

# Protest and Policymaking: Explaining Fluctuation in Congressional Attention to Rights Issues, 1960-1986

Brayden G. King, *Brigham Young University*

Keith G. Bentele, *University of Arizona*

Sarah A. Soule, *Cornell University*

*Although past research has failed to establish a link between protest and policy change, we reexamine the relationship at the agenda-setting stage of policymaking. We assert that protestors compete for attention among lawmakers at the agenda-setting stage. An issue receives more attention when the frequency of protest activity around a particular issue is sufficiently high for that issue to stand out within the field of competing issues. We examine this process by analyzing the factors associated with increasing and fluctuating attention to rights-related issues in Congress. We find that protest, issue legitimacy and issue competition account for variation in the number of congressional hearings granted to rights issues.*

Does protest matter to policymaking? Protest is a common tactic of social movements and often distinguishes social movements from interest groups and other forms of collective action (Banaszak 2003; Soule, McAdam, McCarthy and Su 1999). Despite the centrality of protest to social movement behavior, there is markedly little evidence that protest affects policy outcomes (although see McAdam and Su 2002). Instead, most studies of the effects of movements on policy outcomes find that it is movement infrastructure and organizational resources that determine movement success (Andrews 2001; Cress and Snow 2000; Giugni, McAdam and Tilly 1999; McCammon, Campbell, Granberg and Mowery 2001; Soule and Olzak 2004; Skocpol, Abend-Wein, Howard and Lehmann 1993). Although Gamson's early work (1990) showed a correlation between disruptive protest and achievement of goals, the effects of protest on policymaking are still unclear (Giugni 1998). In fact, a number of studies indicate that the use of disruptive protest tactics has little or no effect on policy-related outcomes (e.g., McCammon et al. 2001; Soule et al. 1999).

We suggest two reasons for the limited empirical support linking protest to policy outcomes. Recent evidence indicates that social movements matter more in the *early* stages of policymaking (King, Cornwall and Dahlin 2005; Soule and King 2006), findings that suggest that an important function of social movements

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is that of agenda-setting (Bauer, Pool and Dexter 1965; Kingdon 1984; Milbrath 1963; Scott and Hunt 1965). Agenda-setting involves framing policymaking debates, educating lawmakers and bringing attention and salience to issues that might otherwise be ignored (Baumgartner and Jones 1993; Baumgartner and Leech 1998; Cobb and Elder 1972; Kingdon 1984). If an important policymaking function of movements is that of agenda-setting, perhaps the lack of evidence linking protest to policy outcomes is due to scholars' focus on the final stage of policymaking rather than on the pre-policy or agenda-setting stages (Bauldry, and Froese 2005; Burstein and Linton 2002; Burstein 1999. For exceptions, see Andrews 2001; Burstein, Bricher and Einwohner 1995; King et al. 2005; Mintrom 1997; Schumaker 1975; Skrentny 2002; Soule and King 2006). Second, past research uses a case study approach, which, while useful for identifying historically-specific factors leading to policy outcomes, fails to take into account the interdependent and competitive nature of protest (Olzak and Uhrig 2001). Protesters compete for public attention, and protests' effectiveness is a function of their prominence in the social movement landscape. Issues represented in a disproportionate share of all protests are likely to receive more policy attention than other issues.

In this study we look at the effect of protest on Congressional hearings, an element of the pre-policy period. Although there is little consensus among legislative scholars on the exact function of Congressional hearings (Davidson and Oleszek 1985; Huitt 1954; Oleszek 1989; Talbert, Jones and Baumgartner 1995; Truman 1951), few would contest the idea that hearings both draw attention to an issue and are an important part of the agenda-setting process. Hearings provide an opportunity to give the public, lawmakers and other constituencies information about issues and to infuse issues with salience (Diermeier and Feddersen 2000). Indeed, hearings are often a crucial tool that legislators use to redefine issues and amplify them in the public mind (Talbert, Jones and Baumgartner 1995). Hearings are an indicator of attention to a particular issue, which is a necessary precursor to policy action (Jones and Baumgartner 2004). Thus, we argue that hearings are a general measure of legislative attention to a particular issue.

Controlling for a number of other explanatory factors, we provide evidence that protest elicited attention within Congress to a particular set of issues – those dealing with *civil and political rights* between 1960 and 1986.<sup>1</sup> In this time period, the proportion of all Congressional hearings dealing with such rights-related issues increased dramatically, and there is substantial variation in the number of hearings devoted to each kind of political or civil right. Additionally, there is variation in the amount of protest surrounding the various rights issues. The variation in both rights-related hearings and in protest about these rights makes this an interesting case with which to test our hypothesis that protest matters to the agenda-setting stage of legislation. If protest affects this early stage of the policy process, shifts in the relative level of protests associated with a specific rights issue should produce a parallel shift in the number of hearings addressing that same issue. Using a unique dataset, which matches protests related to a variety of rights issues with Congressional hearings on these same rights issues, tests this key hypothesis.

While most studies of the pre-policy or agenda-setting stage look at a *specific* issue of historical interest (e.g., disability rights), we take a novel approach to the subject by looking at *multiple* rights-related issues. Our ultimate goal is to begin to provide a more generalizable explanation of policy agenda-setting. The issues we examine are related to one another in that they all deal with political or civil rights. Using fixed-effects estimations, we examine factors associated with Congressional attention fluctuation that are similar across issues. This approach allows us to more accurately test the hypothesized effect of protest on hearings and generalize these findings more broadly. As far as we know, this study is the first social movement analysis of its kind.

### **The Rise of Rights-Related Congressional Hearings**

While rights have always been guaranteed to specific groups in the United States, not all groups have always had (nor do they now have) equal access to the same privileges and liberties. One of the highlights of the past 50 years of governance has been the radical extension of rights and privileges to a wider body of people than ever before. Since the beginning of the 1960s, the question of “rights” has become increasingly central to public debate, and Congress has recognized the rights of many groups, ranging from racial or ethnic minorities to the disabled, and more recently to the unborn. This represents a dramatic departure from the pre-1960 period (Baumgartner and Mahoney 2005).

Figure 1 depicts the rise of Congressional attention to civil and political rights, both in absolute terms and relative to the number of hearings on other issues. This figure shows that rights issues have not only received more attention since the beginning of the 1960s, they have also become a more dominant issue on the Congressional agenda.

Figure 1 depicts the linear expansion of Congressional interest in rights issues with attention to *specific* issues in periods of peaking and waning interest. Figure 2 shows how Congressional attention to specific civil and political rights varied over the same 27-year time span. Although the number of hearings dedicated to some issues (i.e., race and human rights) generally increases over time, there is a great deal of issue-specific fluctuation.

