on poor white voter disenfranchisement (Klarman, 2004: 135, 158, 141). Like segregation in education, African American disenfranchisement remained inadequately addressed prior to WWII.

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<sup>92</sup> “We will not be satisfied to take on jot or tittle less than our full manhood rights.” (see section on movement emergence and demands)

In each of these campaigns, the NAACP remained committed to a peaceful, lawful protest strategy that primarily relied on moral and legal suasion protest tactics (Wehr, 1968), much like the early Abolitionist and Prohibitionist protests. The movement engaged exclusively in peaceful, lawful protests because Civil Rights leaders and activists believed that the political system and the state itself was legitimate, as reflected in the movement's mobilization against the incongruence between state actions and its principles, and specifically the terms of equal citizenship. This is evident in both the movement's calls for integration and engagement with formal political channels, both of which require faith in the system and its governing contract. Also, while Abolitionists invoked divine law as superior to earthly laws, which provided early ideological justifications for their protest strategy escalation, this does not appear to be the case with Civil Rights activists. Instead, most of the movement's arguments relied on constitutional arguments, which is consistent with its litigative legal suasion approach.

With this approach Civil Rights Movement was able to garner some positive attention from state actors, namely the courts, on some of their demands to some degree, which demonstrated that at least part of political system was willing to consider the movement's demands (Klarman, 2004; Francis, 2014) and to regard its activists as legitimate political actors. While it certainly is going too far to say that the state responded positively and consistently to the movement's demands throughout the first half of the twentieth century, the Civil Rights Movement did make some gains in regards to criminal procedure and education that indicated that the movement's legal suasion protest tactic had potential. However, these incremental gains compared to the comprehensive slate of Civil Rights demands seemed to highlight the lack of state action and the institutional roadblocks to African Americans achieving their goal of first-class American citizenship. In some ways, these narrow, formal victories resemble the

Prohibitionists' push for local dry laws in the 1840s and 1850s, even though the Civil Rights Movement had a more comprehensive slate of demands that tied directly to rights explicit in the American social contract while the Prohibitionist Movement did not. Likewise, state's slow and uneven positive responses to the Civil Rights Movements' demands along with America's involvement in World War II set the stage for new, more aggressive peaceful, lawful acts of protest.

### **Peaceful, Lawful Protest Strategy: Post-WWII Legal Suasion and Tactical Escalation**

The United States participated in two world wars over the course of the Civil Rights Movement, both of which the country sold to the American people as wars to defend and extend democratic principles. During World War I (WWI) and World War II (WWII), the irony of America fighting for democracy abroad while denying full citizenship to African Americans, and using black soldiers to do so, was not lost on Civil Rights leaders and activists. In response to President Wilson selling the nation's involvement in the First World War as a necessity to "make the world safe for democracy," black journalist William Monroe Trotter fired back and said America should instead prioritize "making the South safe for the Negroes (quoted in Klarman, 2004: 104)." In short, WWII and its aftermath emboldened Civil Rights activists, many of whom were WWII veterans and brought international attention and pressure primarily through the UN on the American state and society to accommodate the Civil Rights Movement's demands. This created some allies in the federal government who recognized America's hypocrisy in its treatment of its black citizens. While some of the new Civil Rights allies in government were more reluctant than others, the new sense that "the world is watching" the American state's ill-treatment of African Americans elicited some positive state responsiveness in regards to the

movement's demands (see McAdam, 2009). Of course, like the pre-WWII court cases and other efforts of the federal government to accommodate Civil Rights demands, state and local governments as well as white supremacist citizens and elected officials resisted many of these efforts.

Interestingly, despite their exclusion from full American citizenship, many African Americans still supported the war effort and launched what they called a Double Victory (or Double V) campaign, which called for victory over fascism in Europe and victory over racism in America. The Double V campaign continued the pre-WWII Civil Rights efforts to extend the full rights and recognition to African Americans and focused on some of the same issues, like voting and education and remained committed to a peaceful, lawful protest strategy. However, during this new stage of Civil Rights activism, the movement became more critical of the American state, framed its grievances in both national and international terms, and some of its leaders and members began to engage in more aggressive peaceful, lawful protest tactics. For example, 94 African Americans signed and submitted a petition titled *We Charge Genocide* to the UN in 1951 (Bermanzohn, 2000: 32). The NAACP also submitted a document titled "An Appeal to the World: A Statement on the Denial of Human Rights to Minorities in the Case of Citizens of Negro Descent in the United States of America and an Appeal to the United Nations for Redress" to the UN Commission on Human Rights in 1947. Although the appeal did little more than embarrass the U.S. on the eve of the Cold War (Parker, 2009:49), these and other examples of international institutional rights claiming demonstrate the movement's continued commitment to work within multiple formal political channels during the 1940s and 1950s in its efforts to enforce the American social contract.

America's re-articulation of human rights and the principles within its own social contract within the international community shaped how the Civil Rights Movement framed its demands at home, as well. For instance, the American state's valorization and exportation of democracy during the Cold War inspired some Civil Rights leaders to equate their fight against Jim Crow as comparable to America's fight against the oppressive Soviet bloc. NAACP lawyer Houston echoes this sentiment when he exclaimed, "a national policy of the US which permits disenfranchisement of coloured people in the South is just as much an international issue as the question of free elections in Poland (from McAdam, 2009: 66-67)." The Double Victory campaign also reinvigorated what Civil Rights activist Lee Finkler called the movement's "traditional methods of protest such as lobbying committees, letter writing campaigns, and appeals to the courts and the executive branch (Newman, 2004: 39)" while it simultaneously inspired more disruptive, extra-institutional forms of protest like picketing, demonstrations, and boycotts.

After the war, the NAACP agreed with Finkle's endorsement of the "traditional methods of protest" and continued with its litigious legal suasion strategy and focused on expanding its limited, precarious pre-war victories to undermine segregation in education. By the 1950s, the organization pivoted from post-secondary education to high school and primary education. This led to the NAACP's most famous court victory, *Brown v. Board of Education of Topeka*, the unanimous 1954 Supreme Court decision delivered by Chief Justice Earl Warren that reads in part:

"We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of equal protection of the laws guaranteed by the 14th

Amendment. This disposition makes unnecessary any discussion whether such segregation also violates the Due Process Clause of the 14th Amendment.”<sup>93</sup>

*Brown* is a landmark court decision for several reasons, first of which is that it reversed the *Plessy v. Ferguson* (1896) court ruling that established the “separate but equal” doctrine that lent legal credulity to Jim Crow laws and practices. Secondly, it finally affirmed the Civil Rights Movement’s demands for the full enforcement of the 14<sup>th</sup> Amendment and equal opportunities in education for African American children. Thirdly, the ruling paved the way for meaningful policy changes in education, although these changes were met with opposition and resistance by state and local leaders.

My explanation of *Brown*’s significance is not to overstate its accomplishments nor deny that the decision in and of itself was incapable of enacting changes in policy without the support of other political actors like Congress and President Eisenhower.<sup>94</sup> However, Klarman (2004: 366) contends that Congress would likely not have passed the Civil Rights Act of 1957 without *Brown*, an act that paved the way for federal judicial investigation in black voter disenfranchisement (Newman: 2004, 75). A similar argument could be made for the Civil Rights Act of 1960 that gave legislative teeth to the court’s school desegregation stance (Newman: 2004). The executive branch also bolstered the Supreme Court’s efforts to dismantle the separate but equal doctrine in public education with arguments that illuminate the role of international pressure on the federal government. When President Eisenhower sent the National Guard to

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<sup>93</sup> Supreme Court of the United States, *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), Opinion delivered by Chief Justice Earl Warren. Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992.

<sup>94</sup> For more on this topic, see Rosenberg, Gerald. 2008. *The Hollow Hope: Can Courts Bring About Social Change?* Chicago: University of Chicago Press. 2nd ed. and McCann, Michael W. “Reform Litigation on Trial.” *Law and Social Inquiry*, Oct. 1992, Vol. 17(4), pp. 715-743.

Little Rock, Arkansas in 1957 to enforce the desegregation of Little Rock High School (Newman: 2004), he said “This challenge (re: Little Rock) must be met and with such measures as will preserve to the people as a whole their lawfully protected rights in a climate permitting their free and fair exercise.” He then remarked that “Our enemies are gloating over this incident and using it everywhere to misrepresent our whole nation. We are portrayed as a violator of those standards of conduct which the people of the world united to proclaim in the Charter of the United Nations.”<sup>95</sup> This statement demonstrates the role that international pressure due to American hypocrisy played in persuading some elected officials to enforce the American social contract.

While the NAACP worked within institutional channels to codify its demands into court rulings with the hope of altering the state’s racially discriminatory practices, other Civil Rights activists engaged in extra-institutional acts of protest to pressure the system into good faith negotiations. These new form of “more aggressive moral suasion” (McAdam, 2009) included public marches and demonstrations, picketing, and boycotts (Newman, 2004; McAdam, 2009), all of which reflected an emboldened spirit within the movement, a more definitive public presence, and a greater sense of the collective social and economic power of the black community. I suggest that this intensified form of moral suasion parallels the Prohibitionists’ postbellum tactical escalation, both of which reflect a belief that the state was willing and capable of accommodating both movements’ demands but lacked the sufficient pressure and incentives to do so. Like prior efforts, these new tactics evoked violent backlash from both state and local officials as well as private citizens and varied in their success of bringing about changes in policies and practices. The Montgomery Bus Boycott of 1955 is considered the most

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<sup>95</sup> President Dwight D. Eisenhower, “Address on Little Rock,” Sept. 25, 1957. Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992, pp. 47-48.

high-profile and successful application of this moral suasion tactical escalation and for some (McAdam, 2009) the beginning of the modern Civil Rights Movement.

The Montgomery Bus Boycott of 1955 originated on December 1, 1955, when Rosa Parks, an African American woman, refused to give up her seat on a city bus so a white man could take it, which violated the state's segregation laws for public transportation. The incident resulted in her Parks' arrest and inspired Montgomery's black community to boycott public busses. The Women's Political Council circulated a leaflet that outlined the rationale behind the boycott and organized the collective action. The leaflet read in part, "...Negroes have rights, too, for if Negroes did not ride the buses, they could not operate. Three-fourths of the riders are Negroes, yet we are arrested, or have to stand over empty seats. If we do not do something to stop these arrests, they will continue... We are, therefore, asking every Negro to stay off the buses Monday in protest of the arrest and trial... Please stay off all buses on Monday."<sup>96</sup> I suggest that the bus boycott, in which Montgomery's black community refused to participate in part of the system of racial oppression and intentionally created a city-wide disturbance, is more aggressive than circulating written material and arguing cases in courtroom. Of course, there is nothing unlawful or violent about the Women's Political Council's calls for African Americans to "stay off all buses," particularly since this did not include calls to disregard desegregation policies in public transportation, so this tactic, while more aggressive than the movement's moral and legal suasion campaigns, is still lawful and peaceful.

A new Civil Rights leader emerged in Montgomery, Rev. Martin Luther King, Jr., who also explained the tactics used during the bus boycott by saying: "not only are we (African

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<sup>96</sup> Women's Political Council, "Leaflet" Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992

Americans) using the tools of persuasion—but we’ve got to use the tools of coercion (quoted in Bermanzohn, 2000: 43).” King and other protesters sought to wield the collective economic power of the black community in the city as leverage in their negotiations with white city leaders (Bermanzohn, 2000), which indicates that these activists not only desired specific policy changes but also status as legitimate political actors in the policymaking process. This affirms Oberschall’s (1973) observation that being able to engage in good faith negotiations is an important aspect of recognition not only for a movement’s demands but also for its members. What is more, this peaceful, lawful coercive tactic is comparable to the Prohibitionists’ ASL pressure politics, another form of tactical escalation. After a year of a sustained boycott, the U.S. Supreme Court finally deemed segregation in Montgomery’s public transportation unconstitutional (McAdam, 2009).

The analysis here of two high-profile and successful examples of the Civil Rights Movement’s post-WWII institutional and extra-institutional acts of protest are noteworthy for three seemingly contradictory reasons. First, while both groups of activists adopted rhetoric that was more critical of the state, they still desired to be a part of the American state and society, which is evident in their continued calls for full, first-class citizenship for African Americans. This indicates that the movement in general still had faith in the state’s legitimacy because, as stated before, one would not desire membership in a system that could not be redeemed. Secondly, the NAACP’s litigious legal suasion approaches and the Montgomery bus boycott demonstrated that, given sufficient political pressure both federal and local governments could capitulate to the movement’s demands to some extent. Thirdly, these incremental victories, while not insignificant, were hard fought, met with forceful opposition, and had yet to bring about the full first-class citizenship for African Americans that the movement sought.

