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The Minority Rights Revolution: Top Down and Bottom Up
JOHN D. SKRENTNY

On January 6, 1969, Senator Barry Goldwater, Republican of Arizona, sent a
letter to the new presidential administration of Richard M. Nixon. Goldwater
personified the right wing of the Republican Party, argued passionately for lim-
ited government, and had previously written a book entitled The Conscience of a

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Conservative. He had also famously stuck to his principles and voted against the Civil Rights Act of 1964, the landmark law that ended racial segregation. On this day, however, Goldwater offered a lesson in political savvy for dealing with a disadvantaged group. The senator reminded the new administration that Nixon had promised a White House conference on Mexican American issues during his campaign, and that Nixon wanted to have “Mexicans” serve in his administration. Goldwater explained that this group preferred to be called “Mexican Americans” and that the administration should avoid referring to them as Latin American—save that term for South America, coached Goldwater. The White House conference should occur “at the earliest possible time because these people are watching us to see if we will treat them the way the Democrats have.” He reminded them that New York was the largest Spanish-speaking city in the United States and that nationwide there were 6 million in this category. “You will hear a lot on this subject from me,” the strident states’ rights conservative warned, “so the faster you move, the less bother I will be.”

A few years later, Robert H. Bork, who would become a famously right-leaning federal judge and author of the 1996 book *Slouching towards Gomorrah: Modern Liberalism and American Decline*, also promoted the cause of federal recognition of disadvantaged groups. In 1974, Bork was Nixon’s solicitor general, and in that year co-authored a brief to the Supreme Court arguing that the failure to provide special language education for immigrant children was racial discrimination, according to both the Constitution and the Civil Rights Act of 1964. The Supreme Court agreed with the statutory argument, though it did not wish to go as far as Bork and create constitutional language rights in schools.

Goldwater and Bork were not alone in promoting rights for minorities. The 1965–75 period was a minority rights revolution. After the mass mobilization and watershed events of the black civil rights movement, this later revolution was led by the Establishment. It was a bipartisan project, including from both parties liberals and conservatives—though it was hard to tell the difference. Presidents, the Congress, bureaucracies, and the courts all played important roles. In the signature minority rights policy, affirmative action, the federal government went beyond African Americans and declared that certain groups were indeed “minorities”—an undefined term embraced by policymakers, advocates, and activists alike—and needed new rights and programs for equal opportunity and full citizenship. In the parlance of the period, minorities were groups seen as “disadvantaged” but not defined by income or education. African Americans were the paradigmatic minority, but there were three other ethnoracial minorities: Latinos, Asian Americans, and American Indians. Immigrants, women, and the disabled of all ethnic groups were also included and won new rights during this revolutionary period.

Bipartisanship was not the only notable aspect of the minority rights revolution. Consider also the speed of the development of its laws and regulations. While they appeared to have global momentum on their side, it still took two decades from the first proposition in 1941 that blacks be ensured nondiscrimination in employment to the law (Title VII of the Civil Rights Act of 1964) guaranteeing that right. Similarly, it took about twenty years between the first
voted against the Civil Rights Act of 1964, which terminated de jure segregation. On the other hand, Nixon's popularity began to wane with the Vietnam War, leading him to change his position on the issue. Nixon became a symbolic figure for those who opposed the war and fought against the spread of communism. The nation became divided, and the war continued to escalate.

In the context of the Civil Rights Revolution, the 1960s were a time of significant political change in America. The Civil Rights Act of 1964 was one of the most significant pieces of legislation passed during this period. It prohibited discrimination in employment, public accommodations, and public facilities based on race, color, religion, or national origin. The Act also prohibited discrimination in the terms of sale, rental, and financing of housing by private parties. The Act was a landmark in the fight against segregation and discrimination.

The efforts to allow expanded immigration from outside northern and western Europe and the Immigration Act of 1965, ending all national origin discrimination in immigration. Following these landmarks, however, the government passed other laws and regulations almost immediately after first proposal. In most cases, it took only a few years to have a new law passed and there was little lobbying pressure. Bilingual education for Latinos, equal rights for women in education, and equal rights for the disabled all became law within two years of first proposal. Affirmative action expanded beyond blacks almost immediately. Such rapid success in American politics is rare. It is especially rare when achieved by groups that were defined precisely by their powerlessness and disadvantage in American society.