What explains fluctuation in Congressional attention to rights issues and the general rise to prominence of rights issues in the national agenda? Existing explanations tend to be issue specific; that is, different rights issues are usually studied in isolation. For example, Scotch (1984) examines the development of a disability rights agenda, arguing that the mobilization of disabled constituents resulted from a small addendum to a disability bill (Public Law 93-112 in 1975) that framed disability needs as a form of entitlement. And, Costain (1992) suggests that the emergence of the women’s rights agenda in Congress resulted from the breakdown of formerly established coalitions founded around the New Deal and the consequent need to court a new constituency – women.

John Skrentny’s recent historical analysis of the “minority rights revolution” offers a corrective to the issue-centric focus of these earlier studies. Skrentny (2002) argues that the original political motivation for extending minority rights was to compete with the Soviets in a racial propaganda contest (see also Dudziak 2000;

Layton 2000; McAdam 1998; Plummer 1996). After race-oriented rights became central to the policy agenda, others groups (e.g., ethnic, women) analogized their situation to those of racial minorities and, as a result, were able to capture a place on the agenda. The resulting cognitive shift opened up opportunities for movement leaders who wanted to frame their cause as rights-related, creating an almost effortless diffusion of policy strategies to meet the demands of various aggrieved groups. Skrentny clearly takes into account the interdependence of issues and provides a compelling explanation for the emergence of rights issues on the policy agenda. However, he does not attempt to explain the temporal fluctuation in issue attention, a question we wish to address here.

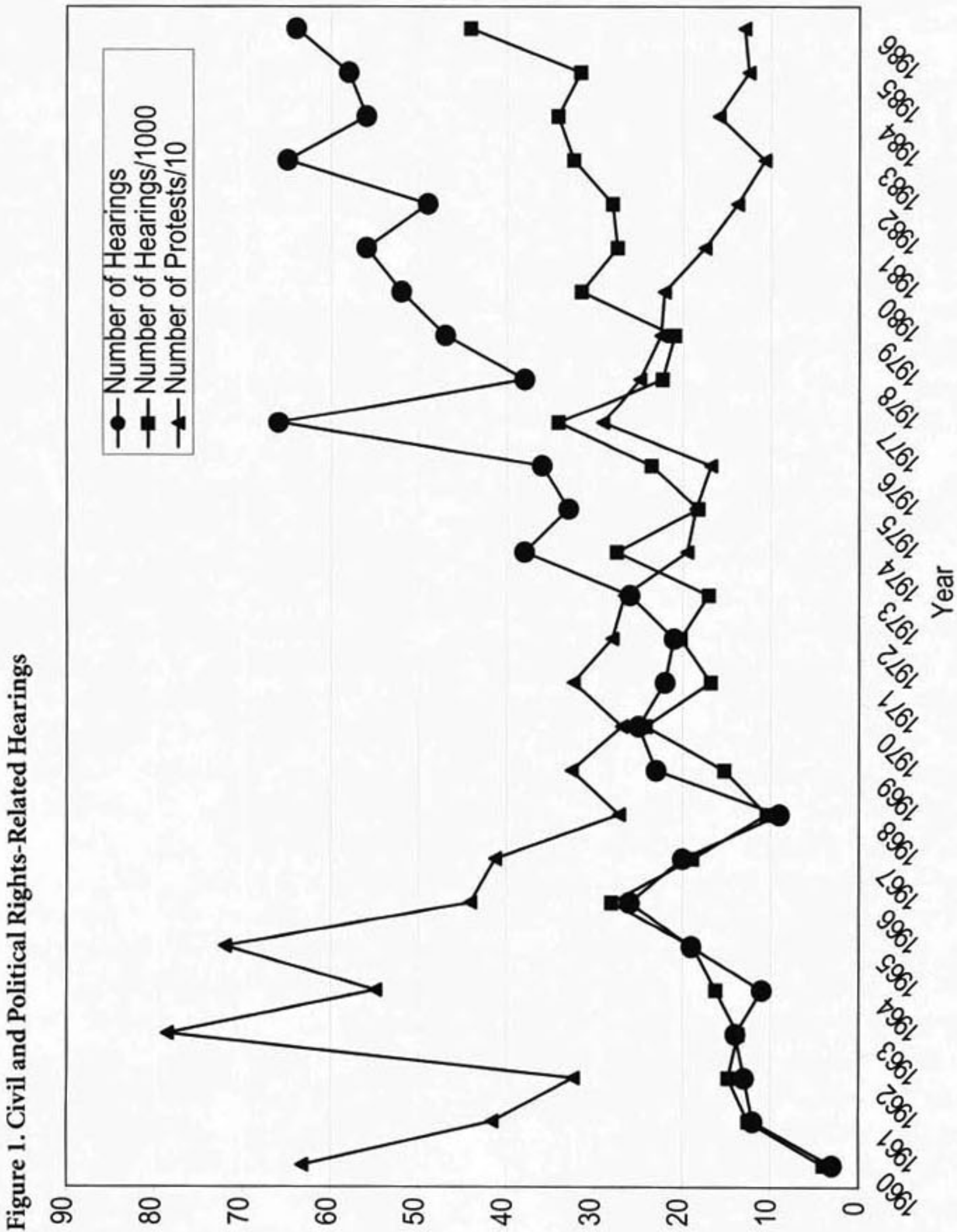
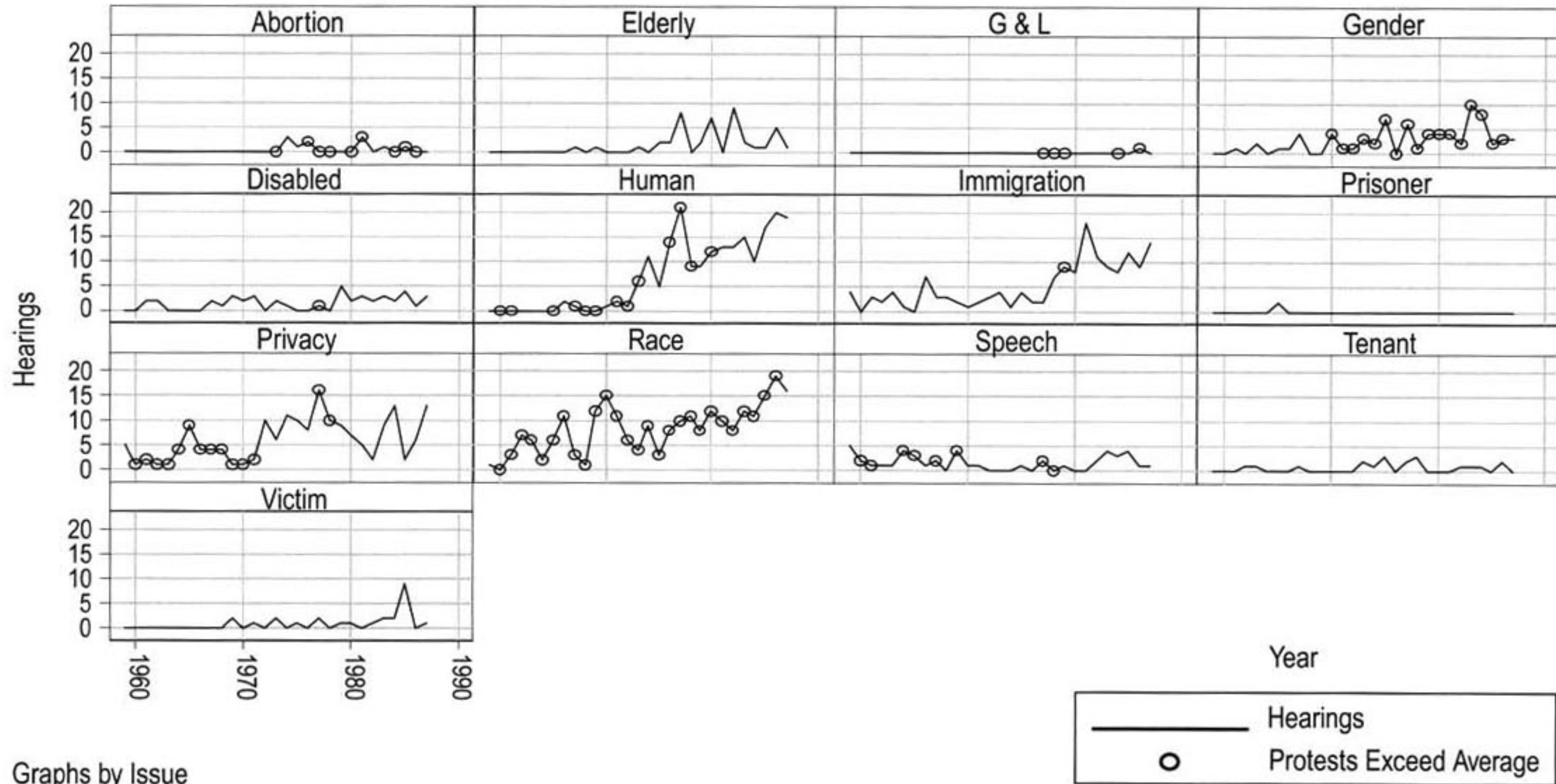


