

NATIONALISM, VIOLENCE, AND LEGITIMACY: RESPONSE TO MOB
VIOLENCE AND THE ENFORCEMENT OF THE LAW

By

Adam Bernbaum
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DEDICATION

This is dedicated to four friends: Alex, Ben, Hannah, and James, for their support and companionship over the years.

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ABSTRACT

NATIONALISM, VIOLENCE, AND LEGITIMACY: RESPONSE TO MOB VIOLENCE AND THE ENFORCEMENT OF THE LAW

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George Mason University, 2022

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Why do states tolerate mob violence? This dissertation theorizes that the interaction among variety of nationalism, returns to violence, and salience of legitimacy influence response to mob violence. Through case studies of mobs in four eras of American history, I find that mob violence is most likely to be tolerated when returns to violence are high, salience of legitimacy is low, and there is an ethnonationalist local government. When salience of legitimacy is high, a contested response between local and supralocal authorities is more likely. These findings demonstrate the importance of the under-enforcement of the law to American ethnonationalists.

CHAPTER 1 – Introduction and Theory

As I write this, in October 2021, at least six months before the 2022 primaries will begin, the appearance that former president Donald Trump had tolerated or enabled a mob to storm the Capitol Building after the 2020 election is already a centerpiece for midterm attack ads against incumbent Republicans.¹ The violence damaged Trump's political position and was condemned both domestically² and internationally.³

The “toleration” of mob violence at the Capitol is a close but imperfect analogy to the phenomena I address in my dissertation. In the case of the January 6 mob, law enforcement deployed to guard the Capitol, and within hours of the mob entering the building, the National Guard was dispatched to restore order. It will likely give little succor to contemporary political observers that American history is replete with examples of far more violent mobs, which were treated with far greater leniency.

¹ Reid J. Epstein, “Wisconsin Democrats Debut TV Ads Targeting Ron Johnson over the Capitol Riots,” *The New York Times*, January 13, 2021, sec. U.S., <https://www.nytimes.com/2021/01/13/us/politics/wisconsin-democrats-debut-tv-ads-targeting-ron-johnson-over-the-capitol-riots.html>.

² Hannah Hartig, “In Their Own Words: How Americans Reacted to the Rioting at the U.S. Capitol,” *Pew Research Center* (blog), accessed October 27, 2021, <https://www.pewresearch.org/fact-tank/2021/01/15/in-their-own-words-how-americans-reacted-to-the-rioting-at-the-u-s-capitol/>.

³ Kevin Stankiewicz, “China ‘is Laughing at Us’ after pro-Trump Capitol Riot, Says Former U.S. Ambassador,” *CNBC*, January 7, 2021, <https://www.cnbc.com/2021/01/07/china-is-laughing-at-us-after-pro-trump-capitol-riots-gary-locke.html>.

In this dissertation I explore the incentives which cause states to tolerate mob violence sometimes, but not others. Through case studies of city, state, and federal response to mob violence from the mid-19th through the mid-20th century, I show how three variables: local variety of nationalism, returns to violence, and salience of legitimacy, interact to explain how and why states respond to violence sometimes and not others.

This topic is important because it illustrates how state *inaction* in the face of violence also functions as a tool of state policy, and by extension, why ethnonationalists were active opponents of the expansion of federal law enforcement capacity from the Reconstruction era through the early civil rights era. If it is surprising that for much of American history civil rights advocates wanted more policing and harsher punishments, and ethnonationalists wanted a weaker federal law enforcement apparatus, I would argue that is because many popular explanations of the relationship between race and the American criminal justice system tell variations of a story which is both structural and monocausal: racist structures incentivize the creation of state apparatuses which are used to oppress non-white Americans. By elaborating on the context in which local ethnonationalist governments seek to expand or shrink their capacity to prevent mob violence, this dissertation sharpens that narrative and explains diverging empirical contributes to our understanding of the relationship between policy formation, race, and violence.

The puzzle

Mob violence's economic and reputational costs can impede local, state, and federal government goals, yet some governments allow violence to occur anyway. At the same time, tolerating non-state violence can be a quick way of accomplishing a state's objectives, yet only some governments in some places rely on such violence as a regular tool for making policy.

If a state is an institution that has a monopoly on the legitimate use of force within a given territory,⁴ then any instance of non-state collective violence in the state's territory is a challenge to the state's legitimacy – it is a contestation of the state's defining characteristic. Violence destroys both internal and external legitimacy. It encourages the public to seek an alternative provider of protection and invites intervention from other states.

Given these costs, there are two primary reasons why collective violence may go unopposed within a state.

1. The state lacks the capacity to respond to collective violence, or
2. The state believes that tolerating collective violence will achieve some other policy goal.

The first occurs when the state cannot enforce the law, even if it desires to do so. Federalism fragments state power. Although the state may be thought of as a unitary actor for parsimony's sake, it is usually comprised of nested jurisdictions.⁵ Central

⁴ Max Weber, *From Max Weber: Essays in Sociology* (Ulan Press, 2012).

⁵ In general, the units of analysis that I consider in this dissertation are aggregated at levels of government, broken into one or more sectional groups. For example, I often treat municipal governments as unitary actors, but whenever possible, I cite information about the ideological beliefs held by the individual actors

governments perform some state functions while devolving other functions to subordinate actors. In the United States, a federalist system of government creates a “dual sovereignty,” which is shared between the United States federal government and 50 state governments.⁶ In turn, the 50 state governments devolve some responsibilities to city and county governments.

Even if a state in its totality has sufficient power to enforce the law, any one of its jurisdictions may not. This can happen if a local government does not have sufficient police forces to suppress collective violence. Police forces developed in most American cities, over the course of the 19th century. During (and before) this period, city law enforcers were often outmatched by angry mobs. For example, on July 7, 1834, the New York day patrol (an antecedent body to the New York Metropolitan Police) responded to a riot that had formed outside of the house of prominent New York abolitionists Arthur and Lewis Tappan. The day patrol was beaten back with, “brickbats and other missiles” leading to several days of rioting, and the destruction of several blocks of one of New York’s Black neighborhoods, before the state militia could be deployed in force sufficient to quell the mob.⁷

within those governments which inform government behavior, in particular mayors, individual members of city council, or sheriffs.

⁶ The canonical text on federalism in a comparative context is, Daniel J. Elazar, *Exploring Federalism*, 1st edition (Tuscaloosa: University Alabama Press, 1987).

⁷ The New York mob is discussed in greater detail in Chapter 4. Most state and local sources of police power capable of suppressing violence were developed incrementally over the 19th and early 20th centuries. Municipal police departments, the primary tool available to local politicians when confronted with a riot, were mostly formed between the 1830s and 1880s. Before they were formed, local law enforcement often found itself at the mercy of mobs that could easily overpower the militias dispatched by local authorities. The literature on police department formation suggests that rioting, an absence of tools for implementing municipal policy, and the diffusion of police departments from other cities, all contributed to the spread of police departments in the early-mid 19th century. For a general history of policing see Eric H. Monkkonen, *Police in Urban America, 1860–1920*, *Interdisciplinary Perspectives on Modern History* (Cambridge:

In addition to occasions when a local authority lacks the manpower to suppress a mob, a state can also lack “capacity” to address mob violence if there is not a legal mechanism which allows it to deploy its armed forces to the site of a conflict. In 1851, the San Francisco vigilante committee created a system of parallel law enforcement which arrested, tried, and in some cases executed people suspected of committing crimes. In 1856, the group gathered 3,500 men and lynched Charles Cora, a local gambler and politician. In response, California Governor J. Johnson organized a militia to suppress the vigilante committee but was afraid that his militia would lose in an outright fight. Faced with a possible insurrection, he requested access to federal weapons and ammunition from General John Wool, who oversaw the federal arsenal in Benecia, California. Wool refused Johnson’s request, citing the absence of legal standing for intervention. Wool was supported by Caleb Cushing, attorney general for the Pierce Administration, who asserted that unless a federal law had been violated, the regular army could not be deployed in support of California’s state government.⁸

Cambridge University Press, 1981), <https://doi.org/10.1017/CBO9780511572449>, for competing explanations of the origin of the police see, Clive Emsley, *Theories and Origins of the Modern Police* (New York: Routledge, 2011). Description of 1834 riot from Kerber, Linda K. “Abolitionists and Amalgamators: the New York City Race Riots of 1834.” *New York History* 48, no. 1 (1967): 28–39.

⁸ The laws governing the use of armed forces to enforce either state or federal law, have changed significantly over time. The cases considered in this dissertation span from the 1840s – 1950s. During which time, the legal standing of the federal government to intervene in cases of domestic lawlessness changed considerably. In the 1870s the *Posse Comitatus* Act and the Enforcement Acts (also called the Force Acts) were passed to expand and retract, respectively, the right of the federal government to deploy members of the Army or the Air Force to execute the laws of the state. For a brief history of the origins of the federal right to intervene see, Robert Coakley, *The Role of Federal Military Forces in Domestic Disorders: 1789-1878* (Washington, D.C.: Center of Military History United States Army, 2011), https://history.army.mil/html/books/030/30-13-1/CMH_Pub_30-13-1.pdf, 1-23, 135-140. See Ibid, 307-310 for a description of the origins of the Enforcement Acts. For a description of the Posse Comitatus Act and its subsequent application to civil rights law enforcement see Sean J. Kealy, “Reexamining the Posse Comitatus Act: Toward a Right to Civil Law Enforcement,” *Yale Law & Policy Review* 21, no. 2 (2003): 383–442.

Finally, when states take too long to deploy law enforcement officers in response to mob violence, the instance of violence may abate before armed forces arrive. Although the federal government had a strong incentive to suppress draft riots during the Civil War, logistical challenges created by the military deployment of state militias often resulted in a delayed response. Although federal armed forces responded quickly in some cases in Wisconsin, Pennsylvania, and New York, many other mobs dissipated before law enforcement could appear. During the Draft Riots in New York City, it took three days before the New York State Militia and federal troops could arrive at the city in force sufficient to restore order, at which point the rioting had mostly abated.⁹ Long-distances and ambiguous authority can both contribute to slow response.

While the previous three reasons (insufficient manpower, absent legal mechanism, and timing) all assume that the state intends to enforce the law, the other reason why a state does not respond to violence is because it, or one of its sub-jurisdictions, does not desire to do so. The 1880s were marked by incredible state-sanctioned violence against Black Americans in the former Confederate states. Anti-black violence was an accepted mode of political action from the late 19th century through the early-20th century in the American South. From 1882 through 1933, there were 5,150 lynchings in the South. Of the tens of thousands of people who participated in or observed lynchings, only 40 were ever convicted.¹⁰ In the West, during the late-19th century, where state authority was relatively weak, and in Southern states, where racial

⁹ Adrian Cook, *The Armies of the Streets: The New York City Draft Riots of 1863* (Lexington, KY: University of Kentucky Press, 1974).

¹⁰ Edward Phillips, "The Sherman Courthouse Riot of 1930," *East Texas Historical Journal* 25, no. 2 (1987).

violence became a common feature of state authority, ignoring mob violence was the rule, rather than the exception.¹¹

For example, on November 3, 1885, a mob of white citizens in Tacoma, Washington, which included the mayor and many members of the local police force, forcefully evicted 200 Chinese laborers, burning their homes and businesses to the ground. Territorial governor Watson Squire called for federal intervention three days later to prevent a similar riot in nearby Seattle, resulting in the prompt dispatch of federal troops to the city. If the law enforcement authority with direct responsibility for a region does not have the desire to deter a mob, spontaneous violence cannot be prevented without extraordinary efforts from a supralocal authority.

These observations pose a puzzle. This puzzle can be stated as two questions, and these are the questions that this dissertation seeks to answer:

1. Why does the state immediately respond to collective violence sometimes and not others?
2. Why does the state develop tools to respond to collective violence in the future sometimes and not others?

Research questions and definitions

This dissertation seeks to explain variation in state response to mob violence.

“Response” is a broad category of action which includes:

¹¹ For a description of mob violence against Mexicans in the West and South see, William D. Carrigan and Clive Webb, *Forgotten Dead: Mob Violence Against Mexicans in the United States, 1848-1928* (Oxford, England: Oxford University Press, 2013).

1. The immediate steps taken by a local jurisdiction, including the deployment of police forces or requests for state or federal assistance in suppressing a mob.
2. The subsequent actions taken by any jurisdiction that seeks to improve the response described in point (1). This includes forming committees to study the cause of riots and mobs, passing laws to allow non-local law enforcement agencies to respond to mobs, or expanding the law enforcement capacity of local, state, or federal law enforcement agencies to better respond to mobs.

“State” encompasses all elected or appointed officials with responsibilities for overseeing law enforcement response to mob violence or law enforcement policy.

“Mob,” “riot,” and “collective violence,” are used interchangeably and refer to actions which include the following characteristics: (1) the use or threat of violence, (2) made by a group of people in a public setting against another person, other people, or the property of one or more people, when (3) the purpose of the threat or use of violence is contingent on the characteristics of the attackers or the attacked.

1. “Group” is a substitute for a precise threshold of mob violence. The contemporary literature on mob violence does not identify thresholds for what constitutes a mob because there are few contexts in which such a distinction matter for researchers. Quantitative measures of mobs and riots either do not define thresholds for mob violence or vary

in the lower-bound for an event to constitute a riot or mob. Thresholds range from as few as twelve to as many as 50.¹²

- i. Alternatively, events may be defined according to their outcomes or intended outcomes, which is the approach I follow in this dissertation.
2. The phrase, “the purpose of the threat or use of violence is contingent on the characteristics of the attackers or the attacked,” distinguishes mobs and riots from other instances of violence which may be understood to be subsets of ordinary crime. For example, a bar fight between two groups of patrons could be categorized as a riot if one group targets the other on the basis of their ethnicity,¹³ sexual

¹² Leonard L. Richards, *Gentlemen of Property and Standing*, First Edition, First Printing (New York: Oxford University Press, 1970) provides a general lower bound of “a dozen,” while Suzan Olzak defines the low bar for a riot at 50. Olzak, Susan, and Elizabeth West. 1995. *Ethnic Collective Action in Contemporary Urban U.S. from 1954 to 1992*. Stanford, CA: Department of Sociology, Stanford University. Other prominent authors on the topic such as Charles Tilly define collective violence as involving “at least two perpetrators of damage,” Charles Tilly, *The Politics of Collective Violence* (Cambridge; New York: Cambridge University Press, 2003), 3, while Paul Brass does not define a lower bound for what constitutes a mob or riot in Paul R. Brass, *Riots and Pogroms* (New York: NYU Press, 1996). Two other sources of data are commonly used to measure mobs and riots. Analyses of rioting during the Civil Rights era compiled by Seymour Spilerman relied on a compilation of events from other qualitative sources that did not define a lower bound for riots including the Lemberg Center’s *Riot Data Review* and the *New York Times Index*. Additionally, a robust literature on lynch mobs does not define a mob as having a lower bound, and instead defines a mob according to its intent or the outcome of its formation (lynching). See, for example, Seguin, Charles. 2019. “National Lynching Data.” OSF. September 1. osf.io/kr8yc.

¹³ Sara Kamouni, “BAR BRAWL SHAME Family Convicted over Racist Wine Bar Fight after Celebrating Mother-in-Law’s 60th,” *The Sun*, September 2016, <https://www.thesun.co.uk/news/1858213/family-convicted-over-racist-wine-bar-fight-after-celebrating-mother-in-laws-60th/>.

orientation or gender expression,¹⁴ or high-status occupation,¹⁵ whereas it would not be categorized as a riot if the attack occurred because of choice of jukebox tune¹⁶ or as part of an attempt to impress potential sexual partners.¹⁷

Dependent Variable

My dependent variable is “response to collective violence.” Response to collective violence has four levels: no response, a proximal response, a delayed response, and a “contested response.” “No response” is when a governing body with responsibility over a jurisdiction neither attempts to suppress mob violence during the instance when that violence occurs nor attempts to expand its capacity to respond to mob violence in the future. “Proximal response” is when a governing body attempts to suppress mob violence as it occurs. “Delayed response” is when a governing body creates plans

Primary Independent Variables

I argue that **variety of nationalism** among local governments, **returns to violence**, and the **salience of legitimacy**, inform state response mob violence.

Nationalism is the process by which a collective identity associated with a state is created or sustained. Nationalism can take different forms, and there are usually multiple

¹⁴ Christopher L. Gioia, “Stonewall: Riot, Rebellion, Activism and Identity an Oral History and Archival Exhibition on the Web” (M.A., United States -- New York, State University of New York Empire State College), accessed May 24, 2021, <https://www.proquest.com/docview/1926762544/abstract/9308F6F67C784472PQ/1>.

