

**UCLA**

**UCLA Public Law & Legal Theory Series**

**Title**

Legal Framing

**Permalink**

<https://escholarship.org/uc/item/2v9838vx>

**ISBN**

978-1-78190-619-4

**Author**

Leachman, Gwendolyn

**Publication Date**

2013-07-02

Peer reviewed

# LEGAL FRAMING

Gwendolyn Leachman

## ABSTRACT

*The sociological and socio-legal literatures on social movements have identified three main types of “legal framing” in contemporary social movement discourse: collective rights framing, individual rights framing, and nationalistic legal framing. However, it is unclear from the current research how movement actors decide which of these framing strategies to use, under what circumstances, and to what effect. In this article, I offer a model for future empirical research on legal framing, which (1) distinguishes legal framing by its argumentative structure, ideological content, and remedy; and (2) analyzes how a social movement’s internal culture and institutional environment constrain the symbolic utility of particular legal frames and shape the movement’s legal framing strategy. I argue that the alternative approach offered here will help theorize how social movements strike a balance between the institutional pressure to reproduce dominant ideologies and the internal pressure to reform those ideologies. This perspective thus helps build socio-legal theory on the relationship between legal framing and social subordination, and on the conditions under which movements will be able to inflect legal language with insurgent social movement values.*

Socio-legal research on social movements increasingly analyzes the relationship between law and social movements through the examination of “collective action framing,” a concept developed in sociological research to describe the process wherein social movement actors deploy words, symbols and other interpretive devices to impose political significance on social situations or events (Beckett & Hoffman, 2005; Benford & Snow, 2000, p. 614; Hagan, 2000; Hoffman, 2008; Levitsky, 2008; Morgan, 2004; Paris, 2001; Woolford & Wolejszo, 2006). The common use of “legal framing” in socio-legal and sociological analyses of social movements is one of several recent developments suggesting that the two fields are on the brink of unification. Sociology journals are also publishing more articles on framing that incorporate a socio-legal view of the law as a resource and cultural force in social movements (Ferree, 2003; Hull, 2001; Pedriana & Stryker, 2004; Stern, 2005). Finally, truly integrative work has also emerged, which draws from both literatures in a conscious effort to “elaborate them as a single approach to studying the construction of grievances” (Jones, 2006; Levitsky, 2008, p. 557; see also Marshall, 2003; Pedriana, 2006; Pedriana & Stryker, 2004), the most comprehensive of which has been Pedriana’s (2006) detailed roadmap for integrating the socio-legal and sociological literatures on “legal framing” or “rights framing” (McCann, 1994, p. 234).

Together, the sociological and socio-legal literatures have contributed important insights into how law shapes activists’ perceptions, tactics, and ability to generate social change. However, the literatures remain surprisingly independent bodies of research, each retaining a distinct theoretical focus. Sociological research tends to examine how legal framing becomes a dominant tactic, both within and among movements, and to link legal framing to particular movement outcomes (Armstrong, 2002; Fetner, 2001; McCammon, 2003, 2009; McCammon, Hewitt, & Smith, 2004; McCammon, Muse, Newman, & Terrell, 2007; McVeigh, Welch, & Bjarnason, 2003; Pedriana, 2006; Snow & Benford, 1992). Socio-legal research, on the other hand, is more concerned with determining how the law becomes salient in multiple social and cultural arenas (Coleman, Nee, & Rubinowitz, 2005; Dudas, 2005, 2008; Goldberg-Hiller, 2002; Goldberg-Hiller & Milner, 2003; Hull, 2001; Kostiner, 2003; Marshall, 2005; McCann, 1994; Merry, 2001; Merry, Levitt, Rosen, & Yoon, (2010); Merry & Stern, 2005; Paris, 2011; Silverstein, 1996).

There is much to be gained through the cross-fertilization of the fields. It could produce a coherent approach to the study of legal framing, which would foster the sharing of concepts, such as “legal consciousness” (Ewick & Silbey, 1998) and “master frames” (Snow & Benford, 1988), both of which

are helpful in understanding the law's constitutive force in social movement action. The purpose of this paper is help chart a productive pathway for future research for socio-legal scholars and sociologists alike. I first integrate findings from these literatures to create a new ideal typology of legal framing, which distinguishes legal frames by their logical structure, ideological content, and remedy. I propose that future research use this typology in determining how a movement's internal culture and social environment constrain the symbolic utility of particular legal frames and shape the movement's legal framing strategy (see Williams, 2004). This model draws heavily from the social constructionist tradition in sociology, which conceptualizes social movements as networks of activists engaged in symbolic and material struggles that target a variety of institutional authorities, and examines how a movement's legal framing strategy is constructed in various social fields (Armstrong & Bernstein, 2008). I argue that incorporating the social constructionist model into legal mobilization will generate theory on how activists strike a balance between the competing external pressures toward institutional reproduction and internal pressures toward institutional transformation, and on the potential for activists to both imagine and realistically pursue new legal possibilities.

## **LITERATURE REVIEW**

Law and society scholarship has long examined how social movement actors use legal language to further their political and cultural goals (see Scheingold, 1975). Since McCann's (1994) research on the pay equity movement exposed a multitude of ways in which the law serves a movement's extra-legal goals, there has been an outpouring of research on the effect of a movement's framing its grievance as a legal harm. The primary task in socio-legal social movement research, including that on legal framing, is to understand how, and the extent to which, law comes to constitute the underlying vocabulary, concepts, values, and meanings that movement actors draw on in their quest for social change (McCann, 1994, p. 7). Socio-legal scholars conceptualize law broadly as both a cultural construct and a symbolic resource (see Hull, 2001, p. 19), and emphasize that informal articulations of the law may be only minimally constrained by official legal formulations (see Merry & Stern, 2005; Polletta, 2000; Silverstein, 1996). Indeed, social movement actors often assert rights claims that judges have explicitly rejected (McCann, 1994). Finally, socio-legal scholars recognize that formal law may be only a secondary

goal when movements invoke the law (Goldberg-Hiller & Milner, 2003; Hull, 2003; Kostiner, 2003; Merry & Stern, 2005), and that the law produces many other social movement benefits, such as a source of funding, participation (McCann, 1994), direction (Coleman et al., 2005), public acceptance (Hull, 2003), and publicity (Leachman, 2009; McCann, 1994).

Sociological research often discusses legal framing as a social movement tactic that has become an institutionalized part of contemporary social movement discourse (Armstrong, 2002; Pedriana, 2006, pp. 1727–1728; Snow & Benford, 1992). Like socio-legal scholars, sociologists assume that legal framing is a cultural articulation, and stress how legal language (like other dominant cultural expressions) can take on an inherent legitimacy apart from its formal expression because it both “echoes themes from deep in U.S. political culture and has been invoked across the last two centuries in a wide variety of ideologically disparate movements” (Oliver & Johnston, 2000, p. 50). However, the sociological literature departs somewhat from the socio-legal literature. First, it is less focused on how law manifests itself at the very foundational aspects of a movement, such as its collective identity or in the provocation of movement action (e.g., Bumiller, 1987; Engel & Munger, 1996; see Gómez, 2004, p. 462; Haney-López, 1996). Sociological studies look instead toward determining the institutional constraints on a movement’s legal framing, such as countermovement claims (Hull, 2001; Fetner, 2001; Miceli, 2005), the dominant framing of judges and legislators (Ferree, 2003; McCammon, 2009; Pedriana, 2006) and other aspects of the cultural environment (McCammon, 2009; Reese & Newcombe, 2003). Second, the sociological literature has tended to find formal legal institutions quite controlling over a movement’s dominant legal framing. Several sociological publications have examined, for example, how U.S. women’s movements have tended to eschew protective rights frames, which emphasize the state’s duty to protect women’s particular vulnerabilities, in favor of the more individualistic legal framing favored by legislators and judges, which emphasizes the state’s duties to all its citizens regardless of gender (Ferree, 2003; see also Keck & Sikkink, 1998; McCammon et al., 2004, McCammon, 2009; Pedriana, 2006).

Each of these literatures produces theoretical insights relevant to the other. The sociological literature’s interest in the institutional constraints that lead to patterns in legal framing – its focus on what cultural expressions of law *dominate* in social movement discourse, rather than on what expressions are possible – is an important insight to be considered in the law and society debate about the effectiveness of rights claims (see McCann, 1994; Rosenberg, 1991). Conversely, the socio-legal literature has identified several mecha-

nisms that potentially explain *how* formal institutional framing becomes dominant: as the law shapes the values, consciousness, and identities of social actors, it exerts a very foundational influence in everyday social construction, including in the construction of social movement organizations and political fields (Edelman, Leachman, & McAdam, 2010). If combined, these literatures will be better equipped to discover how law provides movements a new platform for innovative discourse, while simultaneously restraining or deradicalizing the set of claims that activists find legitimate or practical (Koopmans & Statham, 1999; Kostiner, 2003).

However, before such a model is possible, both bodies of literature would benefit from first providing greater clarity in how they define the “legal” aspects of collective action frames. Because both literatures recognize that law is articulated in both formal and cultural arenas, they have captured the “legal” in many different ways. McCann (2006, p. 21) argues that socio-legal social movement scholars

use the term *law* to signify different types of phenomena. We refer sometimes to official legal institutions, like courts or administrative bureaucracies; sometimes to legal officials or elites, such as judges, bureaucrats, or lawyers; and sometimes to legal norms, rules, or discourses that structure practices in and beyond official legal institutions (Thompson, 1975). Most recent studies grant attention to all three usages, although in somewhat unclear or unsystematic ways.

The same critique applies to the sociological framing research, which alternates between conceptualizing law as a deep ideological force that permeates the background assumptions and reasoning of movement actors and legal officials alike (Ferree, 2003; McCammon et al., 2007), to conceptualizing law as a narrower set of concepts and logics (like “civil rights,” “harassment,” or “private property”) that figure into movement actors’ strategic discourse (Armstrong, 2005, p. 13; Fetner, 2001; McVeigh et al., 2003; Oliver & Johnston, 2000, p. 41).