Figure 1. Civil and Political Rights-Related Hearings

Figure 2. Congressional Hearing Count by Issue



Graphs by Issue

## Argument and Central Hypotheses: Protests and the Legitimation of Rights Issues

Research demonstrates that the influence of social movements on policymaking is particularly pronounced during the early stages of legislation prior to final voting (King et al. 2005; Soule and King 2006). It is during the early or “front-end” part of the policy process that information flows (such as those provided by social movement activity) may have their most pronounced effect (Jones and Baumgartner 2004). There are two primary mechanisms by which social movements shape policy change (Andrews 2001; Soule 2004). First, social movement organizations, much like interest groups and lobbies, can influence policy via their ability to influence policymakers’ thinking on issues by framing issues in ways that appeal to legislators and/or by providing new information. Second, movements may threaten political elites via the disruption that protest tactics can cause (Piven and Cloward 1977), often imposing social costs on elites (Luders 2006). This research is primarily concerned with the effect of protest on the agenda-setting process in Congress.

But are all protests equally effective in garnering Congressional attention? We argue that protests matter more when they stand out as prominent among other issues. Protests compete with one another for Congressional attention, just as they do for media attention (see review in Olzak and Uhrig 2001). For example, if there is a greater-than-average number of protests on race-related rights issues in a given year, the race issue will stand out and will likely garner more Congressional attention. Therefore, our first hypothesis is:

*Protests about a given rights issue will be positively associated with the number of Congressional hearings on this issue when they constitute a disproportionate share of all protests occurring at that time.*

Note that this explanation does not rely upon the assumption that protests must increase linearly over time to explain a consequent linear change in Congressional attention (as is empirically untrue; see Figure 1). Rather, protesters need only compete with other protesters in a given year for the dominant share of the public’s attention.

However, protest alone is not sufficient to account for the fluctuation in Congressional attention to rights issues. Internal feedback mechanisms moderate the extent to which certain issues gain footing in Congress. Once an issue is introduced in Congress, its probability of enduring on the agenda is dependent on its cultural and political fit or resonance. Newly introduced issues that already have some cachet due to their similarity to past issues will have more appeal to lawmakers. Issues that have analogous predecessors in past legislation are *a priori* assumed to be within the realm of Congressional consideration. In addition, procedures and routines already exist within committees to handle issues of an established type. New issues that have little precedent lack these intangible resources and are therefore less likely to dominate Congressional attention. We

refer to this taken-for-granted acceptance as *issue legitimacy*, which resonates with neo-institutional scholars' use of the term as the extent to which something is "desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions." (Suchman 1995)

Issue legitimacy is primarily a function of past attention paid to issues of a similar nature. Issues framed as pertaining to civil and political rights are *mutually legitimating* or symbiotic (Ruef 2000).<sup>2</sup> Peters (1999) describes this legitimacy effect in his description of "analogous agenda setting." And as we noted earlier, Skrentny (2002) argues that rights issues were analogous to one another, which facilitated their diffusion across the policy landscape. In essence, when a new issue resembles (or can be portrayed as only an incremental departure from) those issues already considered within the jurisdiction of existing governmental authority, there is a greater likelihood that the new issue will be placed on the agenda.<sup>3</sup> Thus, our second key hypothesis is that:

*The cumulative number of rights-related hearings will be positively associated with the number of hearings granted to any particular rights issue.*

Combined, protest and legitimacy account for the rising Congressional attention to rights issues. Protest serves as the impetus for granting attention to an issue, and the amount of attention granted is a function of the overall legitimacy previously established in Congress for that issue. But given this logic, shouldn't we expect attention to all rights issues to increase in a fairly linear pattern? Other than fluctuation in protest, what accounts for fluctuation in issue attention as shown in Figure 2? Prior research has recognized the importance of *competition* in the agenda-setting process (Gamson and Modigliani 1989; Hilgartner and Bosk 1988; Laumann and Knoke 1987; Mouw and Mackuen 1992; Stone 1989; Weiss 1989; Weir 1992). In addition to being mutually legitimating, rights issues are also competitive; in any given year, there is a limited amount of hearing space available for rights issues. Issues and potential issues must compete for Congressional attention in a shared hearing space. Committee hearings are key resources that policymakers and outsider interests use to bring attention to a particular issue. Committee hearings are a gate-keeping mechanism for new policy solutions and a domain where issues become framed as governmental problems (Burstein and Bricher 1997). The limited capacity of Congress to hold hearings induces competition between issues and the carriers of those issues, whether these are social movements, interest groups or politicians.<sup>4</sup>