The rapidity and ease of the minority rights revolution brings up another puzzle. If minority rights were so easy to establish, why were not more groups included? For example, government officials perceived eastern and southern European Americans (Italians, Poles, Jews, Greeks, etc.) to be discriminated against, economically disadvantaged, or both. These "white ethnics" also had strong advocates. Yet they were never made the subjects of special policies for aid, protection, or preference. Despite widespread perceptions of their oppression, gays and lesbians similarly failed to gain a federal foothold in the minority rights revolution. Some members of Congress first submitted a bill to protect Americans from discrimination on the basis of sexual orientation in 1974. There still is no law ensuring this protection.

Another curious aspect of this minority rights revolution is that the 1960s recognition of the right to be free from discrimination was not just an American phenomenon. Nondiscrimination was quite suddenly a world right, a human right. That is, the United States was anything but alone in its recognition of minority rights. Consider the dates of major American minority-rights developments and United Nations conventions and covenants guaranteeing human-rights protections. Though usually (and notoriously) unperturbed by world trends, Americans were guaranteeing nondiscrimination and other rights at the same time that much of the world was coming to a formal consensus on these same issues. Was it just a coincidence that America and many other nations traveled on parallel paths? Moreover, was it happenstance that Africans and Asians simultaneously threw off the yoke of colonialism and their new nations joined the UN while American citizens of third-world ancestry also gained more control of their destinies?

The minority rights revolution is not only an intellectual puzzle. It was an event of enormous significance. It shaped our current understanding of American citizenship, which is more inclusive than ever before, while also drawing lines of difference between Americans. It was a major part of the development of the American regulatory state, later decried by those same conservatives who joined with liberals in building it up. And it offers a unique look at American democracy. When the stars and planets line up in just the right way, politicians, bureaucrats, and judges can offer a range of efforts to help disadvantaged Americans—even if those Americans did not ask for them....

Readers will almost certainly expect a book on the spread of minority rights in the 1960s and 1970s to be a study of social movements. The image that comes to
most Americans’ minds when they think of the period is angry protest—radical blacks, feminists, and Latinos shouting slogans, a white ethnic “backlash,” newly assertive disabled and gay people, all joining Vietnam War protesters in creating a climate of upheaval. These images exist because there was, of course, a very large amount of social-movement activity. One account of the minority rights revolution might therefore emphasize the role of grassroots mobilizing.

Much of what I describe does not contradict this model. But a social-movement approach also leaves many questions unanswered. Most important, because social-movement theories are mostly about the emergence of social movements, they offer little guidance on the outcomes of social movements or the content of reforms. Second, they cannot explain why some groups during the same time period had to exert more pressure than others, some did not have to lobby at all, and still others failed completely despite lobbying and pressure. Why are “opportunist politicians” so selective? Groups representing white ethnics and gays and lesbians found little and no success, respectively, during the revolution. Latinos succeeded marvelously despite small numbers, weak organization, and inconsistent demands. Women, who had better organization than Latino groups and ostensibly promised greater votes to opportunistic politicians, struggled for some of their new rights. A movement seeking rights for the disabled did not exist when the first disabled-rights law was passed.

The minority rights revolution could not have occurred without the prior world battle against the Nazis and Japanese and the Cold War struggle with the Soviet Union. World War II and especially the Cold War’s broadly defined “national security” policy had important legacies in domestic politics. In some ways this was direct and obvious: the perceived need for national security led to great investment in the means of warfare, driving a large part of the economy and building up firms that created weapons and other equipment. But there were other, more far-reaching effects.

During this dynamic period, war threats were staggering and horrifying, and national security prompted policies that included everything from education to highways to racial and ethnic equality. The latter became part of national security because American strategy in World War II set in motion the creation of global human-rights norms that gave a cause for the Allies and a structure to the later Cold War struggle with the Soviet Union. World War II marked the beginning of an unprecedented global cultural integration and the establishment of a global public sphere, held together by the UN and a few basic premises. The sanctity of human rights was one. At the top of the rights list was nondiscrimination. Race or ethnic discrimination, especially when practiced by those of European ancestry, was wrong. In short, geopolitical developments set into motion a dynamic where policies defined as furthering the goal of national security by fighting Nazism or global communism—including equal rights policies—found bipartisan support and rapid change in political fortunes.