¹⁵ Richard E. Ocejio, “Bar Fights on the Bowery,” *Contexts* 14, no. 3 (August 1, 2015): 20–25, <https://doi.org/10.1177/1536504215596941>.

¹⁶ “Las Vegas Police: Fatal Bar Fight Started with Jukebox Dispute,” *Las Vegas Review-Journal*, February 4, 2014, <https://www.reviewjournal.com/news/las-vegas-police-fatal-bar-fight-started-with-jukebox-dispute/>.

¹⁷ Vladas Griskevicius et al., “Aggress to Impress: Hostility as an Evolved Context-Dependent Strategy,” *Journal of Personality and Social Psychology* 96, no. 5 (2009): 980–94, <https://doi.org/10.1037/a0013907>.

competing nationalist justifications for state rule.¹⁸ I argue that in America, it takes two forms: ethnonationalism and civic nationalism.

Ethnonationalist justifications for government policy are characterized by the emphasis of the importance of certain group identities. Ethnonationalists posit that the purpose of the state is to advance and preserve the rights of a dominant ethnic group. In contrast, civic nationalist justifications for may emphasize any of several societal features which are seen as desirable by members of a nation, such as contractualism, free expression, egalitarianism, order, free exchange, etc.¹⁹ Variety of nationalism among local governments refers to the type of ideological justifications advanced by policy makers in local government when setting or implementing policy.

Legitimacy is a feature of regimes that is perceived by the actors over whom a regime has power or seeks to exert power and is determined by what those actors believe constitutes “right rule.”

Returns to violence are the benefits of tolerating violence for a government.

Theory in brief

I advance a theory to explain why some jurisdictions allow mob violence to occur, and to show how the tolerance of violence led to the expansion of America’s criminal justice system. I argue that **variety of nationalism, returns to violence, and salience of legitimacy** interact to influence when states tolerate mob violence and when they respond

¹⁸ Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven and London: Yale University Press, 1999).

¹⁹ These definitions in particular, and ethnonationalism and civic nationalism as concepts, are discussed in greater detail in Chapter 2. Not all social features that a civic nationalist government may wish to promote are viewed as desirable.

to it, either immediately through the deployment of law enforcement or by the expansion of their capacity to respond to violence in the future.

Variation in type of nationalism among levels of government can increase the propensity for authorities to tolerate violence. An ethnonationalist local authority has many incentives to tolerate violence that a civic nationalist authority does not have. When an ethnonationalist local authority wishes to secure an ethnic hierarchy that is disallowed by formal law or that is challenged by federal policy, the local authority can allow violence to be used as a substitute for formal law. Consequently, **ethnonationalist** governments are more likely to tolerate mob violence than governments sustained through other ideologies.

However, violence is a crude tool. In many circumstances, a local authority will have an alternative means to achieve the same racially repressive policies without resorting to violence. When an authority wishes to pursue a policy that is illegal under a legal regime which that authority cannot change, or when the authority risks losing its power in fair elections, that authority has more to gain from tolerating violence than it does when similar policy goals can be achieved through other means. If **returns to violence** are low, a local ethnonationalist government will have an increased propensity to respond to mob violence. However, if **returns to violence** are high, a local ethnonationalist regime will have an increased propensity to tolerate violence.

Violence damages the legitimacy of both the local authority and the supralocal authority within which the local authority is contained. The more important state legitimacy is to a supralocal government, the greater the pressure for that authority to

suppress violence within its constituent parts. When **salience of legitimacy** is high, supralocal regimes have an increased incentive to respond to violence. In democracies, this comes with a twist: the agents of the local ethnonationalist regimes will have some decision-making power in the legislative, and possibly the executive, decision-making bodies with responsibility for intervention. If **local ethnonationalist** governments have high **returns to violence**, they will contest the capacity of the supralocal regime to expand its law enforcement capacity in order to preserve their capacity to rely on violence. This interaction is illustrated in Figure 1.

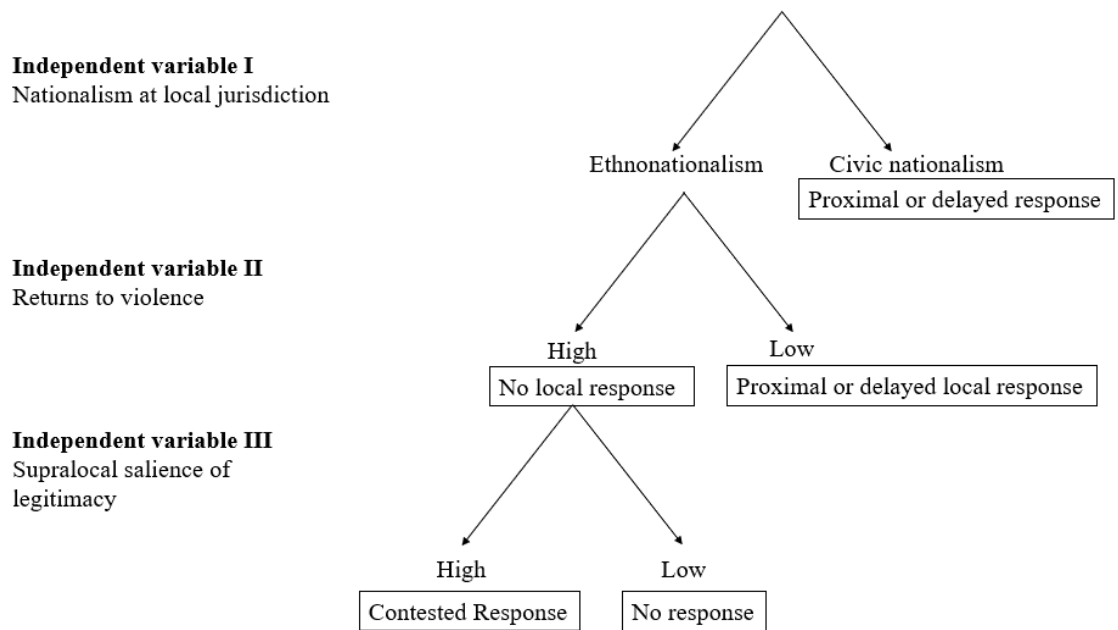


Figure 1 Expected Outcomes

However, most of the time, any government will respond to mob violence because violence damages state legitimacy. The response to violence taken by authorities has a proximal and a delayed form. The proximal form consists of the actions taken by the authorities with immediate responsibility for addressing a mob or a riot: the dispatch of police officers, state troopers, or federal armed forces. The delayed form consists of the subsequent policies implemented by a jurisdiction in response to mob violence when the proximal response is insufficient. This can include expanding or creating law enforcement bodies, changing laws to increase state or federal involvement in local law enforcement, and expanding the scope of punishable behavior to deter potential rioters.

Ethnonationalism

The primary independent variable in my theory is ethnonationalism. When a hierarchically subordinate group is perceived as threatening an ethnic order, ethnonationalists may allow non-state actors to target the subordinate group through mob violence. This occurs for four reasons:

1. ethnonationalists may be incentivized to turn to violence as a means of subverting formal law when an ethnic minority would benefit from the extension of legal rights by a supra-jurisdictional actor (e.g., a Supreme Court ruling that prohibits school-segregation);
2. formal law seldom contains mechanisms for (i) physically removing ethnic minorities that are unwanted by an ethnonationalist majority, (ii) redistributing ethnic minority wealth, or (iii) removing ethnic minority economic opportunities, incentivizing the use of violence as an alternative;²⁰
3. when a supralocal authority rolls back promises to enforce the law upholding an ethnic minority's rights, (removes the promise of protection, but not the right itself) the rights will continue to be

²⁰ In some cases, mob violence cannot be used to expropriate a source of ethnic minority economic opportunity. The presence of wealth that cannot be expropriated, such as access to an intra-ethnic trade-network or a human-capital intensive economic process such as the processing of cochineal dye, are understood to incentivize the creation of inter-ethnic institutions which reduce ethnic conflict. See, Saum Jha and Alberto Diaz-Cayeros, "Conquered but Not Vanquished: Complementarities and Indigenous Entrepreneurs in the Shadow of Violence" (Stanford, Calif, 2017). Saumitra Jha, "Trade, Institutions, and Ethnic Tolerance: Evidence from South Asia," *The American Political Science Review* 107, no. 4 (2013): 806–32.

enjoyed until local ethnonationalists send a strong signal to an ethnic minority that they can no longer enjoy these rights; and

4. ethnonationalists do not rhetorically justify state power with the claim of equal protection under the law, which reduces violence's internal cost to legitimacy for ethnonationalists relative to civic nationalists.

There are fewer instances in which civic nationalists benefit from violence. Civic nationalists may wish to allow violence as a means of subverting a formal law that they do not find preferable, as in point (1); however, the only situation in which they would do so on behalf of a *group*, is if that group were being targeted by an ethnonationalist state or federal policy. They may allow violence to occur against individuals engaged in a behavior which they find socially opprobrious, but this is unlikely because most local jurisdictions retain formal tools to regulate unpopular behavior and do not need to allow violence as a supplement to their existing power. For example, dry communities continued to be able to restrict alcohol consumption after the end of prohibition, so unlike point (3), there was not a rash of violence against new saloon owners after the 21st amendment, as local civic authorities could legislate the order they wished to create. Similarly, abortion clinics are rarely targeted for violence in conservative states, instead, local communities seek alternative means of legislating access to abortions to make them inconvenient.

Although federal laws have expanded to provide more rights to individuals over time, it has generally been the case that federal law has provided wider discretion to local jurisdictions when it comes to regulating socially unpopular behavior than socially

unpopular people – this is also the reason why civic nationalists do not benefit from violence for the reasons described under point (2) (formal law seldom contains mechanisms for punishment). Finally, civic nationalist justifications for state power generally include the preservation of freedom from coercion as an inalienable right. In contrast, all ethnonationalist communities share the belief that the freedom from coercion is enjoyed more by some individuals,²¹ per point (4), which makes justifying violence less costly for ethnonationalists in contrast to their civic nationalist peers.

Despite the circumstances in which ethnonationalists may benefit from allowing mob violence to go unaddressed, they do so at high costs to legitimacy and economic productivity.²² For this reason, ethnonationalists prefer to rely on the threat of mob violence, rather than mob violence itself.

As a result, ethnonationalist local authorities in states (such as the United States) which are not wholly ethnonationalist, will prefer law enforcement apparatuses that are either weak or subject to local discretion as long as they have autonomy over the local enforcement of their political jurisdiction, which makes the threat of mob violence more

²¹ Normative preference for ethnic hierarchy implies preference for vertical power relations between groups according to ascriptive characteristics. A group lower in that hierarchy is, by definition, more coerced than a group above it in the hierarchy. Preference for such a hierarchy implies that some groups deserve more protections from coercion than others.

²² Stewart Tolnay and E.M. Beck, “Racial Violence and Black Migration in the American South, 1910 to 1930 on JSTOR,” *American Sociological Review* 57, no. 1 (1992), https://www-jstor-org.mutex.gmu.edu/stable/2096147?casa_token=D76AeXaMxP0AAAAA%3AQThVuhSgFSKm461Dovt6OjIqaYEZaNMTT5M6aZVPN2meddYe4TDybWr2EFYXvQIEZGSg7I3ahwIbzQKXw3sRRdcpZwx2toHn9mSIIN8-2VHqyrXQ9KrX&seq=1#metadata_info_tab_contents, Daron Acemoglu and James A. Robinson, “A Theory of Political Transitions,” *American Economic Review* 91, no. 4 (September 2001): 938–63, <https://doi.org/10.1257/aer.91.4.938>, Alberto Alesina et al., “Political Instability and Economic Growth” (National Bureau of Economic Research, 1992), https://www.nber.org/system/files/working_papers/w4173/w4173.pdf.

credible.²³ The credible threat of violence has most of the same returns as violence, with far fewer costs. Non-response to mob violence should be more common among ethnonationalists than civic nationalists, and ethnonationalists should resist expansions of state and federal criminal justice apparatuses that could blunt the threat of mob violence as a tool of ethnic repression.

Laws that ensure protection for ethnic minorities with non-local law enforcement are particularly threatening to ethnonationalists. If the threat of violence is taken away by pre-emptory response by non-local actors – such as the dispatch of federal troops as escorts when James Meredith enrolled at the University of Mississippi,²⁴ then ethnonationalists will be forced to either capitulate the contested aspect of the social order or use actual violence to enforce it, risking harm to legitimacy and the defeat of the mob by non-local authorities.

Returns to Violence

All violence damages legitimacy to some extent. Assuming that violence is one of many policy options available to ethnonationalist governments why use it if it comes with significant costs to legitimacy? The answer is that it is an easily accessible and highly fungible source of power. When state capacity is low, or alternatives are unavailable, violence is a useful fallback for ethnonationalists seeking to preserve their authority.

²³ Once local authorities lack the autonomy to tolerate non-state violence which supports their ethnic hierarchy, their preference for weaker or locally discretionary law enforcement disappears. This is why conservatives abruptly reversed their opposition to federal law enforcement after the collapse of the Southern sub-national authoritarian enclave in the 1960s. See, Adam Bernbaum, “Frontlash, Backlash, or Whiplash: The Collapse of the Southern Authoritarian Enclave and the Origins of America’s Carceral State.” (SPSA Annual Meeting, San Antonio, Texas, 2022).

²⁴ William Doyle, *An American Insurrection: James Meredith and the Battle of Oxford, Mississippi, 1962* (Anchor Books, 2003).

For example, violence was instrumental for the Democratic party to seize control of some Southern offices in 1876 when their opponents had won elections and controlled the formally recognized tool of policymaking.²⁵ Similarly, in 1865, Black voter participation in the South was understood to be critical for Republican challenges to Southern Democratic party rule. Absent a legal mechanism for denying Black people the right to vote in the immediate aftermath of the Civil War and in the immediate aftermath of Reconstruction, Southern Democrats relied on violence to intimidate Black voters.²⁶ Between 1890 and 1900 Southern Democrats implemented policies such as poll taxes and literacy tests to consolidate their control over Southern elections, as the **returns to violence** decreased, so did lynchings: between 1890 and 1900 the number of lynchings decreased by roughly half.²⁷

When specific **returns to violence** are high – when a government lacks alternatives to violence in order to achieve an outcome important to its community members – it is more likely to tolerate mob violence as an alternative means to whatever end it pursues.²⁸

This line of argument assumes the costs to the local ethnonationalist government of tolerating collective violence are outweighed by the costs generated by policy failure, a

²⁵ Jerry L. West, *The Bloody South Carolina Election of 1876: Wade Hampton III, the Red Shirt Campaign for Governor and the End of Reconstruction* (McFarland, 2014); Edward L. Gibson, “Boundary Control: Subnational Authoritarianism in Democratic Countries,” *World Politics* 58, no. 1 (2005): 101–32.

²⁶ Douglas Egerton, *The Wars of Reconstruction* (New York: Bloomsbury Press, 2014).

²⁷ See Figure 10 for an illustration of the decrease in the number of lynchings from 1890 to 1900.

²⁸ See Table 1 for an enumeration for the operationalization and observable implications of both **returns to violence** and **salience of legitimacy**.

situation which can arise in ethnonationalist jurisdictions when a jurisdiction's legitimacy is predicated on its maintenance of an ethnic hierarchy.

Any policy or legal finding extended by a supralocal authority which nominally allows an ethnic minority to enjoy a civil right creates incentives for local ethnonationalist jurisdictions to seek some alternative means of undermining those rights. Similarly, demographic trends that a local ethnonationalist community cannot control through legal action create incentives for local jurisdictions to find other ways of preserving an all [white, Anglo, Christian, etc.] community or safeguard the power of ethnic majority community members.

However, just because an ethnonationalist jurisdiction cannot preserve its power through laws which explicitly target the behavior of a particular ethnic group does not mean that ethnonationalists must rely on violence. **Returns to violence** refers to the circumstances in which alternatives to violence are unavailable or ineffective to accomplish a given policy objective.

Salience of Legitimacy

When violence occurs because of low local state capacity, supra-local response to mob violence is unsurprising. However, if a local ethnonationalist government tolerates violence without a plausible excuse, when should a supralocal jurisdiction respond without the local government's request?

I argue that as the **salience of legitimacy** increases, so does the incentive for supralocal authorities to respond to violence. *Ceteris paribus*, legitimacy is more important to supralocal authorities than local authorities. The highest jurisdictional

authority in a state – in the context of the United States, the federal government – is usually the sole actor with responsibilities for foreign policy. As a result, the international reputational costs of violence are shared nationally. From a Cold War perspective, America, not just the South, had a reputation for its mistreatment of ethnic minorities. This is especially true given that international audiences are less aware of regional political dynamics than domestic audiences.