Competition between issues implies that the number of hearings held on any specific issue impinges on the ability of other issues to get additional attention. We assert that Congressional issues of all varieties compete, but this is *particularly* true of mutually legitimating issues, such as rights-related issues. For example, policymakers supportive of disability rights may also be the same people that women's rights activists target to present their issues. Given limited attention space, Congress cannot attend equally to all rights issues in the same year. Thus, our third hypothesis is that:

*Net of the overall legitimacy of rights issues, the total number of rights hearings in a given year will be negatively associated with the number of hearings dedicated to any one specific issue in that same year.*

## **Research Design**

Our approach is distinct from earlier research on policy agenda setting in two important ways. First, we focus on *issues* rather than on specific policies or laws. While most researchers studying policy change look at one specific policy outcome, this study looks at the more general category of “issue.” Issues, broadly defined, include multiple policy alternatives or policy packages (Burstein, Brichner and Einwohner 1995; Gamson and Modigliani 1989). Issues are topics of interest, not specific solutions to a problem and may include many policy alternatives relating to the same set of problems. Focusing on issues helps us to understand how a given set of policies enters the public sphere of debate in the first place. Before a policy can be proposed, actors must be convinced of the importance of the problem and the legitimacy of the government’s role in solving the problem (Burstein and Bricher 1997; Gusfield 1981; Kingdon 1984). In short, this analysis focuses on the puzzle of how an issue becomes socially constructed as a policy problem – a key function of agenda setting.

The second distinction is that we aggregate multiple issues in a panel level analysis. As discussed before, researchers have generated diverse explanations for policymaking and agenda-setting, but usually this research looks at specific historical incidents of policymaking rather than at a broad array of issues. (For example, McAdam and Su (2002) examine the effects of public opinion and protest on congressional roll call votes related to the Vietnam War.) By analyzing changes in attention to multiple but interrelated issues over time, we move beyond the constraints of single-policy case studies and advance a more generalizable theory of the effect of protest on policymaking. We recognize that the aggregated analysis may ignore some of the idiosyncratic findings of case studies, but we believe that it offers a much-needed complement to policy or movement specific case studies.

## ***Dependent Variable***

The dependent variable is the yearly count of Congressional hearings addressing one of 13 different rights-related issues. Analyzing the effect of protest on hearing count distinguishes this study from other social movement outcome analyses, which tend to focus on outcomes such as roll-call votes (McAdam and Su 2002) or final passage of a policy (McCammon et al. 2001; although see King et al. 2005; Soule and King 2006). The unit of analysis is the issue-year. Congressional hearing data come from the Baumgartner and Jones’ Policy Agendas Project (2003). The dataset contains information on every Congressional hearing from 1947 to 1999; however we limit the analysis to the years of 1960 to 1986 due to missing data on the social movement variables.

We identified the following 13 major rights-related issues: abortion rights, elderly rights, freedom of speech, gay and lesbian rights, gender-related rights,



Table 1: Descriptive Statistics and Correlations of Independent Variables and Dependent Variable

Variables	Mean	SD	1	2	3	4	5	6	7	8	9	10	11	12
1. Protest	.26	.44	1.00											
2. Issue legitimacy	321.9	267.6	-.01	1.00										
3. Issue competition	32.9	19.6	-.01	.91	1.00									
4. SMO strength	.26	.44	.84	-.04	-.03	1.00								
5. Political lobby	13.2	20.0	.34	.41	.40	.33	1.00							
6. Media attention	2.7	5.1	.44	.10	.08	.43	.31	1.00						
7. Public opinion	1.2	.42	.30	-.08	-.09	.28	.13	.39	1.00					
8. # of laws (lagged)	.29	.74	-.02	-.01	-.01	-.08	.001	.04	.06	1.00				
9. # of Supreme Court cases (lagged)	1.06	2.5	.11	.12	.15	.11	.15	.13	.05	.03	1.00			
10. Electoral competition	34.3	6.6	-.04	-.55	-.48	-.02	-.20	-.06	.03	.01	-.10	1.00		
11. Traditional hearing density	470.5	81.7	.04	.23	.44	.05	.20	.05	-.02	.15	.05	.11	1.00	
12. Total # of committees	334.2	18.0	-.01	-.33	-.23	.08	-.19	-.07	-.02	.002	.03	.05	.06	1.00
13. Number of hearings	2.75	4.21	.30	.25	.18	.25	.34	.30	.24	.24	.04	-.19	.17	-.09

disability rights, human rights, immigration rights, prisoners' rights, privacy rights, race-related rights, tenant rights and victims' rights. Rights-related hearings are defined broadly as any hearing dealing with civil or political privileges. This includes issues dealing with discrimination, access to public facilities, naturalization and so on. It should be noted that hearings were not categorized in terms of their directionality or valence of concern. For example, our measure of hearings dealing with immigration includes hearings in which either retraction or expansion of immigration rights were discussed. This is appropriate because we are concerned with attention to the issue, rather than attention to a specific kind of policy within that issue. Note that this strategy differs from that of McAdam and Su's (2002) study of congressional roll call voting related to the Vietnam War; these scholars coded the valence of each vote with respect to the War and examined the effect of different kinds of protest on these votes. More detail on the coding of hearings is available in the Appendix (see also Figures 1 and 2).

### Independent Variables

We include explanatory variables designed to test our three key hypotheses about protest, legitimacy and competition. Table 1 shows the means, standard deviations, and a correlation matrix for these variables and other control variables.

First, we include a dichotomous variable coded "1" if there was a *greater than average* number of protests about a particular rights-

related issue in a particular year.<sup>5</sup> Our binary coding of protest implies that protest influence is not simply a function of the number of protests; rather, the amount of focus that the entire social movement sector puts on a particular issue (relative to other issues that receive some attention from activists) determines how much attention Congress affords that issue. This specification of protest takes into account the varying degree of influence that activists have when competing with other protesters for Congressional attention, as per our hypothesis. Figure 2 depicts variation in this variable.