The legacies of black civil rights policy were complex and varied. One important legacy was the creation of new “institutional homes” (to borrow Chris Bonastia’s term) for important (EEOC) Rights, and All were who supported Oth in chara other ef could be groups e sured by afm Polici They are legitima Rights... on the when s of the i bilitation also by...

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"WE CAN DO BETTER": THE CIVIL RIGHTS REVOLUTION

The prior world with the Soviet Union’s propaganda strategies highlighting American racism and ethnic inequality. Especially with the parts of government aware of this propaganda and engaged with foreign audiences, specifically presidents and State Department officials, there was a rapid recategorization of domestic nondiscrimination as part of foreign policy and national security. This is apparent in both Democratic and Republican administrations. Comprehensive policy change, however, required convincing Congress and the American public, and both government leaders and rights groups actively promoted the meaning of nondiscrimination as national security. Change was incremental and needed mass mobilization for black civil rights and lobbying campaigns for immigration reform before breakthrough victories finally came in the mid-1960s.

Other rights could not be categorized as easily as national security. Women, for example, made few gains because gender was not a dividing principle in geopolitics as was race. Gender equality was not a part of Nazi, Japanese, or Communist propaganda and therefore served no national security interest. Social rights and welfare state development similarly did not become part of national security policy, even during the Cold War when America confronted an ideology based on economic egalitarianism. This was in part because many business and professional interest groups and Republican party leaders could quite...
plausibly argue that excessive interference with the market economy and market-based wealth distributions would push America toward socialism, rather than save it from this threat.

This was not only a matter of simple voting power, lobbying, or protest strength. Success and the speed at which it was achieved in the minority rights revolution depended greatly on the meaning of the group in question. After advocates for black Americans helped break the taboo on targeting policy at disadvantaged groups, government officials quickly categorized some groups as "minorities"—a never-defined term that basically meant "analogous to blacks." These classifications were not based on study, but on simple, unexamined prototypes of groups. Most obviously, government officials saw the complex category of Latinos (then usually called "Spanish-surnamed" or "Spanish-speaking") in terms of a simple racial prototype, obscuring the fact that many Latinos consider themselves white. Racialized in this way, Latinos needed little lobbying to win minority rights. Women, who faced ridicule like no other group, needed significant meaning entrepreneurship. Their advocates pushed hard to make the black analogy. Though Asian Americans presumably possessed a clearer group racial definition that did Latinos, the analogy between Asians and blacks was weaker than that between Latinos and blacks. Policymakers sometimes dropped Asian Americans from their lists. This was apparently just a cognitive forgetting—it required only small reminders for them to be included in minority policy, at least formally.

Two cases of the failure of the minority rights revolution highlight the importance of group meanings in shaping its limits. First, white ethnics, or the immigrants from eastern and southern Europe and their descendants, organized for action and were recognized as a disadvantaged and important political constituency. They nevertheless did not gain policy recognition and remained categorized outside the minority rights revolution. Ethnic rights failed primarily because the meaning perceived in white ethnics as a group. On the one hand, government officials did not see ethnics as being within a threshold of oppression or victimhood that while unspoken, undisputed, and unlegislated, nevertheless powerfully shaped policy. Additionally, politicians saw ethnics in multifaceted ways—as ethnic minorities, but also as Catholics, union members, and anti-Communists. These different perceived identities sent policy appeals off in directions other than those derived from black rights. Second, gays and lesbians, though undeniably discriminated against, victimized, oppressed, and newly organized for power, also were left out of the rights revolution during the 1965 to 1975 because of the meaning of homosexuality. The analogy with blacks again hit a wall: this group was different—too different. The basis of group difference—same-gender sexual attractions—remained taboo as a target of protective policy recognition, and gay rights bills in Congress went nowhere.

Shortly before the passage of the Civil Rights Act of 1964, the Republican Senate minority leader, Everett Dirksen of Illinois, said he finally supported equal rights for blacks. He explained, "No army is stronger than an idea whose time has come." Dirksen was right. Any resistance to federally guaranteed black civil
rights by a national political leader was anachronistic. The following year, Congress passed the Voting Rights Act, giving African Americans in the southern states the right to vote, and the Immigration Act, ending decades of discrimination against Asians and eastern and southern Europeans in their ability to come to the United States.