At the same time, the political, and economic costs and returns to violence are usually enjoyed locally. Local jurisdictions have more incentive to suppress mob violence for reasons other than preserving legitimacy than do supralocal jurisdictions. If a city block is burned by a mob, the mob has destroyed a much larger portion of the local economy than it has the state or national economy. Similarly, economic effects that might drive people from a local community may have no effect on a state's economy. If a state government is controlled by actors that share the ethnonationalist ideological commitments of a local community, they may choose to not intervene when mob violence occurs. As a result, relative to other factors, supralocal authorities will care more about the costs to legitimacy of allowing violence than the costs to local economic productivity.

Because the federal government is the actor responsible for conducting American foreign policy, it will be more concerned with factors that influence the ability for America to pursue its international agenda than will local actors. It is easier for states to use coercive power to influence outcomes inside their territory than outside their territory. States are more reliant on “soft” aspects of their power when they are trying to

influence foreign parties, relative to domestic parties. This is especially true when hard power cannot be used because of international competitors who would respond in turn, or because the costs of using coercive force would be higher than the returns to that force.²⁹ Consequently, when states are pursuing an international agenda that requires a positive reputation and high state legitimacy, a state will have greater incentive to pursue domestic policies that will secure that legitimacy.

Because unchecked collective violence is (usually) damaging to the legitimacy of a state, supralocal authorities have an incentive to prevent collective violence when they are pursuing an international agenda that relies on state reputation. The extent to which legitimacy is salient to an international agenda is a function of both the ambitions and character of a state's international agenda as well as international norms related to violence.

For example, America's Cold War agenda involved convincing global partners of the legitimacy of America's system of capitalist democracy. This was an expansive effort which aspired to shape the systems of governments for dozens of members of the international community. The size of America's agenda and the persuasive element of its intended project required that the American political system be perceived as legitimate. During the 1950s, the international reputational costs of anti-integrationist riots in the American South were discussed as barriers to America's foreign policy agenda in ways that anti-Black mobs were not discussed in 1919, when far larger and deadlier anti-Black mobs swept through the country. Earlier in the 20th century, America's international

²⁹ Joseph S. Nye, "Soft Power," *Foreign Policy*, no. 80 (1990): 153–71, <https://doi.org/10.2307/1148580>.

agenda was smaller and its incapacity to protect its citizens from mob violence was received with less international condemnation. Correspondingly, fewer federal policymakers discussed anti-lynching and anti-riot legislation as critical to America's international agenda. As the **salience of legitimacy** grew, the propensity for supralocal actors to intervene independent local action increased.

Interactions: Contested Response

In summary, my theory begins with the **variety of nationalism** at the local level of government. Civic nationalist governments are more likely to have a **proximal response** to violence, and if that fails or does not occur, have a **delayed response** to violence (which expands their law enforcement capacity) than their ethnonationalist counterparts. Local ethnonationalist governments are more likely to tolerate violence than their civic nationalist counterparts, but they still experience costs to tolerating violence. Local ethnonationalist regimes do not tolerate all violence independent other variables. Instead, they only do so when the specific **returns to violence** are high, relative to when **returns to violence** are low. Finally, governments are more likely to suppress violence when **salience of legitimacy** is high. Because supralocal authorities are more sensitive to salience of legitimacy than local authorities, when salience of legitimacy is high, supralocal intervention is more likely.

Foreshadowed in my discussion of the salience of legitimacy, I argue that **salience of legitimacy** matters more for supralocal governments and **returns to violence** matter more for local governments. However, local governments still care about their legitimacy, even if they do so less than supralocal governments. As a result, local

authorities usually prefer credible threats to violence itself. A credible threat from a local jurisdiction that it is impotent to prevent certain kinds of violence can be a powerful tool for degrading the rights of ethnic minorities. A local ethnonationalist group which claims that it cannot deter mob violence may suffer some damage to its legitimacy, but the damage to its legitimacy from the threat of violence will be lower than the damage that will be inflicted if violence occurs. As a result, local jurisdictions seeking to preserve ethnic hierarchy are incentivized to signal that they cannot protect minority groups from violence if those groups seek rights which violate local ethnic hierarchies. Threats allow local governments to deter the expansion of minority group rights without incurring the reputational costs that comes from actual violence.

This creates strong incentives for ethnonationalists to reduce the capacity for state or federal law enforcement agencies to intervene in the case of a riot in a timely manner. Similarly, ethnonationalist politicians should seek to prevent expansions of federal and criminal justice systems that would guarantee intervention by state and federal law enforcement in response to local ethnonationalist violence.

At the federal level, the material costs of mob violence are even smaller while the threat to legitimacy is even greater. If the federal government cannot protect its citizens, its legitimacy is degraded in the eyes of other states. Sub-jurisdictions of the United States are not responsible for diplomacy, and any costs to the status of the country as a whole are diffused across the entire nation. In other words, the returns to collective violence are enjoyed locally, the reputational costs are shared nationally.

As a result, as the salience of legitimacy increases, supralocal authorities should exert more pressure on local authorities to prevent violence, but at the same time, when **returns to violence** are high, the representative of local governments should contest the supralocal response to violence.

Interactions: Ethnonationalist Autonomy

My theory has an implicit scope condition. Once ethnonationalist local authorities lose sufficient autonomy over their law enforcement apparatuses such that they can no longer selectively tolerate violence to degrade minority rights or use the credible threat of violence to deter people from exercising their civil rights, they lose their incentive to **contest response** at the federal level, and to tolerate violence at the local level. The loss of autonomy can occur through two pathways. First, federal law enforcement and criminal justice power may become sufficiently advanced to remove non-enforcers of local law or to enforce local law itself. Second, cultural changes could destroy an ethnonationalist hierarchy or reduce the costs to local government of supporting that hierarchy by lessening the intensity of racial or ethnic ideology.

Summary

To summarize the argument made so far: collective violence threatens the legitimacy of all parts of the state within which it occurs. However, under some circumstances, **ethnonationalists** may find the costs to legitimacy of stopping violence lower than the **returns to violence**. When a state or federal authority expands ethnic minority access to rights that were not previously enjoyed, removes the promise of law enforcement for rights that an ethnic minority already enjoys, or when there is a

significant change in the underlying power dynamic between ethnic minorities and ethnic majorities, an ethnonationalist local authority may find that the **returns to violence** are higher than their costs, and allow violence to occur.

Within each jurisdiction, decision-makers are presented with a choice: they can either intervene in response to violence, or not, and if they cannot intervene, they must choose between inaction and changing their law enforcement apparatus to facilitate future interventions. These options are referred to as a **proximal response** and a **delayed response**.

Complementarily, when the **salience of legitimacy** is high, actors at the state and federal level will be incentivized to expand law enforcement capacity in order to prevent the loss of legitimacy generated by mob violence. When the response to violence is being considered at the federal level, ethnonationalists will be pressured to **contest the response** of the federal government in order to retain the capacity to credibly threaten non-response to violence.

Ethnonationalists must walk a tightrope: signaling to local community members that violation of an ethnic order will be met with violence while simultaneously reassuring national policy makers that their system of government comports with democratic norms, which often requires denying that violence really occurs.

This theory's predictions interact to posit a novel explanation for policymaker response to mob violence and provide a theoretically informed explanation for the expansion of state law enforcement capacity in the United States. By extension, it articulates a rejoinder to structural theories of the origins of the carceral state which

assume law enforcement expansion was undertaken to advance White Supremacist or neoliberal ideological projects.

In contrast to these theories, which posit that law enforcement apparatuses were expanded to repress racial minorities at the margins of the welfare state,³⁰ my theory shows how the expansion of federal law enforcement capacity was consistently *opposed* by ethnonationalists. This empirical finding is explored in Chapter 8. Classical explanations of the growth of the carceral state struggle to explain the opposition to law enforcement policy at the federal level from local ethnonationalists. By focusing on how opposition to federal law enforcement expansion dissipated, my dissertation contributes to the American Political Development literature on the Second Reconstruction and the origins of American carceral politics.

This theory does not presume to explain all mechanisms for the expansion of law enforcement institutions or all reasons why a jurisdiction responds to mob violence. Racial prejudice and class-control played large roles in the expansion of some law enforcement apparatuses. However, it does provide a theoretical framework for considering empirical phenomena that are under-considered in the extant literature, for example, the growth of police departments in northern cities in the 19th century, which had mob suppressing effects, at a time when mobs usually targeted ethnic minorities, which is discussed in Chapter 4 and Chapter 5, and the opposition to expanding federal

³⁰ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2012); Loic Wacquant, "Deadly Symbiosis: When Ghetto and Prison Meet and Mesh," *Punishment & Society* 3, no. 1 (2001); David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society*, 1st edition (Chicago: University of Chicago Press, 2002).

law enforcement capacity among southerners in the early civil rights era, which is discussed in Chapter 8.

CHAPTER 2 – Justifications and Mechanisms

The previous chapter posits that the interaction between nationalism, violence, and legitimacy influence whether a given government will respond to mob violence. This theory assumes that (1) legitimacy is important to the state, (2) that ethnonationalism and civic nationalism are discrete categories of nationalism with varying returns to violence, and (3) that violence has varying returns.

These assumptions generate the theory which I advance to explain variation in state response to collective violence.

States and Legitimacy

Legitimacy is an understudied topic given its importance for theoretical explanations of the state. Weber, and those working in his tradition, define legitimacy tautologically as the capacity “to engender and maintain the belief that existing political institutions are the most appropriate ones for society.”³¹ This definition equates legitimacy to popular support.

³¹ Seymour Martin Lipset, “Some Social Requisites of Democracy: Economic Development and Political Legitimacy,” *The American Political Science Review* 53, no. 1 (1959): 69–105, <https://doi.org/10.2307/1951731>, 86. Quoted in David Beetham, *The Legitimation of Power*, 1991 (Basingstoke: Palgrave, 1991). Note, this is not to say that Weber himself had nothing further to say on the topic of legitimacy. Weber describes three sources of state legitimacy but treats these as empirical observations of how states produce consensus for their rule rather than normative accounts for why

David Beetham eloquently summarizes a problem with such a formula. He argues that “A given power relationship is not legitimate because people believe in its legitimacy, but because it can be *justified in terms of* their beliefs.”³² For example, many political commentators claim that the American electoral system is losing legitimacy because it has consistently delivered victories for (political, not ethnic) minority interests over the past 20 years and, in some places, adopted rules that seek to restrict voter participation.³³ The system of rules that made this outcomes possible, the one which we are concerned with categorizing as legitimate or not, was in place before the public developed this particular belief in the illegitimacy of the state.³⁴ For the Weberian definition to hold, we would need to accept a conceptual framework that allows a state with the same electoral institutions to flicker between the status of legitimacy and illegitimacy, depending on the opinions of the public in response to current events.

This belief compresses legitimacy down to mean something like “sufficiently popular to avoid existential threat” and skirts the problem of parsing why a system of politics is considered acceptable, and why legitimacy matters to states. At the same time,

institutions that have one of these three characteristics ought to rule. Max Weber, *The Theory of Social and Economic Organization* (New York: Oxford University Press, 1947).

³² Beetham, *The Legitimation of Power*, 11.

³³ Nick Corasaniti, “Georgia G.O.P. Passes Major Law to Limit Voting Amid Nationwide Push,” *The New York Times*, March 25, 2021, sec. U.S., <https://www.nytimes.com/2021/03/25/us/politics/georgia-voting-law-republicans.html>. David Litt, “The U.S. Is Facing the Possibility of a Truly Illegitimate Election,” *The Atlantic*, August 25, 2020.

³⁴ This does not even get into the very open question as to what it means for “the public to believe” anything at all. As Zaller convincingly argues, mass opinion is shaped by exposure to (probably, elite) discourse which is interpolated through varying levels of individual political preferences and political awareness. People’s beliefs are not static and fluctuate with recent cues of issue salience. John R. Zaller, *The Nature and Origins of Mass Opinion*, Cambridge Studies in Public Opinion and Political Psychology (Cambridge: Cambridge University Press, 1992), <https://doi.org/10.1017/CBO9780511818691>. John Zaller and Stanley Feldman, “A Simple Theory of the Survey Response: Answering Questions versus Revealing Preferences,” *American Journal of Political Science* 36, no. 3 (1992): 579–616, <https://doi.org/10.2307/2111583>.

evaluating legitimacy without any consideration of the acceptability of the public collapses into normative judgment.

Definition of Legitimacy

To avoid the pitfalls of a definition of legitimacy that is either strictly functionalist or strictly normative, I argue that **legitimacy** is a feature of regimes that is perceived by the actors over whom a regime has power or seeks to exert power and is determined by those actors' belief in what constitutes "right rule."

This definition of legitimacy has several merits. First, it comports with functionalist accounts of legitimacy that characterize legitimacy as the non-coercive features of political authority that produce quasi-voluntary compliance.³⁵ Second, it does

³⁵ Functionalist treatments of regime legitimacy range from theories of citizen compliance with taxation and drafting into armed forces (see Margaret Levi, Audrey Sacks, and Tom Tyler, "Conceptualizing Legitimacy, Measuring Legitimizing Beliefs," *American Behavioral Scientist* 53, no. 3 (November 1, 2009): 354–75, <https://doi.org/10.1177/0002764209338797>. Michelle D'Arcy, "Why Do Citizens Assent to Pay Tax?" (American Political Science Association, Toronto, 2009), Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups*, Revised edition (Cambridge, Mass.: Harvard University Press, 1971). Anthony Downs, "An Economic Theory of Political Action in a Democracy," *Journal of Political Economy* 65, no. 2 (1957): 135–50, Stephan Muehlbacher and Erich Kirchler, "Tax Compliance by Trust and Power of Authorities," *International Economic Journal* 24, no. 4 (December 1, 2010): 607–10, <https://doi.org/10.1080/10168737.2010.526005>, E. S. Lieberman, "How South African Citizens Evaluate Their Economic Obligations to the State," *The Journal of Development Studies* 38, no. 3 (February 1, 2002): 37–62, <https://doi.org/10.1080/00220380412331322331>, Stephen Van Evera, "Hypotheses on Nationalism and War," *International Security* 18, no. 4 (Spring 1994), Andreas Wimmer, *Waves of War: Nationalism, State Formation, and Ethnic Exclusion in the Modern World* (Cambridge England ; New York: Cambridge University Press, 2013). Anthony King, "Discipline and Punish: Encouraging Combat Performance in the Citizen and Professional Army," in *Frontline: Combat and Cohesion in the Twenty-First Century* (Oxford University Press, 2015), Robert S. Rush, "A Different Perspective: Cohesion, Morale, and Operational Effectiveness in the German Army, Fali 1944," *Armed Forces & Society* 25, no. 3 (April 1, 1999): 477–508, <https://doi.org/10.1177/0095327X9902500307>. Michael Mann, *The Sources of Social Power Vol 4* (Cambridge, UK: Cambridge University Press, 2012), *The Eastern Front, 1941-45: German Troops and the Barbarisation of Warfare*, 2nd ed. 2001 edition (Houndmills, Basingstoke ; New York: Palgrave Macmillan, 2001).) to political economic theories of the formation of the state (see Michael Hechter, *Containing Nationalism* (Oxford University Press, 2000), 52. Eugen Weber, *Peasants into Frenchmen: The Modernization of Rural France, 1870-1914*, 1st edition (Stanford, Calif: Stanford University Press, 1976). Margaret Levi, *Of Rule and Revenue*, First edition (Berkeley: University of California Press, 1989).)

not depend on the arbitrary assertion of government features viewed as normatively preferable by contemporary scholars.³⁶ Third, it accounts for inter-cultural and inter-temporal variation in the governance traits that are associated with legitimacy. This definition also helps clarify one additional feature of legitimacy: why states care about their external legitimacy as well as their internal legitimacy.

External Legitimacy

If internal legitimacy is partially desirable because it improves a state's administrative efficiency, why do states also care about *external* legitimacy – legitimacy from the perspective of other states? Internal legitimacy matters because it reduces the costs of inducing quasi-voluntary compliance with state institutions such as tax collectors, courts, police forces and armies. The same benefits should not necessarily accrue to external legitimacy.

I propose that external legitimacy matters when states cannot compel compliance from an external actor. Just as states care about internal legitimacy when attempting to reduce reliance on coercion to enforce compliance with internal governance, they care about external legitimacy as a substitute for power when they are competing with other states who can either challenge or support their authority.³⁷

³⁶ Stephen Weatherford, in a canonical overview of political legitimacy, cites theorists such as Dahl and Rawls as examples of normative views of political legitimacy. M. Stephen Weatherford, "Measuring Political Legitimacy," *The American Political Science Review* 86, no. 1 (1992): 149–66, <https://doi.org/10.2307/1964021>. The former focuses on the ability of disparate groups to fairly compete in a political system whereas the latter focuses on a system that would be viewed as reciprocally reasonable among all citizens. Dahl asks for fairness among groups, Rawls asks for fairness among individuals. Robert A. Dahl, *Polyarchy: Participation and Opposition* (Yale University Press, 1971), John Rawls, *Political Liberalism* (Columbia University Press, 2005).