Coders obtained the protest event data used in this paper from daily editions of the *New York Times* from 1960 through 1986.<sup>6</sup> These events occurred all over the United States. For a particular event to be included in our dataset, it must have met three basic criteria. Because we are interested in *collective* action, there must have been more than one participant. Second, event participants must have articulated some claim, whether it was a grievance against some target or an expression of support. We use these claims to determine if each protest event was rights-related. Like the rights hearings, we do not code the valence of the protest event. Finally, the event must have happened in the public sphere. We do not code such collective events as block parties, annual parades and fund-raising campaigns, as our focus is on events that articulate some claim.<sup>7</sup>

Second, we measure *issue legitimacy* as the lagged cumulative number of rights hearings from past legislative sessions. The number of hearings on a focal issue is subtracted from the cumulative measure to assure that the variable indicates the mutual legitimacy existing between different issues.

Third, *issue competition* is measured as the total number of hearings in a given year for *all* rights-related hearings (minus the hearing count for the focal issue). The competition measure captures the extent to which other rights issues are getting attention simultaneously and is expected to reduce the number of hearings on the focal issue.

### ***Control Variables***

We include two political organization variables to ensure that protest is not a proxy for social movement resources. The first of these two variables indicates the extent to which protests about a given rights issue (in a given year) were sponsored by social movement organizations and, as such, is indicative of the *organizational resources* available to protesters. Data on organizational sponsorship of protest events come directly from the protest event dataset. To construct this measure, the number of organizations involved in protests around a particular rights issue is divided by the number of protests for that same issue in a particular year. It would have been ideal to have data on the budgets or membership of these social movement organizations, perhaps from a source other than newspapers. Unfortunately, such data are not available for all issues over time. However, Amenta, Caren and Olasky (2006) report that that newspaper coverage of social movement organizations is highly correlated with organizational resources, such as membership. Following the logic used in the creation of the protest variable above, the variable is coded "1" if the measure exceeds the average for all issues, coded "0" otherwise.

The second political organizational variable is a measure of *interest group organizational strength* and is an annual count of organizations lobbying Congress in each issue area. Organizations were identified in *Congressional Quarterly's Washington Information Directory*. This directory provides an annual list of lobbying organizations and summarizes issues for which each organization has expertise. Unfortunately, CQ began publishing this directory in 1975; thus we are missing data for this variable from 1960-1974. We linearly extrapolate values for missing years noting that there is a strong possibility that extrapolated values of the organizational count variable vary from the actual values. Thus, this variable's effect in the models should be interpreted cautiously.<sup>8</sup>

In addition to these two political organizational variables, we control for the effects of several contextual factors on rights hearings. Scholars suggest that the media shape the public agenda by keeping issues alive and drawing lawmakers' attention to particular issues (Cook et al. 1983). To control for *media attention*, we conducted a textual analysis of all hearings for each of our 13 rights-related issues. After identifying the most common words used to describe hearings for each issue, two primary and seven secondary keywords were selected as search terms for those issues covered in national periodicals. Each primary keyword was combined with a secondary keyword resulting in 14 distinct search strings. Using these strings, we searched seven different national periodicals (via the *Reader's Guide Retrospective* search engine) to create annual counts of the number of articles associated with each issue.

Other scholars argue that public opinion shapes governmental attention to issues, as it helps lawmakers gauge the public's interest in a specific issue (Burstein 1999; Manza, Cook and Page 2002; McAdam and Su 2002). We include a *public opinion* variable measuring the general importance of each of these 13 rights-related issues as reported by opinion-survey respondents. Using responses to the Gallup Poll question "What do you think is the most important problem facing the country?" we created an ordinal variable indicating varying levels of concern about the importance of each of our 13 rights-related issues to citizens in each year.<sup>9</sup>

Social movement scholars also suggest that the political opportunity structure should affect policy change (Andrews 2001; McCammon et al. 2001; Soule and Olzak 2004). We control for three dimensions of the POS: *previously enacted laws*, *past court cases* and *electoral competition*. As a measure of past laws, the number of issue-related laws passed in the previous year is recorded. Information on past laws comes from the Baumgartner and Jones (2003) dataset.

In order to assess the impact of *court cases* on the congressional agenda, the number of issues-related cases heard by the Supreme Court in the previous year is counted. Data on Supreme Court cases comes from the *Congressional Quarterly's Supreme Court Collection* database. We searched all cases during the relevant time period for each specific issue by using the same keywords used to create the media attention variable and by browsing the database's categories for relevant material. The resultant variable is an issue-specific court case count that is an indicator of the extent to which a specific issue was given attention in the previous year by the nation's highest court.

The last dimension of the POS examined is *electoral competition*, which has been argued to amplify uncertainty among legislators trying to maintain their seats and wield political influence (Soule and Olzak 2004). Thus, legislators may be especially responsive to the activities of interest groups and movements and more likely to consider new kinds of issues when electoral competition is high. To test this argument, a measure of the degree of electoral competition in Congress was generated following the technique used by Holbrook and Van Dunk (1993) to estimate electoral competition in U.S. states.<sup>10</sup>

Finally, two control variables are included to tap the expanding capacity and size of Congress. First, an annual measure of the total number of committees in Congress (consisting of House, Senate and Joint committees and subcommittees) was pulled from the *Congressional Quarterly Almanac*, which provides a list of the standing, special, or select committees and subcommittees for each two-year Congress. Second, the number of hearings each year related to “traditional” areas of government as defined by Baumgartner and Mahoney (2005) is included (defense, land management and government operations). These measures control for the internal capacity of Congress to hold more hearings. If the increase in rights-related hearings over time is simply related to internal capacity, we would expect the total number of committees and the traditional hearing count to have positive effects and to nullify the effects of other explanatory measures.

### ***Estimation Techniques***

Negative binomial regression was used to assess the effects of independent variables on the hearings count variable. We use NBR in place of Poisson regression, a standard procedure for count analyses, to correct for overdispersion in the hearing count variable. Poisson regression assumes equidispersion – that the conditional variance of  $y$  equals the conditional mean of  $y$ . In many distributions however the conditional variance of  $y$  exceeds the mean. An alpha test confirmed that overdispersion may cause a Poisson model to be misspecified.

Fixed effects estimation is used to account for unmeasured heterogeneity. Fixed effects models remove the variation between issues and allow the independent variables to explain within-issue heterogeneity that varies over time (Hsiao 2003). A conventional NBR model including dummy variables is specified to directly estimate the fixed effects. Allison and Waterman (2002) show that conditional fixed effects estimation of NBR models, which is the default estimation technique in most statistical programs (see Hausman, Hall and Griliches 1984), does not actually condition out the fixed effects of individual, panel-level observations. Using an unconditional fixed effects approach with dummies does not lead to the same specification problems.<sup>11</sup> To test the robustness of the findings, an additional analysis used a random effects specification. A reasonable concern with the fixed effects approach is that it may parcel out cross-issue variation that might be important to the story of attention fluctuation. To assuage this concern, a random effects model (Model 4) is also presented, which produces results consistent with the prior fixed effects models. A generalized estimating equation that corrects for temporal autocorrelation ensures robustness.