But why were federally guaranteed nondiscrimination rights such a powerful idea? The brilliant strategies and sacrifices of the black civil rights movement were certainly part of the story, as was their growing political strength in conventional electoral politics. These factors cannot explain, however, the establishment of immigration and naturalization rights for Asians, who had little political clout and no major lobbying or protest activities. Moreover, racial supremacy and blatant racial discrimination were anachronisms the world over, not just in the United States. This was not a coincidence. The development of minority rights in the United States was connected to their development elsewhere in the world....

Roosevelt died in 1944 but his vision of human rights lived on in the Truman administration. Various nongovernmental organizations—notably, black civil rights groups—played a crucial role in keeping the commitment to equal rights part of the world order. At the founding UN meeting in San Francisco, black leaders such as the NAACP’s W. E. B. Du Bois and Walter White lobbied for the inclusion of a bill of human rights, as they “huddled constantly” with officials from such diverse countries as the United States, France, the Philippines, Haiti, and Liberia. They sought to equally benefit both non-American nonwhite people and their fellow citizens. Du Bois and White saw these fates as linked. For example, Du Bois told the San Francisco Chronicle that the world’s colonies were similar to “slums,” and explained that a world bill of rights would hold all nations accountable for their discriminatory treatment of human beings. The historian Brenda Gayle Plummer credits these efforts with getting “human rights” mentioned in the official UN charter....

Another result was a commitment to produce a universal declaration of human rights. In 1946, President Harry Truman appointed Eleanor Roosevelt to represent the United States and chair a new UN Commission on Human Rights charged with creating the declaration. Despite conflicts (the Soviet Union was concerned by the inclusion of French- and Anglo-American-style liberties, and the State Department opposed the inclusion of socialist-style social or economic rights, such as a right to employment and health care), the UN ratified the declaration of December 10, 1948. Though enunciable, this was a grand statement of world-wide moral principles....

Government advocates for civil rights used links between world opinion and national security in propaganda aimed at American citizens. The strategy was to get Americans to think of the global audience and the different policies that could help in the fight against Communism. Truman’s President’s Committee on Civil Rights used this strategy prominently in its high-profile report, To Secure These Rights. After detailing the various rights being denied to blacks, the report concluded with justifications for federal action, including the “moral
reason,” the “economic reason,” and the “international reason.” Here the report explained that “our position in the postwar world is so vital to the future that our smallest actions have far-reaching effects.” The report concluded, “The United States is not so strong, the final triumph of the democratic ideal is not so inevitable that we can ignore what the world thinks of us or our record.”

National-security meanings also shaped campaign strategy and political speeches at home that discussed civil rights. Nongovernmental groups representing business and religious faiths argued for the same recategorization. The Advertising Council had embarked on a publicity campaign entitled “United America (Group Prejudice is a Post-War Menace)” designed to encourage Americans to respect human rights. The Institute for Religious and Social Studies—a graduate school created at the Jewish Theological Seminary of America, but which united Jewish, Catholic, and Protestant scholars—published lectures in a 1949 series called *Discrimination and National Welfare*. Leading scholars such as the sociologist Robert K. Merton as well as political activists such as Roger Baldwin of the ACLU and Adolph A. Berle, a leading member of the Roosevelt administration’s “brains trust,” contributed to the collected lectures. Readers encountered reasoned arguments that mostly stressed the cost of discrimination in terms of business, foreign policy, and national security....

More so than during the Truman presidency, the Eisenhower years and those following saw violent civil-rights conflicts that would provide the USSR with its most powerful propaganda—photographic evidence of American racial injustice. Especially worrisome were photos of southern repression of civil-rights demonstrations that filled the pages of the world’s newspapers. [Mary] Dudziak has written, for example, of Eisenhower’s great distress regarding the international consequences of his order to send troops into Little Rock, Arkansas, when disorder and violence threatened to engulf efforts at school desegregation. In recounting the incident in his memoirs and in private communications, Eisenhower revealed how he construed the crises in terms of national security and the moral boundaries then taken for granted in the UN....

Throughout the early 1960s, civil-rights leaders continued their effective strategy of directing world attention to black inequality and linking black civil rights to national security. They traveled to Africa and seized opportunities in the UN. Martin Luther King Jr. encouraged the nation to think globally, often stressing the links between the struggles of black people in the United States to those in Africa. And any time civil-rights leaders met white repression, the story made international headlines....