As such, the government's limited positive response to the movement's relatively narrow policy demands that not only generated backlash that re-entrenched Jim Crow policies in the South but also failed to accommodate the movement's core demand, the meaningful recognition of African American citizens, revealed the government's unwillingness to dismantle the entire system of racially discriminatory, unjust laws. This lukewarm (at best) state response to both the movement's demands and its activists created a movement fracture by the end of the 1950s. Some Civil Rights leaders and activists saw this slow pace of progress as proof of the long-term efficacy of their moral suasion and litigative legal suasion efforts. Others like King interpreted the lack of state action as a policymaking, not systematic, state failure that would require more than courtroom victories to remedy. In 1960, a civilly disobedient Civil Rights Movement faction emerged and engaged in even more aggressive "tools of coercion."

### **Civil Disobedience**

On February 1, 1960, students staged a sit-in at a lunch counter in F.W. Woolworth's in Greensboro, North Carolina in violation of segregation laws and inspired mass sit-ins across the country (Wehr, 1968; Bermanzohn, 2000; Russell and Lamme, 2013; Nimitz, 2016). Within four months black and white Civil Rights student activists had staged sit-ins in 78 communities in the South (McAdam, 1997: 346). While Civil Rights protesters had used civilly disobedient sit-ins before (see Morris, 1981 for the sit-ins of 1857, also cited in McAdam, 1977; and Mabee, 1961 on Rustin's 1940s sit-ins), the student sit-ins at lunch counters in 1960 became a more common civilly disobedient tactic among Civil Rights organizations like the Southern Christian Leadership Conference (SCLC), the Student Nonviolence Coordinating Committee (SNCC), and the Congress for Racial Equality (CORE) because of more effective inter-organizational

communications networks (McAdam, 1997). Like the bus boycotts of the 1950s, the sit-ins were intended to create increased disruption in department stores that activists hoped to use as leverage to desegregate private businesses and accommodations. However, this increased disruption also served as an unequivocal critique of unjust desegregation and discrimination laws and practices. Sit-ins did, in fact, increase disruption and resulted in angry mobs chasing activists down streets, beating up those they could catch (McAdam, 1997).

These acts of civil disobedience did not remain isolated to lunch counters at department stores. Activist Slater King expressed the movement's broad vision of reform with the following: "The aim of the organization (here, the Albany Nonviolent Movement) is to totally desegregate all city facilities and secure equal educational and economic opportunities for every citizen."<sup>97</sup> In the summer of 1961, civilly disobedient Civil Rights protesters turned their attention to segregation in interstate transportation, a practice that the Supreme Court had deemed unlawful in 1946, although legal changes in state and local ordinances remained to be seen. CORE Director James Farmer explained that the "intention was to provoke the Southern authorities into arresting us and thereby prod the Justice Department into enforcing the law of the land." After several desegregated freedom rides that included both black and white protesters ended in violent attacks from mobs, busses being set on fire, and protesters being arrested and jailed, the Justice Department sought protection for riders against attacks from segregationists in the federal courts and Robert Kennedy deployed 600 marshals to protect Montgomery bus riders (McAdam, 1997).

By the end of September, Farmer's plan had worked and the Kennedy Administration ordered the desegregation of interstate travel. According to CORE, this victory was about more

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<sup>97</sup> Slater King, "The Bloody Battleground of Albany," *Freedomways* (Winter 1964), pp. 93-101. Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992.

than altering transportation policies. In a paper titled “All About Core,” the organization explained: “The Freedom Rides eventually desegregated 120 interstate bus terminals. But more important, they showed that non-violent action worked in the fight against racial discrimination even in the deepest part of the South. The Rides, like the sit-ins before them, demonstrated that anyone who opposed segregation—student, housewife, laborer—could drive a nail in the coffin of Jim Crow. They spurred the rapid spread of civil rights activity throughout the South and the entire country.”<sup>98</sup> In other words, the pragmatic argument for civil disobedience was its effectiveness, and, ironically, activists disobeying unjust laws peacefully in the face of violence garnered public support, much like the peaceful Abolitionists under attack in the 1830s. Furthermore, compared to litigious legal suasion, civil disobedience was a relatively accessible protest strategy for those who demanded desegregation<sup>99</sup> and represented a partial shift in the Civil Rights Movement from the courthouse to the private and public accommodations that shaped the African American’s everyday life.

Civily disobedient leaders recognized that the contrast between their peaceful, albeit unlawful, demonstrations and the violent backlash from state and local authorities and white supremacist mobs to which activists were subjected could increase public outrage and pressure the federal government to act on the movement’s demands. This logic led leaders to seek out some of the most segregated and oppressive cities in the Deep South to stage their protests. Birmingham, Alabama was one such city, where lame-duck Commissioner of Public Safety

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<sup>98</sup> CORE, “All About CORE,” 1963, CORE Papers, pg. 82 Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992.

<sup>99</sup> “A great deal has been achieved for civil rights through the courts, and legal action has an important place in the civil rights movement. But legal action is necessarily limited to lawyers. CORE’s techniques enable large numbers of ordinary people to participate in campaigns to end discrimination.” CORE, “All About CORE,” 1963, CORE Papers, Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992.

Eugene “Bull” Connor, a staunch segregationist with a temper (McAdam, 1996). In 1963, King and SCLC activists demanded desegregation in the city’s stores, more economic opportunities for African Americans, and the establishment of a biracial committee tasked with drawing up plans to desegregate Birmingham’s public schools and other public accommodations (Nimtz: 2016: 6). After a few weeks of civilly disobedient demonstrations that included sit-ins, marches, and picketing resulted in the arrest of approximately 300 protesters, the public relations moment King and other Civil Rights leaders had waited for finally occurred. Connor unleashed fire hoses and police dogs on the civilly disobedient activists, which produced images that outraged Americans and became the subject of USSR propaganda. (McAdam, 2009: 70; see also Nimtz, 2016: 8)

What is more, the activists who did willfully violate laws accepted their punishment and went through extensive training before protests to ensure they would not fight back against backlash from both state and non-state actors (McAdam, 2009). In fact, to demonstrate this submission to the rule of law while protesting specific unjust policies, King and others intentionally got arrested in Birmingham to “flood the jails” based on a nonviolent, resistant technique developed by Ghandi (see Nimtz, 2016: 8). This also illustrated the systematic racial injustice that plagued the city. The CORE Papers explained this in the following statement: “By the spring and summer of 1963, thousands of Americans, tired of waiting for their fellow-citizens to honor the Bill of Rights, had carried their protests into the streets... Jail became a mark of honor. America was learning what Thoreau meant 120 years before when Emerson asked him why he was in jail for refusing to pay his poll tax and he replied, ‘Why are you *not* here?’”<sup>100</sup>

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<sup>100</sup> CORE, “All About CORE,” 1963, CORE Papers. Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992.

The activists' willingness to be arrested, the symbolic and literal submission to the rule of law and the state, because they intentionally violated unjust laws is a hallmark of civil disobedience, as mentioned before. Interestingly, Civil Rights activists engaged in these acts of civil disobedience because they were being denied their rights outlined in the Bill of Rights, a part of the American social contract, and a part of the law that should supersede state and city policies responsible for this denial of full citizenship. This continual breach of contract African Americans suffered is akin to Abolitionist Lysander Spooner's indictment of the Fugitive Slave Act of 1850, which led him to endorse the same strategy for the Abolitionist Movement.

The civilly disobedient strategy embraced by SCLC, SNCC, and CORE not only generated backlash from white supremacists in both the government and society, but also drew criticism from some within the Civil Rights Movement who believed the movement must remain committed to a peaceful and lawful protest strategy. Like other movements, the Civil Rights Movement fractured over the use of civil disobedience as some organizations like the NAACP remained committed to peaceful, lawful protests (Wehr, 1968). Some clergymen associated with the movement penned a letter to King in which they condemned his endorsement of a civilly disobedient strategy for both practical and philosophical reasons. The letter read in part:

“We agree rather with certain local Negro leadership which has called for honest and open negotiation... Just as we formerly pointed out that ‘hatred and violence have no sanction in our religious and political traditions,’ we also point out that such actions as incite hatred and violence, however technically peaceful those actions may be, have not contributed to the resolution of our local problems. We do not believe that these days of new hope are days when extreme measures are justified in Birmingham... We commend the community as whole... urge the public to continue to show restraint... (and) appeal to both our white and Negro citizenry to observe the principles of law and order and common sense.”<sup>101</sup>

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<sup>101</sup> “Letter to Dr. King,” *New Leader* (June 24, 1963), p. 5. Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992.

Here these clergymen express the shared goal of Civil Rights activists that African Americans should be recognized as full political actors and as a part of the negotiation and policymaking process. However, they also condemn any violations of laws, regardless of the content of those laws, because they believed that acts of civil disobedience were responsible for inciting “hatred and violence,” which made good faith negotiations harder to obtain. Furthermore, the clergyman also inferred that citizens had an obligation “to observe the principles of law and order,” presumably because of their legal status, however tenuous, in regards to the state required the full respect of the rule of law.

King responded to the criticism he received from clergymen committed to an exclusively peaceful and lawful protest strategy in his “Letter from a Birmingham Jail,” which he penned in 1963 while in jail because of his participation in civilly disobedient demonstrations. He wrote:

“You may well ask, ‘Why direct action? Why sit-ins, marches, and so forth? Isn’t negotiation a better path?’ You are quite right in calling for negotiation, Indeed, this is the very purpose of direct action (or civil disobedience)...The purpose of our direction-action program is to create a situation so crisis-packed that it will inevitably open the door to negotiation. I therefore concur with you in your call for negotiation. Too long has our beloved Southland been bogged down in a tragic effort to live in monologue rather than dialogue.”

Like in the Montgomery Bus Boycott that began in 1955, King viewed extra-institutional acts of protest as instrumental in facilitating the institutional accommodations of the movement’s demands. For King and others, civil disobedience was a means to this end and necessary because of the lack of the black community’s meaningful access to negotiations in the first place, something to which CORE’s description of the Freedom Rides above also alluded. As such, King and others saw their civilly disobedient protest strategy as a way to fulfill the principles of the law and to facilitate meaningful integration of African Americans into the American state and

society.<sup>102</sup> Civilly disobedient activists justified their protest strategy with these pragmatic reasons and with principles arguments, as well.

The SCLC's "flood the jails" campaign in Birmingham bolstered their framing of a good movement fighting against an evil system (McAdam, 1996; Williams, 2014: 145) and also showed how civilly disobedient activists intentionally violated unjust laws contrary to the movement's demands while they submitted to the overall rule of law. This distinction explains the principled justifications for their civilly disobedient strategy, as well. King himself called for fealty to just laws "that squares with the moral law of the law of God" and "uplifts (the) human personality,"<sup>103</sup> while he advocated the violation specific, unjust laws while he sat in a Birmingham jail for his civil disobedience. King also argued that "...An unjust law is a code that a majority inflicts on a minority that is not binding on itself. This is difference made legal. On the other hand, a just law is a code that a majority compels a minority to follow, and that it is willing to follow itself. This is sameness made legal."<sup>104</sup> This claim is a direct critique of segregation ordinances to which African Americans, the minority, were subjected and from which white Americans, the majority, were exempt and responsible for codifying.

Civil Rights and SNCC leader James M. Lawson, Jr. believed that the violation of these laws actually squared with the Constitution and its principles, and the realization of these

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<sup>102</sup> "The word desegregation represents a system that is prohibitive; it denies the Negro equal access to schools, parks, restaurants, libraries and the like. Desegregation is eliminative and negative, for it simply removes these legal and social prohibitions.... Integration is the positive acceptance of desegregation and the welcomed participation of Negroes into the total range of human activities. Integration is genuine intergroup, interpersonal doing. Desegregation then, rightly, is only a short-range goal. Integration is the ultimate goal of our national community." Passage of a speech King delivered on December 27, 1962 rited in: Howard-Pitney, David. *Martin Luther King, Jr., Malcolm X, and the Civil Rights Struggle of the 1950s and 1960s: A Brief History with Documents*. Bedford/ St. Martin's: Boston, 2004.

<sup>103</sup> MLK's Letter from a Birmingham Jail, April 16, 1963. Printed in: Howard-Pitney, David. *Martin Luther King, Jr., Malcolm X, and the Civil Rights Struggle of the 1950s and 1960s: A Brief History with Documents*. Bedford/ St. Martin's: Boston, 2004.