To check for multicollinearity, we ran variance of inflation checks and found that the VIF scores were below 10. Moreover, the standard errors remain low when including both variables in the model while the point estimates do not change greatly. Finke and Stark (1989) argue that these are the most important criteria to use when determining whether collinearity is a problem. Despite the high correlation between the issue legitimacy and competition variables, there is a strong theoretical justification for including both variables. In this respect, the nature of the competition effect is similar to that of a quadratic function.

## Results

Table 2 presents the results of the NBR models regressing rights-related hearing counts on independent variables. The first three models are estimated with fixed effects.<sup>12</sup> All of the models provide support for the hypothesis that protest positively influences hearing counts for rights issues. Congress was more likely to hold hearings related to rights issues around which there was an above average number of protests in the same year.<sup>13</sup> Issues for which there was an above average number of protests experienced a 70 percent increase in the expected hearing count (an annual increase of .56 hearings). This finding resonates with those presented by McAdam and Su (2002), which show that anti-Vietnam War protest events affected the level and valence of congressional roll-call votes on peace issues. The magnitude of the protest effect increases when controlling for the overall legitimacy of rights issues (models 2-4), suggesting that the effect of protest is partially conditional on the enhanced legitimacy of rights issues.

The results also confirm our second hypothesis that the legitimacy of rights issues, as established by the cumulative number of past rights-related hearings, increases the number of hearings on any specific rights issue. A standard deviation increase in the legitimacy variable increases the expected hearing count by about 180 percent (an annual increase of one hearing). As legitimacy for rights issues grew over time, Congress became increasingly likely to hold more rights-related hearings.

Inter-issue competition also has the expected dampening effect on hearing counts. Controlling for issue legitimacy, a standard deviation change in the number of hearings held for other rights issues in that same year decreases the expected hearing count of any given issue by 38 percent (an annual decrease of .45 hearings). This finding suggests that hearing space is limited and that, despite the fact that the legitimacy of all rights issues may have increased over time, Congress does not have the capacity to address *all* rights-related concerns simultaneously. In other words, as hypothesized, rights hearings appear to compete with one another for Congressional attention.

The random effects model (Model 4) and the GEE results (Model 5) confirm the findings of the fixed effects models. The effects of the main explanatory variables are virtually unchanged. These models suggest that our results explain both within-issue and between-issue variation in congressional attention to rights issues and also assure that our findings are not biased due to temporal autocorrelation. Another possible confounding factor could result from the inclusion of all cases in the models, even those when neither Congress nor the social movement

Table 2: Negative Binomial Regression of Rights-Related Hearing Counts

Variables	Model 1 FE	Model 2 FE	Model 3 FE	Model 4 RE	Model 5 GEE	Model 6 <sup>3</sup> FE	Model 7 <sup>4</sup> FE
Constant	9.28*** (2.30)	-2.42 (2.69)	-1.71 (2.64)	-1.07 (2.83)	-4.72 (4.03)	.69 (2.69)	-1.02 (2.83)
<b>Explanatory Variables</b>							
Protest	.38* (.25)	.49* (.23)	.53* (.22)	.47* (.23)	.47* (.22)	.39* (.22)	.54* (.23)
Issue legitimacy		.003*** (.0004)	.004*** (.0006)	.004*** (.0007)	.004*** (.0007)	.003*** (.0006)	.004*** (.0006)
Issue competition			-.03** (.008)	-.03** (.009)	-.02** (.007)	-.02** (.008)	-.03** (.008)
<b>Control Variables</b>							
SMO strength	-.52* (.26)	-.30 (.24)	-.31 (.23)	-.28 (.25)	.006 (.21)	-.21 (.23)	-.31 (.24)
Interest group strength	.01** (.004)	-.003 (.004)	-.002 (.004)	-.001 (.003)	.005 (.005)	.0008 (.004)	-.002 (.004)
Media attention	.03* (.01)	.01 (.01)	.02 (.01)	.02* (.01)	.01 (.02)	.01 (.01)	.01 (.01)
Public opinion	.19 (.19)	.16 (.17)	.17 (.16)	.03 (.16)	.35 (.18)	.19 (.15)	.19 (.16)
# of Laws passed (lagged)	.05 (.10)	.02 (.09)	-.01 (.09)	.02 (.07)	-.01 (.09)	.002 (.08)	-.01 (.09)
# of Supreme Court cases (lagged)	-.03 (.04)	-.06 (.04)	-.04 (.04)	-.01 (.04)	.02 (.03)	-.04 (.04)	-.03 (.04)
Electoral competition	-.15*** (.03)	-.01 (.03)	-.03 (.03)	-.05 (.04)	-.001 (.05)	-.04 (.03)	-.04 (.04)

Traditional hearing density	.003*** (.0008)	.003*** (.0007)	.004*** (.0009)	.004*** (.0008)	.003*** (.0006)	.004*** (.0008)	.004*** (.0008)
Total # of committees	-.002 (.004)	.009* (.004)	.009** (.003)	.009** (.003)	.009 (.006)	.004 (.004)	.009* (.004)
Log-likelihood	-572.15	-550.3	-545.5	-572.5	N/A	-496.51	-508.18
N	351	351	351	351	351	271	310

Notes: \*\*\*p < .001 \*\*p < .01 \*p < .05 (two-tailed tests); +p < .05 (one-tailed test); <sup>2</sup> Fixed-effects dummies are not shown in table. <sup>3</sup>Includes only cases that followed a year with at least one hearing for a particular issue. <sup>4</sup>Includes only cases that followed a year with at least one protest for a particular issue.

sector have given any attention to an issue. By including these observations in the model, the size of the coefficients may be artificially inflated. To account for this tendency, two additional models were run that included only cases where Congress had at least one hearing on the issue in the past (Model 6) and cases where activists previously held at least one protest related to the issue (Model 7). Model 6 suggests that the size of the protest effect is smaller once Congress has had at least one session on an issue. Model 7 demonstrates that our findings are not biased due to sampling on cases where no protests were previously held for an issue. Together, these findings indicate protests matter a great deal in directing initial attention to an issue. However, the effect may be slightly less strong once the issue is already established on the Congressional agenda.

Interestingly, although SMO strength, interest group strength and media attention were all statistically significant in Model 1, after controlling for issue legitimacy their significance diminishes. The effects of these variables may be endogenous to the legitimation process. As issues gained more legitimacy, the media focused more attention on those issues, interest groups formed and increasing numbers of SMOs associated themselves with these issues. In contrast, protest is external to the legitimation process, as is demonstrated by the increasing size of the protest coefficient when controlling for legitimacy. This finding, then, provides strong evidence for the importance of protest to the agenda-setting stage of policymaking.