In this domestic and international context, and with domestic public opinion supporting civil rights at an all-time high, Kennedy sent legislation (later to become the Civil Rights Act of 1964) to Congress. Fearing more racial violence, he worked behind the scenes meeting with business leaders and other elites in an attempt to gain control of the racial situation. In a July 11, 1963 meeting with approximately seventy members of the Business Council, Kennedy, Vice President Lyndon Johnson, Attorney General Robert Kennedy, and Secretary of State Dean Rusk all urged these business leaders to help by employing more black Americans....
Lyndon Johnson presided over great propaganda triumphs for the global image of the United States. His time in office saw the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Civil Rights Act of 1968 (for equal rights in housing)—all crowning jewels of the black civil rights movement....

One difficulty with assessing the impact of war and geopolitics on minority rights is that in the case most often studied, that of black Americans, the impact of war coincided with growing organized black protest and increasing black voting power gained through migration to the northern states. Did national-security meanings really have any independent pro-rights impact? Evidence that it did comes from an examination of reforms in the area of immigration and naturalization, a case where, at least in the early stages, there was no mass mobilization pressure and few electoral benefits for reform-minded lawmakers.

American immigration and naturalization policy used race and ethnic discrimination from the nation’s founding. In 1790, Congress limited the right of naturalization to free whites. Blacks gained naturalization rights during Reconstruction, but Asians remained excluded....

In 1942, the new effort at allowing Asian immigration began, led by a small but elite group of sympathetic, non-Chinese New Yorkers. Magazines such as the Christian Century, the New Republic, and Richard Walsh’s Asia and the Americas tried to raise awareness of the issue by publishing such articles as “Our Great Wall against the Chinese,” “Repeal Exclusion Laws Now,” “Are We Afraid to Do Justice?” and “Justice for the Chinese.” Walsh was the husband of author Pearl Buck, whose novel of China, The Good Earth, won a Pulitzer prize in 1932. He formed a Citizen’s Committee to Repeal Chinese Exclusion, which first met on May 25, 1943....

By the early 1960s, ending discrimination on the basis of national origin was a way to appeal to the ethnic groups that were disadvantaged by the current system. The success of the black civil rights movement further eroded the legitimacy of national origin discrimination in immigration. During the 1960 election, both parties supported immigration reform in their national party platforms....

Like the two presidents before him, President Kennedy lent the prestige of his office to the cause of immigration reform. He was a supporter of immigration (he even published a book on the subject in 1958), and was almost certainly aware of the electoral benefits of immigration reform. The State Department pressed for change as it did with black civil rights. By 1961, various nationality groups, especially Chinese, Polish, and Italian groups, were regularly sending letters in support of immigration reform....

Kennedy would not live to see reform, but his successor Lyndon Johnson maintained the pattern of past presidents in supporting reform, as did Secretary of State Dean Rusk in 1964 congressional hearings. Rusk pointed out that the national origins system “results in discrimination in our hospitality to different
nationalities in a world situation which is quite different from that which existed at the time the national origins system was originally adopted".

Eliminating that national-origins system, and especially the racist program for Asia, would therefore eliminate a millstone and fight enemy propaganda while only technically changing policy. Rusk explained, "We deprive ourselves of a powerful weapon in our fight against misinformation if we do not reconcile here, too, the letter of the law with the facts of immigration and thus erase the unfavorable impression made by our old quota limitation for Asian persons."...

The Immigration Act of 1965 is strangely neglected in studies of American politics and minority rights. Even major figures instrumental to its passage appear to think little of it. Momentous and hard fought, it is not discussed at all in Johnson’s memoirs of his presidency—not a single mention. Dean Rusk, a star player in its passage, gave the topic only one paragraph in his memoirs, saying, "We at State helped promote it."

Still, it was a major policy development—much more so than was intended.... The point here, however, is that reform happened at about the same time as other major nondiscrimination laws and declarations in America and in the UN. By mostly benefiting Asians, it benefited a group that, in the initial stages at least, were unlike African Americans in that they were tiny parts of the population, promised few electoral benefits, and did not mass mobilize. But regardless of party, presidents and State Department officials were active players in the reform of immigration; mindful of foreign propaganda, they therefore saw nondiscrimination in immigration as they did black civil rights—as national-security policy.

FURTHER READING


Paul Harvey, *Freedom’s Coming: Religious Culture and the Shaping of the South From the Civil War Through the Civil Rights Era* (2005).