The material differences between these different conceptualizations of the law as concepts, frames, and ideology, make it difficult to synthesize these literatures’ empirical findings. Legal *concepts* are words, labels, or categories associated with the law, which people use to interpret everyday life. Through legal framing, social movement actors strategically link together these legal concepts (and nonlegal ones) to convince others to support their cause. A legal *ideology*, on the other hand, is a system of meaning in itself that embodies general understandings about how the law functions and the norms for legitimate legal behavior (c.f., Oliver & Johnston, 2000, p. 44; Reese & New-

combe, 2003, p. 297). While movements can infuse legal concepts with insurgent social movement values – and in the process, create counter-hegemonic legal frames (Polletta, 2000; Rajagopal, 2006) – they cannot change the content of legal ideologies in a single speech act. They may only create a framing strategy that is more or less embedded in legal ideologies.

The distinction between concepts, framing, and ideology is important because it affects a researcher's methodological decisions regarding the level of analysis, including the type of movement action that is examined for legal content. Furthermore, while certain empirical factors, such as a movement's culture or demographics, may predict how *ideologically* embedded a movement's legal frame will be, these factors do not tend to predict the extent to which a movement will deploy legal *concepts* in its framing. Movement actors who face race, class, or sexual discrimination (and who consequentially may be less idealistic about legal reform) are less likely than other movement actors to use ideologically embedded legal frames than straight white men (Fetner, 2001; c.f., Gamson, 1989; Musheno, 1997; Nielsen, 2004; Polletta, 2000). However, even the most discriminated groups often include legal concepts such as "rights" in their framing strategies. The distinction between concepts, framing, and ideology also affects research outcomes; studies conceptualizing law as ideology will likely find more predictability in the causes and consequences of legal framing than those that conceptualize law as a set of concepts or logics. Thus, any future integrative legal framing research will require more rigorous disclosure at the outset about whether it employed *legal concepts* or *legal ideologies*.

Another distinction that would help in synthesizing findings from the socio-legal and sociological literatures on legal framing is differentiating between the scope of the remedies that are presupposed in different legal framing strategies. At times, social movement actors frame grievances as legal problems that require relatively simple solutions, such as the recognition of a new individual right or the legal protection of a group. Other times, legal framing invokes more deep-seated "democratic principles concerning governmental power, representation, and self-rule" (McCammon et al., 2004; see also Williams, 1995) – ideas that label the movement's problem as a serious one, whose resolution would "necessitate and occasion wider structural changes" (Hunt, 1990, p. 319) like formal restraints on a legal actor or institution (or civil disobedience). It is important to distinguish legal framing by the different types of remedies it implicitly proposes, because those remedies entail distinct levels of urgency and have more or less disruptive potential, which appeals to some movements more than others (Benford, 1993). Movement

actors who have access to elites are unlikely to advocate for reconfiguring the very political structure in which their elite allies are embedded and which is the source of their power (see Bernstein, 1997; Haines, 1984; McAdam, 1982). This suggests that some types of legal framing will be more useful than others to a given social movement depending on that movement's constituency and its cultural and political environment (see Williams, 1995).

### AN IDEAL TYPOLOGY OF LEGAL FRAMING

The overview of the literature reveals the need for a typology of legal framing that identifies the attributes of each type of framing, to reveal the symbolic utility of that type of framing to a social movement. In this section, I incorporate empirical findings from the sociological and socio-legal research to suggest that three ideal types of legal framing emerge from the research: collective rights framing, individual rights framing, nationalistic legal framing. To be clear, this typology is not one currently implemented or recognized by scholars in the field. Rather, it is an attempt to organize the field because there is now a substantial body of this research. The ideal types discussed here are theory-driven constructs designed to elucidate differences in the logical structure of legal framing – differences which I argue have implications for both the legal system and for the social movement. The objective is to provide a workable model for future research and to synthesize the findings from the socio-legal and sociological legal framing research.

The ideal types of legal framing presented here vary in the degree to which they (1) emphasize the collective nonlegal values of the framing group; (2) offer remedies that would restructure legal relationships and political structures; and (3) are embedded in a hegemonic legal ideology. I use the term “hegemonic” to describe legal ideologies that are deeply entrenched in U.S. law and in mainstream culture.<sup>2</sup> The hegemonic ideology that pervades legal framing in formal legal institutions in the United States is liberal legalism (Ferree, 2003; Turkel, 1988; Tushnet, 1984).

*Liberal legalism* prescribes a limited role for the state and imposes legal restraints against state infringement on individual liberty. Liberal legalism is closely linked to the classical liberal tradition in political philosophy exemplified in the writings of Hobbes, Locke, and Hume, in which society is viewed as the aggregation of autonomous actors within an artificial nation-state of limited powers. Liberal legalism similarly constructs individuals as equal, self-interested, and rational actors who, absent government inter-



vention, will privately contract with one another to secure desired benefits (Feinman & Gabel, 1990; Klare, 1979). Accordingly, liberal legal ideology reasons that law – through judicial enforcement – should guard against state intervention in the so-called “private” sphere, and against state action that arbitrarily denies an individual the benefits or protections it grants to others (see, e.g., Bickel, 1962).

Importantly, liberal legal ideology has no formula for resolving structural inequalities that persist even when the law is applied equally – when there is *formal* equality (Crenshaw, 1988, pp. 1377–1381). Thus, liberal legal ideology does not always provide the most useful ideational tools to progressive social movements. Often, activists will infuse their legal frames with concepts, norms, and values taken from other ideological frameworks, including *democratic* and *republican* ideologies.

*Republican* political ideology departs from liberal legalism by emphasizing the subordination of the individual to the collective will, as expressed through elected representatives. Republican ideology is found in social movement rhetoric that legitimates laws created through representative governance (over doctrine created by “unelected judges”), or in rhetoric that faults elected officials for violating the social contract by acting outside society’s collective interests.

Like republican ideology, *democratic* political ideology prioritizes the collectivity over the individual, and envisions a strong role for government in coordinating social life. However, *democratic* political ideology departs from both liberal legal and republican ideals by emphasizing popular participation in governance. When the law has allegedly been imposed on an unwilling populace, social movements often invoke democratic ideology in legal framing, advocating that popular rule is superior to law enacted by either elected officials or judges.<sup>3</sup>

In what follows, I provide empirical examples from the socio-legal and sociological literatures of legal framing which manifest aspects of any one of the ideal-type legal frames that I propose, and discuss the various ideological and other characteristics these frames manifest. However, I do not imply that social movement framing strategies will embody any single one of these categories (see Weber, 1947), or that empirical findings will fall neatly into one category or the other. On the contrary, the literature must remain attentive to the interwoven nature of legal meaning, and portray lucidly how different meanings may resonate from legal framing when it is used in different contexts (see Dudas, 2008; Engel & Munger, 2003; Goldberg-Hiller & Milner, 2003).

The utility of the proposed ideal typology is rather in demonstrating that

there is important variation between types of legal framing which are too often ignored, or given the same name in the literature (i.e., “rights framing” rather than collective or individual rights framing), even when they describe very different things. This illustrates that future scholarship should be attentive to potential distinctions between types of legal framing, and transparently categorize methodological decisions that researchers take so that their findings may be compared appropriately (Table 1).

**Table 1.** Ideal-Type Legal Frames.

	Collective Rights Framing	Individual Rights Framing	Nationalistic Legal Framing
Definition of harm	Collective harm	Individual harm	Societal harm
Legal grievance	Equal protection	Individual right	Transgression of political authority
Ideological content	Democracy	Liberal legalism	Liberal legalism Republicanism Democracy
Example	Affirmative action	Right to choice (abortion)	Judicial activism Popular sovereignty
Effect on mobilization	Assists mobilization	Divisive (for progressive movements)	Assists mobilization
Determinants	Grassroots activism	Backlash Marginalization	State involvement in key movement issue

*Collective Rights Framing*

*Description*

Socio-legal and sociological research have found that social movements often frame their grievances as violations of the legal rights of a particular group. In one type of rights framing the literatures have identified, which I will call “collective rights framing,” movement actors deploy the concepts and norms embedded in anti-discrimination laws (e.g., protection, equality, rights) to claim status-based “rights” for a group. The primary purpose of collective rights framing is to diagnose a social movement’s problem as a collective wrong, rather than an individual wrong. Collective rights frames typically emphasize a movement constituency’s social differences, such as the unique

discrimination it faces, to legitimate the group's collective need for a specific type of legal protection or entitlement.

Women's movements in the United States have used collective rights framing to argue that women's differences – their shared experience of societal discrimination (Pedriana, 2006) or a unique world-view or vulnerability that women possess (McCammon et al., 2007, p. 729; Ferree, 2003, p. 335) – justify specific legal protections for women. Pedriana (2006) demonstrates the presence of collective rights framing in the statement of one women's advocacy group that the “differences between men and women and the dual role of women as mothers and homemakers, and of workers, are realities that distinguish their needs from the needs of men,” and justify protective regulations (Pedriana, 2006, p. 1753). Racial justice movements have also used collective rights frames to advocate for affirmative action, arguing that redistributive measures that account for race and gender are necessary to upset a status quo in which dramatic and persistent social inequality has become entrenched (Crenshaw, 2007; Williams, 2004, p. 107).

By highlighting a movement constituency's differences from the majority and cultivating its distinctive qualities, collective rights framing turns the movement's focus inward. Therefore, collective rights framing is often helpful to social movements seeking to build a strong collective identity among movement participants (Bernstein, 1997; Schneider, 1986), which in turn motivates collective action by linking activists more closely with their cause and constructing a social network that increases the rewarding nature of collective action (see Klandermans, 1984, 1988). Collective rights frames resonate particularly strongly with grassroots activists who depend on collective action to accomplish political goals. This was the case for the Southern civil rights movement, in which grassroots activists voiced rights frames that departed from those used by other movement actors in the courtrooms. Their purpose in using collective rights frames was to further their everyday engagement with collective action, and consequently, their rights framing was inflected with messages of solidarity and geared toward local priorities (like street paving) (Polletta, 2000, p. 391).