³⁷ This is implied by the literature on de facto states, which are reliant on patrons for support in the international community, and by the literature on international firms and organizations which lack the capacity to implement their agenda through coercion alone. For the literature on de facto states see Eiki

In America, the importance of external legitimacy is illustrated by the changing characteristics of American propaganda after World War II. The Cold War was America's first peacetime propaganda effort, and unlike previous propaganda efforts, was primarily directed *outward* toward those who America sought to convert, rather than inward, toward those who America sought to entice into its armed forces.³⁸ America's external propaganda argued for the morality and rightness of its system of government, which the propaganda claimed predicated on freedom and democracy. It also depicted America as a place in which cultural diversity, equality, and liberty flourish.³⁹ American propaganda was not an attempt at improving internal legitimacy or quasi-compliance with the state, but because the external image of legitimacy was necessary to change

Berg and Martin Mölder, "Who Is Entitled to 'earn Sovereignty'? Legitimacy and Regime Support in Abkhazia and Nagorno-Karabakh," *Nations and Nationalism* 18, no. 3 (2012): 527–45, <https://doi.org/10.1111/j.1469-8129.2011.00527.x>, Eiki Berg and Kristel Vits, "Quest for Survival and Recognition: Insights into the Foreign Policy Endeavours of the Post-Soviet de Facto States," *Ethnopolitics* 17, no. 4 (September 2018): 390–407, <https://doi.org/10.1080/17449057.2018.1495359>. For the literature on firms and organizations see, Chang Bum Ju and Shui-Yan Tang, "External Legitimacy, Goal Congruence and Collective Resistance: Environmental NGOs and Land Use Politics in South Korea," *Urban Studies* 48, no. 4 (March 1, 2011): 811–25, <https://doi.org/10.1177/0042098009360686>. Joseph H. H. Weiler, "The Rule of Lawyers and the Ethos of Diplomats Reflections on the Internal and External Legitimacy of WTO Dispute Settlement," *Journal of World Trade* 35, no. 2 (April 1, 2001), <https://kluwerlawonline.com/journalarticle/Journal+of+World+Trade/35.2/337899>. Christina J. Schneider and Johannes Urpelainen, "Accession Rules for International Institutions: A Legitimacy-Efficacy Trade-Off?," *Journal of Conflict Resolution* 56, no. 2 (April 1, 2012): 290–312, <https://doi.org/10.1177/0022002711431422>, Sophie Meunier, "Trade Policy and Political Legitimacy in the European Union," *Comparative European Politics* 1, no. 1 (March 1, 2003): 67–90, <https://doi.org/10.1057/palgrave.cep.6110000>. Hongjuan Zhang et al., "How Chinese Companies Deal with a Legitimacy Imbalance When Acquiring Firms from Developed Economies," *Journal of World Business* 53, no. 5 (November 1, 2018): 752–67, <https://doi.org/10.1016/j.jwb.2018.05.004>. Jane W. Lu and Dean Xu, "Growth and Survival of International Joint Ventures: An External-Internal Legitimacy Perspective," *Journal of Management* 32, no. 3 (June 1, 2006): 426–48, <https://doi.org/10.1177/0149206305281399>. Howard Aldrich and Martin Ruef, *Organizations Evolving*, 2nd ed. (London, 2006), <https://doi.org/10.4135/9781446212509>. Mark C. Suchman, "Managing Legitimacy: Strategic and Institutional Approaches," *The Academy of Management Review* 20, no. 3 (1995): 571–610, <https://doi.org/10.2307/258788>.

³⁸ Laura A. Belmonte, *Selling the American Way: U.S. Propaganda and the Cold War* (University of Pennsylvania Press, 2013), 1–5.

³⁹ *Ibid.*, 1–4.

other actor's foreign and domestic policies without the use of force. America's external legitimacy mattered for Cold War diplomacy because it sought to influence the type of government among actors over which it was not sovereign. This required demonstrating that liberal democracy was a system of government that produced broadly desirable characteristics such as equality, safety, and opportunity.

In summary, external legitimacy matters whenever states or other political actors are seeking to exert influence over a policy domain which is contested by at least one other actor with a competing claim to legitimate influence over the domain in question. External legitimacy relates to internal legitimacy through the quality of a nation's internal legitimacy, but also through its appeals to the value structures which predominate among actors with power over the contested domain. The Soviet Union's claim to produce order and security may not resonate with an American citizen who values freedom more than order and who is relatively insensitive to crime.

To tie together the arguments made so far: Internal legitimacy matters to states because it reduces the costs of governance by limiting the need to implement state administrative policies through force. The lower a state's legitimacy, the greater its costs to governance. States can choose between means of justifying their internal legitimacy over a given issue. The greater the congruence between justifications used to produce legitimacy with regard to a given internal political topic and the system of beliefs in another jurisdiction, the greater the external legitimacy a state has when influencing that other jurisdiction. Just as low legitimacy increasing costs of internal governance, low legitimacy also raises the cost of influencing other states' foreign policy.

For this reason, variation in strategies used to produce internal legitimacy constrain the ability of a state to influence policy domains in other jurisdictions. If a state invests in justifications for legitimacy highly particular to the culture and circumstances of its own people, its paths to external legitimacy will be more constrained, and the costs of influencing any given policy domain in other jurisdictions will be higher. Although in theory the production of any governance or societal characteristics could be appealing to other societies, in practice, some value systems are more fungible than others. I argue that the absence of violence is a highly desirable social feature – a claim to legitimacy that is highly fungible across value systems.

Nationalism and Legitimacy

The previous sections have discussed the relationship between legitimacy and government efficacy. In the next section, I show how nationalism produces legitimacy, and how some varieties of nationalism sustain legitimacy in the presence of violence better than others. In short, I will argue that nationalism is formed through ideological path-dependency that makes it easier for ethnonationalist governments to justify the toleration of violence than non-ethnonationalist governments. This occurs because the rhetorical strategies used by different nationalists create costs for policies that contradict earlier stated purposes of nation formation or justification, and ethnonationalists always argue for some form of social hierarchy with fewer rights and opportunities for some groups than others. Complementarily, civic nationalists confront greater costs to tolerating violence than ethnonationalists because they do not justify their claim to rule through the argument that some groups should be less secure from violence than others.

Nationalism creates legitimacy by tying political order to norms, traditions, and collective identities.⁴⁰ States can rely on nationalism to lower the transaction costs of taxation, law enforcement, and electoral systems. Nationalism also allows the state to dominate competing sources of collective allegiance such as ethnic, class, regional, or religious identities.⁴¹ In culturally heterogeneous societies, nationalism reduces friction between groups by subordinating competing values and allegiances under one identity.⁴² States do this by creating collective identities which inscribe social roles and a sense of civic duty and personal sacrifice among their members.

The boundaries that states create to establish their political rule require the creation of identity structures that reduce competition among newly joined groups. Hechter argues that “the articulation and promotion of culturally distinctive institutions is the joint good that lies at the core of nation-formation.”⁴³

If we accept Hechter’s argument, and the modernist premise that the specific symbolic content of nationalism is somewhat arbitrary because elites are free to shape the contours of national myths and histories as they please, then the symbolic content of the

⁴⁰ G. Hossein Razi, “Legitimacy, Religion, and Nationalism in the Middle East,” *The American Political Science Review* 84, no. 1 (1990): 69–91, <https://doi.org/10.2307/1963630>. Leonard Binder and Joseph La Palombara, *Crises and Sequences in Political Development* (Princeton University Press, 1971). Erica Strecker Downs and Phillip Saunders, “Legitimacy and the Limits of Nationalism,” *International Security* 23, no. 3 (1998).

⁴¹ Jack Snyder, “Nationalism and the Crisis of the Post-Soviet State,” in *Ethnic Conflict and International Security*, ed. Michael E. Brown (Princeton University Press, 1993), 79–102, <http://www.jstor.org/stable/j.ctv36zq9w.9>. Anthony D. Smith, “War and Ethnicity: The Role of Warfare in the Formation, Self-images and Cohesion of Ethnic Communities,” *Ethnic and Racial Studies* 4, no. 4 (October 1, 1981): 375–97, <https://doi.org/10.1080/01419870.1981.9993347>. G. Poggi, “The Limits of Legitimacy: Political Contradictions of Contemporary Capitalism,” *Sociology* 15, no. 2 (May 1, 1981): 318–19, <https://doi.org/10.1177/003803858101500225>. Ernest Gellner and John Breuilly, *Nations and Nationalism*, Second edition (Cornell University Press, 2009).

⁴² Michael Hechter, *Containing Nationalism* (Oxford University Press, 2000).

⁴³ Hechter, *Containing Nationalism*, 23.

nationalism processes should make some social structures more legitimate than others. For example, nations usually imagine themselves as having a homeland with a discrete territorial boundary. In practice, multiple nations can have competing claims to the same territory. Nationalism scholarship has shown how these competing claims can lead to conflict, as has occurred in post-soviet Eastern Europe, Ulster, the Levant, and the Indian subcontinent.

Although some academics, like Monica Toft, argue that settlement patterns shape the legitimacy of an ethnic group's claim to a given territory, making legitimacy an essentially immutable characteristic of a group's claim, others disagree.⁴⁴ Stacie Goddard shows how the rhetorical strategies used by the Irish and English in Ulster resulted in actors becoming dependent on a smaller range of coalitions, limiting and eventually destroying the bargaining space between opponents, resulting in conflict.⁴⁵ Goddard is compelling on the point that the micro-processes of nationalism – the discursive postures and strategies used by groups in the nation-building process – both (1) allow actors flexibility as they deploy nationalist narratives in pursuit of a political goal and (2) have long-term consequences by locking actors into certain ideological positions.

Rationalists and institutional historians have developed theoretical frameworks to discuss how decisions around issue framing lock actors into commitments in later periods. Smeared out over the centuries, this can be seen as identity or ideology.

⁴⁴ Monica Toft, *The Geography of Ethnic Violence* (New Jersey: Princeton University Press, 2005), <https://press.princeton.edu/books/paperback/9780691123837/the-geography-of-ethnic-violence>, 1-3.

⁴⁵ Vera Tolz, "Conflicting 'Homeland Myths' and Nation-State Building in Postcommunist Russia," *Slavic Review* 57, no. 2 (1998): 267–94, <https://doi.org/10.2307/2501851>. Stacie E. Goddard, "Uncommon Ground: Indivisible Territory and the Politics of Legitimacy," *International Organization* 60, no. 1 (2006): 35–68.

Rationalists discuss these issues through the lens of commitment and reputation; an actor that repeatedly violates agreements will be exposed to greater second-order bargaining and enforcement costs in any future agreements it tries to make.⁴⁶ Institutionalists discuss path-dependence as the process by which a given institution become self-reinforcing as it delivers increasing returns through familiarity and efficiency, while challengers to its order face higher costs of entry.⁴⁷

For example, in Revolutionary France, the rhetorical claims of a French nation rooted in liberty and fraternity strengthened proponents of abolition, leading to the 1794 emancipation decree. American revolutionary rhetoric that championed personal freedom and the political commitment to Enlightenment values was inconsistent with the institution of slavery resulting in the passage of the 1807 Act Prohibiting Importation of Slaves and the use of the U.S. navy to enforce the slave trade ban in 1819, the fourth congressionally approved use of U.S. military force after its creation.⁴⁸ In both the French and American case, powerful sectarian and economic interests were opposed to the decision to undermine slavery, while the beneficiaries of policies that forbade the import of slaves were laborers whose wages were suppressed through market competition with

⁴⁶ James D. Fearon, "Rationalist Explanations for War," *International Organization* 49, no. 3 (1995): 379–414. Robert Axelrod, *The Evolution of Cooperation: Revised Edition*, Reprint edition (Basic Books, 2009).

⁴⁷ James Mahoney, "Path Dependence in Historical Sociology," *Theory and Society* 29, no. 4 (2000): 507–48. Paul Pierson, "Increasing Returns, Path Dependence, and the Study of Politics," *The American Political Science Review* 94, no. 2 (2000): 251–67, <https://doi.org/10.2307/2586011>.

⁴⁸ David Brion Davis, *The Problem of Slavery in the Age of Revolution, 1770-1823*, Subsequent edition (New York: Oxford University Press, 1999). Duncan J. MacLeod, *Slavery, Race and the American Revolution* (CUP Archive, 1974). Donald L. Canney, *Africa Squadron: The U.S. Navy and the Slave Trade, 1842-1861* (Potomac Books, Inc., 2006).

chattel-slavery and current or future slaves themselves. Neither group was politically powerful in either France or America, in the late-18th and early-19th centuries.

To say that the rhetorical commitments to freedom in French and American revolutionary ideology overrode economic concerns would be incorrect. However, rhetorical justifications for state authority in both countries – early processes of nationalism which evoked civic commitments among citizens – problematized race-based slavery and increased the political and economic costs of preserving those institutions.

So far, I have shown how nationalism produces legitimacy for states in a general context and also how variations in the content of nationalism can make certain policies more or less justifiable. The discussion of slavery is a useful place to begin showing how variations in nationalist content can legitimate violence. This argument requires picking at a tension between the theoretical conceptualization of nationalism as something that is territorially bounded and nationalism as it exists in the world, which is both territorially bounded, and socially bounded.

Definition of Nationalism

I define nationalism as the legitimation of a political order that is territorially limited and justified on the basis of shared values, culture, ethnicity, and/or language. This is a “verbed” definition of nationalism which views it as an action undertaken for a specific purpose (legitimation). As adjective and noun, nationalism refers to the existing rhetorical justifications for political order, which are also rooted in shared values, culture, ethnicity, or language.

This definition of nationalism varies from others in that it presumes that a nationalism rooted in values – a “civic” nationalism – can exist. Yael Tamir’s 2019 primer on nationalism describes civic nationalism as a demand made by the vulnerable to “rewrite the social contract.”⁴⁹ I do not share Tamir’s optimism about the presumed content of a civic nationalist movement. Although civic nationalist values are usually opposed to inegalitarian political ordering systems such as the French or English crowns, British imperial edicts, or Ottoman theocracy, they have also been used to instantiate inequalities between landowners and laborers, or men and women.

For example, during the worst excesses of the French revolution, extreme civic virtues condemned participation in certain conservative institutions and led to the sentencing of non-revolutionaries to death. In 1793, Louis Turreau launched the “infernal columns” designed to completely eliminate the conservative and mostly Catholic peasants in the Vendée. Between 150,000 and 300,000 people died during the campaign, an estimated 10% of whom were civilians killed in massacres. Robespierre defended this action, explaining that “as long as the enemies of liberty persecute even a single person of virtue the republican government is duty-bound to rush to his side and avenge him publicly.”⁵⁰

⁴⁹ Yael Tamir, *Why Nationalism* (New Jersey: Princeton University Press, 2019), <https://press.princeton.edu/books/hardcover/9780691190105/why-nationalism>.

⁵⁰ Arno Mayer, *The Furies: Violence and Terror in the French and Russian Revolutions* (New Jersey: Princeton University Press, 2002), <https://press.princeton.edu/books/paperback/9780691090153/the-furies>, 208. Carla Hesse, “Revolutionary Historiography after the Cold War: Arno Mayer’s ‘Furies’ in the French Context,” *The Journal of Modern History* 73, no. 4 (December 1, 2001): 897–907, <https://doi.org/10.1086/340149>.

This point is illustrative if facetious. I argue that civic nationalist impulses emerge anywhere a group of people assert the political authority to rule on the basis of rights or obligations that do not exist at present. However, the pretense of rights or social order that is not based on ascriptive characteristics has often been used to justify the oppression of one group by another. In its quotidian form this can be seen by contemporary “civic nationalists” who seek to exclude immigrants or religious minorities through the justification of lawlessness, or more comically, architectural safety.⁵¹

The frequency with which the assertion of a political community based in common rights has collapsed into projects of inter-ethnic domination has spurred some nationalism scholars to discard the notion of civic nationalism entirely. Those who hold this view argue that all instances of civic nationalism have also involved a powerful notion of peoplehood.⁵² This a weak argument and could just as easily be used to prove that ethnonationalism does not exist, when held to the same standard. After all, every nationalist movement envisions some scheme of power-sharing and rights giving, even those which are explicitly ethnonationalist, as is illustrated by defenses of slavery on the grounds that it perpetuates class-based inequality.⁵³

⁵¹ Farida Fozdar and Mitchell Low, “‘They Have to Abide by Our Laws ... and Stuff’: Ethnonationalism Masquerading as Civic Nationalism,” *Nations and Nationalism* 21, no. 3 (2015): 524–43, <https://doi.org/10.1111/nana.12128>, Nick Cumming-Bruce and Steven Erlanger, “Swiss Ban Building of Minarets on Mosques,” *The New York Times*, November 29, 2009, sec. World, <https://www.nytimes.com/2009/11/30/world/europe/30swiss.html>.