<sup>104</sup> IBID

principles mattered more than following the letter of state and local laws. In April 1960, he wrote: “Eventually our society must abide by the Constitution and not permit any local law or custom to hinder freedom or justice. But such a society lives by more than a law. In the same respect the sit-in movement is not trying to create a legal battle, but points to that which is more than law.”<sup>105</sup> Lawson not only saw a contradiction between the Constitution and local laws, the latter of which are invalid, but also the potential fallibility in law. Here Lawson argued for the blanket enforcement of the Constitution not only because it is the supreme law of the land but also because it embodies principles like freedom and justice that critique Jim Crow on a moral as well as legal level. Therefore, the civilly disobedient Civil Rights Movement faction emerged not just for the pragmatic considerations of the efficacy of increased, disruptive pressure to the system but also for principled reasons that drew on a conception of a higher, secular code of justice.

Furthermore, despite his disobedience, King still affirmed American principles and wrote: “One day the South will know that when these disinherited children of God sat down at lunch counters they were in reality standing up for the best in the American dream and the most sacred values in our Judeo-Christian heritage.” King and other civilly disobedient Civil Rights activists believed that the credo of the American state aligned with and reflected Christian principles. In fact, he observed that “Deeply rooted in our *political* and *religious* heritage is the conviction that every man is an heir to a legacy of dignity and worth (emphasis added)” and that the Declaration of Independence tied justice to both the “eternal will of God” and the “sacred heritage of our nation (as quoted in Allen, 2000: 100). Other Civil Rights leaders throughout the 1960s identified positively with the American founding and the nation’s Judeo-Christian

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<sup>105</sup> James M. Lawson, Jr., “From a Lunch-Counter Stool,” April 1960, SNCC Papers. Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992.

principles. For instance, Fred L. Shuttlesworth and N.H. Smith's "The Birmingham Manifesto," published in the *Freedomways* Winter 1964 issue reaffirms the movement's commitment to the founding principles in the Declaration of Independence.<sup>106</sup> During his July 6, 1966 Address at the NAACP Convention, Hubert Humphrey explained how blacks "have been a part of American since Jamestown" and the system of segregation, not the state itself, must be torn down to obtain "one citizenship, one destiny for all Americans" and fulfill the American creed for all regardless of their color.<sup>107</sup> The religious leaders of the civilly disobedient Civil Rights faction believed that the principles of their religiously determined moral code and the American social contract were congruent while some of the state's practices were not (see also Kang, 2012).

Other civilly disobedience activists also combined religious arguments with calls for the American state and society to enforce the rights and embody the principles found in the American social contract. For instance, the Albany Nonviolent Movement's handbill published on November 9, 1961, read in part:

"Our beliefs have consequences. If we are of one blood, children of one common Father, brothers in the household of God, then we must be of equal worth in His family, entitled to equal opportunity in the society of men. That 'all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness,' we hold to be self-evident."<sup>108</sup>

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<sup>106</sup> The manifesto reads, in part: "We believe in the American Dream of democracy, in the Jeffersonian doctrine that 'all men are created equal and are endowed by their Creator with certain inalienable rights, among these are life, liberty, and the pursuit of happiness.'" Fred L. Shuttlesworth and N.H. Smith, 'The Birmingham Manifesto,' *Freedomways* (Winter 1964), pp. 20-21. Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992.

<sup>107</sup>"Negroes have been a part of American since Jamestown. They have suffered- and survived- the cruel yoke of slavery. They have experienced hardship and discrimination of a severity and duration that no group of Americans has known. And the basis for this brutality has been segregation and exclusion- on terms imposed by the white majority. Today this system is being torn down through the concerted efforts of both whites and Negroes. We must strive to perfect one citizenship, one destiny for all Americans. Integration must be recognized as an essential *means* to the *ends* we are seeking- the ends of freedom, justice and equal opportunity for all Americans." *The Rhetoric of Black Power*. Robert L. Scott and Wayne Brockriede. Harper and Row: New York, 1969.

<sup>108</sup>Handbill, Albany Nonviolent Movement (Nov. 9, 1961) Printed in: Lawson, Steven F. and Charles Payne. *Debating the Civil Rights Movement, 1945-1968*. Rowman & Littlefield Publishers, Inc.: New York, 1998.

The handbill both reaffirms the legitimacy of the terms in the American social contract while it condemns America for not embodying the principles it claims to hold dear in stating that “our beliefs have consequences.” Like King, SNCC, and the rest of the civilly disobedient movement faction, the Albany Nonviolent Movement affirmed the premise of the American social contract, which they believed “to be self-evident,” identified itself also with the prevalent American Christian orthodoxy and American society, and called for both the rights of citizenship and meaningful societal inclusion. This statement reiterates both the continued Civil Rights Movement theme of first-class citizenship for African Americans and that the movement’s desegregation demands and the organization’s civilly disobedient protest strategy were both a means to an end. Based on the language that recognized a common brotherhood of mankind within God’s family and called for “equal opportunity in the society of men,” it is reasonable to assume that the organization sought to reconcile with the political system as well as American society given that both accommodate its demands.

These invocations of the American social contract are not unique to the movement’s civilly disobedient faction (see above). What sets the civilly disobedient Civil Rights activists from their peaceful, lawful counterparts is how they interpreted the state’s response to the movement’s demands within this contractual framework. Those who refrained from civil disobedience believed that the black community was making some policy inroads, progress takes time, and Civil Rights activists needed to practice patience instead of civil disobedience. King critiqued these pleas for patience, first by arguing that “time is neutral” and without “the tireless efforts and persistent work of men willing to be coworkers with God” “‘wait’ has almost always meant ‘never.’” Furthermore, he explained that: “‘justice too long delayed is justice denied.’”

Finally, he exclaimed: “We (African Americans) have waited for more than 340 years for our constitutional and God-given rights,”<sup>109</sup> Lawson echoed this sentiment in his observation that “The pace of social change is too slow. At this rate it will be at least another generation before the major forms of segregation disappear. All of Africa will be free before the American Negro attains first-class citizenship.”<sup>110</sup> The theme of these remarks is that America has had sufficient time to change its policies, and now time is up and Civil Rights activists must take their rights claiming into their own hands. Based on prior statements, the intention here was not to overthrow the state but rather bring the state into alignment with its contract so as to facilitate the full integration of the black community.<sup>111</sup>

King, SCLC, SNCC, CORE, the Albany Nonviolent Movement, and other civilly disobedients interpreted the state’s lack of meaningful demand accommodations, lack of good faith negotiations between government officials and the black community, and the state’s continued denial of the full rights and recognition of citizenship for African Americans as the state’s legislative failure. These protesters still believed in the validity in the American social contract and the legitimacy of the state itself and sought integration and reconciliation with the American state and society. In fact, because they still engaged in peaceful, lawful protest tactics like SNCC’s voter registration drives and the March on Washington in 1963, it is clear that this

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<sup>109</sup> MLK’s Letter from a Birmingham Jail, April 16, 1963. Printed in: Howard-Pitney, David. *Martin Luther King, Jr., Malcolm X, and the Civil Rights Struggle of the 1950s and 1960s: A Brief History with Documents*. Bedford/ St. Martin’s: Boston, 2004.

<sup>110</sup> James M. Lawson, Jr., “From a Lunch-Counter Stool,” April 1960, SNCC Papers. Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992.

<sup>111</sup> “But it would be extremely short-sighted to assume that integration is the problem or the word of the ‘sit-in.’ To the extent to which the movement reflects deep Christian impulses, desegregation is a necessary next step. But it cannot be the end. If progress has not been at a genuine pace, it is often because the major groups seeking equal rights tactically made desegregation the end and not the means.” James M. Lawson, Jr., “From a Lunch-Counter Stool,” April 1960, SNCC Papers. Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992.

perception of state failure was not systematic but rather in regard to the state's capacity as a legitimate lawmaker. This faction's continued desire for full inclusion into the American state and its belief that the state could change given sufficient pressure supports this claim. For instance, the civilly disobedient march for full voting rights across the Pettus Bridge in Selma, Alabama on March 9, 1965, known as Bloody Sunday, was credited as the turning point that produced the Voting Rights Act of 1965 (Dierenfield, 2008), which demonstrated the efficacy of this unlawful, non-violent protest strategy. The same could be said of the Civil Rights Act of 1964 (see McAdam, 2009).

These hard-fought victories were not enough in and of themselves, however. Lawson recognized another problem with the nullification of just laws that did meet the movement's demands. He observed:

“But the major defeats have occurred when we have been unable to convince the nation to support or implement the Constitution, when a court decision is ignored or nullified by local and state action. A democratic structure of law remains democratic, remains lawful only as the people are continuously persuaded to be democratic. Law is always nullified by practice and disdain unless the minds and hearts of the people sustain law.”

Lawson's characterization of the state's positive response to the movement's demands on paper is akin to Du Bois' assessment of the state's unwillingness to enforce its own postbellum constitutional amendments. This statement also reaffirms that the letter of the law, and even the contents of the American social contract, is insufficient in and of itself if “law is always nullified in practice” and not respected by its citizenry. This is comparable in some ways to the saloon smashing Prohibitionist women who escalated their protest strategy in part because the state did little if anything to enforce the laws that had codified Prohibitionist demands. I contend that based on this and prior statements from civilly disobedient Civil Rights leaders, this movement

faction perceived the state's overall response to its demands as empty acquiescence because of the positive actions the state had taken failed to solve the problems of segregation and second-class citizenship for African Americans. This in combination with civilly disobedient activists' religious beliefs that transcended their allegiance to obey the state and a belief that the state's Jim Crow laws and practices violated the American social contract's rights guarantees undermined this faction's perception of the state as the legitimate, absolute lawmaker. As a result, King, Lawson, SNCC, SCLC, and Albany Nonviolent Movement escalated their protest strategy to civil disobedience.

So why were these conditions insufficient to elicit a politically violent response from these activists, especially since some in the Civil Rights Movement began to push for a politically violent protest strategy in the 1960s? One reason is that civil disobedients believed that the state and society were both capable of living up to the promises of the social contract given sufficient pressure (or, as King put it, coercion) and did not perceive the state as being wholly illegitimate. This is evident in their targeted disobedience to unjust laws and submission to the rule of law when caught in their acts of civil disobedience. A second reason is that while the activists' religious beliefs facilitated a civilly disobedient protest strategy, those same religious beliefs also hindered them from engaging in political violence, much like the Garrisonians' religious pacifism kept some Abolitionists from engaging in protest strategy escalation.

In April 1960, SNCC was among the first civilly disobedient Civil Rights organizations to adopt an official statement that affirmed its commitment to nonviolence and explained the rationale behind its decision. The statement read in part:

“We affirm the philosophical or religious ideal of nonviolence as the foundation of our purpose, the presupposition of our belief and the manner of our action.

Nonviolence, as it grows from Judaic Christian tradition seeks a social order of justice permeated by love. Integration of human endeavor represents the crucial first step toward such a society...Justice for all overthrows injustice. The redemptive community supersedes immoral social systems. By appealing to conscience and standing on the moral nature of human existence, nonviolence nurtures the atmosphere in which reconciliation and justice become actual possibilities.”<sup>112</sup>

Here SNCC explained that its commitment to nonviolent comes from its members’ Christian faith and desire for a Judeo-Christian social order that would promote both love and justice. This statement also described its use of nonviolence as a way to make effect appeals to others’ consciences and “moral nature” in order to achieve its end goal of redemption through “reconciliation and justice.” King also shared these Christian justifications for the Civil Rights Movement’s calls for integration and collective redemption and reconciliation through nonviolence (Allen, 2000: 98-99). According to King, the Christian gospel required a nonviolent protest strategy that promoted agape love (Allen, 2000: 106). King and others also imported non-Christian Gandhian principles of nonviolence to justify their civilly disobedient strategy and their refusal to engage in political violence (Nimtz, 2016).

The Albany Nonviolent Movement also tied its Christian faith to its commitment to nonviolence. In a handbill from 1961 the organization exclaimed: “Our faith is incurably optimistic and unyieldingly realistic. It teaches us that we live in an ordered universe in which the moral law of cause and effect, of means and ends, is as unchangeable as any physical law. Violence corrupts and destroys both the user and the victim; the power of love and nonviolence is creative and redeems both.”<sup>113</sup> According to this statement, violence carries consequences for

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<sup>112</sup> From the official statement of purpose adopted by the SNCC, April 1960, pg. 67, Printed in: Wehr, Paul E. “Nonviolence and Differentiation in the Equal Rights Movement.” *Sociological Inquiry* 38 (Winter 1968): pp. 65-76.