Collective action frames may also be particularly resonant in movements that face a powerful countermovement. In the lesbian and gay rights movement, collective rights claiming became more prevalent after a period of intense countermovement opposition spearheaded by Anita Bryant and other evangelicals. The prominence of these opponents and the media attention they received created a focal point for gay movement activists, who used the countermovement as a symbol of the more generalized homophobia the movement

faced. Activists cultivated gay community outrage at the countermovement through collective rights framing that demanded anti-discrimination protections for gays and lesbians (Fetner, 2001, p. 419). The gay movement's collective rights framing emphasized the collective interests of the gay community as an insular group with differences from the mainstream, including comparing the gay community to a discriminated ethnic group (Fetner, 2001, p. 422).

### *Ideology*

Even when collective rights framing invokes *concepts* derived from liberal legal ideology, such as "universality" and "equal rights," collective rights framing fundamentally departs from liberal legal ideology. Collective rights framing sees the collectivity as the fundamental unit that should structure social relationships, while liberal legalism sees the individual as the fundamental unit. Collective rights framing focuses on the structural and persistent character of group oppression, while liberal legalism assumes that all individuals are equally capable of securing social goods through the private sphere. Finally, collective rights framing proposes status-conscious legal protections as a proper solution to persistent discrimination, while liberal legal ideology proposes formal equality, or the removal of legal barriers to advancement. Perhaps because collective rights framing departs from the hegemonic legal ideology in the United States, it is a type of legal framing more prevalent in social movements outside the United States (Ferreer, 2003; Merry & Stern, 2005; Ramet, 1997; Stern, 2005).

### *Individual Rights Framing*

#### *Description*

In the second major category of rights framing, which I call "individual rights framing," movement actors deploy the fundamental assumptions about the nature of law (e.g., universality, neutrality) and social interaction (e.g., individual determination) that permeate formal legal reasoning (see Klare, 1979). The purpose of individual rights framing is to identify a social movement's grievance as harm against one or more individuals. As with collective rights framing, individual rights framing calls on the state for protection from harm. However, here the individual is the entity deserving of legal protection. Thus, with individual rights framing, the claimant's identity as part of a social group becomes secondary to her identity as a citizen of the state, because only citi-

zenship is relevant to her claim of entitlement.

Although individual rights framing prioritizes the individual's relationship to the state over group status, there is nothing intrinsic to the framing that would preclude social movement actors from incorporating references to group status in their claims for individual rights. However, movement actors who deploy individual rights framing often strategically suppress differences between the particular qualities or needs of the claimant – including group status – to argue that the claimant is just as entitled as anyone else to the protections the law affords. In the U.S. reproductive rights movement, for example, mainstream activists “situate[d] abortion as a matter of choice, which women, like men, should be able to exercise freely as rights-bearing citizens” (Ferree, 2003, p. 314). Framing abortion as an individual right to choice, rather than as a right to “reproductive health, contraception, and abortion decisions [which] tended to be exclusively women's issues” (Pedriana, 2006) was a strategic choice feminists made to downplay the specific importance of abortion to women. Framing the issue in this way portrays the right as being about self determination, and assumes that it is a vital function of the state to protect this individual right. This framing also highlighted women's similarities to men by emphasizing the essential autonomy and rationality (as ones who “choose”) that define both groups, and by avoiding focus on how obstructions to abortion facilitate women's subordination.

Individual rights framing is particularly appealing to conservative, right-wing movements, or “social movements whose stated goals are to maintain structures of order, status, honor, or traditional social differences or values” (Lo, 1982, p. 108). One reason right-wing movements may be attracted to individual rights framing is that it does not focus on the claiming group's vulnerabilities. Many constituents of right-wing movements typically belong to social groups defined by privilege rather than discrimination or stigma. For example, the “men's rights” movement has used individual rights framing in arguments that laws designed to protect women (e.g., in divorce and custody proceedings) violate men's individual rights to equal protection of the laws (Williams, 1995, p. 134). This framing downplays the systemic biases that women face that justify protective divorce and custody laws, such as employment discrimination and societal expectations around child rearing (see Albiston, 2005, pp. 12–16, 30–35). Instead it emphasizes the values of universal protection of the law to each individual regardless of social status (whether disadvantaged or privileged) (see Williams, 2004).

Another right-wing movement that uses individual rights framing is the movement against affirmative action and other race-conscious policies de-

signed to ameliorate racial inequality. Activists against affirmative action frame such race-conscious measures as violating the rights of individuals to a “neutral” or “colorblind” application of the laws, without regard for race and the systemic biases or advantages that race bestows (Gotanda, 1991; Omi & Winant, 1994). In this individual rights framing, systemic inequalities are less important than principles like the universal application of the law, regardless the collective disadvantages or privileges that persist despite such an application. This illustrates how individual rights framing disposes of the need for invoking social differences, and thereby permits right-wing countermovements to depict a privileged constituent base as victimized (Flagg, 2004, p. 829) by measures designed to diminish structural inequality.

### *Ideology*

Individual rights framing is strongly rooted in liberal legal ideology. The focus in individual rights framing on the relationship between the individual and the state, rather than on interactions between social groups, appeals to the liberal legal view that the primary purpose of law is to protect the rights of each individual against government interference. When movement actors downplay group-based stigma or other socially-relevant group characteristics in individual rights framing, they also reinforce the sense that social status is irrelevant in “neutral” legal analysis, and that social characteristics are unimportant in the definition of the rights-bearing individual. Finally, individual rights framing appeals to the liberal legal notion that the law must restrain state interference in the “private sphere,” or the private realm of individual autonomy and of social interaction, in which individuals pursue their own interests without state interference – regardless whether private interaction reproduces social inequalities.

## *Nationalistic Legal Framing*

### *Description*

The socio-legal and sociological literatures have identified in social movement discourse a third type of legal framing, which I will call “nationalistic legal framing.” Nationalistic legal framing draws on fundamental values in American political culture, which may precede constitutional principles, to argue that a government official (typically a judge or a legislative body) has transgressed the boundaries of its legitimate political authority (e.g., in issuing a judicial decision, executive order, or declaration of war). Whereas rights

framing reifies the state's legitimacy as the arbiter of conflict, nationalistic legal framing identifies a social movement's grievance as a problem inherent in the structure of government. Consequentially, the remedies proposed in nationalistic legal framing involve structural changes in the organization of the nation-state, such as removing the political authority of one branch of government to another through statutory or constitutional restrictions.<sup>4</sup> This type of legal framing is "nationalistic" because its proposed remedy affects the claiming group only indirectly, and focuses instead on the very political institutions that comprise the nation-state.

#### *Nationalistic Legal Framing of Judicial Action*

Nationalistic legal framing may be used to support or oppose a judicial decision. Movement actors use nationalistic legal framing when they accuse a judge of improperly allowing personal political biases to influence her resolution of a legal case. Implicit in this type of nationalistic legal framing is the normative understanding of law and politics as separate spheres of authority. This understanding, which is deeply rooted in the U.S. political tradition (reflected in the federalist papers, the constitutional convention, and the structure of U.S. government), remains salient today in both legal decisions and popular discourse (Gibson, 2008; Goldberg-Hiller & Milner, 2003, p. 1075; Wilson, 2011). According to this view, the legislature is the government branch designed to incorporate partisan political interests into law through a system of electoral representation, and the role of the judiciary is merely to apply the law in a "neutral" or nonpartisan manner. When judges allegedly take a political stance in their decision-making – when they become "judicial activists" – judges thus usurp the role of the legislature and transgress their limited political authority (Kmiec, 2004; c.f., Wilson, 2011).

A particularly fierce episode of nationalistic legal framing occurred in the years following the decision by the U.S. Supreme Court in *Brown v. Board of Education* (1954) that segregated public schools were unconstitutional (Rosenberg, 1991, pp. 74–93). Right wing activists opposed to the decision, including politicians, framed the decision as a "clear abuse of judicial power" (quoted in Siegel, 2004, p. 1488; see also Rosenberg, 1991, p. 78), and argued that the *Brown* Court had illegitimately supplanted the "determination of the rights of the people of the several sovereign states" (quoted in Siegel, 2004, p. 1488). This nationalistic legal framing of the judiciary had become so commonplace by the 1968 presidential election that the Republican party included opposition to "judicial activism" in its official party platform (where it remains to this day), and Nixon ran his campaign on

the promise to appoint judges who would interpret, not make, the law (Lindquist & Cross, 2009, p. 18). Implicit in these claims is the premise that elected representatives make the law, and that judges transgress their authority when they become politically aligned. The remedy proposed for this judicial transgression was curtailing judicial power, and Congress introduced over 50 court-curbing bills in the decade following the *Brown* decision (Rosenberg, 1991, p. 74).

More recently, right-wing movement actors have invoked nationalistic legal framing against judges who rule in favor of lesbians and gay men, accusing those judges of caving to the political pressures of an “elite” interest group (Goldberg-Hiller, 2002; Hull, 2001, 2006, pp. 161–163). Hull finds that advocates on both sides of the debate over same-sex marriage in Hawaii used nationalistic legal framing by making “procedural arguments about the functioning of the different branches of government” (Hull, 2006, p. 161). Opponents often emphasized majority rule in a democratic system. Arguments that the “court has overreached” and that “same-sex marriage, so widely opposed by average citizens, should not be forced by the courts and other elites” (Hull, 2006, p. 162) appeared in more than a quarter of the same-sex marriage opponents’ speech. For example, one opponent asked, “Why is the minority infringing on the majority? In a democratic society, the majority rules” (Hull, 2006, p. 163). This sort of nationalistic legal framing directed at the judiciary was present, although less common, among supporters of same sex marriage, where it would appear in arguments defending the court’s role as the protector of vulnerable minorities (Hull, 2006, pp. 159–162).