⁵² Brubaker, Rogers. “The Manichean Myth: Rethinking the Distinction Between ‘Civic’ and ‘Ethnic’ Nationalism.” In *Nations and National Identity: The European Experience in Perspective*. Chur: Rüegger, 1999.

⁵³ Hammond’s “mud-sill” speech, discussed in greater detail below, called for slavery with the reasoning that there must always be a lower class which labors so that society may prosper, and slavery’s explicit formation of that lower class was more desirable than an ambiguous formation of a lower class, as existed in northern cities. Hammond, “Speech on the Admissions of Kansas” 318-319, paraphrased quotation from

Violence in Ethnonationalist and Civic Nationalist Governments

If nationalism can produce legitimacy that varies by the rhetorical and political structures it invokes to justify state rule, it follows that some legitimization strategies may be amenable to violence than others.

The primary means by which violence damages legitimacy is through the perception that a state is incapable of maintaining the rule of law. All states nominally provide some right to personal safety and reserve to themselves the right to exercise violence. When states do allow violence, they require a powerful ideological justification for why they should devolve *de facto* authority to enforce social order through violence to the public, or an alternative institution, rather than their own courts and police.

Nationalism can eliminate the illegitimacy violence produces by providing a rhetorical and ideological structure through which lawmakers can frame who is understood to be protected by the law and how perception of lawless violence damage legitimacy. If it is understood (by the community's own members, at the very least) that a law was not intended to protect a certain group from violence, or that certain actions can render a group immune from protection, then violence ceases to be seen as a state's failure to maintain the rule of law. This is most obvious when considering individuals who are non-citizens and live outside a state's territorial jurisdiction. There are few theories of right rule that treat a state's failure to protect these individuals as evidence of the state's illegitimacy.

Peter Kolchin, "In Defense of Servitude: American Proslavery and Russian Proserfdom Arguments, 1760-1860," *The American Historical Review* 85, no. 4 (1980): 809-27, <https://doi.org/10.2307/1868873>, 814.

Slavery laws are an example of how the same principle can be applied within the territory the state controls. Pre-Confederate Southern law extended certain rights to people who lived as slaves, but these rights were the rights enjoyed by property. Slavery rights recognized enslaved people's partial status as people to whom violence could be done but denied them civil rights. Chief Justice of the North Carolina Supreme Court, Richmond Pearson, attempts to explain this situation, "A slave, being property, has not the legal capacity to make a contract, and is not entitled to the rights or subjected to the liabilities incident thereto. He is amenable to the criminal law, and his person (to a certain extent) and his life are protected. This, however, is not a concession to him of civil rights, but is in vindication of public justice, and for the prevention of public wrongs."⁵⁴

In other words, although violence against people who were slaves was a "public wrong," those people were not extended civil rights, and the protection of their bodily autonomy was only protected "to a certain extent." The ambiguity of this position was critical to accommodate the legal and social status of all Black Americans in the southern United States – and to a lesser extent in the northern United States. However, such laws were still constrained by customs and beliefs which limited the social acceptability of violence and injustice. Even at the height of White Supremacist ideology in the antebellum era, in the most racially conservative Southern states, some slave owners were prosecuted for harming their slaves because of social mores against violence.

⁵⁴ Quoted in Andrew Fede, *People Without Rights: An Interpretation of the Fundamentals of the Law of Slavery in the U.S. South* (Routledge, 2012), 10.

Michael Hindus identified some of these cases in South Carolina, although those prosecuted were for “only the most atrocious or public murders.”⁵⁵ Moreover, dead-letter laws extending some rights to slaves were passed, even if these laws were seldom used. The Arkansas Constitution, ratified in 1836, obliged “the owner of any slave to treat them with humanity.” Mississippi law in 1840 similarly stipulated that no “cruel or unusual punishment shall be inflicted on any slave.”⁵⁶

Southern states that passed these laws did so in part out of tradition – imitating state constitutions that had been passed before, but in part because a social consensus that “right rule” includes protections from the worse forms of physical harm and the preservation of bodily autonomy under “normal” circumstances. These laws were passed, and some slave owners were convicted, because systems of government which did not preserve some fundamental rights would be viewed as illegitimate in the eyes of its citizens and other states.

In short, nationalist ideological justifications for state rule reduced the costs of exposing people to violence in Southern states, even if it did not do so completely. Ethnonationalist justification for rule accomplish this goal with greater ease than do civic nationalist justifications because ethnonationalists both claim that the purpose of the state is to ensure that some groups do not have access to the same rights as others, and also

⁵⁵ Michael S. Hindus, *Prison and Plantation: Crime, Justice, and Authority in Massachusetts and South Carolina, 1767-1878* (The University of North Carolina Press, 2017), 134.

⁵⁶ Lawrence M. Friedman, *Crime And Punishment In American History*, e-book edition, (New York, NY: Basic Books, 1994), section “*Power and Its Victims: Black Victims.*” Freedman excerpts from Paul Finkelman’s edition of John Codman Hurd, *The Law Of Freedom And Bondage In The United States*. 2 Vols. (Clark, N.J: The Lawbook Exchange, Ltd., 2006), 200-201.

because they do not claim that the system of power-sharing they propose is best for all groups.

Even the most conservative civic nationalist justifications for rule, which advocate for authoritarianism and permanent inequality between classes, assert that these systems of rule are beneficial because they produce order and progress. In contrast, ethnonationalist justifications (which are often paired with conservative civic nationalist justifications for rule) only care about preserving the superiority of one group over another. Ethnonationalists may justify their system of right rule using appeals to the beneficial characteristics that racial dominance produces, but the measure of their legitimacy will be the preservation of the hierarchy, not the quality of life for either the superior or the subordinate group.

For example, appeals to the legitimacy of slavery were made on many grounds. Popular defenses of slavery in the South usually took one of three forms: (1) that human bondage was sanctioned by the Bible and recognized by Jesus Christ,⁵⁷ (2) that slave states had favorable social features such as a propensity to build churches, reduced homelessness, and greater comport with common decency,⁵⁸ and (3) that slavery was an institution of racial uplift which God wished white people to oversee as religiously responsible citizens.⁵⁹

⁵⁷ E. N. Elliott, *Cotton Is King, and Pro-Slavery Arguments: Comprising the Writings of Hammond, Harper, Christy, Stringfellow, Hodge, Bledsoe, and Cartwright, on This Important Subject* (Pritchard, Abbott & Loomis, 1860), 462 – 546.

⁵⁸ Ibid, 522-546.

⁵⁹ George Fitzhugh, *Sociology for the South: Or, The Failure of Free Society* (A. Morris, 1854). Chancellor Harper, “Slavery in Light of the Social Ethics,” in *Cotton Is King, and Pro-Slavery Arguments: Comprising the Writings of Hammond, Harper, Christy, Stringfellow, Hodge, Bledsoe, and Cartwright, on This Important Subject* (Pritchard, Abbott & Loomis, 1860).

Defenders of slavery also pursued legitimacy among people who did not share their belief that right rule could be justified through racial oppression. James Hammond, one of slavery's most trenchant advocates, argued for slavery on the grounds of race-blind social conservatism: all social systems demand the existence of a class of people to perform menial labor so that others can advance civilization – the menial-laboring class would serve as the “mud-sill” of society. If Africans had not existed, then someone else would have served the same function.⁶⁰ This socially conservative view of slavery, although popular with Southern aristocrats, was swamped by racial and religious objections which were more amenable to the South's poor, white, non-slave owning majority. Similarly, “helperism” or the belief that race-based slavery should be opposed not because Black people and white people deserved equal rights, but because social rigidity and non-competitive markets are bad for the South's white working class, was intensely unpopular in the South prior to the Civil War, but helped Andrew Johnson in his attempt to win back the allegiance of Southern citizens after the war, by depicting secession as a betrayal of Southern interests by selfish, elite aristocrats.⁶¹

In summary, political authorities have their choice of ideological justifications for system of government but are constrained by the value systems which exist among the people they wish to govern.⁶² In societies that rely on ethnonationalist justifications for

⁶⁰ Hammond, “Speech on the Admissions of Kansas” 318-319, paraphrased quotation from Peter Kolchin, “In Defense of Servitude: American Proslavery and Russian Proserfdom Arguments, 1760-1860,” *The American Historical Review* 85, no. 4 (1980): 809–27, <https://doi.org/10.2307/1868873>, 814.

⁶¹ Keri Leigh Merritt, *Masterless Men: Poor Whites and Slavery in the Antebellum South* (Cambridge, United Kingdom ; New York, NY, USA: Cambridge University Press, 2017), 38-61.

⁶² Later in this chapter, I describe the circumstances under which congruence with moral systems in societies they do *not* govern matter as well.

their rule, mob violence against minority groups may be viewed as a feature of state authority, rather than a failure of it.

However, collective violence is seldom intentionally allowed when states justify their rule through appeals to civic ideals. There are exceptions. For example, periods of instability that threaten prevailing social order may be met with violence by individuals who perceived themselves as guardians of community interest against gambling, prostitution, or crime, when the state acts too slowly.

William Mills, the editor of the *Vicksburg Register* in 1835, explained in the aftermath of the hanging of five gamblers by a lynch mob that he knew the action would meet “censure from those who had not an opportunity of knowing and feeling the dire necessity out of which it originated.”⁶³

In America, the doctrine of “popular sovereignty” emphasized the right of the people to take the law into their own hands. This doctrine gained popularity in America throughout the early-19th century and could be used to justify any violence that community members chose to inflict on those that they viewed as troublemakers. After a crowd of several hundred people burned alive Francis McIntosh, a free Black man who had killed a deputy sheriff, judge Luke Lawless (to foreshadow the denouement of the anecdote, he was literally named Lawless) said that he could not pursue legal action against the crowd because it was animated by the “electric phrenzy” of an “infuriated multitude.”⁶⁴

⁶³Quoted in Joshua Rothman, “The Hazards of the Flush Times: Gambling, Mob Violence, and the Anxieties of America’s Market Revolutions,” *The Journal of American History*, December 2008, 651.

⁶⁴Manfred Berg, “Lynching and the Ambivalence of Modernity,” in *Fractured Modernity* (De Gruyter Oldenbourg, 2012), 153–68, <https://www.degruyter.com/document/doi/10.1515/9783110446746-010/html>,

In general, however, extra-legal violence that was not subsequently punished was viewed as deeply illegitimate outside the communities in which it occurred. Although some Southern newspapers responded to the lynching of the Vicksburg gamblers sympathetically, the weight of response in the national press, especially in northern newspapers, was negative. The incident gave rise to the terms “Judge Lynch” and “Lynch law” in the broader American vocabulary and was used as an illustration of the lawlessness and illegitimacy of Southern States.⁶⁵

In contrast to these examples, collective violence against ethnic minorities in ethnonationalist communities was easier to justify and more readily accepted. Ethnonationalist communities all have in common the belief that it is desirable for their communities to be dominated by a single ethnic group and that members of that ethnic group should have pride-of-place in social and political life. The ambiguity of social relationships invites violence to be used as a remedy when the law does not forbid an interaction that violates the values of a dominant ethnic group.

Violence may be seen as legitimate in the community where it took place; however, the broader public rarely holds the same views. Those who committed lynchings in the late-19th and early-20th century American South did so to preserve a racial hierarchy in their communities. Although broader American society harbored many of the same racist attitudes as those who committed lynchings, Americans as a whole

159-167. Details on the McIntosh killings from David Grimsted, *American Mobbing, 1828-1861: Toward Civil War* (Oxford, England: Oxford University Press, 1998), 104.

⁶⁵ Ibid 27-39.

viewed lynchings as barbaric because they also believed that freedom from violence was a foundational right for any member of a community.⁶⁶

The varying nature of nationalist projects in different parts of America make it possible for a community in one place to view violence against a group as being acceptable while neighboring communities, the state in which the violent community is located, and the federal government all view such violence as unacceptable. My theory holds that this tension drives the expansion of law enforcement apparatuses. When violence occurs in a sub-jurisdiction of the state, it threatens the legitimacy of the state in its entirety. The fragmented nature of authority in modern states, and the varied pattern of nationalism that layered authority produces, explains why states respond to violence sometimes and not others.

Returns to Violence in Local Ethnonationalist Governments

However, just because ethnonationalists are more likely to tolerate violence than civic nationalists, does not mean that they will tolerate violence all the time. To explain why local ethnonationalist jurisdiction tolerate violence sometimes and not others, I rely on the concept of **returns to violence**. Returns to violence are the benefits that a community anticipates from tolerating violence. To prevent this variable from being too tautological, I rely on a simple categorical scheme for classifying whether community returns to violence are high or low. I argue that returns to violence are high if (1) a local

⁶⁶ David Grimsted, *American Mobbing, 1828-1861: Toward Civil War* (Oxford, England: Oxford University Press, 1998), 104.

ethnonationalist group risks having a weaker “ethnic balance of power” and (2) if alternatives to violence are unavailable to the local government.

Although ethnic balance of power does not always lead to conflict, when an influx of an ethnic group changes the ethnic balance of power within a state the ruling authority’s uncertainty about its future power, both to secure electoral success and in terms of military strength, become compromised. As the share of an ethnic group increases within a state, its latent ability to influence political outcomes changes because of the threat it poses through electoral participation, administrative apparatus capture, and bargaining with other ethnic coalitions. Theoretical and empirical work on ethnic conflict among refugees supports this intuition and has shown that changes to the balance of power in a state triggers instability in existing inter-ethnic coalitions and sparking fear among ethnic majorities in host countries.⁶⁷

This literature describes the context in which an ethnic balance of power logic may apply. It also suggests a finding of relevance for my operationalization of returns to violence, which is that when an ethnic group comprises only a very small portion of a community, they pose little threat to majority groups, but that threat increases with the size of the ethnic minority. Therefore, I assume that jurisdictions with ethnic minority

⁶⁷ Daniel Krmaric, “Refugee Flows, Ethnic Power Relations, and the Spread of Conflict,” *Security Studies* 23, no. 1 (January 1, 2014): 182–216, <https://doi.org/10.1080/09636412.2014.874201>; Seraina Rüegger, “Refugees, Ethnic Power Relations, and Civil Conflict in the Country of Asylum,” *Journal of Peace Research* 56, no. 1 (January 1, 2019): 42–57, <https://doi.org/10.1177/0022343318812935>; Enze Han and Harris Mylonas, “Interstate Relations, Perceptions, and Power Balance: Explaining China’s Policies Toward Ethnic Groups, 1949–1965,” *Security Studies* 23, no. 1 (January 1, 2014): 148–81, <https://doi.org/10.1080/09636412.2014.874210>.

populations that are smaller will have a lower return to violence than populations that are larger.

An adjacent literature also suggests that a power-transition mechanism can also lead changes in ethnic balance of power to increase violence. When states or ethnic groups are increasing their share of power, the threat of violence is more likely either because the growing state seeks to supplant the political system established by the status quo power-holders or because the status quo power-holders seeks a preemptive conflict in order to lock in its political advantages.⁶⁸ For the purpose of my theory, a power transition logic suggests that as an ethnic minority's power approaches the power of an ethnic majority, the ethnic majority has an incentive to use violence to preserve the status quo.

A problem with this explanation, and with the notion of returns to violence in the first place, is that violence is always costlier than alternatives. In international studies, balance of power and power transition theories of warfare have lost popularity relative to rationalist theories that ask why groups do not reach a settlement prior to the outbreak of conflict.⁶⁹ Generalized to my theory, this question can be stated: Why do ethnonationalist majorities not use non-violent tools to establish a distribution of power between groups, which the groups could then either protest, accept, or reject by leaving?⁷⁰

⁶⁸ Monica Duffy Toft, "Population Shifts and Civil War: A Test of Power Transition Theory," *International Interactions* 33, no. 3 (July 31, 2007): 243–69, <https://doi.org/10.1080/03050620701449025>; A. F. K. Organski, *World Politics* (Knopf, 1958).

⁶⁹ James D. Fearon, "Rationalist Explanations for War," *International Organization* 49, no. 3 (1995): 379–414.

⁷⁰ Albert O. Hirschman, *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States* (Cambridge, Mass: Harvard University Press, 1970).