<sup>113</sup> Handbill, Albany Nonviolent Movement (Nov. 9, 1961) Printed in: Lawson, Steven F. and Charles Payne. *Debating the Civil Rights Movement, 1945-1968*. Rowman & Littlefield Publishers, Inc.: New York, 1998.

those who use it since immoral causes result in immoral effects. Furthermore, the Christian faith acted as a higher moral code to condemn the actions of others and unjust government practices (not the people and institutions themselves) and also regulated the response of the civilly disobedient activists. This is evident in the process of self-purification civilly disobedients underwent to ensure that they were acting justly and able to resist retaliation (Allen, 2000). Finally, civil disobedients believed that in order to redeem the American state and society, they must refrain from violence, which would undermine the reconciliation and integration they desired.

In this way, civil disobedience for this Civil Rights faction was not only about the violation of unjust laws at odds with both a higher, Christian morality and the American social contract, but also about restraint against violent retaliation. While some like the clergy who criticized King's efforts in Birmingham and the NAACP believed that this movement faction engaged in inappropriately extreme acts of protest, some like Malcolm X believed that this commitment to nonviolence in the face of violent counter-protesters and police brutality was not enough. The emergence of the Civil Rights politically violent faction began in the early 1960s, fully developed by 1966 and was a response to that faction's perception of state intervention meant to uplift the black community, a shift in the movement's demands, and the predominance of ideological commitments. Together these factors contributed to this faction's belief that the state was illegitimate as a system of governance, the American social contract was itself a failed experiment, and black liberty and independence required adherence to a new contractual paradigm. The enactment of this new contractual paradigm required politically violent protest

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strategy, and unlike the civilly disobedient faction, this movement faction's ideology justified violent acts of protest.

### **Political Violence**

While peaceful, lawful Civil Rights organizations engaged in moral and litigative legal suasion tactics that centered on political institutions and the civilly disobedient movement faction extended its protests to the private and public accommodations, politically violent activists focused on the black community in inner-city ghettos. Blacks in ghettos experienced far fewer benefits from the federal government's pro-Civil Rights efforts because local and state officials diverted these benefits away from communities of color. What is more, inner-city blacks were also subjected to police brutality and higher levels of economic depravity. In their assessment of the state's response to inner-city, impoverished blacks, politically violent activists believed that the state's responses to the movement's demands were insufficient in their effects and amounted to empty acquiescence. Furthermore, these conditions facilitated the spread of new ideologies like Marxism, Maoism, black power, and black nationalism, which produced a new set of demands and provided a lens from which activists perceived the state itself as illegitimate. As a consequence, politically violent activists believed that the only viable solution was to create independent black political, economic, and social systems under a new contractual paradigm through revolution.

Even though most of the politically violent faction ended up calling a violent revolution by the end of the 1960s, the violent rhetoric that shaped the early beginnings of this faction originated during the earlier part of the decade with Civil Rights leaders like Malcolm X and Robert Williams. The initial calls for political violence saw violent tactics as a necessary

response to a state that failed to act on the movement's rights-based demands like voting and the right to life (and general physical safety) and as an instrumental way of meeting those demands despite adequate state action. Malcolm X's famous "ballot or the bullet" declaration in response to an unenforced 15<sup>th</sup> Amendment (see Nimitz, 2016), and Williams' call to "meet violence with violence" when the justice system failed to protect black bodies (see Cobb, 2014) resembled the targeted violence of the saloon smashing Prohibitionist women. Next, the faction challenged the state's monopoly of force and engaged in self-defense against the police (Umoja, 2013; Cobb, 2014). These acts of self-defense quickly became both proactive and reactive and included guerrilla warfare against local law enforcement as a response to police brutality that disproportionately targeted inner-city black ghettos, led by organizations like SNCC, CORE, and the Revolutionary Action Movement (RAM) (Self, 2003; Umoja, 2013). Finally, as a consequence of continued plight of the black community in the ghettos, the revolutionary nationalism and black power that had taken root in the politically violent faction in 1964 resulted in the separatist Black Panther Party in 1966 under the leadership of Huey Newton and Bobby Seale (Self, 2003; Umoja, 2013). This revolutionary organization split and radicalized further with the creation of the underground para-militarism Black Liberation Army in the 1970s (Rosenau, 2013).

The fight for black enfranchisement was the first notable point of departure among the peacefully lawful, civilly disobedient and politically violent factions. As stated above, the NAACP navigated formal political channels and employed its litigative legal suasion tactics with little avail. Next, SNCC had launched a peaceful, lawful voter registration and education drive and King and others engaged in civilly disobedient coercion in Birmingham and in Selma during the Bloody Sunday incident (see above). Prominent Civil Rights leader Malcolm X critiqued

these efforts and in his 1964 “The Ballot or the Bullet” speech and explained that the black community had “suffer(ed) political oppression, economic exploitation, and social degradation” at the hands of the American state. He condemned the civilly disobedient faction for its inaction by saying “This is part of what’s wrong with you— you do too much singing (in reference to songs like ‘We Shall Overcome’). Today it’s time to stop singing and start swinging.” Malcolm X also indicted the “white politicians” who “come in (to the Negro community) with false promises, and as they make these false promises they’re gonna feed our frustrations and this will only serve to make matters worse.” In other words, both the political system and those who governed failed to address the dire condition of the black community. His solution included a “self-help program” for blacks predicated on black nationalism, which fostered black independence and self-determination and giving the current political system an ultimatum: “... it’s either the ballot or the bullet. It’s liberty or it’s death.”<sup>114</sup>

Malcolm X also rejected the nonviolent principles of protest in the face of violent opposition championed by King, SCLC, and other civil disobedients, which represented a second notable departure between the politically violent and other movement factions. In response to the biblically based calls for activists to “turn the other cheek”<sup>115</sup> Malcolm X exclaimed: “Any Negro who teaches other Negroes to turn the other cheek in the face of attack is disarming the Negro of his God-given right, of his moral right, or his natural right, of his intelligent right to defend himself.” He added that there was no such thing as a “turn-the-other-cheek revolution” (as quoted from Wendt: 2007, 325). Williams went further and declared that: “...An open declaration of non-violence, or turn-the-other cheekism is an invitation that the white racist

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<sup>114</sup> Malcolm X, from *The Ballot or the Bullet*, 1964. Printed in Printed in: Lawson, Steven F. and Charles Payne. *Debating the Civil Rights Movement, 1945-1968*. Rowman & Littlefield Publishers, Inc.: New York, 1998.

<sup>115</sup> From Matthew 5:38-39

brutes will certainly honour by brutal attack on cringing, submissive Negroes. It is time for the Negro in the South to reappraise his method of dealing with his ruthless oppressor” (as quoted from Umoja, 2013: 220). Here Williams’ characterization of the enemy as a “ruthless oppressor” also departs from King’s, the Albany Nonviolent Movement’s and SNCC’s description of a state and society in need of love-based redemption (see above).

During another 1964 address, *The Afro-American’s Right to Self Defense*,<sup>116</sup> Malcolm X used the American social contract to highlight state’s failures in living up to its own terms. He affirmed that “...the Constitution of the United States and the Bill of Rights are the principles in which we believe and that these documents if put into practice represent the essence of mankind’s hopes and good intentions.” He went on to say: “The Constitution of the United States of America clearly affirms the right of every American citizen to bear arms. And as Americans, we will not give up a single right guaranteed under the Constitution.” Malcolm X’s rights claiming that drew on explicit rights enumerated by the American social contract parallels demands made by previous Civil Rights leaders dating back to the early 1900s. Unlike prior rights claims, he goes further by saying: “Since self-preservation is the first law of nature, we assert the Afro-American’s right to self-defense,” which made the denial of this right to the black community not only a constitutional violation but a violation of natural law from which the state’s primary purpose and legitimate power is derived, the same argument Abolitionists had made nearly a century earlier.

He went on to explain that: “The history of unpunished violence against our people clearly indicates that we must be prepared to defend ourselves or we will continue to be a

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<sup>116</sup> Printed in: Lawson, Steven F. and Charles Payne. *Debating the Civil Rights Movement, 1945-1968*. Rowman & Littlefield Publishers, Inc.: New York, 1998.

defenseless people at the mercy of a ruthless and violent racist mob.” In response to this violence, he exclaimed: “We assert that in those areas where government is either unable or unwilling to protect the lives and property of our people, that our people are within our rights to protect themselves by whatever means necessary.” This, of course, is a departure from the early NAACP’s belief that it was possible for Civil Rights activists to alter the state’s practices through legitimate institutional channels and processes like litigative legal suasion. Malcolm X’s statements also demonstrate that while both he and the civilly disobedient faction believed that the state’s Jim Crow laws and practices were unjust and a violation of the American social contract, Malcolm X did not have the same ideological impediments that required nonviolence as the civil disobedients did. Based on his other statements, it is clear that Malcolm X’s religious and Marxist ideologies helped him justify his calls for a politically violent protest strategy. Moreover, this ideology-based rhetoric played a significant role in shaping the politically violent faction’s tactics well after his assassination on February 21, 1965 (on assassination, see Nimitz, 2016: 18).

The state’s failure to wield its monopoly of force to defend black bodies coupled with the state’s affirmation of the right of its citizens to bear arms became the basis for the new, politically violent faction to engage in more aggressive forms of self-defense that went beyond African Americans keeping firearms at home to defend against violent home invasions and attacks from white supremacists. King and others opposed the confrontational nature of these acts of self-defense and stood firmly behind a strictly non-violent civilly disobedient protest strategy, which sparked an ongoing debate within the Civil Rights Movement writ large on if and when the black community should engage in any acts of violence. Robert Williams, a Civil Rights leader and activist who debated King on the issue directly wrote: “... in a civilized society

the law is a deterrent against the strong who would take advantage of the weak, but the South is not a civilized society; the South is a social jungle; it had become necessary for us to create our own deterrent ... we would defend our women and our children, our homes and ourselves with arms (Cobb, 2014: 152).” Similar to the argument Malcolm X made above, Williams described the American South as a “social jungle” devoid of the law that characterizes a “civilized society,” in which African Americans exist in a kind of state of nature in which they, not the state, must take responsibility for their own right to life.

Later, Williams explained how this loss of faith in the government justified the use of more aggressive forms of political violence with the following statement:

“We cannot rely on the law. We can get no justice under the present system. If we feel that injustice is done, we must then and there on the spot be prepared to inflict punishment on these people. Since the federal government will not bring a halt to lynching and since the so-called courts lynch our people legally, if it’s necessary to stop lynching with lynching, then we must be willing to resort to that method. We must meet violence with violence.”<sup>117</sup>

Williams argued that the continued, decades long failure of the state to meet a demand for a basic human right first articulated by the Civil Rights Movement since the beginning of the twentieth century was justification enough for Civil Rights leaders and activists to respond to racialized violence against African Americans with violence. This statement reveals that Williams, like others, saw that the state should be responsible for quelling racialized violence and meeting the demands upon which the movement mobilized, but instead the state both protected and codified the violence against African Americans. He also viewed repeated state inaction as the state acquiescing its duties and leaving the black community responsible for securing their own rights,

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<sup>117</sup> Printed in Cobb, Charles E. *This Nonviolent Stuff’ll Get You Killed: How Guns Made the Civil Rights Movement Possible*. Basic Books: New York, 2014, pg. 152.

which required meeting “violence with violence.” This call was not embraced by the more moderate elements of the Civil Rights Movement, and Williams lost his presidency of the NAACP’s Monroe chapter because of this call for violence (Umoja, 2013). This statement also proves a compelling contrast to Lawson’s statement (see above) that observed that law requires action or else it is nullified, although Lawson did not believe that the state’s inaction justified activist violence.

There are records that show that the lawful, peaceful activists of the NAACP and civilly disobedient activists also armed themselves for self-defense purposes (Cobb, 2014). What distinguished the politically violent Civil Rights activists from the rest of the movement is that their form of self-defense was not a reaction to an immediate and specific act of violence that threatened their life or limb, but rather a pre-planned, proactive campaign against both counter-protesters, police, and white America. The political violent faction went beyond keeping firearms at home or carrying a gun for self-defense in response to immediate threats to life or limb since the members and leaders of the NAACP and even King himself did both of these, even when non-violent organizations made official statements against such actions (Cobb, 2014). The kind of self-defense RAM, the Black Panther Party, and eventually SNCC and CORE engaged in extended to confrontational stand-offs with police since law enforcement represented and acted as the first line of state-sponsored violence against African Americans.

