Interest Groups

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Interest groups are often seen as simply lobbying organizations, plying their trade in the halls of the legislative branch and trying to convince Congress to pass laws favorable to their organizations. Such a view is based upon limited notions of the purposes of interest groups and limited understandings of the policy-making process.

In this essay, I argue that interest groups pursue a far more complex strategy, focusing on "targets of opportunity" in their pursuit of a policy agenda. That means that interest groups will work in the legislative branch when that works to their benefit, but they will extend into the executive branch and into the judicial branch when the outcomes of their organizations can best be met there.

My argument is predicated on the understanding that the old definition of the roles of the branches is simplistic. That is, to argue that the legislative branch makes the laws, the executive enforces the laws, and the judicial interprets the laws is to assume that the executive and judicial roles have no bearing on the functional meaning of law. That understanding is a weak one.

The perfect locus for an assessment of interest group activities is in the arena of civil rights. The history of the civil rights movement is that supporters of civil rights, in a variety of interest group organizations, met to discuss where the "pressure point" in government was most susceptible to their activities. Initially, that point was the presidency, where interest group organizations pressured presidents to take steps to assure better treatment of African Americans.

To offer evidence of the tactical calculations of interest groups in trying to accomplish their goals, I present three examples, one from each branch of government. The examples are chronological: one from the 1940s, one from the 1950s, and one from the 1960s.

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Desegregating the Military

In the late 1940s, as the impact of World War II on American society was being assessed, there developed a deep angst within the African American community concerning the role of black soldiers in the war effort and the lack of recognition those soldiers had received following the war. Moreover, the expectations of equality were beginning to grow within the black population. Accordingly, black leaders began to strategize about how to begin to realize the civil rights that had not been forthcoming over the twentieth century. For example, two political activists, A. Philip Randolph and Grant Reynolds, organized the Committee Against Jim Crow in Military Service and Training. Their purpose was to seek the desegregation of the U.S. military.

From a strategic standpoint, there were three potential routes to accomplish their goal. They could have filed a court case arguing that failure to desegregate the military constituted a violation of the "equal protection of the laws" clause of the Fourteenth Amendment. Such a strategy seemed unlikely to succeed because the law of the day regarding the Fourteenth Amendment was the *Plessy v. Ferguson* ruling that allowed "separate but equal" facilities. Accordingly, the tradition of segregation in the military seemed to be consistent with standing law; reversal of such law would be unlikely in the courts.

Second, they could have sought a law, passed by Congress, to accomplish their goals. However, segregationist Southerners chaired most of the standing committees in Congress, and Congress had not passed a single civil rights act in the time since Reconstruction following the Civil War. These committee chairs would use their positions to block the passage of legislation as they and their predecessors had for generations. Typical tactics for blocking consideration of civil rights legislation were the use of the filibuster in the Senate and stalling legislation in the Rules Committee in the House.

Finally, they could press the president to use his power as commander-in-chief to desegregate the military through an executive order. Executive orders are directives by the president that compel compliance by employees within the executive branch. President Truman had been supportive of civil rights in the abstract and had sponsored the first major study of civil rights when he created the President's Commission on Civil Rights in December 1946. That committee had issued a report in 1947 called *To Secure These Rights*. The report was a blueprint of the civil rights agenda that dominated American politics for the next 20 years. While Truman was a little reluctant to embrace the report, in part because he wanted the political support of Southern Democrats in the upcoming election of 1948, he had been the first president to address the African

American interest group the National Association for the Advancement of Colored People (NAACP), and in his address to that group, he had said, "We must make the federal government a friendly, vigilant defender of the rights and equality of all Americans. And again I mean all Americans."

Accordingly, the leaders of the black community felt that their most likely avenue for success in desegregation of the military was to pressure President Truman to issue an executive order. A. Philip Randolph and others pressed Truman hard and testified before Congress as well. In June of 1948, Randolph told the president that African American youth would resist the draft unless Truman issued an executive order. Accordingly, Truman issued Executive Order 9981 on July 26, 1948: "It is hereby declared to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion, or national origin." While there was resistance to the order within the military, Truman persisted, and the order resulted in desegregation without any court or legislative action. Thus, the tactics of black interest groups were vindicated.

Desegregating Public Schools

Three years later, the NAACP wished to pursue desegregation in another venue—American public schools. Again, there were a number of avenues available to them. Since schools were run primarily by state and local governments, integrationists could have sought to have state legislatures ban segregation. Since many state governments, especially in the South, were wholly opposed to integration, that strategy would have been fruitless. The schools were run by states and localities, so presidential action or congressional action were not viable alternatives.

However, since the late 1940s, the federal courts had increasingly been examining the meaning of the equal protection clause of the Fourteenth Amendment. While they had not overturned the decision in *Plessy v. Ferguson*, they had been increasingly insistent that school facilities be "equal" if they were going to be "separate." It was clear to many observers that moving toward equality with separate facilities was going to be difficult. Accordingly, the NAACP decided to utilize the court system as its locus for pursuing school desegregation.