One reason is that they lack time to pass laws which would reduce the political power of an ethnic minority. Elections are often the site of ethnic violence because they represent opportunities to alter the existing power structure between ethnic groups. If an election appears uncertain, the returns to violence will be unusually high.⁷¹

Another reason why a government would fail to safeguard its desired ethnic hierarchy through non-violent means is that it lacks legal standing to implement the arrangement it desires. This can occur either because state capacity is low and the local government lacks the budget or institutions to pass and enforce certain laws, or because a pre-existing power-sharing arrangement has excluded them from access to power.

Maintaining an ethnic hierarchy is always challenging in a democratic society which preserves for the people a right to vote, and which nominally makes decision through popular decision-making. If an ethnonationalist party does not have the numbers to achieve its desired social order through elections alone, the returns to violence will be higher. Even when voting is undermined or forbidden for an ethnic minority, its other rights may be preserved by rulings from national courts. This makes ethnonationalist power-structures challenging to uphold through formal law.

After the passage of the 15th amendment, Black voting was prevented throughout the South by white vigilantes. During the election of 1868, over two hundred murders were committed in Arkansas with the aim of suppressing the Black vote.⁷² After *United States v. Cruikshank* disallowed perpetrators of violent crime during the 1872 elections to

⁷¹ Robert H. Bates, "Modernization, Ethnic Competition, and the Rationality of Politics in Contemporary Africa," in *State Versus Ethnic Claims: African Policy Dilemmas* (Routledge, 1983).

⁷² Donna A. Barnes and Catherine Connolly, "Repression, the Judicial System, and Political Opportunities for Civil Rights Advocacy during Reconstruction," *The Sociological Quarterly* 40, no. 2 (1999): 327–45.

be punished through federal law enforcement via the Enforcement Act, white gangs engaged in a spree of political violence. It is estimated that one-third of the murders in Louisiana in the 1870s were politically motivated. The historical consensus is that Democratic paramilitary units captured the Alabama and Mississippi legislatures and administrative machinery by force.⁷³ In these cases, violence served as an adjunct to the formal tools of law and policymaking. Mob violence could accomplish what legal policies could not.

Nationalism, Fragmented Authority, and Response to Violence

To tie the previous sections together: the tension between local ethnonationalists and the more civically inclined political structures in which they may be embedded creates situations in which a local ethnonationalist authority may wish to ignore mob violence while a supralocal civic nationalist authority may wish to suppress it. This can occur when ethnonationalists cannot maintain their preferred social order because state and federal law forbids them from doing so, or because they would lose power in fair elections and rely on the threat of violence to prevent full electoral participation.

In most situations, all political leaders will wish to suppress collective violence because it imposes high costs to their legitimacy. If a jurisdiction does not suppress violence – either because it lacks the law enforcement capacity to do so or because it chose not to do so – then the supralocal jurisdictions within which it exists may choose to intervene. Supralocal jurisdictions are nested. If an intermediary jurisdiction (e.g., a state

⁷³ George C. Rable, *But There Was No Peace: The Role of Violence in the Politics of Reconstruction* (University of Georgia Press, 2007).

government, in an American context) refuses to intervene, then another supralocal jurisdiction may intervene (the federal government).

Interventions can happen either because a local jurisdiction lacks capacity to suppress violence or because a supralocal authority is dissatisfied with a local government's response to violence.

If any level of government cannot respond to violence, then there may be a delayed response from either local, state, or federal authorities. The delayed response can take the form of expanding the physical capacity of law enforcement authorities, expanding supralocal legal authority to enforce the law, or modifying laws to expand the range of behaviors that are punishable to deter a process that results in mob violence. Because civic nationalist state and federal authorities are threatened by loss of legitimacy when mob violence occurs, they will be more likely to respond to mob violence when legitimacy is more internally or externally salient.

Mob violence is costliest at the local level. Its tolerance sends a powerful signal about forms of behavior or social order that a given jurisdiction will not tolerate. Ethnonationalists may desire to send such a signal, but their communities will still suffer high costs. Consequently, ethnonationalists will be most likely to tolerate mob violence when the returns to violence are high. Returns are high during periods when civil rights are being extended or retracted, the underlying characteristics of a jurisdiction are changing in ways that makes the supremacy of a dominant ethnic group ambiguous, or the local jurisdiction in question lacks alternatives to violence.

Even if the returns to violence are high at the local level, it is still costly to the legitimacy of supralocal authorities. When supralocal authorities are in need of legitimacy, or when **the salience of legitimacy** is high, they are more likely to intervene in response to a local jurisdiction which tolerates violence.

The allowance of mob violence by ethnonationalists when their ethnic hierarchies are challenged, and consequent expansion of criminal justice systems by responsive civic nationalists, provides a novel explanation for the growth of America's criminal justice system.

To return to my two motivating questions:

1. Given the high costs of tolerating collective violence, why do states suppress collective violence sometimes and not others?
2. Given the high costs of tolerating collective violence, why do states expand their law enforcement or criminal justice systems in response to some collective violence, and not others?

I argue that the challenge that violence poses to legitimacy, and the role of varying forms of nationalism in legitimizing state rule, helps explain why state suppress collective violence sometimes and not others. As has been shown above, violence is useful to states as a supplement to formal authority when a minority group gains access to legal rights through a state or sub-state authority which overrides local ethnic hierarchies, or when demographic or economic change improves the power of a minority group and that group's new power cannot be expropriated through legal means alone. However, the

use of violence itself is costly to legitimacy – authorities prefer to rely on the signal that violence sends, rather than violence itself, whenever possible.

As a result, when there is a strong return to violence at a local level and the salience of legitimacy is high, the supralocal authority's ability to respond to violence will be contested by the agents of an ethnic majority who wish to preserve the credibility of threats of violence without realizing the costs of using violence itself.

I argue that ethnonationalists are more likely to tolerate violence when power over an aspect of ethnic hierarchy is threatened or when other tools of preserving an ethnic majority are unavailable. This can occur when a supralocal authority expands rights to a local minority, retracts the promise to enforce a minority right, or when the composition of a community is changing in a way that could signal a transformation in the ethnic balance of power. In other words when the potential return to violence is high, ethnonationalists are more likely to tolerate it.

At the same time, whenever a jurisdiction requires greater legitimacy, it will be more likely to respond to collective violence. This occurs when a local jurisdiction is at risk of external intervention from a supralocal authority, or because a federal authority wishes to influence the policy of another state. In short, when the costs to legitimacy of tolerating violence are high, states are more likely to respond to violence.

Because the returns to violence are enjoyed by local jurisdiction, and the costs to legitimacy are shared nationally, while local jurisdictions tend to be primarily responsible for the proximal response to mob violence while supralocal authorities are (with some exceptions) more responsible for the delayed response, I expect, *ceteris paribus*, that as

local returns to violence increase, there will be more non-response to mob violence and as salience of legitimacy increases, there will be more delayed response from supralocal authorities.

So far, I have discussed the assumptions, definitions, and causal mechanisms that support my theory. In the next section, I discuss alternative explanations for state response to mob violence.

Alternative Explanations

In the previous section I discuss justifications and assumptions related to the independent variables which I argue interact to explain state response to mob violence. In this section I describe the literature which relates to competing explanations for state response to mob violence.

“State response to collective violence” is an unusual dependent variable in that it references phenomena that are often described separately in the political science and sociology literatures. Other approaches consider the formation of police departments, the intentional toleration of mobs and riots, and the expansion of criminal justice systems as discrete phenomena. These literatures are usually time-bounded, as in the case of the literatures that describe the origins of police departments or the growth of America’s carceral state, or they refer to a broader phenomenon such as policy diffusion or state formation, but which rely on mechanisms which are relevant to my topic. I describe the three competing explanations that are best developed in the extent literature, and then summarize the hypotheses those theories produce and which I evaluate in subsequent chapters.

Structural Explanations

The first class of alternative explanation I consider are structural theories of state response to violence. These take the form: ideological configuration x causes a demand for social order, and institutional configuration y [police, prisons, mass incarceration, the carceral state] satisfy that demand by allowing a dominant group to suppress a subordinated group. Although these theories do not always address the specific universe of cases that I consider in this dissertation (instances of collective violence), they offer explanations for why states develop coercive capabilities and when they deploy them.

My disagreement with the following theories is less a critique of their intuitions about the variables which influence response to collective violence and more a critique about the ability for the level of analysis at which they are situated to explain the formation of certain parts of America's criminal justice system. As I will demonstrate in the following chapters, structural explanations fail to explain the circumstances which incentivize local governments to expand criminal justice apparatuses for the purpose of protecting ethnic minorities sometimes and to shrink criminal justice apparatuses for the purpose of endangering ethnic minorities other times.

Loic Wacquant theorizes that mass incarceration is a neoliberal reaction to social insecurities produced in a post-industrial society. He characterizes "the penal state in the United States as an integral part of neo-liberal restructuring."⁷⁴ Wacquant argues that the penal state reaches out for people in "castaway categories" because they serve as a

⁷⁴ Wacquant, Loic. *Punishing the Poor*. Durham: Duke University Press, 2009.

“living and threatening incarnation of the generalized social insecurity produced by the erosion of stable and homogenous wage work.”⁷⁵

Wacquant’s argument is premised on a few assumptions. First, that a neo-liberal order produces widespread insecurity through a commodification of public goods, the rise of underpaying work, and the loss of “social protection schemes” (mostly unions), and second, that the state may respond to this insecurity through a re-centering of penal policies on the inner city. This is similar to David Garland’s theory of mass incarceration as the cultural reaction to late modernity and the free market which developed in certain liberal countries (the United States and the United Kingdom).⁷⁶ These works differ primarily in their theoretical priors: Wacquant draws heavily from a sociological framework that presumes contested fields of power, while Garland draws on cultural theory.

In contrast, Michelle Alexander argues that “mass incarceration – not attacks on affirmative action or lax civil rights enforcement – is the most damaging manifestation of the backlash against the Civil Rights Movement.” Alexander claims that mass incarceration functions as a system of laws, policies, and institutions that operate to enforce a racial caste system in America.

Alexander charts the origins of the interplay between punishment, race, and systems of control, to the origins of American democracy, where special rights were

⁷⁵ Ibid, 4.

⁷⁶ Garland, David. *Punishment and Modern Society: A Study in Social Theory*. New York: Oxford University Press, 1990.

granted to white laborers to drive a wedge between white and black labor. White Supremacist views, inculcated in late 17th century plantations, were carried forward through the signing of the Constitution, and past the Civil war, where white southerners passed police laws to control freed Blacks and ensure the preservation of a Southern race caste system. These policies were extended in a post-Civil Rights era by conservatives who advocated for the passage of expansive punitive policies to continue to preserve the current American racial order.

Wacquant and Alexander each argue that the expansion of punitive institutions is a function of ideological structures which require the expansion of a coercive apparatus. Wacquant's argument is positioned such that causality originates with the reactions of a bureaucratic state to political processes that emerge in a general public, while Alexander attributes causality to a system of racial oppression – mass incarceration in Alexander's telling is the means through which White Supremacy perpetuates itself.

There are many examples of structural accounts that are specifically related to my dependent variable. One theory argues that policing consolidated in response to the interaction between class interests and growing disorder. This account holds that riots in the mid-19th century began to target property rather than symbolic buildings or people (such as theaters with British actors, abolitionists, or Catholic abbeys). In response, elites in urban cities, who had previously been unaffected by riots, were targeted, and demanded a response from urban administrations. A second version of this theory argues that it was not disorder from riots that drove the creation of the police but was instead the

perception of disorder embodied by the arrival of immigrants and the growing number of urban poor that incentivized elites to create new police forces.⁷⁷

These theories have also been scrutinized for their empirical accuracy. While some police departments were formed immediately after a riot, most were not, and while police did have riot control and social control functions, that does not mean that these institutions were formed specifically for that purpose.⁷⁸ Police departments were not created all at once in a burst of administrative change, instead some early cities created police forces and then were imitated by other cities who innovated on the original design in a process of diffusion.

Critical race theorists have claimed that American policing developed from slave patrols as a White Supremacist society sought updated means of oppressing non-White Americans⁷⁹ and Marxists have claimed that police forces were developed by capitalists to suppress labor activists and serve as an “instrument of ruling class domination.”⁸⁰ Although both theories describe phenomena that did happen some of the time, they are wrong in the main.

While slave patrols were an early institution that emphasized racialized social repression, they did not exist in northern states in the decades before the innovation of

⁷⁷ Allan Silver, “The Demand for Order in Civil Society: A Review of Some Themes in the History of Urban Crime, Police, and Riot,” in *Theories and Origins of the Modern Police*, 1st ed. (London: Routledge, 2011).

⁷⁸ Monkkonen, 52.

⁷⁹ Marlese Durr, “What Is the Difference between Slave Patrols and Modern Day Policing? Institutional Violence in a Community of Color,” *Critical Sociology* 41, no. 6 (September 1, 2015): 873–79, <https://doi.org/10.1177/0896920515594766>. See also, K.B. Turner, David Giacomassi, and Margaret Vandiver, “Ignoring the Past: Coverage of Slavery and Slave Patrols in Criminal Justice Texts,” *Journal of Criminal Justice Education* 17, no. 1 (2006).

⁸⁰ Sidney L. Harring, *Policing a Class Society: The Experience of American Cities, 1865-1915* (Rutgers University Press, 1983).

America's first police departments despite those states adhering to norms of anti-Black racism and passing anti-Black laws, as will be discussed in the following chapter.

Similarly, while union-busting was a function of police departments in industrializing cities in the late-19th century, that does not mean that all or most police departments were created for that purpose. Moreover, the industrialization that occurred in the late-19th century did not precede the formation of the first police forces nor its spread to other states, at best Marxism serves as a framework for what elites conceive of as disorder when forming police departments, but there is little evidence that anti-unionism per se was a motivation for police department formation in any but a few cases, and the studies that examine this topic suggest that both local and federal responses to union activism relied on private detective organizations such as the Pinkertons, rather than the formation of local police departments, precisely because of the absence of capitalist control over local government.⁸¹

In short, structural theories of the formation of criminal justice apparatuses suffer from two flaws. First, because the ideological features they consider are imbued within the societies that they attempt to describe, evidence in support of these theories ends up taking on an axiomatic quality: the motivations of supporters of police departments usually had something to do with race or capitalism because those people lived in a racist, capitalist society, but that does not mean that racism or capitalism per se caused these policies to be adopted. Second, evidence in support of these theories often takes the form

⁸¹ Bruce C. Johnson, "Taking Care of Labor: The Police in American Politics," *Theory and Society* 3, no. 1 (1976): 89–117., see also Steven Spitzer and Andrew T. Scull, "Privatization and Capitalist Development: The Case of the Private Police," *Social Problems* 25, no. 1 (October 1, 1977): 18–29, <https://doi.org/10.2307/800464>.

of an analysis of how an institution was used after it was created. An expanded federal criminal justice apparatus that is used to suppress Black citizens is presumed to have been created to suppress Black Americans. Police departments which were used to suppress immigrant communities in the 19th century are presumed to have been created to suppress immigrants. This conflates the use of an institution with the purpose for its creation. It could be, in both cases, that as institutions were created to protect groups from non-state violence or exploitation, ethnonationalist actors co-opted those institutions to recreate the social order they desired.

Applied to the theory advanced in this dissertation, these explanations suggest that ideology should supersede other factors in informing whether and how states respond to violence. These theories also specify the form that response to violence should take: neoliberal and ethnonationalist actors should demand increased law enforcement capacity in order to maintain white or bourgeoisie dominance.

Structural accounts keep their units of analysis at a high level of abstraction. Mid-range theories, like the one developed in this dissertation, describe specific causal processes which mediate the broad trends described by structural accounts. Two of these explanations in particular have salience for the theory advanced in my dissertation.

Electoral Incentives

The most substantial treatment of state response and non-response to mob violence to date is Steve Wilkinson's *Votes and Violence* which argues that state response to violence is a function of government reliance on an ethnic minority as part of its political coalition. Wilkinson's argument is concise: factors that increase the importance

of an ethnic minority to a political coalition will purchase that minority group protection. During elections, parties may rely on interethnic violence to intensify antiminority sentiments and strengthen their electoral returns. As a consequence, Wilkinson argues, the importance of an ethnic group to a political coalition has significant explanatory power for whether the state responds to mob violence.⁸²

Wilkinson's insight is supported by a rich literature on elections and ethnicity, which suggest that elections can precipitate ethnic violence in democratizing countries because of the uncertainties that elections introduce to political coalitions,⁸³ ethnic mobilization is a function of access to government resources,⁸⁴ and that electoral defeats create incentives for ethnic violence.⁸⁵ Unlike ecological theories of ethnic violence which suggest that population balance intrinsically threatens violence,⁸⁶ these theories demonstrate how elections mediate conflict between ethnic groups.