These politically violent protesters took their guns to the streets during demonstrations and participated in escalations against the policing of their protests, a stark contrast to King’s and other’s “flood the jails” campaign. Armed Black Panthers also monitored police behavior that targeted African Americans such as traffic stops to check and fight against police brutality against black bodies. As such, the calls for arming of the black community and more aggressive

protesting were “strategic choices and carefully posed challenges to the so-called legitimate forms of state violence that had become all too regularly used within Black communities (as quoted in Wendt, 2007: 553).” Furthermore, the male members of the Black Panther Party and other politically violent organizations saw their armed acts of self-defense as an integral part of their masculine identity (Wendt, 2007), which had a gendering effect on who could engage in violent acts much like the Prohibitionist women saloon smashers.

The politically violent faction tactics went beyond aggressive self-defense and guerrilla warfare against the police. By 1966, radicals Bobby Seale and Huey Newton founded the militant Black Panther Party, an organization that advocated for armed defensive action against police, called for adequate social services for African Americans in ghettos (Dierenfield, 2008) and sought black independence and, eventually, revolution (see below). The tactical escalation in this movement faction occurred in part because its activists developed a more damning perception of the American state’s illegitimacy based on its failures to improve the conditions of the black community in inner-cities and ghettos. These activists explained the lack of meaningful institutional and social change as evidence that the American state failed to hold up its end of the social contract. Another factor that facilitated a lack of faith in the American state is the faction’s widespread adoption of black power, black nationalism, and Marxism, which not only condemned the American social contract itself but also provided a new contractual paradigm that required the dissolution of the existing political, economic, and social system.

To start, this intensification of political violence in this movement faction in 1966, following the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965 raises an obvious question: Why would part of the Civil Rights Movement escalate its protest strategy in the wake of these significant examples of the federal government’s accommodation and

enforcement of the movement's demands? Part of the answer is that focusing solely on the positive state responses to the movement obscures the negative aspects of state action against the black community like the rise of the law and order regime, which among other things increased pressure to surveille, arrest and detain black activists in the wake of riots. The federal level law and order policies that included the FBI monitoring of peaceful protesters added to the already racially unjust Jim Crow systems still propped by local and state governments (Self, 2003: see also McAdam, 1982). Even after the passage of the Voting Rights Act of 1965, there was a reluctance from both major parties to court the black vote for fear it would gin up white backlash and push moderate voters towards more radical segregationist candidates like Barry Goldwater and George Wallace. What is more, political elites also wanted to avoid seeming sympathetic towards the black community's political demands because they were afraid the public would also think that they supported the urban riots (McAdam, 1982: 192-197).

Adding insult to injury, the state was unable (and/or unwillingness) to curb local white backlash against Civil Rights gains that kept the impoverished, inner-city blacks from receiving the benefits of new housing, education, and welfare programs (Self, 2003; see also McAdam, 1982). As Self (2003: 219) observed, the "calls for self-determination (i.e., black power) emerged in the late 1960s primarily as a response to police brutality, and the failures of Great Society liberalism, and the uneven economic development of the American metropolis." In other words, these new policies that were supposed to be the state's positive response to the movement's demands represented an empty acquiescence that failed to extend full rights and recognition to African Americans, particularly those who were poor and marginalized. This led to a decline in belief in significant racial change among African Americans, which in turn, produced decline in feelings of efficacy as measured through survey data at the time (see

McAdam, 1982, see also Geschwender and Geschwender, 1973). I contend that these conditions in and of themselves were not sufficient to produce a politically violent strategy because when the movement emerged under comparable, post-Reconstruction conditions, it did so peacefully and lawfully.

A key difference between earlier era of Civil Rights mobilization and the mid-1960s was the “global uprisings against colonial rule (Self: 2003, 217).” The politically violent activists identified with the struggle against imperialism and described the black ghettos as the “colony” of an imperial, exploitative, white America. (Self: 2003). This framing resulted in calls for decolonization, in which black activists were tasked with eradicating the African American communities of the oppressive, foreign invaders (the police). (Stanford, 1970) The faction also drew on philosophies expressed by earlier Civil Rights activists like self-determination, black pride, and black solidarity (Self: 2003: 219). Black power, black nationalism, and Marxism and a “Maoist condemnation of capitalism (Self: 2003: 221)” were among the most consequential ideologies adopted by the Black Panther Party and other politically violent activists because it represented a marked shift in the faction’s demands and tactics.

Instead of focusing on the enforcement of the 14<sup>th</sup> and 15<sup>th</sup> Amendments like previous Civil Rights organizations, the Black Panthers’ demands included an end to police brutality and required not just the inclusion of the black community but also its uplift with social and economic welfare programs. This divergence in demands also invoked a shift in focus from the integration and reconciliation the peaceful, lawful and civilly disobedient factions desired to independence and liberation the politically violent faction now sought. One of the leaders of the politically violent faction, Stokely Carmichael explained the necessity for the revolutionary Black Panthers in 1967 when he wrote: “Black people must organize themselves without regard to what

is traditionally acceptable, precisely because the traditional approaches have failed (as quoted in Self, 2003: 218).” Newton indicted the entire system when he argued: “The power structure depends upon the use of force in order to get rid of the gun it is necessary to take up the gun (as quoted in Self, 2003: 220),” which illustrates the effects of this thinking on the faction’s protest strategies. More specifically, this line of thinking resulted in retaliatory violence against law enforcement that included killing cops (see Nimtz, 2016:8) and in some cases the violent extortion of local businesses that would not support black independence community building efforts (Self, 2003).

As such, the politically violent faction rejected the non-violent factions’ leaders and activists’ calls for integration based on the American social contract and Judeo-Christian values; instead, it called for political, social, and economic independence based on its belief in a nullified American social contract and its adoption of Marxism, black power, and black nationalism ideologies. The first step in this faction’s rejection of reconciliation and embrace of revolution required a holistic indictment of the American state as a legitimate system of governance. Activist John Henrik Clarke noted in an essay titled “The New Afro-American Nationalism,” published in 1961 that: “To the Black Muslims the American promise and the American dream have grown sour without fulfillment. They have lost faith in the United States as a democratic nation.”<sup>118</sup> Such a sentiment stands in stark contrast to King’s belief that black activists’ civil disobedience would one day be seen as “standing up for the best in the American dream and the most sacred values in our Judeo-Christian heritage (see above).”

Likewise, Malcolm X, echoed these sentiments:

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<sup>118</sup> John Henrik Clarke, “The New Afro-American Nationalism,” *Freedomways* (Summer 1961), pp. 285-295. Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992.

“Now it is over. America has had its chance to show that it really meant ‘that all men are created endowed with certain inalienable rights.’ America has had precious chances in this decade to make it come true. Now it is over. The days of singing freedom songs and the days of combating bullets and billy clubs with Love. We Shall Overcome (and we have overcome our blindness) sounds old, outdated and can enter the pantheon of the greats along with the IWW (International Workers of the World) songs and the union songs.”<sup>119</sup>

Here Malcolm X critiqued both the state’s inability to fulfill its promise of full, equal citizenship for African Americans and the Civil Rights Movement’s disproportionate and ineffective response to state inaction as well as non-state actor and state actor violence. Additionally, Malcolm X criticizes the peaceful, lawful movement faction and civilly disobedient movement faction for not doing enough to hold the state accountable for protecting African American rights. Furthermore, Malcolm X explained that the “America has had its chance” to guarantee the terms of citizenship in the Declaration of Independence for the black community and continually failed to do so, and now the period of negotiations with a state that could not embody these principles was over. Consequently, it would appear that Malcolm X and others also believed that the American social contract had run its course, as well. This indictment of the entire American political system is a notable move away from King’s and Lawson’s indictment of specific laws and their calls for patience.

Secondly, the peaceful, lawful and civilly disobedient Civil Rights factions championed the values and principles of the American founding and the American social contract even into the late 1960s (see above). In contrast, the politically violent movement faction rejected the principles of the American founding and the country’s capitalist economic system and laid out the terms for a new social contract based on black nationalism and Marxism. Eugene R. Charles,

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<sup>119</sup> Julius Lester, “The Angry Children of Malcolm X,” *Sing Out* (Oct/Nov 1966), pp. 120-125. Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992.

the lieutenant of information for the Chicago Black Panther Party, echoed this call for revolution and a dismantling of the current political and economic system with the following statement: “In order to abolish the injustice of an element of the state machinery (in this case the courts), it is necessary to abolish the entire state (capitalism). If the masses of people are to get justice in America, then there must be revolution in Babylon.”<sup>120</sup> This statement demonstrates that the politically violent Civil Rights Movement faction did not believe that formal political institutions and channels could remedy the injustices the black community faced and, therefore, must be “abolished” and replaced with a new system. Black Panther Party member Eldridge Cleaver expressed similar sentiments when writing: “The ideology of the Black Panther Party is the historical experience of Black people and the wisdom gained by black people in their struggle against the system of racist oppression in Babylon, interpreted through the prism of the Marxist-Leninist analysis by our Minister of Defense, Huey P. Newton.”<sup>121</sup>

These statements demonstrate that the Black Panther Party and its affiliates invoked a new paradigm of state legitimacy, a departure from the NAACP, SCLC, and prior peaceful organizations that affirmed and invoked the Declaration of Independence and U.S. Constitution both in their rights claiming and in their assessment of the American state. Such a shift in ideology is not necessary for a political violent strategy or even calls for revolution, as the Abolitionists’ disunionism efforts demonstrate, although this change certainly facilitated more radical forms of protest by the 1970s. As such, this paradigm shift had not only ideological but

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<sup>120</sup> *The Black Panther*, July 26, 1969. Printed in: *The Black Panther Party, Its Origin and Development as Reflected in its Official Weekly Newspaper The Black Panther Black Community News Service*. Staff Study by the Committee on Internal Security, House of Representatives, 91<sup>st</sup> Congress, Second Session, October 6, 1970, U.S. Government Printing Office, Washington: 1970, pg. 21-22.

<sup>121</sup> *The Black Panther*, April 18, 1970, Printed in: *The Black Panther Party, Its Origin and Development as Reflected in its Official Weekly Newspaper The Black Panther Black Community News Service*. Staff Study by the Committee on Internal Security, House of Representatives, 91<sup>st</sup> Congress, Second Session, October 6, 1970, U.S. Government Printing Office, Washington: 1970

also strategy consequences for the political violent Civil Rights faction. A statement by Bobby Seale, valorized Huey Newton's commitment to a Marxist-Leninist ideology and further promoted this ideology by describing Newton as "a revolutionary that all the people want and need here at home in the communities, with us teaching us better tactics, teaching us how to use Marxist-Leninist's ideology as a guide to revolutionary action. To lead and free our people."<sup>122</sup>

Consequently, the politically violent movement faction's ideological commitments also moved the faction away from calls of integration to calls of independence. As a result, this faction rejected the goal of reconciliation with the existing political, social, and economic order, which strengthened its calls for independence and revolution. Black power (or black nationalism), which emphasized black control over black communities, black pride, and black autonomy, became central to these calls for black independence. In an essay published on September 26, 1966, Stokely Carmichael, one of the leaders of the political violent movement faction, explained black power like this: "Politically, black power means what it has always meant to SNCC: the coming-together of black people to elect representatives and *to force those representatives to speak to their needs....* The power must be that of a community, and emanate from there."<sup>123</sup> He also explained that the desire for integration, a position which he and others saw as antithetical to the black power movement, would actually reinforce African American subjugation. He wrote:

"Integration, moreover, speaks to the problem of blackness in a despicable way. As a goal, it has been based on complete acceptance of the fact that *in order to have* a decent house or education, blacks must move into a white neighborhood or send their children to a white school. This reinforces, among both black and

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<sup>122</sup> *The Black Panther*, May 4, 1969, Printed in: *The Black Panther Party, Its Origin and Development as Reflected in its Official Weekly Newspaper The Black Panther Black Community News Service*. Staff Study by the Committee on Internal Security, House of Representatives, 91<sup>st</sup> Congress, Second Session, October 6, 1970, U.S. Government Printing Office, Washington: 1970

<sup>123</sup> Stokely Carmichael, "What We Want" *New York Review of Books*, Sept. 26, 1966. Printed in: Levy, Peter B., editor. *Documentary History of the Modern Civil Rights Movement*. Greenwood Press: New York, 1992.

white, the idea that ‘white’ is automatically better and ‘black’ is by definition inferior. This is why integration is a subterfuge for the maintenance of white supremacy.”