*Ideology in Nationalistic Legal Framing of Judicial Action.* Nationalistic legal framing of the judiciary is entrenched in liberal legal ideology. The notion that judges must be “apolitical” in their application of the law derives from the liberal legal objective to restrain state power; when the judiciary is tainted by politics, it fails to uphold its institutional role as a check on the imposition of the state over private affairs, and thus sanctions excessive state interference with individual rights. By emphasizing how judicial activism “taints” the political system, this nationalistic legal framing assumes the liberal legal principle that the law itself is neutral; it implies that if judges mechanically apply law and legal procedure to each case, the outcome would not systematically favor any particular interest group (c.f., Gotanda, 1991). Finally, the notion that judges are even able to simply “apply” legal principles in a mechanical way assumes the existence of universal legal meaning, which emerges when law is disembodied from the social setting.



A unique feature of nationalistic legal framing of “judicial activism” is that it also incorporates elements of republican political ideology. Activists often frame judicial politics as illegitimate because judges are *unelected* political officials. When judges bring politics into legal interpretation, they “make” law, which is an act reserved for elected representatives in a legitimate representational democracy. This violates principles central to republican ideology, which deems the legislature to be the primary political authority authorized to act on behalf of the collective social good.<sup>5</sup> Accordingly, calls for the legislative “determination of the rights of the people” (quoted in Siegel, 2004, p. 1488) and against judicial “overreaching” by overturning a legislative enactment (Hull, 2006, p. 162) are steeped in republican principles of representational government. This mixture of hegemonic liberal legal and republican ideologies in nationalistic legal framing may make give it a stronger potential to resonate culturally.

*Nationalistic Legal Framing of Legislative Action.* Social movement actors may also employ nationalistic legal framing to oppose an action of the legislature. As with nationalistic legal framing of judicial action, movement framing that opposes the legislative action draws on deep-seated political values and understandings of law derived from philosophical traditions that precede the founding of the United States, such as popular sovereignty and political participation. Nationalistic legal framing identifies legislative actions (or inaction) which violate the legislature’s inherent power as a governing body (see McCammon, 2009; Williams, 1995, pp. 133–137). Nationalistic framing of legislative action mirrors that of judicial action in its emphasis on the limitations on state power. However, here the emphasis is on the democratic aspects of U.S. political culture, which encourage direct political participation as an inherent right of citizenship, in contrast to the emphasis the “judicial activism” frame places on the role of elected representatives.

McCammon and her colleagues have identified in early women’s movements several instances of nationalistic framing of legislative power. The suffrage movement framed the legislature’s denial of women’s right to vote as disrupting the very legitimacy of legislative authority (McCammon et al., 2004). For example, at an 1892 meeting of suffragists in Washington, a resolution was passed which asserted that “government should only derive power from the consent of the governed” and that “the practice of our government is not based upon this theory, inasmuch as one-half of our people are denied the privilege of giving or withholding their consent to the powers assumed by government” (McCammon et al., 2004, p. 533). Similarly, a Tennessee suf-

fragist more than twenty years later wrote a newspaper column arguing that that “it is a principle of democracy that the governed shall have a voice in the government. No country can call itself a democracy if half its citizens are a disfranchised class” (McCammon et al., 2004, p. 533). The women’s movement employed similar themes via legislative advocacy for the right to sit on juries, with activists asserting that the denial of this “sovereign right” prohibited women’s participation as “full citizen[s]” in an essential government function, and alleging that denial of this political participation was akin to tyranny (McCammon, 2009, p. 49). The principle expressed through these examples is that a government structure that excludes citizens from the polity effectively removes part of the sovereign electorate from expressing its will. This type of legal framing thus locates government authority in the (fictive contractual) consent of the sovereign populace, which is expressed through a system that permits effective political participation.

*Ideology in Nationalistic Legal Framing of Legislative Action.* Nationalistic framing of legislative action underscores concepts like “popular sovereignty,” which impose discipline on the state to protect the inherent liberties of its citizens. In this way, nationalistic framing of legislative action reinforces hegemonic conceptions of the state as one of limited powers, and as subordinate to the citizens that constitute it, concepts apparent in liberal legal ideology. However, nationalistic framing of legislative action is unique in its emphasis on direct political participation, which is not present in “activist judiciary” framing. In nationalistic legal framing, the legislature’s actions become illegitimate when they deny citizens full political participation. This focus is derived from democratic political ideology, which legitimates government activity to the extent that it permits direct political participation in government. Thus, nationalistic framing of legislative action draws on elements of two distinct hegemonic ideologies in American political culture.

### **CONDITIONS INFLUENCING LEGAL FRAMING STRATEGIES AND THE IMPACT OF LEGAL FRAMING STRATEGIES ON A SOCIAL MOVEMENT**

Each ideal-type legal frame discussed above assembles a unique set of legal concepts and ideologies, and represents a distinct rhetorical tool available to social movements. However, movements consider more than just the rhetorical qualities of a frame when deciding whether or not it will be useful. Fram-

ing is an expressive act that has symbolic ramifications for both internal and external movement audiences, which movement actors take into consideration as they formulate movement strategy (Bernstein, 1997; Taylor, Kimport, Dyke, & Andersen, 2009, p. 868).

In this section, I take the social constructionist approach to legal framing prevalent in the sociological research on social movements. This approach is derived from the more general sociological understanding of social construction (see Berger & Luckmann, 1966), which views meaning-making as contingent on social interaction. Social constructionist analyses of social movements consider how social meaning – including the meaning that is made through concerted social movement discourse – is derived through interactive processes of contestation and negotiation, wherein social actors collectively construct shared interpretations of social reality (see Armstrong & Bernstein, 2008; Benford & Snow, 2000; Gamson & Modigliani, 1989). The social constructionist approach is helpful because it emphasizes the dynamic and internally contested nature of social movements and thus avoids conceptualizing movements as single or unified social entities, and because it encourages scholarly attention to the multiple, conflicting aspects of the cultural environment that motivate and regulate movement meaning-making (Armstrong & Bernstein, 2008).

Analyses of legal framing should be structured around the constructionist imperative to “specify the conditions that affect the construction and adoption of various [framing strategies] as well as assess their relative impact on social movement participation, collective identity processes, and other movement framing activities” (Benford & Snow, 2000, pp. 617–618). In this section, I first discuss the factors that affect the types of legal framing strategies a social movement chooses. I argue that the likelihood that movement actors will use a particular legal frame depends in part on whether that frame resonates with the movement’s constituency. Second, I discuss the implications for the social movement of deploying particular types of legal framing, including the likelihood the frame will resonate with nonmovement audiences in the movement’s social environment. I propose some ideas about how legal frames that resonate with a movement’s constituency might be in tension with those that would be effective in bringing about change in a movement’s institutional environment.<sup>6</sup>

### *Determinants of Legal Framing Strategies*

A movement’s *culture* – the values, practices, identities, and collective

memory shared by a dominant social movement constituency (Armstrong & Crage, 2006; Taylor & Whittier, 1995) – constrains the movement’s framing strategies by shaping social movement actors’ “perception[s] of which demands and rhetorical strategies are ‘strategic,’ ‘instrumental,’ or ‘rational’” (Reese & Newcombe, 2003, p. 297). Social movement actors may reject an available strategy if it would jeopardize longstanding practices or commitments within the movement or movement organization (Engel, 2007; Morag-Levine, 2001; Reese & Newcombe, 2003; but see Rothman & Oliver, 1999, p. 44). Each ideal type legal frame contains a different argumentative form, which may amplify or reduce the frame’s resonance with a given movement culture. This section discusses how different aspects of a social movement’s culture, identity, and social status condition the likelihood that the movement will consider each type of legal framing desirable.

*First, collective rights framing will be more resonant in movements that have a strong grassroots contingency.* Grassroots organizations tend to be small, local organizations involved in mass mobilization, rather than large, professionalized organizations that use institutionalized tactics (see Staggenborg, 1988). Because grassroots activists typically operate outside the formal institutional channels for political advocacy, they are not subject to the pressure experienced by “beltway activists” to conform their legal framing strategy to the norms and logics that dominate the formal institutions in which beltway activists operate (Guinier, 1998; McCann, 2006, pp. 20–21). Grassroots activists may therefore have greater freedom than beltway activists to prioritize movement culture in their legal framing. Thus, grassroots activists may be best situated to “combine standard rights formulations with locally resonant justificatory rhetoric” (Polletta, 2000, p. 379).

Furthermore, collective rights framing will likely dominate in social movements comprised largely by grassroots organizations because grassroots organizations are more reliant than professionalized movement organizations on building a collective identity among movement participants. Grassroots organizations depend in large part on volunteerism rather than paid staff and on informal modes of mobilization (Staggenborg, 1988, p. 590). Cultivating a collective movement identity is an effective informal method of motivating volunteers and mobilizing a constituency (Klandermans, 1984, 1988). Since collective rights framing promotes the movement goals of identity building and identity expression (see Bernstein, 1997; Schneider, 1986), grassroots activists will likely recognize its strategic utility.

*Second, individual rights framing will resonate within right-wing “backlash” movements.* The section “An Ideal Typology of Legal Framing” dis-

cussed examples of individual rights framing in the men's rights and anti-affirmative action movements, and argued that individual rights framing appealed to these right-wing movements because it minimizes the claimant's social status. This does not imply that right-wing movements have a shared culture that promotes their framing choice. On the contrary, right-wing movements are extremely diverse, and espouse distinct political ideologies and world views (Heinz, Paik, & Southworth, 2003; Klatch, 1988, pp. 671–672; Lipset & Raab, 1970). Rather, the men's rights and the anti-affirmative action movements have a similar position as “backlash” movements formed in “opposition to quotas, affirmative action, or other policies that [they] alleged [to have] produced overly rapid advancement for blacks [and women] and [to] have eroded the values of liberty and individual achievement” (Lo, 1982, p. 117). These movements face a common rhetorical hurdle in portraying their constituency as victimized by progressive reforms designed to advance social equality. Their use of individual rights framing therefore suggests that individual rights frames appeal to backlash right-wing movements because they draw attention away from the movement's position of relative privilege vis-à-vis its opponents.