These explanations struggle to explain state response to mob violence in several contexts. First, although the importance of minority groups to political campaigns likely increases the propensity of party elites to expand protections to minority groups in general, it does not when party elites suffer internally from courting minority votes.

⁸² Steven I. Wilkinson, *Votes and Violence: Electoral Competition and Ethnic Riots in India* (Cambridge ; New York: Cambridge University Press, 2006).

⁸³ Paul Collier, *Wars, Guns, and Votes: Democracy in Dangerous Places*, Reprint edition (HarperCollins e-books, 2009). Lars-Erik Cederman, Kristian Skrede Gleditsch, and Simon Hug, "Elections and Ethnic Civil War," *Comparative Political Studies* 46, no. 3 (March 1, 2013): 387–417, <https://doi.org/10.1177/0010414012453697>.

⁸⁴ Jóhanna Kristín Birnir, *Ethnicity and Electoral Politics*, Illustrated edition (Cambridge: Cambridge University Press, 2009).

⁸⁵ Lars-Erik Cederman, Kristian Skrede Gleditsch, and Simon Hug, "Elections and Ethnic Civil War," *Comparative Political Studies* 46, no. 3 (March 1, 2013): 387–417, <https://doi.org/10.1177/0010414012453697>.

⁸⁶ Seymour Spilerman, "The Causes of Racial Disturbances: Tests of an Explanation," *American Sociological Review* 36, no. 3 (1971): 427–42, <https://doi.org/10.2307/2093083>.

Several decades of research suggest that candidate nomination and selection processes create divergent party platforms. Parties do not compete for a universal median voter.⁸⁷ If a political party's coalition is rooted in the exclusion of a minority group, they will not be included in majority party platform and will not benefit from political protection.

Wilkerson's argument assumes coalition flexibility which may not exist in ethnonationalist jurisdictions.

Second, most jurisdictions respond to most mob violence even when there are no elections, and the victims of violence are deeply unpopular. The electoral incentives argument lacks a theoretical explanation for the normative preference for non-violence which informs most responses to mob violence. Although we may be interested in the cases where that response does not happen, the logic of the electoral incentive theory is incomplete on its own.

Applied to this theory, the **electoral incentives** explanation suggests that as ethnic minority vote share increases, state incentive to respond to violence against that minority should correspondingly increase. This creates an easily testable hypothesis: **response to violence** against a given minority group should increase in proportion to the importance of that minority groups to political coalitions within a given government.

⁸⁷ Morris P. Fiorina, "Whatever Happened to the Median Voter?" (MIT Conference on Parties and Congress, Cambridge, 1999); John H. Aldrich and Michael D. McGinnis, "A Model of Party Constraints on Optimal Candidate Positions," *Mathematical and Computer Modelling* 12, no. 4 (January 1, 1989): 437–50, [https://doi.org/10.1016/0895-7177\(89\)90415-9](https://doi.org/10.1016/0895-7177(89)90415-9); Wayne L. Francis et al., "Retrospective Voting and Political Mobility," *American Journal of Political Science* 38, no. 4 (1994): 999–1024, <https://doi.org/10.2307/2111730>.

Summary

I have described two classes of competing explanation for state response to mob violence: structural explanations argue that states do or do not respond to disorder because of racial ideology or class competition and electoral explanations which hold that states respond to violence against ethnic groups the more important those ethnic groups are to state and federal political coalitions. In some chapters, I describe additional explanations that are highly specific to the particular era of mob violence which is being considered. In the next chapter, I describe the case selection and methodology used to support my test and support my theory.

CHAPTER 3 – Research Design

The unit of analysis considered in this dissertation is an **instance of collective violence**, and the dependent variable is **state response to collective violence**. I test my theory inside the United States and consider instances of collective violence, perpetrated by white mobs, from the 1830s through the 1960s. These constraints were selected for both pragmatic and theoretical reasons. Pragmatically, the 1830s were characterized by extensive mob violence and the secondary literature on municipal reactions to mob violence in America is comparatively richer in the 1830s than in prior decades. Although municipal consolidation occurred throughout early American history, its speed increased at the end of the 1830s, increasing the interesting variation on my dependent variable from that point forward.

Theoretically, I anticipate little variation in my independent and dependent variables by the end of the civil rights era. This was borne out in practice. There were few instances of collective violence for which there was truly no state response after 1963. Additionally, America's role in the international community and the civil rights movement's successes allowed the federal government to exert additional control over obstinate Southern states and limited the capacity of local jurisdictions to benefit from non-state violence. In short, after the civil rights era, the returns to violence were usually low, and the salience of legitimacy was usually high. Absent variation on either my independent or dependent variable beyond 1960, my theory no longer held explanatory

value or merited testing. The nexus of incentives which inform response to white mobs during this period differs from the incentives to respond to non-white mobs.

This dissertation focuses on instances of collective violence rooted in racial or ethnic animus. Early research revealed that including cases which considered other forms of collective violence, such as anti-labor mobs or anti-gambling mobs, added empirical richness, but were increasingly irrelevant as my theory developed. Consequently, mobs unrelated to ethnic violence were excluded from the final version of this dissertation.

Methodology

I rely on case studies for theory exploration and testing. I seek to develop a theoretical explanation for state response to collective violence. Although theory building can be conducted through large *n* techniques,⁸⁸ there is a dearth of quality data on collective violence, requiring significant novel data-collection to facilitate quantitative analysis.

Absent alternatives, I turn to case-studies. Fortunately, case-study research is well-suited to this task. Case studies fulfill three purposes in this dissertation. First, case studies following a “method-of-difference” logic are used in exploratory chapters to reveal flaws in existing theoretical explanations for response to mob violence, which posits that ideology informs state response.⁸⁹ These cases are then repurposed as

⁸⁸ Jason Seawright and John Gerring, “Case Selection Techniques in Case Study Research: A Menu of Qualitative and Quantitative Options,” *Political Research Quarterly* 61, no. 2 (June 1, 2008): 294–308, <https://doi.org/10.1177/1065912907313077>.

⁸⁹ Stephen van Evera, *Guide to Methods for Students of Political Science* (Ithaca, NY: Cornell University Press, 1997), 57.

“deviant” cases – cases that are poorly explained by existing theories – which can reveal the unobserved variables which may be driving unusual results.⁹⁰

Finally, additional cases are added in the exploratory phase to create a diverse case study – a study which includes at least one case for each combination of values for the initial theory tested in the exploratory phase. These cases help determine the representativeness and scope of the theory and provide opportunities to disprove or refine its predictions.⁹¹

Although this dissertation’s primary goal is theory development, it also includes analysis of cases intended to test the hypotheses it generates. I perform my analysis of the revised theory through a diverse case study of newly selected cases. Using case studies to test theory can reduce the representativeness of a theory test’s findings. A small number of cases may have very high or very low values for an unobserved variable, which could bias the study’s findings. Omitted variable bias is a problem in most non-experimental research designs, as large n approaches are just as likely (arguably, more likely) as small

⁹⁰ Stephen van Evera, *Guide to Methods for Students of Political Science* (Ithaca, NY: Cornell University Press, 1997), 22 – 24. Jason Seawright and John Gerring, “Case Selection Techniques in Case Study Research: A Menu of Qualitative and Quantitative Options,” *Political Research Quarterly* 61, no. 2 (June 1, 2008): 294–308, <https://doi.org/10.1177/1065912907313077>; Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences*, Illustrated edition (Cambridge, Mass: The MIT Press, 2005); Harry Eckstein, “Case Study and Theory in Political Science,” in *Case Study Method: Key Issues, Key Texts* (Sage Publications, 2000); John Gerring, “Is There a (Viable) Crucial-Case Method?,” *Comparative Political Studies* 40, no. 3 (March 1, 2007): 231–53, <https://doi.org/10.1177/0010414006290784>.

⁹¹ Stephen van Evera, *Guide to Methods for Students of Political Science* (Ithaca, NY: Cornell University Press, 1997), 22 – 24. Jason Seawright and John Gerring, “Case Selection Techniques in Case Study Research: A Menu of Qualitative and Quantitative Options,” *Political Research Quarterly* 61, no. 2 (June 1, 2008): 294–308, <https://doi.org/10.1177/1065912907313077>; Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences*, Illustrated edition (Cambridge, Mass: The MIT Press, 2005); Harry Eckstein, “Case Study and Theory in Political Science,” in *Case Study Method: Key Issues, Key Texts* (Sage Publications, 2000); John Gerring, “Is There a (Viable) Crucial-Case Method?,” *Comparative Political Studies* 40, no. 3 (March 1, 2007): 231–53, <https://doi.org/10.1177/0010414006290784>.

n designs to identify a spurious relationship between variables.⁹² Additionally, the smaller the number of cases considered in an analysis, the less likely those cases are to represent the true distribution of average values among observed variables.

My dissertation attempts to ameliorate those problems by selecting cases that represent the full variation of values for my independent and dependent variables. By scoping the variables that I intend to test in the exploratory phase, I both gain additional observations which increase the confidence in my hypotheses' predictions, and also learn more about the underlying structure of the population, which further increases my confidence in the representativeness of the cases I select.

There can be no guarantee that the cases which I selected are truly representative of the variables of interest to my dissertation. However, by including an exploratory and testing phase in my research, I increase the opportunities to detect unobserved variables. Additionally, by including cases which include all levels of my independent variable, I decrease the likelihood that any specific instance of variable misspecification (and consequently, improper case selection) will bias my overall results.

Diverse case selection captures as much variation on the independent and dependent variables as possible and has a “stronger [claim] to representativeness than any other small- N sample...”⁹³ I make further efforts to establish representativeness by selecting multiple cases for combinations of independent and dependent variable that are

⁹² Jason Seawright and John Gerring, “Case Selection Techniques in Case Study Research: A Menu of Qualitative and Quantitative Options,” *Political Research Quarterly* 61, no. 2 (June 1, 2008): 294–308, <https://doi.org/10.1177/1065912907313077>, 299 – 302.

⁹³ *Ibid*, 301.

more common in the population – in the case of my theory, **ethnonationalist** local governments who tolerate mob violence when **returns to violence are high**.

Operationalization and Case Selection

I have three independent variables: **nationalism** at the local level, **returns to violence**, and **salience of legitimacy**. I treat all instances of collective violence as being essentially the same, even though in practice a riot and a mob may have very different causes, features, and courses. However, for the sake of theoretical parsimony and generalizability, I consider the varied manifestations of collective violence as one phenomenon. Similarly, although the behaviors that constitute state response to mob violence look very different in 1830 compared to 1960, I consider these behavior as belonging to the same class of phenomenon. To account for the conceptual stretching which my units of analysis undergo over time, I select cases that occur within four historical “eras,” which act as containers for collective violence and state similarity.

These eras serve four purposes: (1) they allow me to establish unit homogeneity for the instances of mob violence considered within each era,⁹⁴ (2) they increase the legibility of the process which I use to classify cases by level of variable (contrasting two instances of mob violence in 1830 poses fewer challenges for causal comparability than does contrasting an instance of mob violence in 1830 to a riot in 1960), (3) they provide variation for my **salience of legitimacy** variable, which has little within-era variation and

⁹⁴ John Gerring, *Case Study Research: Principles and Practices*, 2nd edition (New York: Cambridge University Press, 2007), 91 – 93.

which is tested by evaluating variation between eras,⁹⁵ and (4) by allowing me to present my theory as part of a historical narrative, which helps situate the theory's significance within the broader literature about the development of American political and social institutions.

The "eras" I select for consideration are:

1. 1834 – 1859: "Antebellum era"
2. 1865 – 1876: "Reconstruction era"
3. 1906 – 1919: "Post World War I era"
4. 1954 – 1957: "Early civil rights era"

Operationalization

Variety of nationalism is operationalized through evidence of an ethnicized legal, political, or social structure in a community. **Return to violence** is operationalized through a counterfactual for each case: did the perpetrators of violence believe that violence could be used to transform, or prevent the transformation of, an ethnic order in their communities. **Salience of legitimacy** is determined by whether the reputation of a state with external actors is important for the state's political aspirations. By extension, the scale of state aspirations, and their capacity to be influenced by state reputation, both have bearing on **salience of legitimacy**. Table 1 describes the observable implications which I use to score cases by the independent variables.

⁹⁵However, using eras as a general proxy for variables confronts serious issues with omitted variable bias. I address this concern through systematizing the implications of causal processes for each chapter (this is discussed in greater detail below).

Table 1 Observable implications of explanatory variables by era

| Variable | Observable implications | Implication observed? | | | |
|------------------------|--|-----------------------|----------------|----------------|------------------------|
| | | Antebellum | Reconstruction | Red summer | Early civil rights era |
| Ethnonationalism | <i>Punishment</i> : Variable punishment for crimes by race, racial discrepancy in discretionary enforcement of laws | Yes | Yes | Yes | Yes |
| | <i>Segregation</i> : Segregated facilities, services, and institutions, bans on interracial marriage, racialized housing laws | Varies by case | Yes | Varies by case | Varies by case |
| | <i>Civic segregation</i> : Proscriptions against voting, jury service, or civil service employment by race. | Varies by case | Yes | Varies by case | Varies by case |
| Returns to Violence | <i>Ethnic Power Balance</i> : Violence is justified by appeals to ethnic balance of power logic. | Varies by case | Yes | Varies by case | Yes |
| | <i>Coerce Rights</i> : Violence is used to coerce a group from enjoying a right, when other means of preventing that right do not exist (no legal means to prevent right). | Varies by case | Yes | Varies by case | Yes |
| Salience of Legitimacy | <i>Policy framework</i> : Decision makers discuss internal policymaking through the framework of external state/actor approval. | No | Yes | No | Yes |
| | <i>External competition</i> : States are competing with other actors to influence other party's behavior in a context where coercion is not reliable. | No | Yes | No | Yes |

Case Study Approach

In this section I describe the primary purpose of each case (theory development, theory refinement, or theory testing), as well as any secondary functions the cases were repurposed to serve as my dissertation evolved over time.

For each case, within each era, I use process tracing to test whether the processes that give rise to mob violence comported with the expectations generated by my theory. Process tracing is “the analysis of evidence on processes, sequences, and conjectures of events within a case for the purpose of either developing or testing hypotheses about

causal mechanisms that might causally explain the case.”⁹⁶ Applied to this dissertation, I deploy process tracing by describing the theoretical explanations that appear to have explanatory power for each case and identify processes that should occur if those theories are correct. When events occur that these theories fail to explain, I systematize the causes of those events as exogenous variables which are too complex or infrequent to be included into my theory, use them as evidence to reject my theory if they are incompatible with my theory’s expectations, or add them to the theory as objects for future testing and evaluation.

When the theoretical predictions I advanced were incorrect, I sought to identify alternative features which make response to mob violence more or less likely. Cases are presented as historical narratives which situate the instances of collective violence within each era within the social and political features of the geography and time period that characterize local variety of nationalism, returns to violence, and salience of legitimacy. This is a variation on “analytic explanation” style process tracing. I include more general historical narratives to address the most challenging aspect of this project: correctly categorizing observations by the levels of my three primary independent variables, all three of which are all subject to interpretation.⁹⁷

By considering several instances of mob violence within each case and each era, I help resolve issues with case categorization and unit interoperability. The nature of my theory creates challenges for ensuring that the levels of my independent variable combine

⁹⁶ Andrew Bennet and Jeffrey Checkel, *Process Tracing: From Metaphor to Analytic Tool* (Cambridge, UK: Cambridge University Press, 2015), 7.

⁹⁷ Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences*, Illustrated edition (Cambridge, Mass: The MIT Press, 2005), 166 – 168.

to influence response to collective violence uniformly across units and time.⁹⁸ At its heart, this is a challenge of clearly coding cases. This is often impossible as actors' ethnonationalist/civic nationalist affiliations are ambiguous. By analyzing variation in outcomes between cases and eras I achieve some resolution to this problem. Comparison to units within eras, and comparison to outcomes between eras allows me to consider nationalism, returns to violence, and legitimacy salience in terms of relativity, rather than through discrete categories or a specific continuous integer, which alleviates some categorization challenges. In the remainder of this chapter, I describe the specific cases that I select within each era and characterize the methodological contributions which those cases make.

Cases and their Contributions

In Chapter 4 and Chapter 5, I describe mob violence in the antebellum era. Chapter 4 describes collective violence related to abolitionism, while Chapter 5 describes collective violence which targeted Irish, Catholic, German, and Spanish ethnic minorities. I divided this era into two chapters to: (1) better account for the different factors that cause an anti-Irish mob and anti-abolitionist mob to occur, (2) improve the categorization of cities with ethnonationalist ideology which manifested as anti-Black racism as opposed to anti-Catholic or anti-Irish xenophobia, and (3) present a chronologically linear narrative for anti-abolitionist violence in Chapter 4.