Activists in Mississippi echo similar sentiments about black power in their following statement:

“It (black power) means political control in places where they comprise a majority... Black power is legitimate because any time people are in a majority, they should be able to decide what will and will not happen to them.”<sup>124</sup> It is clear that independence from white controlled systems, not integration into those current systems, a key tenet of black power and an ideological principle of the politically violent faction of the Civil Rights Movement in the late 1960s.

Malcolm X explained this position in a speech called “The Black Revolution” he delivered in 1963 at New York City’s Abyssinian Baptist Church, during which he said: “How can the so-called Negroes who call themselves enlightened leaders expect the poor black sheep to integrate into a society of bloodthirsty white wolves, white wolves who have already been sucking on our blood for over 400 years here in America?” He also observed: “Nowhere in the scriptures did God ever integrate his enslaved people with their slave masters. God always separates his oppressed people from their oppressor and then destroys the oppressor.”<sup>125</sup> While King also shared Malcolm X’s impatience when he exclaimed that African Americans have “waited for more than 340 years for our constitutional and God-given rights”<sup>126</sup> that same year, the divergences in King’s condemnation of unjust laws and Malcolm X’s condemnation of an

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<sup>124</sup> Printed in: Lander, Joyce. “What Black Power Means to Negroes in Mississippi.” *Black Experience: The Transformation of Activism*, Second Edition. August Meier, editor. Transaction Books: New Brunswick, NJ, 1973. Pg. 105-106.

<sup>125</sup> Printed in: Lawson, Steven F. and Charles Payne. *Debating the Civil Rights Movement, 1945-1968*. Rowman & Littlefield Publishers, Inc.: New York, 1998.

<sup>126</sup> Martin Luther King, Jr. “Letter from a Birmingham Jail” Printed in: Howard-Pitney, David. *Martin Luther King, Jr., Malcolm X, and the Civil Rights Struggle of the 1950s and 1960s: A Brief History with Documents*. Bedford/ St. Martin’s: Boston, 2004.

unjust system represents a key ideological divide between the civilly disobedient faction's calls for integration and the politically violent faction's calls for revolution.

Interestingly, while black nationalism provided the ideological scaffolding for this faction's escalation to a politically violent protest strategy, it did not preclude the inclusion of peaceful, lawful acts of protest. In fact, the desire for black independence from an oppressive state and society resulted in non-violent black community-building to supplement and ultimately supplant the inadequate social services available to African Americans in impoverished urban areas. Joseph (2009) found that: "Committed to transforming America's social and political institutions, these activists served free breakfasts, staffed medical clinics, drove ambulances, sold newspapers, advised striking tenants, counseled prison inmates, and attended and taught political education classes in hopes of shaping a new world (pg. 764)." The Black Panthers saw their involvement in the American legal system as a necessary evil until full black independence could be achieved. Although not everyone who was associated with radical Civil Rights organizations like the Black Panther Party partook in violent acts of protest, they still endorsed a politically violent strategy in the very least by their association with pro-violent groups. In the same way, during the frontier violence over the issue of slavery in "Bleeding Kansas" many Abolitionists stayed away from the violence themselves while still supporting those who took up arms.

This peaceful challenge to state authority led some of the members of this movement faction to believe that the black power revolution could occur peacefully (see Umoja, 2013), which produced an intra-faction debate on the necessity of violence to revolution. Malcolm X was one of the most vocal critics of those who called for non-violent revolution who wrote and spoke several times on the issue. In one of his writings titled *On Revolution*, he argued:

"...It's (the Negro revolution) the only revolution in which the goal is a desegregated lunch counter, a desegregated theater, a desegregated park, a

desegregated public toilet; you can sit down next to white folks on the toilet. That's no revolution. Revolution is based on land. Land is the basis of all independence. Land is the basis of freedom, justice, and equality.... Revolution is bloody, revolution is hostile, revolution knows no compromise, revolution overturns and destroys everything that gets in its way... Whoever heard of a revolution where they lock arms... singing 'We Shall Overcome'?... A revolutionary wants land so he can set up his own nation, an independent nation. These Negroes (civil disobedients) aren't asking for any nation— they're trying to crawl back on the plantation."<sup>127</sup>

Here Malcolm X reprimands both the black nationalists who sought a bloodless revolution and the more moderate, civilly disobedient wing of the Civil Rights Movement that called for integration to secure their rights. According to Malcolm X, the only way for America to avoid the revolutionary bullet was to give the black man a ballot in every state.<sup>128</sup>

By 1970, however, the debate over the use of violence during a revolution had come to an end. On June 19, 1970, the organized issued a "Warning to America," which read in part:

"We are from 25 to 30 million strong, and we are armed. And we are conscious of our situation. And we are determined to change it. And we are unafraid. Because we have our guarantee. If the American people, as a whole, do not rise up, reverse the present course of this nation, which, if unchecked, holds out only fascist repression and genocide for Black people, then, we Black people, will be forced to respond with a form of War of Salvation that in the chaos of carrying it out and the attempt to repress it, will gut this country and utterly destroy it. Before we accept Genocide, we will inflict Total Destruction upon Babylon."<sup>129</sup>

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<sup>127</sup> Printed in: Lawson, Steven F. and Charles Payne. *Debating the Civil Rights Movement, 1945-1968*. Rowman & Littlefield Publishers, Inc.: New York, 1998.

<sup>128</sup> "And the only way without bloodshed that this can be brought about is that the black man has to be given full use of the ballot in every one of the fifty states. But if the black man doesn't get the ballot, then you are going to be faced with another man who forgets the ballot and starts using the bullet." Malcolm X, "America Can Have a Bloodless Revolution," 1964. Printed in: Lawson, Steven F. and Charles Payne. *Debating the Civil Rights Movement, 1945-1968*. Rowman & Littlefield Publishers, Inc.: New York, 1998, pg. 165.

<sup>129</sup> "Warning to America" part of message delivered June 19, 1970. The Black Panther Party, Its Origin and Development as Reflected in its Official Weekly Newspaper. *The Black Panther Black Community News Service*. Staff Study by the Committee on Internal Security, House of Representatives, 91<sup>st</sup> Congress, Second Session, October 6, 1970, U.S. Government Printing Office, Washington: 1970, pg. 124.

By this time, RAM had established a distinct, loosely-networked armed organization, called the Black Liberation Army (BLA) “to wage guerilla warfare in the United States (Umoja, 2013: 231).” According to RAM, the purpose of BLA was for black youth in the ghetto to “...prepare for the ultimate stage, a protracted war of national liberation; therefore the type of organization that must be established is a paramilitary organization (as quoted in Umoja, 1999: 5).” BLA and what became known as the “Panther underground” created clandestine, atomized chapters in several major cities across the country, underwent military training sometimes by Vietnam veterans, and aimed to wage war against local police. As such, police, including their cars and stations, were their primary targets not only because they embodied the misuse of the state’s monopoly of force, but also because the Black Panther Party had experienced police raids. The emergence of more radical politically violent tactics elicited condemnation from some members of the Black Panther Party, which resulted in an organization split, and led to the FBI and states like New York State categorizing BLA as a terrorist organization (Umoja, 1999). While this more extreme form of political violence received repudiation from the other politically violent faction activists for its move from property violence to physical violence against bodies, the BLA acted in accordance with the revolutionary rhetoric from RAM, SNCC, CORE, and the Black Panther Party.

Formal organizations like the Black Panthers and BLA were not directly responsible for orchestrating all of the collective, violent acts of property destruction in the 1960s. Urban riots like the Watts Riot in 1965 (see McAdam, 1997; Dierenfield, 2008), the Detroit Riot in 1967 (see Singer et al, 1970) were among the most extreme forms of political violence associated with the Civil Rights Movement in the 1960s. Urban unrest also erupted in the wake of King’s assassination in 1968, marking three consecutive summers of mob violence across American

cities (Nimtz, 2016: 20). McAdam (1997) observed: “no evidence has ever been produced to indicate that the riots were deliberately planned or carried out by specific insurgent groups, as were the other tactics (pg. 353).” As such, it is not appropriate to examine the urban riots in the same ways as intentional, planned, and organized protests. However, prior research revealed that the motivations behind the violent riots and armed acts of self-defense and later revolution are markedly similar.

For instance, Singer, Osborn, and Geschwender (1970) interviewed those imprisoned in the wake of the Detroit Riot of 1967 and found that those living in black ghettos had a “feeling of disengagement from the larger political process (pg. 38).” What is more, they concluded that: “Among the conditions discussed as being conducive to the emergence of urban disorders was a governmental structure perceived as nonresponsive to grievances (pg. 97).” These findings corroborate the premises of the state legitimacy/protest strategy escalation framework, specifically that belief in state illegitimacy, predicated in part by a lack of recognition and negative or insufficiently state responses to demands, is likely to produce politically violent protests. Based on these interviews, it would appear similar conditions are conducive for even spontaneous, unorganized violent protests like riots. Furthermore, Self (2003) notes that the Black Panthers were indirectly responsible for these acts of violence since “The Party indulged in inflammatory speeches and at times provided cover for a violence not related to the legitimate defense of the community (pg. 229).”

## **Conclusion**

In conclusion, the variations across the Civil Rights Movement’s three factions are the result of their divergent perceptions to the state’s responses to both the movement’s demands and

activists as well as the unique ideological commitments that shaped each faction's belief in the state's legitimacy or lack thereof. What is more, the various religious and secular beliefs of each faction facilitated the escalation to and employment of some protest strategies and hindered others. The fact that the Civil Rights Movement and its peaceful and lawful, civilly disobedient, and politically violent factions, all of which co-existed by the mid to late 1960s, provide a set of "natural controls" that facilitate theory-building within the state legitimacy framework. First, these movement factions emerged with the same central call for first-class American citizenship and made rights claims based on rights enumerated in the American social contract. Secondly, they faced comparable, and often the same oppression and violence from state and non-state actors alike and the same state responsiveness to the movement's demands and activists. Therefore, it is clear that the differences in each faction's *perceptions* of state actions significantly influenced the divergent perceptions of state legitimacy across each faction, a finding consistent with the Abolitionist and Prohibitionist Movements.

A final noteworthy observation is that the Civil Rights Movement has yet to be fully institutionalized and its demands fully realized, at least according to the activists who continue to mobilize under the movement's calls for the full rights and recognition of citizenship for African Americans. This is unlike the Abolitionist Movement that, along with its allies and after the Civil War, successfully abolished the slave trade and slavery in the United States. The Civil Rights Movement is also distinct from the Prohibitionist Movement in that the state institutionalized the latter's demands, a move that resulted in widespread, unequivocal repudiation by the public and state officials unwilling to enforce prohibition. Even though the Civil Rights Movement has contributed to significant state action and increased public acceptance of its demands since it emerged in the early 1900s, problems that still disproportionately affect the black community

persist today. A new generation of activists continue to mobilize in the 21<sup>st</sup> century against police brutality against black bodies, high rates of incarceration for marginalized groups, and systemic racism and invoke the same black power and Marxist rhetoric of Malcolm X and the Black Panther Party (see Clayton, 2018 for evidence of this rhetoric). In fact, much of the ideological commitments, demands, and even some of the protest tactics of Black Lives Matter seem to parallel the politically violent faction of the 20<sup>th</sup> century Civil Rights Movement to a greater extent than the other two twentieth-century factions. Therefore, it is worth exploring the conditions that facilitate the continuation of an escalated protest strategy across what I would call “co-movements,” or movements that are distinct but emerge and mobilize under comparable conditions and make similar demands. I believe that the state legitimacy framework could explain this co-movement’s continued and escalated protest strategy. I also expect that a co-movement occurred in other cases like the nineteenth and early twentieth Women’s Suffrage and subsequent Feminist Movements.

Conclusion:

Reflecting on the State Legitimacy Framework

“I have not yet begun to fight.”  
John Paul Jones

### **Reviewing the State Legitimacy Framework**

This intra- and inter-case comparative analysis of the Abolitionist, Prohibitionist, and Civil Rights Movements employs the state legitimacy framework to help explain the protest strategy escalation of American social movements from peaceful, lawful protests to civil disobedience and then to political violence. The state legitimacy framework contends that protest strategy escalation from peaceful, lawful protests to civil disobedience occurs once a movement/movement faction begins to lose faith in the state’s absolute lawmaking capacity. Furthermore, if and when a movement/movement faction loses faith in the state as a system of governance, it is highly likely to engage in a politically violent protest strategy. There are three factors that shape a movement’s perception of the state’s legitimacy or lack thereof. These three factors are the 1) types of rights claims embedded in the movement’s demands, 2) the movement’s perception of the state’s response to the movement’s demands and its activists, and 3) the movement’s religious and/or ideological commitments.