## Discussion

The results of this study provide an explanation for the proliferation of rights issues in Congress and fluctuating attention to those issues as indicated by congressional hearings. Specifically, we find that hearings on rights-related issues are a function of an external mechanism (protest) and internal feedback mechanisms (issue legitimacy and issue

competition). Before the 1960s, Congress did not consider rights issues to be part of the legitimate domain of government influence. As a result of political protest, rights issues were increasingly brought to the attention of lawmakers. As new rights issues entered the Congressional agenda, lawmakers' and citizens' perceptions of what kinds of issues could be legislated by Congress widened to embrace other rights issues not previously considered. This is in part a story of the intra-Congressional diffusion of a cultural model of progress and justice (see Meyer et al. 1997). After inequalities in one sphere of society were exposed, others were quickly brought into the framework. Over time a new model of the complete citizen emerged.

This research takes a novel approach to the study of protest and policymaking by assessing attention fluctuation across a variety of related issues. The benefit of conducting many case studies is that scholars have accumulated a number of data points from which to assess various theories. However, not all of these studies have always taken into account all of the explanations for policy change (Burstein and Linton 2002; Soule and Olzak 2004). For example, often studies focus only on movements while ignoring public opinion or vice versa. But even when researchers try to include measures of the various explanations of policy change, by focusing on one specific case, they are not able to determine the generalizability of their findings. The strength of our research is its historical scope. Of course, such an approach may mean that some of the case-specific determinants are missed – much like individual deviations wash out in a large-N survey data analysis. Our analysis offers an interesting complement to case studies of policy outcomes.

Looking across multiple issues also allows us to model the interdependence of and competition between these issues. Most research, because it focuses on a single policy or issue, ignores the extent to which a particular issue may be affected by a number of other issues circulating in Congress (but see Skrentny 2002). By incorporating those effects directly into our analysis, this study examines the symbiotic and competitive nature of related issues.

It is important to recognize that mutual legitimation is not merely a relationship between abstract ideas; rather, symbiosis is reflected at the ground level in political coalitions and alliances. Mutual legitimation produces a public and congressional constituency of like-minded thinkers that draw upon distinct issues to analogize the plights of emerging target groups and new rights causes. The race-related rights issue provides a good example of how legitimacy may be transferred from one issue to another. According to McAdam (1988), many Freedom Summer volunteers left that campaign with a sense of political justice and a rights-oriented mindset and went back to their campuses and joined campaigns for other rights-related issues, thereby drawing attention to forms of injustice previously underexposed. Moreover, the civil rights campaign, which was highly visible due to intense media coverage, became a powerful symbol of injustice that caused politicians and others to seek new ways to create more equality for other identity groups. Skrentny (2002) also demonstrates that policy elites thought of different target groups as more or less analogous to the situation of black Americans. Framing diverse issues under the rubric of rights' protection and extension linked the fates of these policy issues.



By demonstrating how the interdependence of rights issues linked their policy fates, this research develops a more complete view of policy formation. Focusing on how social problems become constructed as legitimate policy issues is analytically prior to questions about how legislators protect their turf from competing policy solutions (Cobb and Ross 1997) or about how certain policy solutions get attached to particular problems (Kingdon 1984). We must first understand the processes that make certain issues problematic in the first place. This paper addresses that process by looking at how issues become constructed as social problems worthy of congressional attention and how those issue changes in salience over time. Policy preferences and solutions can be thought of as constructs endogenous to an issue that must first be legitimated.

Some of the mechanisms typically conceived as leading to shifts in political paradigms (media attention and interest group strength, for example) may be endogenous to the legitimation process. Protest, on the other hand, had a strong positive association with hearing counts when controlling for legitimacy. Protest, in this sense, is an external ignition to agenda setting. Following McAdam (1982), protests for the rights of the disadvantaged were disruptive to the stable equilibrium of the political institutions of the time. This validates the views of scholars studying agenda-setting who argue that policy subsystems often need external intervention in order to upset the stability of the current agenda (Baumgartner and Jones 1993). Social movements may be a disequilibrating force that changes the logic of the debate in Congress.

Does protest matter to policymaking? The question might be more aptly framed as, *how* does protest matter to policymaking? On this, there are two key findings worth reiterating. Findings suggest that even though the frequency of rights-related protest has declined over the same time that congressional attention to rights has expanded, Congress still reacts to issues that stand out as prominent. Protest events compete for congressional attention and when more protest is devoted to a particular rights issue relative to protests on all other issues, they garner more attention. Thus, if protesters wish to direct congressional attention, they need to out-manuever protesters for other causes and stage more events. This analysis also suggests that, despite the fact that previous studies have not found evidence linking protest to policy outcomes, protest plays a significant role in the agenda-setting stage of legislation (on similar findings, see King, Cornwall and Dahlin 2005; Soule and King 2006). As a disruptive force, protest brings issues to the attention of lawmakers that were previously ignored and helps to carve out a space for those issues in the legislative hearing space. Accompanied by the effects of powerful legitimation processes, protesters' claims that were once ignored can become an important part of the public agenda.

## Notes

1. As will be described in greater detail below, we define civil and political rights hearings to include those focused on: abortion rights, elderly rights, gender-related rights, disabled rights, gay and lesbian rights, human rights, immigration and naturalization rights, prisoner rights, tenant rights, victim rights, privacy rights, race-related rights and freedom of speech.