Some social movements on the right, however, do espouse a cultural perspective in line with individual rights framing and its attendant ideological foundation. In particular, economically conservative right-wing movements (i.e., those which oppose the welfare state, regulation of industry, and communism) often invoke ideals of individualism, self-determination, and laissez-faire economics (Hodgson, 1996, pp. 158–159; Klatch, 1988, pp. 671–672; Lipset & Raab, 1970), which resonate with liberal legal ideology. While law and society scholarship has investigated the legal framing of social conservatives (Luker, 1984; Wilson, 2011), little is known about the use and effectiveness of legal framing in economically conservative social movements. Given that economically conservative movements have engaged in concerted legal mobilization campaigns since the 1970s (Heinz et al., 2003; Teles, 2008), this may be an area ripe for future legal framing research.

*Third, individual rights framing will resonate with social movements that have a marginalized or stigmatized constituent base when the movement's goal is to increase social acceptance of the marginalized group.* In social movements whose primary aim is to ameliorate discrimination against a marginalized social group, the construction of movement identity is often a conscious goal of movement activism (Bernstein, 1997). Identity deployment can decrease discrimination either by portraying a movement constituency as “normal” or similar to the mainstream (Hull, 2003, p. 656), or by increasing

the visibility and, over time, the social acceptance of its stigmatized characteristic (Gamson, 1995; Taylor & Whittier, 1992). Individual rights framing facilitates the first of these identity-based movement goals because it depersonalizes the rights claim (thereby downplaying the claimant's stigmatized identity) and because it invokes the hegemonic ideological tenets that inhere in individual rights framing, which have more widespread appeal than the critical frames that tend to resonate with a movement culture. Accordingly, social movement actors strategically deploy individual rights framing strategies over collective ones when their goal is to increase tolerance of a marginalized movement (Ferree, 2003; Pedriana, 2006, p. 1753).<sup>7</sup>

Ferree (2003) observes this dynamic in her study of legal framing in the abortion rights movement. She finds that although movement leaders were critical of individual rights framing, they chose to deploy it over collective rights framing in order to be "effective" in defending abortion rights (Ferree, 2003, p. 330). When movement leaders justified their individual rights framing, they tended to be "particularly focus[ed] on the stigma associated with the choice of abortion and the obstacles to access to abortion" (Ferree, 2003, p. 330). Ferree concludes that "[d]estigmatizing abortion and focusing on abortion access rather than supports for motherhood [i.e., through collective rights framing] are strategic feminist responses to the opportunity structure of American liberal individualism" (Ferree, 2003, p. 335). This research suggests that sustained marginalization and the threat that constituents will be denied essential resources may produce a sense of urgency within the movement that compels movement leaders to resort to a framing strategy anchored in hegemonic legal discourse, even if it is discordant with cultural values shared by movement participants.

*Fourth, nationalistic legal framing is conditioned more on a movement's political environment than on its culture or social status. Movement culture and marginalization impose fewer restraints on nationalistic legal framing than on rights framing, for two reasons.* (1) Because nationalistic rights framing targets the structure of government, it involves no direct assumptions about the claimant's characteristics that would make it more or less appealing to a movement's constituency. (2) Although nationalistic legal framing invokes liberal legal ideology, which resonates more with conservative and elite values than progressive ones, nationalistic legal framing also incorporates elements of democratic and republican political ideologies that permeated popular and political culture since America's revolutionary years, and have remain a common part of social movement rhetoric ever since (Gitlin, 1980, pp. 10–12; 206–208; McCammon, 2003, pp. 49–51;

McCammon et al., 2004, p. 532). The unique mixture of hegemonic, liberal legal and republican ideologies that distinguishes nationalistic legal framing allows it to resonate with a wide range of social movements.

The likelihood a movement will invoke nationalistic legal framing is conditioned on the political climate. Movement actors do not invoke nationalistic legal framing out of genuine concern for procedural justice (see, e.g., Dow, Jeu, & Coveny, 2007). Rather, movements use nationalistic legal framing as a discursive wedge to oppose an outcome that resulted from that process. For example, social movements and politicians on the left have recently appropriated the “activist judiciary” frame – which was the nearly exclusive domain of the Right since the Warren Court era – to critique the conservatism that has become entrenched in the federal courts (Lindquist, Smith, & Cross, 2007). This research suggests that social movement actors will deploy nationalistic legal framing when the legislature or judiciary becomes both unsympathetic to and heavily involved in issues relevant to the movement’s cause.

### *Impact of Legal Framing Strategies on the Social Movement and Social Change*

The argumentative structure of each ideal type of legal framing affects not only the frame’s resonance with a movement’s culture, but also its cultural resonance outside the movement. Here I briefly sketch the potential impact of each legal framing strategy on the social movement itself, including in its potential to mobilize or divide constituents or to garner other movement resources. I argue that legal framing strategies may have different implications for progressive and conservative social movements; whereas legal framing strategies would often promote conservative mobilization, they often impose a tension in progressive social movements between the need to appeal to internal and external audiences.

### *Impact of Collective Rights Framing*

*Collective rights framing* has the potential to produce counter-hegemonic rights claims. Collective rights frames are detached from liberal legal ideology and emphasize the communal nature of social harm. This allows collective rights framing to “call[] into question the long-established meanings of rights,” potentially expanding cultural concepts about cognizable legal claims

(Silverstein, 1996, p. 18) and allowing even those who are unaffiliated with the movement to perceive a greater range of social harm (see Felstiner, Abel, & Sarat, 1980). Furthermore, collective rights framing promotes identity building (Schneider, 1986), which stimulates movement mobilization (Benford, 1993; Klandermans, 1984; 1988) and movement expansion (Fetner, 2001; see McCann, 1994). Thus, collective rights framing is like other more confrontational movement tactics designed to reclaim public space (McCann, 2003, p. 789) because it fosters the collective expression of marginalized communities and reclaims the meaning of law.

However, as with other confrontational tactics, the counter-hegemonic potential of collective rights claims is circumscribed by its diminished cultural resonance outside the movement. Framing strategies that are not “ideologically anchored” (Ferree, 2003) run the risk of being misconstrued or misappropriated as actors in other arenas outside the movement culturally reconstruct the movement’s meaning (Ferree, 2003; Gitlin, 1980; Leachman, 2009; Omi & Winant, 1994; Woolford & Wolejszo, 2006). Heo (2010) illustrates this in her account of the Korean feminist movement. Feminists who deployed “innovative” legal rights frame that did not resonate with dominant “traditional patriarchal family relationships” lost control over the meaning of their frame as politicians, prosecutors, and the public “re-link[ed] it to traditional notions of family” (Heo, 2010, p. 7), eliminating the very social critique the movement intended. Thus, while collective rights framing allows progressive movement actors to imagine and deploy new legal possibilities by incorporating insurgent movement values into legal frames, collective rights framing may be counterproductive for progressive movements.

### *Impact of Individual Rights Framing*

Individual rights framing runs the opposite risk to progressive social movements seeking to institute counter-hegemonic cultural interpretations. Because individual rights frames are firmly anchored in hegemonic legal ideology, they are much more likely than challenger legal frames to be intelligible to a wider mainstream audience, and to be reported accurately in the mainstream press (Ferree, 2003; see Gamson & Wolfsfeld, 1993, p. 119). Thus, the cultural resonance of individual rights framing may produce significant movement resources that flow from publicity, such as funding and recruitment (Kolb, 2005).



However, public exposure to a movement's individual rights framing has different implications for progressive and conservative movements. While ideological tenets of legal neutrality and universality in individual rights framing support the substantive goals of "backlash" conservative movements (i.e., opposition to redistributive measures), many have doubted their usefulness to progressive movements. The suppression of social identity entailed in individual rights framing may symbolize legal acceptance of a movement constituency *contingent* on its conformity to the mainstream, and thereby neutralize a movement's cultural critique (Hunt, 1990; see Smart, 1989).

Strains of this individual rights critique play out in debates within progressive social movements, including in the gay rights movement's internal debate around the "privacy" frame in the campaign to repeal sodomy laws (Armstrong & Bernstein, 2008, p. 91) and the "individual choice" frame in the abortion rights movement (Ferree, 2003). However, the critique of individual rights framing apparently sparks no such debate within conservative movements; to my knowledge, no such critique has been reported in the literature on conservative and right-wing movements. Thus, even assuming the individual rights critique is unfounded, its divisive presence in progressive movements suggests that individual rights framing may have negative consequences for progressive movements but not for conservative ones.

### *Impact of Nationalistic Legal Framing*

Nationalistic legal framing will likely have a significant impact on social movements because it attracts outside support. Nationalistic legal framing locates the movement's grievance in a serious or alarming structural problem (McCammon, 2009, p. 60), which makes it particularly compelling to movement participants and outsiders alike (Benford, 1993; Gerhards & Rucht, 1992). Furthermore, because [] nationalistic legal framing has implications for the structure of state power, nationalistic legal framing may be more likely than other legal framing strategies to attract elite sympathizers; it appeals to elites' need to protect the legitimacy of the state (see McCammon, 2009, p. 60). Nationalistic legal framing may thus attract the support of elites and thereby increase a movement's leverage in political negotiations.

Another advantage of nationalistic legal framing is that it is unlikely to be a divisive force within social movements. Nationalistic legal framing is anchored in both hegemonic legal ideology and in other political ideologies that contain radical (even revolutionary) elements; democratic and republican ideologies will justify civil disobedience and law-breaking when officials overreach their limited political power. Nationalistic legal framing appeals to radi-

cal factions of the social movement because it promotes a far-reaching, structural solution to a social movement's grievance, rather than simple reform (McCammon et al., 2004, p. 549). At the same time, nationalistic legal framing appeals to more conservative movement factions that seek assimilation or alliances with elites because it is also anchored in liberal legal ideology, which resonates with mainstream sensibilities. This capacity to appeal simultaneously to both radical and mainstream contingencies within a single social movement make nationalistic legal framing a force of unity rather than division in social movements.