The three facilitating factors of the state legitimacy framework explain the changes in each movement/movement faction’s perception of the state’s legitimacy, which in turn shaped each movement/movement faction’s protest strategy. The Abolitionist Movement lost faith in the state’s legitimacy because of 1) passage of a series of official legislative acts and court decisions in the 1850s contrary to the movement’s demands, 2) the state’s outright and explicit denial of the movement’s rights claims in addition to new rights violations against blacks, and 3)

the Abolitionists' religious beliefs that the state's actions were contrary to both the American social contract and divine law. By comparison, only a group of saloon smashing women became politically violent in the Prohibitionist Movement because 1) the state failed to enforce its anti-liquor laws, 2) these women lacked the rights and recognition of full citizens to engage formal political channels through peaceful means, and 3) the militant women Prohibitionists believed that the state was derelict in its duty to provide for the general welfare, so it was up to them to protect their families and communities through "laws of their own making (see Prohibitionist Chapter)." Finally, the political violent Civil Rights faction lost faith in the state's capacities because 1) it perceived that even positive state action was insufficient to extend the full rights and recognition to African Americans and solve other rights-based demands—the embodiment of empty acquiescence, 2) the emergence of a faction adopting new rights claims of full independence, which required revolution and guerrilla warfare, and 3) the adoption of a new Marxist social contract that encouraged violence against an endemically oppressive, capitalist American state.

The unifying framework generates case-specific theories across multiple American social movements while maintaining generalized causal pathways to protest strategy escalation. Furthermore, the state legitimacy framework reveals the importance of a movement/ movement faction's perception not only in regards to the state's responsiveness to a movement's demands and its activists, but also in its perception of the state's fulfillment of the American social contract. The state legitimacy framework also offers a more holistic conception of "legitimacy" that includes its fidelity to popular sovereignty, fealty to its social contract, and full recognition of the rights and standing of all of its citizens. While I suggest that these and other contributions of this project advance our understanding of social movements in general and these cases

specifically, the implications of this framework extend beyond this project and also illuminate new avenues of future research.

*Instrumental vs. Revolutionary Violence, Social Contract Theory, and State Legitimacy*

There are several implications we can draw from each case examined here and all three cases examined together that illuminate new possibilities for future research. Two of the most significant implications of this project that merit further elaboration are the differences and similarities between instrumental and revolutionary violence and a social contract theory framing of a movement's perception of state legitimacy. First, the variance in the scope, purpose, and trajectory of the political violence in which the saloon smashing Prohibitionist women engaged as compared with the Abolitionists' frontier warfare that preceded the Civil War and the Civil Rights politically violent faction's calls for revolutionary war demonstrates a notable difference between instrumental and revolutionary violence. Based on my examination of these three cases, I contend that all politically violent acts of protest are a response to intolerable state actions or limitations, emerge through common protest strategy escalation factors outlined in the state legitimacy model, and indicate some democratic failing of the state. This echoes Gurr's (1970: 4) contention that any form of political violence not legally sanctioned undermines the state's monopoly of force. There are meaningful differences in targeted, limited acts of instrumental violence and desire for political upheaval of revolutionary violence.

Targeted, limited acts of violence constitute instrumental violence (see Gamson, 1990), which is a response to a (relatively) limited state failure. Instrumental violence marks the end of a negotiation period on specific demands but does not rule the state out as a future good faith actor in other negotiations, and it is not an outright abandonment of reconciliation with the

current political system as long as requisite alterations to that system have been made. As such, a movement or movement faction that engages in instrumental violence is more likely than a revolutionarily violent movement/ movement faction to de-escalate in the future given necessary positive state responses and the activists' renewed faith in the state's legitimacy. The latter (revolutionary violence) emerges in response to a more comprehensive and damning state failure, embodies loss in a belief that the current political, social, and/or economic system can change, and imagines a new system either based on a more actualized realization of the old social contract (i.e., Abolitionists) or an entirely new kind of contract (i.e., Civil Rights Black Power). Furthermore, as their names indicate, instrumental and revolutionary violence represent divergent violent tactics employed as means to notably distinct ends.

Another critical difference between instrumental and revolutionary violence is the specific and unique tactical forms each type of violence tends to take. Based on the three case studies examined here, the instrumentally violent, saloon smashing Prohibitionist women engaged exclusively in property destruction while the revolutionarily violent frontier warrior Abolitionists and Marxist revolutionary that led some Black Power activists (mainly those associated with BLA) to engage in physical violence against law enforcement. This indicates that there may be degrees of politically violent activists' perceptions of state failure, which is most evident across movements and movement factions, that in turn produce more or less severe politically violent protest tactics.

As stated in the Prohibition Movement chapter, there are also some remarkable parallels between the instrumentally violent saloon smashing and the civilly disobedient Underground Railroad, sit-ins, and Freedom Rides. While these tactics belong under different protest strategy categories, all are targeted specifically based on a movement's demands, occur because of a lack

of sufficient state responsiveness to those demands, yet still respect the rule of law in all other matters and yield to the state even when activists are punished for their illicit acts of protest (or at least work within the system to avoid such punishment— see the lawyering up of the saloon smashers in the Prohibition Chapter), while refraining from calling for a dissolution of the entire current political system. What is more, the Boston Tea Party, noted by many (see Arendt, 1969; King, 1999; Perry, 2013; etc.) as the quintessential and original example of civil disobedience, was not entirely peaceful in its targeted destruction of property that it did not own. All of this suggests that even though the differentiation between civil disobedient and politically violent protest strategies remains valid, parts of the civilly disobedient paradigm of protest explain the contours of instrumental forms of political violence.

Therefore, I intend to develop and explore a new concept I call “civil violence” that resembles civil disobedience but entails some degree of political violence in future research endeavors. Much like *social* disobedience (see WCTU in Prohibition Chapter) is a peaceful, lawful protest tactic that violates social norms instead of formal laws, “civil violence” imports some elements of civil disobedience into a politically violent tactic. As such, “civil violence” a politically violent protest strategy that is constrained and both selectively and purposely destructive, challenges the state’s monopoly of force by degrees instead of absolute terms, and represents the point at which negotiations on a particular subject are over and activists circumvent the state to assert their solution, yet the citizen-state relationship itself is not dissolved. (see Moulin-Doos, 2015:36 for brief review on property vs. physical violence and initial research on civil disobedience vs. property violence). This new concept, “civil violence,” is worth further examination because it delineates notable differences in divergent tactics and intentions of political violence, uncovers more of the rationale behind acts of protest that other

research either takes for granted or does not explore, and suggests a more nuanced trajectory within the politically violent protest strategy itself. I also expect that the more a movement/movement faction's ideological commitments are at odds with the American social contract (like with the Civil Rights politically violent faction), the more likely that its activists will engage in revolutionary violence.

A second noteworthy implication of the state legitimacy framework is that it combines the theoretical social movement literature with social contract theory and places a movement/movement faction's perceptions as the interpretative frame to assess the citizen-state relationship. As stated in the introduction, social movements emerge within democracies because of perceived perceptions of the democratic failings of the state (see Gamson, 1990:5; Canovan, 1999; Kirkpatrick, 2008; Tilly and Wood, 2009: 13 and 142; etc.). Canovan (1999) goes so far as to say that "populist mobilization... follows democracy like a shadow (10)," which asserts that movements predicated on grassroots (or populist) mobilization are the peaceful means to (re)calibrate a democratic state and society toward more democratic practices. What is more, this also suggests that these movements are a natural and ever-present possibility in democracies, and their recurrent presence is to be expected. Scholars like Rawls (1971), Arendt (1972), and Moulin-Doos (2015) also demonstrate the role of Lockean rights claims, contractual promises among people, rights protections as the state's prime directive, and the Lockean right to revolt against a state that fails to protect natural rights. One of the contributions of this project to this literature is its use of the American social contract, which includes the Declaration of Independence and U.S. Constitution, which American movements tend to invoke as the agreement between citizens and the state as well as among citizens. The American social contract not only establishes the rights of citizens and the powers and responsibilities of the state

but also identifies remedies for its violations (“long train of abuses” and Supremacy Clause, for instance).

The cases examined throughout this project illustrate how even when movements make demands and assert rights claims beyond the Declaration and Constitution, they still tend to draw on these documents to legitimize their calls for state intervention. The Prohibitionist Movement’s invocation of the Preamble’s public welfare and blessings of liberty clauses demonstrates how American movements are likely to extend the scope of American social contract by drawing on its existing principles and clauses and applying them to a new set of demands and rights claims. King recognized this when he and other Civil Rights activists became involved in the Labor Movement, King observed:

“So far, we have had the Constitution backing most of the demands for change, and this has made our work easier, since we could be sure that the federal courts would usually back up our demonstrations legally. Now we are approaching areas where the voice of the Constitution is not clear. We have left the realm of constitutional rights and we are entering the area of human rights.”<sup>130</sup>

And, of course, Malcolm X and the Black Panther Party called for a new social contract based on Marxist socialism because they believed that the American state had failed to live up to the terms of its own contract for too long.

A movement/ movement faction’s perception of state legitimacy is typically contingent, at least in part, on its perceptions of the state’s response to demands and activists as well as the gains it makes with fulfilling demands with explicit rights claims in the American social contract. Therefore, it is worth fleshing out the ways in which American social movements reinterpret and reimagine the American social contract in future projects. This goes beyond the

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formal constitutional amendment process and includes the justifications for specific demands, why and under which conditions movements wish to incorporate those demands into the social contract, and the ways in which movements work within and outside of formal political institutions to create consent among the governed around these new demands. It is also a way for activists to frame their own ideological commitments as complimentary to the American social contract and also as an advancement of the principles articulated in the contract. Future research might include the same kind of primary source content analysis used for this project and resemble the work done specifically in the Prohibitionist Movement chapter that explored that movement's use of the welfare and blessings of liberty clauses.

#### *New Questions on Protest Strategy Escalation*

As with all projects, there are some questions the state legitimacy framework raises about its wider applicability that these three case studies do not address, which also provide new avenues for future research. The first question is—what if movements emerge that are initially opposed to the American social contract? Although the Black Panther Party and the rest of the politically violent Civil Rights faction emerged out of a social movement that began decades before as a peaceful, lawful movement, it does indicate that this could be a possibility. One response to this question is that not all individuals or groups who engage in political violence (or acts of protest in general) belong to and/or represent a social movement. Another thing to consider is if a social movement does emerge opposed to the American social contract itself, it is highly likely that that movement's perception of state legitimacy is already low or non-existent. This begs another question— what contributed to a loss of faith in the state's legitimacy before the movement emerged in the first place? It is important to note, however, that because a vast

majority (if not all) movements, particularly in the American context, first engage in a peaceful, lawful protest strategy predicated on some bedrock belief in the state's legitimacy, movements that emerge opposed to the American social contract are rare.

Second, how should scholars analyze movements that are ideologically undemocratic? First of all, it is important to avoid categorizing movements as democratic or undemocratic based on their position along the ideological spectrum alone because this does not take into account the actual content of the movement's demands nor its proposed solutions to the (perceived) crisis or crises which inspired its emergence in the first place. Secondly, scholars must recognize that the concept of democracy is not free from the possibility of internal contradictions like the tyranny of the majority that situates liberalism and egalitarianism against majoritarianism, all of which are elements of democracy (see Gerring et al, 2011). Furthermore, as the Abolitionist and Prohibitionist chapters illustrate, movements can draw upon different kinds of democratic theories to justify the extension of some rights and the contraction of others. For instance, Abolitionists' demands to end the slave trade and elevate all blacks to full citizenship drew on a Lockean liberal conception of democracy that emphasized individual rights and recognized that rights violations could come from both the state and other citizens. What is more, Abolitionists believed that their demands did not violate the property rights of slaveholders because the condition of slavery itself is antithetical to the right to life and liberty which undergird property rights. In contrast, Prohibitionists' desire to criminalize the sale and manufacture of alcohol was not predicated on a right not to drink but rather Rousseau's republican conception of democracy that championed the common good and the public's welfare. According to republicanism, the promotion of the common good and the public welfare are prerequisites for individual liberties, which justifies the limitations of some liberties like economic rights to sell one's wares.