2. Extending Ruef's (2000) work, there are three ways in which issues may be symbiotic or mutually-legitimizing. First, the political legitimation of prior collective action is enjoyed by similar kinds of issues, as shown in Minkoff's (1997) ecological study of the civil rights and women's movements, whereby the political gains of the civil rights movement created a sense of urgency for other, related reforms. Second, the cognitive legitimacy of a predecessor issue is visited upon emerging issues such as in the case where the application of familiar logics to unfamiliar issues makes those issues more appealing to lawmakers (Clemens 1997). Finally, common networks facilitate the transmission of resources between the supporters of emerging issues and the supporters of previously established issues; in other words, issue similarity may be in part a function of network overlap. For example, Minkoff (1997) argues that the organizational niche established by the civil rights movement created a resource base (e.g., elite allies, willing constituencies) that could then be utilized by organizing women's groups.
3. More concretely, we expect that increasing attention (or numbers of Congressional hearings) to issue **A** will positively affect the attention paid to issue **B**, assuming **A** and **B** are of a similar and analogous quality. The legitimacy granted to issue **A** essentially diffuses to issue **B**, establishing policymakers' perceptions that issue **B** is appropriately suited for the Congressional agenda.
4. The notion of a limited capacity for attention is consistent with social movement research utilizing an ecological approach (Minkoff 1997) and research examining attention to social problems (Hilgartner and Bosk 1988).
5. We also created a continuous variable measuring the number of protests in a year for an issue but did not use it because we were interested in the threshold effect of protest. We do not assume that protests were linearly related to issue attention; rather, the effect is relative to protests occurring in other social movement industries.
6. Information on collective action events reported in newspapers and news sources is probably the form of data most frequently used by social movement scholars (Earl, Martin, McCarthy and Soule 2004). As such, there is a vast literature that has attempted to uncover the possible biases of this data source (see review in Earl et al. 2004).
7. See Earl, Soule and McCarthy (2003), McAdam and Su (2001), Soule and Earl (2005), Earl and Soule (2006) and Van Dyke, Soule and Taylor (2004) for more thorough descriptions of these data.
8. We also tried multiple imputation to create the missing values on the interest group variable. Results did not differ greatly using either method. We also ran the models without the interest group variable as a control. Although the coefficients were in the same direction, they were of slightly higher magnitude. By including the control variable in the final models, we believe that we have obtained more conservative estimates.

9. The ordinal variable was coded according to the following percentages of respondents who thought it was the most important issue facing the country: 1 (0%); 2 (.1 to 10%); 3 (10.1% or greater). We also tested models using separate dummy variables for each opinion outcome. This alternative specification did not substantively change our results.
10. An important variant of the POS model is the *political mediation model* (see review in Amenta and Caren 2004). The core argument is that social movement activity will only matter to policy outcomes in the presence of a favorable POS, and in particular in the presence of elite allies. In this paper, we are interested in congressional attention to rights-related issues and have not coded the valence of each hearing (e.g., we code both pro-choice and pro-life hearings as related to the abortion issue). Thus for each rights-related issue area, it is difficult to say with utmost certainty *who* the elite allies are, hence we do not attempt to make claims about elite allies and the effects of political mediation on congressional attention to these issues.
11. We do not include a lagged dependent variable, as is often done in count estimations, so as not to introduce a source of bias caused by the correlation of error and the lagged dependent variable (Nickell 1981). The use of fixed effects estimates, however, controls for some of the "true state dependence" that may lead to serial autocorrelation across time (Heckman 1981; Honoré and Kyriazidou 2000).
12. Note that we do not show the effects of the issue dummies in our model results because they are not of substantive concern.
13. Based on other analyses, protests above the median do not have a significant effect on hearing count, but protests in the 75th percentile do have a significant positive effect. Therefore, we conclude that an influence threshold for protestors lies somewhere near the mean. While the value of this threshold was ascertained inductively, the results support our deductive hypothesis about competition among protestors.

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## Appendix: Coding of Selected Variables

### *Dependent Variable*

We used Baumgartner and Jones (2003) sub-topic codes to identify hearings related to the corresponding rights issues. Each hearing in the dataset was assigned one of 225 sub-topic codes, many of which corresponded directly with our definition of rights issues. We first sorted the hearings by sub-topic (for example, subtopic #208 refers to hearings dealing with rights to privacy). We then looked at the description of each hearing to ensure that it did not violate our description of a rights-related hearing. We then generated counts of rights-related hearings by each issue for each year. The following table is a list of subtopics that we searched to find the corresponding hearings.

**Table A1: Hearing issues and subtopic codes**

Hearing Issue	Subtopic Code
Abortion	207
Elderly	204
Gay and lesbian	202
Gender	202
Disability	205
Human rights	1925
Immigration	530
Prisoner	1205
Privacy	208
Race	201
Speech	207
Tenant	1406
Victim	1204

We emphasize that we coded hearings manually to distinguish hearings associated with rights issues. Some issues, such as gay and lesbian, were taken from the same category as gender-rights issues, so we manually sorted these hearings so as not to conflate the two types of hearings.

### **Control Variables**

#### *Media Attention*

The following is a list of the primary and secondary keywords used in our search for articles relating to

the various issues. For some issues we could not find two primary keywords that matched in their significance. In those cases, we used 14 secondary keywords to come up with the final search strings.

The seven periodicals we searched to create this variable were *Time*, *Newsweek*, *The Nation*, *Business Week*, *U.S. News and World Report*, *Life*, and *The New Republic*. After 1983, the *Reader's Guide Retrospective* did not have information about all the journals of interest, thus we used the *General Reference Center Gold* database to search the same periodicals formerly included in the *Reader's Guide*, for the 1983-1986.

#### *Past Laws*

We coded laws in the same way as hearing information, recoding the subtopic codes to fit our rights-related criteria.

#### *Electoral Competition*

We created this variable using congressional district-level election results. The measure combines the percentage of the popular vote won by the winning

candidate, the winning candidate's margin of victory, the percentage of safe seats (seats which were won by 60 percent or more), and the percentage of open seats in each election.

Table A2: Keywords associated with each policy issue

Policy issue	Primary keywords	Secondary keywords
Abortion	Abortion, reproduction	Rights, pro-choice, pro-life, freedom, equality, constitutional, prohibit
Elderly	Elderly, age	Discrimination, employment, retirement, mandatory, problems, rural, policy
Gay and lesbian	Gay, homosexual	Discrimination, policing, equal, rights, employment, pay, marriage
Gender	Women, gender	Discrimination, federal program, equal, inequity, employment, pay, rights
Disability	Handicap, blind	Discrimination, rights, federal, constitutional, employment, prohibit, accessible
Human rights	Human rights	Soviet, Helsinki Accord, implement, union, Chile, international, political, policy, compliance, Europe, foreign, genocide, convention, commission
Immigration	Immigrant, refugee	Illegal, rights, programs, naturalization, policy, resettlement, admission
Prisoner	Prisoner, inmate	Rights, conditions, facilities, medical, care, treatment, violence
Privacy	Privacy	Information, federal act, freedom, government agency, polygraph, surveillance, drug, disclosure, electronic, public, wiretapping, intelligence, FBI, telephone
Race	Race, minority	Equal opportunity, discrimination, employment, federal program, desegregation, civil rights, policy
Freedom of speech	Free speech, public	Obscene, obscenity, school prayer, pornographic, pornography, bible, religious protection
Tenant	Tenant, renter	Rent control, discrimination, equality, rights, fair housing, deficiencies, security
Victim	Victim	Rights, crime, justice, criminal, court system, amendment, restitution, sentencing, legal proceedings, violent offenders, sexual offenders, defendant's plea, reparation, counseling