Future research might explore the potential of nationalistic legal framing to unite diverse factions of a social movement. The right-wing movements that emerged after the Warren Court era may provide one example of how nationalistic legal framing unifies diverse constituencies. Right-wing movements have tended to use the "activist judiciary" framing in opposition to the progressive judicial decisions. At the same time that this nationalistic framing strategy became increasingly visible during the 1970s, the heterogeneous groups of social and economical conservatives began to coalesce into what is often referred to as the New Right (Heinz et al., 2003; Klatch, 1988, pp. 671–672; Lipset & Raab, 1970). Because these distinct right-wing groups differed fundamentally in the way they viewed the common social problem they confronted – something which typically prevents movement coalition (see Benford, 1993, pp. 685–688; Noy, 2009) – their political partnership raises interesting and unexamined questions for social movement theory. Thus, future research would benefit from examining whether "judicial activism" framing affected this coalition by providing a common vocabulary for opposing left-wing movements. Exploring this possibility would enrich theoretical understandings of legal framing generally, and particularly in the relationship between legal framing and movement coalition (Heaney & Rojas, 2008; Noy, 2009), and in the relationship between legal framing and ideology (Benford & Snow, 2000).

Yet while it is important to examine how nationalistic legal framing has been used historically in conservative and progressive movements alike, it is also of crucial importance to examine how progressive movements can use nationalistic legal framing strategies to imagine and pursue new legal possibilities. As discussed above, nationalistic legal framing potentially serves a beneficial purpose in unifying progressive social movements. Achieving a commonality of interests which transcends the numerous social divisions in progressive and labor movements is something that Gramsci and others have argued is necessary to produce a counter-hegemonic social force (Gramsci,

1992; Hunt, 1990, pp. 312–314). When a social movement remains divided on whether to conceptualize its grievance as an individual or collective wrong, “the quest for counter-hegemony can only be a continuation of that which the concept seeks to displace, namely, the search for a unitary political subject which needs simply to achieve consciousness of itself to be able to challenge the dominant hegemony” (Hunt, 1990, p. 313). Nationalistic legal framing may unite progressive movements around a given remedy and thereby permit movement actors a single mechanism for expressing oppositional values. Since nationalistic legal framing also has the ability to reach important mainstream arenas outside the social movement – something that collective rights framing critically lacks – nationalistic legal framing is a potentially powerful tool for progressive social movements both to introduce critical movement discourse into the mainstream and to redefine traditional understandings of the law (Mansbridge & Morris, 2001; McCammon et al., 2004, p. 532).

## CONCLUSION

The ideal typology of legal framing proposed here acknowledges the dynamic aspects of legal framing. The three ideal-type legal frames, which have become institutionalized in social movement discourse since the mid-twentieth century, show the different ways in which movements have struck a balance between the institutional pressure to reproduce dominant ideologies and the internal pressure to reform those ideologies.<sup>9</sup> This ideal typology thus reflects the theoretical view of meaning as socially constructed; not only does it remain cognizant of how legal meaning is negotiated by the power-ridden interaction between mainstream and insurgent legal interpretations, it also is wary of how institutional power affects the transformative potential of challenges to legal meaning at a very fundamental level – in the construction of meaning within social movements. This model of legal framing will therefore provide a common framework for sociological and socio-legal research on social movements, directed at theorizing how movement actors negotiate the symbolic meaning of legal language and generate new legal interpretations “in the shadow of social institutions” (Albiston, 2005), or how they construct law while taking into account the multiple arenas of social power that manifest both within movements and in the social environment.

Ideal types of legal framing provide leverage for theoretical development by defining the logical structure of legal frames. Because law operates as a different sort of constitutive force on movement rhetoric in each of these ideal-type frames (i.e., as a normative framework, an ideological force, or a set of cultural values), these ideal types prevent ambiguity about how broadly a study conceptualizes the “legal.” By identifying the variety of ideational “tools” the legal system provides social movements, ideal types sharpen researchers’ analysis of the particular movement characteristics and institutional conditions that restrict a movement’s ability to (successfully) use these tools.

Finally, the social constructionist approach to legal framing research suggests promising areas for future research on law and the reproduction of social inequality. Because the logical structure of these frames delivers different symbolic consequences for social, political, and legal institutions, the frames may be inherently more (or less) appealing to particular types of social movements, and the frames may be better (or worse) received in different contexts. However, empirical analyses of a movement’s framing strategies in light of competing internal and external pressures may reveal that progressive social movements are more exposed to adverse consequences for legal framing strategies than are conservative social movements. Anti-domination movements are more likely to experience internal pressures to use collective rights framing because social stigma generates a distinct collective identity. Yet at the same time, anti-domination movements are also more likely to be exposed to a dual institutional pressure to use individualist legal framing, which comes from both official legal institutions and from conservative backlash against progressive movements. The social constructionist model for legal framing research, by exposing how institutional pressures on legal framing strategies may generate adverse consequences for progressive social movements, can be used to advance theoretical inquiry into the relationship between law, hegemony, and inequality.

### **ACKNOWLEDGMENTS**

Many thanks to the UC Berkeley Institute for the Study of Societal Issues (ISSI), and to Catherine Albiston, José Arias, Bao Lo, Pennie Leachman, Sarah Lynn López, Genevieve Negrón-Gonzales, Jennifer Randles, Kim Richards, Christine Trost, and Susan Woolley for their insightful comments on earlier drafts of this article.

## NOTES

1. How broadly the researcher conceptualizes the law also affects other methodological choices, like the types of alternative social institutions the researcher chooses as a comparison to determine the relative power of the law. Defining “legal” narrowly as the set of concepts, logics, and norms derived from fields of formal legal organizations and legal actors compels the researcher to compare the presence of these legal constructs with the presence of other, nonlegal constructs derived from other cultural fields such as medicine or religion (see, e.g., Heimer, 1999). Defining “legal” more broadly as an ideology compels the researcher to investigate whether a movement is more likely to evoke the relationships, definitions, and norms assumed in legal ideology or in other cultural ideologies of justice (e.g., Goldstone, 2004; Nielsen, 2004; Williams, 1995).

2. Hegemonic legal ideology influences social movement actors’ *strategic* discourse – their perceptions of what constitutes *effective* political discourse (Ferree, 2003, pp. 330–336) – but does not necessarily change how they actually *perceive* social situations or events. Activists may use legal language not because they find its assumptions unproblematic or because they ascribe to its substantive normative framework, but rather because they find it to be the best choice among the “highly limited options available to them” (see also Kostiner, 2003; McCann, 1998, p. 88).

3. However, in theory democratic legal framing could also be used to support governance through the courts. For example, democratic ideals can be used to encourage individual participation in governance regardless of social status and resources, which is one way of looking at the function of the courts (Lawrence, 1991; Zemans, 1983).

4. Nationalistic legal framing does not necessarily require a *legal* remedy for the transgression of official authority. Social movements have used legal legitimacy framing to advocate civil disobedience (Williams, 1995, p. 131) or revolution (Sewell, 1996). For example, the civil rights movement framed Jim Crow legislation as a “national failing and a collective sin,” and advocated civil disobedience to remove the legislation’s stain on the “moral community” (Williams, 1995, p. 131). In these cases, the remedy implies removal of government authority directly to the people.

5. Republican ideological tenets are not present in nationalistic legal framing of the judiciary as legitimately acting to protect minority groups from discriminatory legislation (see Hull, 2006, pp. 159–162).

6. In this section, I focus on findings from the socio-legal and sociological literatures that indicate structural constraints on *legal* framing in particular. For more comprehensive analyses of the myriad constraints on collective action framing, see Snow and Benford (1988), Benford and Snow (2000), and McCammon (2009).

7. Conversely, when stigmatized movement actors prioritize the goal of reinforcing collective identity or promoting mobilization they are more likely to use collective rights framing (Bernstein, 1997; Fetner, 2001).

8. For these and other critiques of individual rights framing, see Kennedy (2002), Tushnet (1984), and Rosenberg (1991).

9. This social constructionist approach conceptualizes the three ideal-type legal frames as a cultural construct developed in the shadow of institutional constraints, which in turn shape future social movement discourse. This approach therefore understands consciousness and structure as “part of a reciprocal process in which the meanings given by individuals to their world become patterned, stabilized, and objectified. These meanings, once institutionalized, become part of the

material and discursive systems that limit and constrain future meaning making'' (Silbey, 2005, pp. 333–334).

## REFERENCES

- Albiston, C. (2005). Bargaining in the shadow of social institutions: Competing discourses and social change in workplace mobilization of civil rights. *Law & Society Review*, 39(1), 11–50.
- Armstrong, E. A. (2002). *Forging gay identities: Organizing sexuality in San Francisco, 1950–1994*. Chicago, IL: University of Chicago Press.
- Armstrong, E. A. (2005). From struggle to settlement: The crystallization of a field of lesbian/gay organizations in San Francisco 1969–1973. In G. Davis, D. McAdam, W. R. Scott & M. Zald (Eds.), *Social movements and organization theory* (pp. 161–187). Cambridge: Cambridge University Press.
- Armstrong, E. A., & Bernstein, M. (2008). Culture, power, and institutions: A multi-institutional politics approach to social movements. *Sociological Theory*, 26(1), 74–99.
- Armstrong, E. A., & Crage, S. M. (2006). Movements and memory: The making of the Stonewall Myth. *American Sociological Review*, 71(3), 724–751.
- Beckett, K., & Hoffman, B. (2005). Challenging medicine: Law, resistance, and the cultural politics of childbirth. *Law & Society Review*, 39(1), 125–170.
- Benford, R. D. (1993). Frame disputes within the nuclear disarmament movement. *Social Forces*, 71, 677–702.
- Benford, R. D., & Snow, D. A. (2000). Framing processes and social movements: An overview and assessment. *Annual Review of Sociology*, 26, 611–639.
- Berger, P. L., & Luckmann, T. (1966). *The social construction of reality: A treatise in the sociology of knowledge*. Garden City, NY: Doubleday.
- Bernstein, M. (1997). Celebration and suppression: The strategic uses of identity by the lesbian and gay movement. *American Journal of Sociology*, 103(3), 531–565.
- Bickel, A. (1962). *The least dangerous branch: The supreme court at the bar of politics*. New Haven, CT: Yale University Press.
- Bumiller, K. (1987). Victims in the shadow of the law: A critique of the model of legal protection. *Signs*, 12(3), 421–439.
- Coleman, C., Nee, L. D., & Rubinowitz, L. S. (2005). Social movements and social-change litigation: Synergy in the montgomery bus protest. *Law & Social Inquiry*, 30(4), 663–737.
- Crenshaw, K. W. (1988). Race, reform, and retrenchment: Transformation and legitimation in antidiscrimination law. *Harvard Law Review*, 101(7), 1331–1387.
- Crenshaw, K. W. (2007). Framing affirmative action. *Michigan Law Review*, 105 (First Impressions). Retrieved from <http://students.law.umich.edu/mlr/firstimpressions/vol105/crenshaw.pdf>
- Dow, D. R., Jeu, C., & Coveny, A. C. (2007). Judicial activism on the Rehnquist court: An empirical assessment. *St. John's Journal Legal Comment*, 23(1), 35–110.
- Dudas, J. R. (2005). In the name of equal rights: "Special" rights and the politics of resentment. *Law & Society Review*, 39(4), 723–757.
- Dudas, J. R. (2008). *The cultivation of resentment: Treaty rights and the new right*. Palo Alto, CA: Stanford University Press.