A major difficulty for those who wish to use court cases to change public policy is that in order to bring a case to the courts, appellants must have a "real case or controversy." That is, they need to have someone who has been adversely affected by the law as it currently exists. Second, the case cannot be "moot"; that is, it must remain throughout the suit, a

process that can take several years. Third, in order to change the law nationally, the case must be a "class action suit," certified to apply to all folks negatively affected by current law. Finally, the case has to be accepted by the Supreme Court, a court that has almost complete discretion regarding the cases it accepts. All of this must happen before the merits of the case are considered.

Nonetheless, the NAACP determined that a lawsuit challenging segregation was their most appropriate venue for changing the law. They found the perfect case in Topeka, Kansas. Linda Brown, a young African American girl, was forced to attend a segregated school instead of the neighborhood school that she preferred. Brown and the NAACP appealed to the Supreme Court on October 1, 1951. On May 17, 1954, Chief Justice Earl Warren read the decision of the unanimous Court: "We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other 'tangible' factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does .... We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal. 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 the equal protection of the laws guaranteed by the Fourteenth Amendment."

The Supreme Court struck down the "separate but equal" doctrine of *Plessy v. Ferguson* for public education, ruled in favor of the plaintiffs, and required the desegregation of schools across America. In other words, by selecting the courts to challenge segregation of schools, the NAACP accomplished its goals. Importantly, the courts system would not have been the best choice for desegregating the army in the late 1940s. And if the NAACP had challenged *Plessy* in the Supreme Court in the 1940s, the tactic probably would have failed. But with Earl Warren as chief justice of the United States in 1954, the tactic proved successful.

Open Accommodations

By the 1960s, the dynamics of American politics had changed again. The civil rights movement had matured and had begun to gain national support. Under the leadership of Dr. Martin Luther King Jr., a movement toward an omnibus civil rights act in Congress seemed possible. The key to understanding the potential for such a policy is that the movement had to force government to act. Without pressure, government leaders would have resisted the passage of a civil rights act even longer. But civil rights leaders took heart from the fact that a minor civil rights act had been passed by Congress in 1957. Such an

encouraging first sign made it possible to dream of a broad-sweeping act that would end the Jim Crow segregation laws in the South once and for all.

In 1963, perhaps the most dramatic of civil rights events came with violent confrontations between civil rights activists, led by Dr. Martin Luther King Jr., and segregationists, led by public safety commissioner "Bull" Connor, in Birmingham, Alabama. In early May, civil rights marchers were arrested and others were beaten. President John F. Kennedy sympathized with the movement and acted strongly to help keep the situation from spinning out of control. Birmingham was seen by Martin Luther King and others as a critical changing point. Almost simultaneously, political allies introduced an omnibus civil rights bill into Congress in 1963.

Yet these changes did not make Kennedy a complete convert to the cause. He still wanted to exercise control over the issue. In a meeting with civil rights leaders before the March on Washington, Kennedy expressed the hope that it could be called off. While movement leaders saw the march as a way to mobilize support for the civil rights bill, Kennedy feared that the march might cause a "white backlash" that would jeopardize its passage. Again, Kennedy's pragmatic approach reveals a lack of empathy for the depth of feeling among the civil rights leaders who wished to be involved in legislative strategy. It would have been ironic had the leaders of the civil rights movement left such a dramatic legislative battle and policy leadership of the issue to an almost entirely white legislature and executive. Yet when the march occurred, it was with the assistance of the administration and resulted in Martin Luther King's famous "I have a dream" speech. In November of 1963, Kennedy was assassinated without having been able to pass the civil rights act.

His successor, Lyndon Johnson, lost no time after his inauguration in taking the civil rights cause to the public. In his address to the nation and a joint session of Congress, five days after Kennedy's assassination, Johnson said, "We have talked long enough in this country about equal rights .... It is time now to write the next chapter, and to write it in the books of law." He also suggested that passage of the civil rights law would be a tribute to the fallen president's memory. From that point on, Johnson embraced with great frequency the opportunity to use his "bully pulpit" to push publicly for the passage of the new legislation.

When the Civil Rights Act of 1964 was passed, it was a grand legislative accomplishment that was a credit to both Presidents Lyndon Johnson and John F. Kennedy. But it would not have passed at all, indeed it might not have come to Congress for passage at that time, without the constant pressure of civil rights interest groups.

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The three cases discussed above demonstrate that interest group activity is something that happens in many contexts. Effective interest groups not only have to choose which goals to pursue but also which government venues are most likely to yield success at the time they are pursuing their goals. Such lessons apply here to civil rights policies, but they are equally true for other interest groups pursuing different goals.