I suggest that this dual conception of democracy applies to 21<sup>st</sup> century movements. Locke's liberalism is the basis for the Tea Party's calls for smaller government, emphasis on the consent of the people, and focus on individual liberties, and Rousseau's republicanism undergirds the Occupy Wall Street and Black Lives Matter Movements' calls for equality, social justice, and the state's responsibility to the public welfare. This is not to say that these and other movements will not promote anti-democratic policies, harbor undemocratic sentiments and their sympathizers, or try to constrict the rights of others to achieve their goals. In fact, scholars have explained that support for the Tea Party extends beyond mainstream conservatives and includes some racist white supremacists who aligned with the movement in response to President Obama's election (see Foley, 2012 for economic and liberal roots of the Tea Party, see Parker and Barreto, 2013 for the racial aspects of the Tea Party) My analysis here contends that there is more than one legitimate way to conceptualize democracy so there should also be more than one way to distinguish among democratic movements and between democratic and undemocratic movements.

Furthermore, shifts in elite and public ideologies may be a consequence of social movement mobilization that have taken on a life of their own during the institutionalization process (see Schlozman, 2015). The current nationalism movement is more of an ideological, elite-driven phenomenon, which is arguably an indirect result of the Tea Party's protests and rhetoric but not necessarily a social movement in its own right. Because of the the armed, anti-lockdown protesters in Michigan that seem to be motivated by similar sentiments, is worth exploring if these sentiments have trickled back down to grassroots activism (Beckett, 2020). That being said, there are white supremacist and anarchist groups that are undemocratic, and it is important to determine if these groups are actually movements or something else like a counter-

movement, paramilitary organization, or exclusive association. Defining social movements too broadly can undercut not only the explanatory power of social movement theories in general, but also lead to missed opportunities in developing new frameworks and theories to explain different kinds of political and social organizations and groups. When it comes to actual social movements, I contend that undemocratic movements themselves are likely to emerge with little faith in the American state from their inception.

Finally, a third question is— what if movements are not focused primarily or exclusively on the state? For instance, the Farmers' Alliance (founder of the Populist Party) emerged in response to the economic crisis of 1870 and railroad monopoly as well as the government's unresponsiveness to these crises (Pollack, 1962; Canovan, 1981; McMath, 1993). Of course the state is ultimately responsible for adjudicating interactions among citizens, which includes economic interactions. This explains why the Farmers' Alliance sought economic policy interventions from the state. A movement's additional or primary focus on non-state actors can also explain the targets of civil disobedience like sit-ins in department stores (Civil Rights chapter) and of political violence like saloon smashing (Prohibitionist Chapter). I hypothesize that movements' perceptions of the legitimacy of some private, economic enterprises and the economic system writ large, in addition to its views of state legitimacy, may shape a movement's demands and applications of specific tactics. The fact that the politically violent Civil Rights faction sought not only to revolt against the state but also against American capitalism indicates that beliefs in economic fairness and justice influence beliefs in state legitimacy. An examination of the various iterations of the Labor Movement throughout American history would be a useful way to develop and test this observation, as would Environmental Movement organizations like the Earth Liberation Front (on the latter, see Joosse, 2012).

## **Politically Violent Protests in 21<sup>st</sup> Century America**

So far, this project has focused on American movements from the 19<sup>th</sup> and 20<sup>th</sup> centuries, and the application of the state legitimacy framework to 21<sup>st</sup> century movements is a natural extension of this project. Before I go any further, I believe that scholars, myself included, should be cautious when commenting on current events because contemporary political phenomena are susceptible to change, and social movements are uniquely fluid because of their dual capacity and ability to endure after they fracture. I also think that while we all want to be among the first to theorize on new features of the political landscape, it can be difficult to maintain objectivity and test claims with sufficient evidence while a movement is still evolving in its demands and mobilization efforts. Therefore, this assessment of political violence in America in 2020 is preliminary, intentionally unspecific, and based on the information available at this time.

Keeping all of this in mind, there are three considerations to keep in mind when examining 21<sup>st</sup> century movements in general and in regards to the state legitimacy framework specifically, which are the rise of the internet, the rise of violence (specifically in 2020), and the rise of new movements and groups that are modern iterations of past movements. First, the rise of the internet is consequential for the study of social movements because its effects on intra- and inter-movement and organizational communication affects a movement's structure, discourse, and mobilization (Bennett and Segerberg, 2013). Different movements, groups, and individuals use online forums in a variety of ways ranging from supplementing in person operations to organizing de-centralized, crowd-based political action on and off-line (Bennett and Segerberg, 2013; 13). One of the notable consequences of groups and individuals regulating more political action and organization online is that this facilitates more personalized action frames and individualization of contentious political rhetoric and actions (Bennett and Segerberg, 2013).

This decentralization poses unique challenges to identifying a movement's or even movement faction's perceptions of state actions (or lack thereof), perceptions of state legitimacy (or lack thereof), pre-determined protest strategy and tactics, and a common, underlying ideology and subsequent ideological shifts. I suspect that movements and causes that heavily rely on online forums are more likely to be more fragmented in their demands, action frames, ideological commitments, and the rationale behind acts of protest.

Another consequence of internet-based, grassroots political action is that it produces more movement atomization from organizations like churches that used to be foundational to collective political action and also increases fluidity across organizations and causes (Bennett and Segerberg, 2013). Pre-internet American movements have supported each other and there have been leader and activist cross-overs, like the Farmers' Alliance and Knights of Labor (Postel, 2007) before and during the Progressive Era, Prohibitionist women and the Women's Suffrage Movement (Dannenbaum, 1981) and the Civil Rights and Labor Movements in the mid-20<sup>th</sup> century (Schmidt, 2016) to name a few. It seems that some of the movement divisions are less stable and clear in the internet age, coalitions of movements and groups are more apt to join forces during periods of mobilization, and individual activists are not always committed to the advancement of one cause at a time. The Women's March on Washington, D.C. on January 21, 2017 in which hundreds of thousands of women protested across the nation on a variety of issues (Moss and Maddrell, 2017) demonstrates this new trend in internet-facilitated mass mobilization. Of course, some also see the rise of online activism, or "clicktivism" as a replacement for and hinderance to off-line protests, although others find "clicktivism" to be another valid form of protest (Halupka, 2014). The changing structure, communication, and mobilization of modern American social movements and new "repertoires of protest" (see Tilly, 2006) provide new

opportunities to test and evaluate the state legitimacy framework. One possibility is that modern, more de-centralized movements may include more activists and supporters that hold a variety of ideological commitments, which in turn will produce disagreement on how movements should perceive state action and legitimacy.

Secondly, the rise of politically violent protests in the 21<sup>st</sup> century and in 2020 in particular also opens new avenues for both social movements and other politically violent actors; although, I contend that political scientists, myself included, should tread carefully in this assessment. First of all, it is important to avoid ascribing every contemporary act of protest, violent or not, to an organized movement. Nor should we uncritically label organizations like Antifa and other paramilitary organizations on both the far left and far right as social movements just because they engage in public demonstrations (see Pyrooz and Densley, 2018), especially if they are not tied to larger movements like the Black Liberation Army's affiliation to the radical wing of the Civil Rights Movement (see Civil Rights chapter). It is also vital that we take seriously the accusations of some Black Lives Matter activists that their legitimate protests have been hijacked by radical opportunists (see Jarvie and Read, 2020), which is another dimension of inter-organizational demonstrations that merits further attention in academic circles. Next, as scholars like McAdam (1997) have noted, riots and looting should not be considered the same as intentional, organized acts of protest since they are far more spontaneous and far less targeted and controllable than intentional, organized acts of protests like moral suasion campaigns and sit-ins. I suggest that it is essential to see if and how movements are encouraging unorganized violence with their rhetoric and organized tactics (see Self, 2003 on the Black Panther Party and urban unrest). Finally, online organization opens up opportunities for scholars to examine some of the intra- and inter-movement communications; yet, it also poses problems when movement

leaders and activists are less able to regulate members and manage collective action frames. As such, we should be wary about misrepresenting movements based on a few outlier posts and about magnifying the perspectives of “trolls,” or those who are counter-protesters injecting themselves into the movement’s online forums.

A third consideration is how new movements on both the right and the left seem to embody modern iterations of past movements and may pre-date their original founding back to these movements. I suggest that these movements may import both the grievances and also the perceptions of the state’s legitimacy, or lack thereof, from the past; in this way, some modern movements may begin with or be more likely to engage in protest strategy escalation because they see themselves as the new generation of the old guard that already underwent a process of protest strategy escalation. The most salient and obvious example of this is the Black Lives Matter Movement that originally emerged in 2013 after the death of Trayvon Martin. The movement continued to mobilize in response to some high-profile killings of black men in police custody and then took to the streets across the country again in the wake of George Floyd’s murder in 2020 and its connection to the Black Power faction of the Civil Rights Movement.

Both movements emphasize the problem of police brutality against black bodies, are heavily influenced by Marxism, and seem to be steeped in the tenets of black nationalism (see Chancellor, 2016). While Black Lives Matter is a distinct movement in its own right, in some ways it appears to be engaging in the repudiation and social revolution described by the Black Panthers in its destruction of statues that now includes the founders. I suggest that the statues of the American founders represent the American ethos and institutional superstructure Marx described that is necessary to protect and perpetuate the current political system, which explains why activists are defacing and destroying them. These instances of property destruction are, of

course, a form of political violence. Black Lives Matter also draws upon the state's illegitimate actions of the past like slavery (which, of course, has lasting effects) to justify its present acts of protest, which also indicates that the justification of the movement's protest strategy escalation pre-dates the movement itself and appears to raise the bar on satisfactory state accommodations (see Clayton, 2018).

The threat of political violence in modern movements exists on both ends of the political spectrum. The most salient example of radical right-wing violence today comes from white supremacy and paramilitary groups, although I am unconvinced that modern white supremacy qualifies as a social movement and instead appears to be the remnants of counter-movement organizations like the KKK that does not engage in mass mobilization but rather acts like an underground, insular group. (None of this is to excuse or justify white supremacy, dismiss its harmfulness, or ignore its persistence in and effects on the modern political landscape.) Of course, this does not discount Charlottesville (see LaFree, 2018) and other incidents of politically violent white supremacy; rather, I suggest that it may not be appropriate to categorize today's white supremacist organizations as part of a social movement. I also suggest that the KKK should be considered a counter-movement, not a social movement, even at its post-Reconstruction zenith (see Zald and McCarthy, 1987 on counter-movements).

The Tea Party, however, should be considered a modern, conservative social movement because it emerged in response to a set of perceived crises (Foley, 2012; Parker and Barreto, 2013), not in response and objection to another movement like a counter-movement would. When it first emerged in 2009, the Tea Party fashioned itself as a contemporary Sons of Liberty movement and continued its valorization of the founding era in its slogans and reading of the Declaration of Independence in public demonstrations. I contend that the movement saw itself as

a peaceful “refounding” of America as it called the government to return to its constitutional principles (i.e., the American social contract). Furthermore, I suggest that the civilly disobedient anti-shutdown protests (insofar as the disregard for an executive order is unlawful) during the COVID-19 pandemic in places like Michigan (Beckett, 2020) could be interpreted as an escalation of earlier peaceful, lawful protests from conservative Tea Party groups. What is more, these activists brandishing firearms and making threats against elected officials indicates a possible escalation to political violence, given the right circumstances and the state’s perceived social contract violations. These activists’ conceptions of Americanism, which appear to be significantly shaped by conservative ideologies, will likely provide them with justifications for new protest tactics strategies to deal with these perceived violations if such protests continue.

The simultaneous threat and actual politically violent acts of protest from social movements (not counter-movements) situated on both ends of the ideological political spectrum and in response to varying perceived crises is a unique feature of 21<sup>st</sup> century movement mobilization (see Stanley, 2012). Because these movements seem to be drawing from different conceptions of past protests, I think that in order to understand today’s acts of protest it is necessary to contextualize them with their historical counterparts. For instance, ideological parallels across movements may help predict the conditions under which a modern movement is likely to escalate its protest strategy or change its tactics. It is also possible that politically violent protest strategies from movements on one end of the political spectrum may fuel comparable strategies on the other end. Finally, I contend that even in this new era of social movement mobilization, it is still vital for scholars to include historical and comparative analysis and to apply normative concepts like social contract theory in their examinations of all protest strategies, including political violence. Furthermore, I predict that regardless of their unique

demands, resources, structures, and protest tactics, acts of politically violent protests will remain contingent on activists' perceptions of state legitimacy. This would place the state in somewhat of a double-bind since its perceived legitimacy is in part determined by its response to a movement's demand, while activists and movements on opposite ends of the political spectrum are making mutually exclusive demands and vilifying their opponents. In conclusion, I contend that the state legitimacy framework will continue to explain the protest strategy escalation (or lack thereof) of American social movements throughout the new millennium.

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