- Edelman, L., Leachman, G., & McAdam, D. (2010). Law, organizations, and social movements. *Annual Review of Law & Social Science*, 6, 653–685.
- Engel, S. M. (2007). Organizational identity as a constraint on strategic action: A comparative analysis of gay and lesbian interest groups. *Studies in American Political Development*, 21(1), 66–91.
- Engel, D. M., & Munger, F. W. (1996). Rights, remembrance, and the reconciliation of difference. *Law & Society Review*, 30(1), 7–54.
- Engel, D. M., & Munger, F. W. (2003). *Rights of inclusion: Law and identity in the life stories of Americans with disabilities*. Chicago, IL: University of Chicago Press.
- Ewick, P., & Silbey, S. S. (1998). *The common place of law: Stories from everyday life*. Chicago, IL: University of Chicago Press.
- Feinman, J. M. & Gabel P. (1990). Contract law as ideology. In D. Kairys (Ed.), *The politics of law: A progressive critique* (pp. 373–392). New York: Pantheon.
- Felstiner, W. L. F., Abel, R. L., & Sarat, A. (1980). The emergence and transformation of disputes: Naming, blaming, claiming. *Law & Society Review*, 15(3–4), 631–654.
- Ferree, M. M. (2003). Resonance and radicalism: Feminist framing in the abortion debates of the United States and Germany. *American Journal of Sociology*, 109(2), 304–344.
- Fetner, T. (2001). Working Anita Bryant: The impact of Christian anti-gay activism on lesbian and gay movement claims. *Social Problems*, 48(3), 411–428.
- Flagg, B. J. (2004). Diversity discourses. *Tulane Law Review*, 78(3), 827–852.
- Gamson, W. A. (1989). Reflections on the strategy of social protest. *Sociological Forum*, 4(3), 455–467.
- Gamson, J. (1995). Must identity movements self-destruct? A queer dilemma. *Social Problems*, 42(3), 390–407.
- Gamson, W. A., & Modigliani, A. (1989). Media discourse and public opinion on nuclear power: A constructionist approach. *American Journal of Sociology*, 95(1), 1–37.
- Gamson, W. A., & Wolfsfeld, G. (1993). Movements and media as interacting systems. *Annals of the American academy of political and social science*, 528, 114–125.
- Gerhards, J., & Rucht, D. (1992). Mesomobilization: Organizing and framing in two protest campaigns in West Germany. *The American Journal of Sociology*, 98(3), 555–596.
- Gibson, J. L. (2008). Challenges to the impartiality of state supreme courts: Legitimacy theory and “new-style” Judicial Campaigns. *American Political Science Review*, 102(1), 59–75.
- Gitlin, T. (1980). *The whole world is watching: Mass media and the making and unmaking of the new left*. Berkeley, CA: University of California Press.
- Goldberg-Hiller, J. (2002). *The Limits to union: Same-sex marriage and the politics of civil rights*. Ann Arbor, MI: The University of Michigan Press.
- Goldberg-Hiller, J., & Milner, N. (2003). Rights as excess: Understanding the politics of special rights. *Law & Social Inquiry*, 28(4), 1075–1118.
- Goldstone, J. A. (2004). More social movements or fewer? Beyond political opportunity structures to relational fields. *Theory and Society*, 33(3–4), 333–365.
- Gómez, L. E. (2004). A tale of two genres: On the real and ideal links between law and society and critical race theory. In A. Sarat (Ed.), *Blackwell companion to law and society* (pp. 453–470). London: Blackwell.
- Gotanda, N. (1991). A critique of our constitution is color-blind. *Stanford Law Review*, 44(1), 1–68.
- Gramsci, A. (1992). *Prison notebooks*. New York, NY: Columbia University Press.

- Guinier, L. (1998). *Lift every voice: Turning a civil rights setback into a new vision of social justice*. New York, NY: Simon and Schuster.
- Hagan, J. (2000). Narrowing the gap by widening the conflict: Power politics, symbols of sovereignty, and the American Vietnam war resisters' migration to Canada. *Law & Society Review*, 34(3), 607–650.
- Haines, H. H. (1984). Black radicalization and the funding of civil rights: 1957–1970. *Social Problems*, 32(1), 31–43.
- Haney-López, I. F. (1996). *White by law*. New York, NY: NYU Press.
- Heaney, M. T., & Rojas, F. (2008). Coalition dissolution, mobilization, and network dynamics in the U.S. Antiwar movement. *Research in Social Movements, Conflicts and Change*, 28, 39–82.
- Heimer, C. A. (1999). Competing institutions: Law, medicine, and family in neonatal intensive care. *Law & Society Review*, 33(1), 17–66.
- Heinz, J. P., Paik, A., & Southworth, A. (2003). Lawyers for conservative causes: Clients, ideology, and social distance. *Law & Society Review*, 37(1), 5–50.
- Heo, M. (2010). Women's movement and the politics of framing: The construction of anti-domestic violence legislation in South Korea. *Women's Studies International Forum*, 33(3), 225–233.
- Hodgson, G. (1996). *The world turned right side up: A history of the conservative ascendancy in America*. New York, NY: Houghton Mifflin Co.
- Hoffman, B. (2008). Minding the gap: Legal ideals and strategic action in state legislative hearings. *Law & Social Inquiry*, 33(1), 89–126.
- Hull, K. E. (2001). The political limits of the rights frame: The case of same-sex marriage in Hawaii. *Sociological Perspectives*, 44(2), 207–232.
- Hull, K. E. (2003). The cultural power of law and the cultural enactment of legality: The case of same-sex marriage. *Law & Social Inquiry*, 28(3), 629–657.
- Hull, K. E. (2006). *Same-sex marriage: The cultural politics of love and law*. Cambridge: Cambridge University Press.
- Hunt, A. (1990). Rights and social movements: Counter-hegemonic strategies. *Journal of Law and Society*, 17(3), 309–328.
- Jones, L. (2006). The haves come out ahead: How cause lawyers frame the legal system for movements. In A. Sarat & S. Scheingold (Eds.), *Cause lawyers and social movements*. Stanford, CA: Stanford University Press.
- Keck, M. E., & Sikkink, K. (1998). *Activists beyond borders: Advocacy networks in international politics*. Ithaca, NY: Cornell University Press.
- Kennedy, D. (2002). The critique of rights in critical legal studies. In W. Brown & J. Halley (Eds.), *Left legalism/left critique*. Durham, N.C.: Duke University Press.
- Klandermans, B. (1984). Mobilization and participation: Social-psychological expansions of resource mobilization theory. *American Sociological Review*, 49(5), 583–600.
- Klandermans, B. (1988). The formation and mobilization of consensus. *International Social Movement Research*, 1, 173–196.
- Klare, K. (1979). Law-making as praxis. *Telos*, 40, 123–135.
- Klatch, R. (1988). Coalition and conflict among women of the new right. *Signs*, 13(4), 671–694.
- Kmieć, K. D. (2004). The origin and current meanings of 'judicial activism'. *California Law Review*, 92(5), 1441–1478.



- Kolb, F. (2005). The impact of transnational protest on social movement organizations: Mass media and the making of ATTAC Germany. In D. D. Porta & S. T. Lanham (Eds.), *Transnational protest and global activism, people, passions, and power* (pp. 95–120). Rowman & Littlefield.
- Koopmans, R., & Statham, P. (1999). *Ethnic and civic conceptions of nationhood and the differential success of the extreme right in Germany and Italy. How social movements matter*. Minneapolis, MN: University of Minnesota Press.
- Kostiner, I. (2003). Evaluating legality: Toward a cultural approach to the study of law and social change. *Law & Society Review*, 37(2), 323–368.
- Lawrence, S. E. (1991). Justice, democracy, litigation, and political participation. *Social Science Quarterly*, 72(3), 464–477.
- Leachman, G. (2009). Social movements and the journalistic field: A multi-institutional approach to tactical dominance in the LGBT movement. Institute for the Study of Social Change. Retrieved from <http://escholarship.org/uc/item/5j346415>
- Levitsky, S. R. (2008). What rights? The construction of political claims to American health care entitlements. *Law & Society Review*, 42(3), 551–590.
- Lindquist, S. A., & Cross, F. B. (2009). *Measuring Judicial Activism*. New York, NY: Oxford University Press.
- Lindquist, S. A., Smith, J. L., & Cross, F. B. (2007). The rhetoric of restraint and the ideology of activism. *Constitutional Commentary*, 24(1), 103–126.
- Lipset, S. M., & Raab, E. (1970). *The politics of unreason: Right-wing extremism in America, 1790–1970*. New York, NY: Harper & Row.
- Lo, C. Y. B. (1982). Countermovements and conservative movements in the contemporary U.S. *Annual Review of Sociology*, 8, 107–134.
- Luker, K. (1984). *Abortion and the politics of motherhood*. Berkeley, CA: University of California Press.
- Mansbridge, J., & Morris, A. (2001). *Oppositional consciousness: The subjective roots of social protest*. Chicago, IL: University of Chicago Press.
- Marshall, A.-M. (2003). Injustice frames, legality, and the everyday construction of sexual harassment. *Law & Social Inquiry*, 28(3), 659–689.
- Marshall, A.-M. (2005). *Confronting sexual harassment: The law and politics of everyday life*. Burlington, VT: Ashgate Publishing Co.
- McAdam, D. (1982). *Political process and the development of black insurgency, 1930–1970*. Chicago, IL: University of Chicago Press.
- McCammon, H. J. (2003). “Out of the parlors and into the streets”: The changing tactical repertoire of the U.S. women’s suffrage movements. *Social Forces*, 81(3), 787–818.
- McCammon, H. J. (2009). Beyond frame resonance: The argumentative structure and persuasive capacity of twentieth-century U.S. women’s jury rights frames. *Mobilization: An International Journal*, 14(1), 45–64.
- McCammon, H. J., Hewitt, L., & Smith, S. (2004). “No weapon save argument”: Strategic frame amplification in the U.S. woman suffrage movements. *The Sociological Quarterly*, 45(3), 529–556.
- McCammon, H. J., Muse, C. S., Newman, H. D., & Terrell, T. M. (2007). Movement framing and discursive opportunity structures: The political successes of the U.S. women’s jury movements. *American Sociological Review*, 72(5), 725–749.
- McCann, M. W. (1994). *Rights at work: Pay equity reform and the politics of legal mobilization*. Chicago, IL: University of Chicago Press.

- McCann, M. W. (1998). How does law matter for social movements? In B. G. Garth & A. Sarat (Eds.), *How does law matter?* (pp. 76–108). Evanston, IL: Northwestern University Press.
- McCann, M. W. (2006). Law and social movements. In M. W. McCann (Ed.), *Law and social movements*. London: Ashgate Publishing.
- McVeigh, R., Welch, M. R., & Bjarnason, T. (2003). Hate crime reporting as a successful social movement outcome. *American Sociological Review*, 68(6), 843–867.
- Merry, S. E. (2001). Rights, religion, and community: Approaches to violence against women in the context of globalization. *Law & Society Review*, 35(1), 39–88.
- Merry, S. E., Levitt, P., Rosen, M. S., & Yoon, D. H. (2010). Law from below: Women's human rights and social movements in New York City. *Law & Society Review*, 44(1), 101–128.
- Merry, S. E., & Stern, R. E. (2005). The female inheritance movement in Hong Kong: Theorizing the local/global interface. *Current Anthropology*, 46(3), 387–409.
- Miceli, M. S. (2005). Morality politics vs. identity politics: Framing processes and competition among Christian right and gay social movement organizations. *Sociological Forum*, 20(4), 589–612.
- Morag-Levine, N. (2001). The politics of imported rights: Transplantation and transformation in an Israeli cause-lawyering organization. In S. Scheingold & A. Sarat (Eds.), *Cause lawyering and the state in a global era*. New York, NY: Oxford University Press.
- Morgan, R. (2004). Advancing indigenous rights at the United Nations: Strategic framing and its impact on the normative development of international law. *Social and Legal Studies*, 13(4), 481–500.
- Musheno, M. (1997). Legal consciousness on the margins of society: Struggles against stigmatization in the AIDS crisis. *Identities: Global Studies in Culture and Power*, 2(1–2), 101–122.
- Nielsen, L. B. (2004). *License to harass: Law, hierarchy, and offensive public speech*. Princeton, NJ: Princeton University Press.
- Noy, D. (2009). When framing fails: Ideas, influence, and resources in San Francisco's homeless policy field. *Social Problems*, 56(2), 223–242.
- Oliver, P. E., & Johnston, H. (2000). What a good idea! Frames and ideologies in social movement research. *Mobilization: An International Quarterly*, 5(1), 37–54.
- Omi, M., & Winant, H. (1994). *Racial formation in the United States from the 1960s to the 1990s* (2d ed.). New York, NY: Routledge.
- Paris, M. (2001). Legal mobilization and the politics of reform: Lessons from school finance litigation in Kentucky, 1984–1995. *Law & Social Inquiry*, 26(3), 631–684.
- Paris, M. (2011). *Framing equal opportunity: Law and the politics of school finance reform*. Palo Alto, CA: Stanford University Press.
- Pedriana, N. (2006). From protective to equal treatment: Legal framing processes and transformation of the women's movement in the 1960s. *The American Journal of Sociology*, 111(6), 1718–1761.
- Pedriana, N., & Stryker, R. (2004). The strength of a weak agency: Enforcement of title VII of the 1964 civil rights act and the expansion of state capacity, 1965–1971. *American Journal of Sociology*, 110(3), 709–760.
- Polletta, F. (2000). The structural context of novel rights claims: Southern civil rights organizing, 1961–1966. *Law & Society Review*, 34(2), 367–406.
- Rajagopal, B. (2006). Counter-hegemonic international law: Rethinking human rights and development as a third world strategy. *Third World Quarterly*, 27(5), 767–783.

- Ramet, S. P. (1997). *Whose democracy?: Nationalism, religion, and the doctrine of collective rights in post-1989*. Lanham, MD: Rowman & Littlefield Publishers.
- Reese, E., & Newcombe, G. (2003). Income rights, mothers' rights, or workers' rights? Collective action frames, organizational ideologies, and the American welfare rights movement. *Social Problems*, 50(2), 294–318.
- Rosenberg, G. N. (1991). *The hollow hope: Can courts bring about social change?* Chicago, IL: University of Chicago Press.
- Rothman, F. D., & Oliver, P. E. (1999). From local to global: The anti-dam movement in southern Brazil, 1979–1992. *Mobilization: An International Journal*, 4(1), 41–57.
- Scheingold, S. A. (1975). *The politics of rights: Lawyers, public policy and political change*. New Haven, CT: Yale University Press.
- Schneider, E. M. (1986). The dialectic of rights and politics: Perspectives from the women's rights movement. *New York University Law Review*, 61(4), 589–652.
- Sewell, W. H. (1996). Historical events as transformations of structures: Inventing revolution at the Bastille. *Theory and Society*, 25(6), 841–881.
- Siegel, R. B. (2004). Equality talk: Antisubordination and anticlassification values in constitutional struggles over brown. *Harvard Law Review*, 117(5), 1470–1547.
- Silbey, S. (2005). After legal consciousness. *Annual Review of Law & Social Science*, 1, 323–368.
- Silverstein, H. (1996). *Unleashing rights: Law, meaning, and the animal rights movement*. Ann Arbor, MI: University of Michigan Press.
- Smart, C. (1989). *Feminism and the power of the law*. London: Routledge.
- Snow, D. A., & Benford, R. D. (1988). Ideology, frame resonance, and participant mobilization. *International Social Movement Research*, 1, 197–217.
- Snow, D. A., & Benford, R. D. (1992). Master frames and cycles of protest. In A. D. Morris & C. M. Mueller (Eds.), *Frontiers in social movement theory* (pp. 133–155). New Haven, CT: Yale University Press.
- Staggenborg, S. (1988). The consequences of professionalization and formalization in the pro-choice movement. *American Sociological Review*, 53(4), 585–605.
- Stern, R. E. (2005). Unpacking adaptation: The female inheritance movement in Hong Kong. *Mobilization: An International Journal*, 10(3), 421–439.
- Taylor, V., Kimport, K., Dyke, N. V., & Andersen, E. A. (2009). Culture and mobilization: Tactical repertoires, same-sex weddings, and the impact on gay activism. *American Sociological Review*, 74(4), 865–890.
- Taylor, V., & Whittier, N. E. (1992). Collective identity in social movement communities: Lesbian feminist mobilization. In A. Morris & C. M. Mueller (Eds.), *Frontiers in social movement theory* (pp. 104–129). New Haven, CT: Yale University Press.
- Taylor, V., & Whittier, N. (1995). Analytical approaches to social movement culture: The culture of the women's movement. In H. Johnston & B. Klandermaas (Eds.), *Social movements and culture* (pp. 163–187). Minneapolis, MN: University of Minnesota Press.
- Teles, S. M. (2008). *The rise of the conservative legal movement*. Princeton, NJ: Princeton University Press.
- Turkel, G. (1988). The public/private distinction: Approaches to the critique of legal ideology. *Law & Society Review*, 22(4), 801–823.
- Thompson, E. P. (1975). *Whigs and hunters: The origin of the black act*. New York, NY: Pantheon Books.
- Tushnet, M. (1984). Symposium: An essay on rights. *Texas Law Review*, 62(8), 1363–1403.

- Weber, M. (1947). *The theory of social and economic organization* (A. M. Henderson & T. Parsons, Trans.). New York, NY: The Free Press.
- Williams, R. H. (1995). Constructing the public good: Social movements and cultural resources. *Social Problems*, 42(1), 124–144.
- Williams, R. H. (2004). The cultural contexts of collective action: Constraints, opportunities, and the symbolic life of social movements. In D. A. Snow, S. A. Soule & H. Kriesi (Eds.), *The Blackwell companion to social movements*. Malden, MA: Blackwell.
- Wilson, J. C. (2011). Sustaining the state: Legal consciousness and the construction of legality in competing abortion activists' narratives. *Law & Social Inquiry*, 36(2), 455–483.
- Woolford, A., & Wolejszo, S. (2006). Collecting on moral debts: Reparations for the holocaust and poňajmos. *Law & Society Review*, 40(4), 871–901.
- Zemans, F. K. (1983). Legal mobilization: The neglected role of the law in the political system. *The American Political Science Review*, 77(3), 690–703.