⁹⁸ John Gerring, *Case Study Research: Principles and Practices*, 2nd edition (New York: Cambridge University Press, 2007), 202.

Chapter 4 and 5 function as “theory building” cases and are used to identify new variables which seem to have bearing on state response to mob violence. They are also used to scope the generalizability of ideological explanations for state response to mob violence and function as a method-of-difference test of a purely ideological explanation of state response to mob violence, where Charleston and New Orleans (ethnonationalist cities) are compared to Boston and New York City (civic nationalist cities). All four cities had important ports, and experienced similar patterns of rapid economic growth and expanding immigrant populations.

To improve the exploratory contribution of these cases, I later added a discussion of response to mob violence in Mississippi, which helps provide full coverage for all relevant combinations of values on the independent and dependent variables in my current theory. These cases revealed that two other factors seem to weigh on city response to mob violence: **legitimacy** and **returns to violence** – the theory detailed in Chapters 1 and 2 incorporates these variables. The specific contributions of each chapter are described in greater detail below.

Chapter 4 considers a string of mob violence related to abolitionism which began in New York in 1834, and which precipitated mob violence in 1835 throughout the South, including in Charleston, South Carolina, and in Hinds, Warren, and Madison County, Mississippi. These incidents in turn sparked additional riots in Boston. The diverse jurisdictions in which these cases occurred provide variation on local nationalism (civic: Boston and New York; ethnic: Charleston and Mississippi counties) and returns to violence (high return: Mississippi counties; low return: Charleston, Boston, New York),

but not in terms of salience of legitimacy, which remained constant throughout these cases.

In Chapter 5, I expand my analysis of antebellum mob violence to include instances of nativist mob violence. These instances pivot around two periods of nativism: one in the mid-1830s and another in the 1850s. Two mobs in Boston, and a mob in New York are considered during the former period, while two mobs in New Orleans are considered in the latter period. These cases also provide variation on local level of nationalism (civic nationalism: Boston 1834, Boston 1837, New York 1834; ethnic nationalism: New Orleans 1851, New Orleans 1854), and variation in return to violence (high return: Boston 1834 and New Orleans 1854), but not variation in salience of legitimacy with the exception of the New Orleans 1851 case, which is discussed in greater detail in case.

The most substantively important prediction made by my theory relates to the conditions in which expansions of state law enforcement capacity are most likely, as this outcome has bearing on contemporary policy related to mass incarceration, the militarization of the police, and the enforcement of civil rights policy during Reconstruction. My theory holds that when a local ethnonationalist jurisdiction has high returns to violence, they are likely to tolerate violence, and when the salience of legitimacy for a supralocal authority is high, it will respond to that violence by expanding the capacity of the state to suppress violence, or by degrading the autonomy of the local government to enforce the law itself.

To cover cases which have those combinations of variables in the theory development phase of my dissertation, I add two cases which occur in the Reconstruction era. These are covered in Chapter 6, which includes two mobs which occurred after the Civil War, one in New Orleans, and one in Memphis. Both mobs occurred in ethnonationalist local jurisdictions with high returns to violence and high salience of supralocal legitimacy. These cases were selected because they represent high salience of legitimacy, a feature unavailable for many cases in the 19th century. This case was selected after my old theory was rejected in order to provide the exploratory cases full range of variation on the independent variables that seemed to have bearing on response to mob violence. In the cases considered in Chapter 4 and Chapter 5 there were no instances of federal intervention, and so that form of response to mob violence is undetectable in the antebellum era.

The cases in this chapter both have high ethnonationalism and high returns to violence. During the early periods of Reconstruction, Democrats and Republicans competed over what America would look like after the Civil War, making the legitimacy of the South's nascent governments highly salient, despite America's international legitimacy being low in both cases. The breakdown of these cases by levels of my independent variable are illustrated in Table 2.

Table 2 Exploratory Cases by level of IV and DV

| | | Salience of Legitimacy | |
|--------------------|---------------------|--------------------------------|---|
| Local Jurisdiction | Returns to Violence | High | Low |
| Ethnonationalist | High | New Orleans 1866, Memphis 1866 | New Orleans 1854, Mississippi counties 1835 |
| | Low | New Orleans 1851 | Charleston 1835 |
| Civic nationalist | High | | Boston 1834, New York 1834 |
| | Low | | Boston 1837 |

Chapters 7 and 8 test the theory that was developed in Chapters 4, 5, and 6. Theory testing is conducted through selection of cases which include all combinations of my independent or dependent variable – replicating the representation of diverse combinations of my independent and dependent variables established in the theory exploration phase, but with new cases.

For the sake of presenting a historically linear narrative, I begin with a wave of mob violence which occurred in 1919. These mobs were characterized by the return of Black veterans to their hometowns after World War I, the Great Migration of Black Americans from the American South to Northern cities, and the origins of the legislative process which would eventually result in the expansion of federal law enforcement. The cases considered in Chapter 7 demonstrate variation in nationalism across cases (civic nationalism: Chicago 1919; ethnonationalism: Ellisville 1919, Omaha 1919). Variation in returns to violence across cases (low return: Chicago 1919, Omaha 1919; high return: Ellisville 1919), and low salience of international legitimacy across cases, this is

visualized in Table 3. This chapter provides coverage of cases which have low salience of legitimacy relative to the cases discussed in the subsequent chapter, as well as an investigation of response to violence in civic nationalist jurisdictions with high returns to violence.

Table 3 Red Summer Cases by level of IV and DV

| | | Salience of Legitimacy | |
|--------------------|---------------------|------------------------|-----------------|
| Local Jurisdiction | Returns to Violence | High | Low |
| Ethnonationalist | High | | Ellisville 1919 |
| | Low | | Omaha 1919 |
| Civic nationalist | High | | |
| | Low | | Chicago 1919 |

In Chapter 8, theory testing continues with a detailed exploration of cases in the early civil rights era. Chapter 8 covers a wave of mob violence which occurred after the 1954 *Brown v. Board of Education* court case. These cases occurred during an era of high salience of both international legitimacy, as white Southerners sought to preserve the South's political structure authoritarian enclave, which had existed since Reconstruction, under the scrutiny of an international press, which judged American race relations through the lens of the Cold War.

The mobs considered in this section include one in Tuscaloosa, Alabama (1955), one in Clinton, Tennessee (1956), and one in Little Rock, Arkansas (1957). They demonstrate variation in returns to violence (low: Clinton 1956; high: Tuscaloosa 1955,

Little Rock 1957), but not in terms of local ethnonationalism or salience of legitimacy.

See Table 4 for a breakdown of civil rights cases by level of variable.

Table 4 Civil Rights Era by Level of IV and DV

| Local Jurisdiction | Returns to Violence | Salience of Legitimacy | |
|--------------------|---------------------|-------------------------|-----|
| | | High | Low |
| Ethnonationalist | High | Tuscaloosa, Little Rock | |
| | Low | Clinton | |
| Civic nationalist | High | | |
| | Low | | |

In total, the cases used in the diverse case test represent at least one observation for each relevant combination of levels of my independent and dependent variables, as is illustrated in Table 5. As mentioned earlier, by including diverse cases which include as many combinations of my variable of interest and outcome variable as possible, I am able to maximize the representativeness of each causal pathway posited by my theory, which maximizes opportunity to disprove my theory's hypotheses. See Table 6 for a list of all cases considered in this dissertation.

Table 5 Diverse Test Cases by Level of IV

| Local Jurisdiction | Returns to Violence | Salience of Legitimacy | |
|--------------------|---------------------|-------------------------|-----------------|
| | | High | Low |
| Ethnonationalist | High | Tuscaloosa, Little Rock | Ellisville 1919 |
| | Low | Clinton | Omaha 1919 |
| Civic nationalist | High | | Chicago 1919 |
| | Low | | |

Table 6 List of Mobs by Variable

| Location | Year | Returns to Violence | Salience of Legitimacy | Variety of Nationalism |
|-------------|------|---------------------|------------------------|------------------------|
| Tuscaloosa | 1955 | High | High | Ethnonationalism |
| Little Rock | 1957 | High | High | Ethnonationalism |
| Clinton | 1956 | Low | High | Ethnonationalism |
| Ellisville | 1919 | High | Low | Ethnonationalism |
| Omaha | 1919 | Low | Low | Ethnonationalism |
| Chicago | 1919 | High | Low | Civic Nationalism |
| New Orleans | 1866 | High | High | Ethnonationalism |
| Memphis | 1866 | High | High | Ethnonationalism |
| New Orleans | 1854 | Low | Low | Ethnonationalism |
| Mississippi | 1835 | Low | Low | Ethnonationalism |
| New Orleans | 1851 | High | High | Ethnonationalism |
| Charleston | 1835 | High | High | Ethnonationalism |
| Boston | 1834 | Low | Low | Civic Nationalism |
| Boston | 1837 | Low | Low | Civic Nationalism |

Data

The evidence for these case studies is drawn from both primary and secondary sources. Primary sources include transcripts and meeting minutes from legislative

sessions at the city and state levels, the Congressional Record (as well as the Congressional Globe for years prior to 1873), local daily newspaper records whenever available but especially the *New York Times* for cases after the antebellum era, correspondence and journal entries whenever available, as well as government reports prepared for municipal, state, and federal governments related to mob violence and law enforcement.

More than any other source, I relied on secondary analyses of individual mobs and riots. This included books and articles which either surveyed a period of riots or analyzed individual riots. The staple of these resources were dissertations written by history PhDs, which provided detailed accounts of many riots which are otherwise ignored in the broader secondary literature. These dissertations were endlessly useful in providing depth of evidence regarding the micro-processes of mob violence when it was not possible to conduct archival research myself.

Various sources of quantitative data are considered in this dissertation, including statistical data from the U.S. Census Bureau, secondary datasets of riots and mob violence, and federal and municipal voting records. This data is used for illustrative and descriptive purposes in my dissertation. Although quantitative inference would undoubtedly be a valued contribution to this field, there is not, as of yet, a dataset of collective violence of sufficient quality to conduct the analysis which I seek to conduct in my dissertation using tools of statistical inference.

CHAPTER 4 – “Mobbing for Slavery” in the Antebellum Era

“In Europe, they *mob* for Freedom, in Washington for *slavery*.” Charles Sumner, 1841.

Why did some cities suppress mob violence in the antebellum era, while other tolerated it? This chapter was initially operationalized as a test of a strictly ideological theory: cities with ethnonationalist ideologies are more likely to tolerate mob violence than cities with civic nationalist ideologies. However, as my theory evolved these cases became exploratory cases which informed the formation of the full theory tested later in my dissertation.

The cases considered in this chapter are related to the mob violence which erupted before and after an abolitionist mailing campaign in 1835. In Boston and New York, weak government capacity prevented adequate response to mob violence, and city elites were partially paralyzed by ideological sympathy with mobsters. Neither city meaningfully changed its law enforcement apparatus in the aftermath of the riots; however, elites in both cities cited the violence as illegitimate. In contrast, in Mississippi, mob violence was not only tolerated by local authorities, but celebrated as an appropriate social response to the apparent threat of a slave rebellion. In Charleston, although authorities tolerated mobs, ethnonationalist leaders denounced the mob as a disproportionate response, suggesting that non-ideological variables influence response to mob violence.

In this chapter, region is used as a proxy for ethnonationalism. Slave-states are assumed to have ideologies which are more ethnonationalist than non-slave states, and specific transformations in city ideology which appear to inform how nationalist ideology functions are noted before each case. However, in testing this hypothesis, it became clear that revisions were needed to account for variation in city response to mob violence which was unexplained by ideology. Consequently, this chapter has two functions.

First, it serves as a method-of-difference test of a purely ideological explanation of returns to violence, see Figure 2.

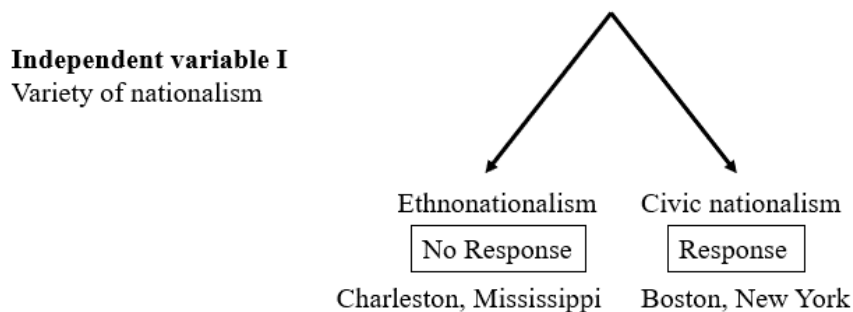


Figure 2 Expected Variable Map for Antebellum Era, Abolitionist Cases

Slavery's dominance was predicated on the use of violence to coerce its opponents into submission. In the South, where plantation punishment and slave patrols suppressed both real and imagined resistance to slavery, this story is familiar. In the North, too, violence was deployed to defend slavery, although the story of this violence is more obscure. As early as 1919, Adelaide Lyons observed that classic depictions of

Northern abolitionism required revisions to account for the tenacity of anti-abolitionists in Northern cities.⁹⁹ This topic was explored most expansively in Leonard Richard's *Gentlemen of Property and Standing*,¹⁰⁰ who highlights, among other things, the growing racism of anti-amalgamationists (opponents of race-mixing) among northerners who sought an end to slavery through colonization. This creates a further source of variation in the cases I consider. For each mob, in each city, I observe whether advocates of tolerating violence rely on an ethnonationalism or civic nationalism (or whether ideology appeared to be irrelevant) when justifying the toleration of mob violence.

Second, the cases in this chapter have an exploratory function for detecting alternative sources of mob violence. The causes of mob violence identified in this chapter (and the following two) are reflected in the final theory advanced in this dissertation.

In Mississippi and Charleston, ethnonationalist ideological commitments informed state toleration of violence. However, the elite response in Charleston revealed that **returns to violence** also influenced elite response to mob violence. The antebellum cases were selected to explore a theory of state response to collective violence with one ideological variable (nationalism). However, these cases revealed that relative **returns to violence** appear to influence the decision making of elites. **Returns to violence** is not operationalized as a formal variable in these cases, and references to its values in this chapter refer to the relative ordering of antebellum cases, rather than any cardinal costs of violence.

⁹⁹ Lyons Adelaide Avery, *Religious Defense of Slavery in the North* (Durham: Duke University Press, 1919).

¹⁰⁰ Leonard L. Richards, *Gentlemen of Property and Standing: Anti-Abolition Mobs in Jacksonian America*, First Edition (New York: Oxford University Press, 1970).

The Charleston and Mississippi cases provide disconfirming evidence for neo-liberal explanations of mob violence. Both cases centered on governments with similar agricultural class interests, but these similarities yielded very different responses to mob violence between jurisdiction, suggesting that a strictly neo-liberal explanation for response to violence also lacks explanatory power.

The electoral incentives literature is marginally relevant to these cases, but they do suggest that it is an insufficient sole predictor of state response to violence. Black constituents had little to no power in either Northern or Southern cities, and yet violence was not uniformly tolerated among the jurisdictions considered in this chapter, nor was there evidence that electoral calculations informed toleration of violence in the subsequent discussion of the riot.

I argue that the illegitimacy of violence helps explain the variation in reaction to violence among ethnonationalist cities. All violence has some reputational costs which motivate city authorities to respond, even if the victims of violence are not considered deserving of rights. In the following cases this dynamic is only tertiarily visible because of the low city capacity to respond, but in the newspaper editorializing and elite speechmaking which accompanied the riots, there is evidence of ideological commitment to a political system which does not tolerate violence.

In the next section, I justify categorizing southern cities as ethnonationalist and northern cities as civic nationalist in the antebellum era.

Slavery, Race, and Sectionalism

A facially reasonable scheme for categorizing jurisdiction by racial ideology would be to ask whether a given jurisdiction believes in enslaving people on the basis of their race, and if one or more jurisdictions does, they can be categorized as holding a more ethnonationalist scheme for government than alternative governments. This categorization scheme; however, would strip some useful nuance from our understanding of the relationship between racial ideology and policy in the mid-nineteenth century. It is often forgotten that as late as 1832, states throughout the South were actively considering schemes to gradually emancipate slaves.

When the Commonwealth of Virginia debated such a measure in 1831 and 1832, Thomas Dew published a review of the themes considered before the legislature. This review took the form of a short book which summarized his views on why gradual emancipation should be rejected. Dew's book was positively received throughout the South and its arguments echoed through Southern writing and thinking about slavery for the next 30 years.

Dew's position was novel. He argued that slaves were "not only economically but morally unfit for freedom."¹⁰¹ He claimed that: (1) all schemes of freeing slaves were impractical and would "increase all the evils of which we complain," principally the high costs of colonizing Africa; (2) Black people when freed were "devoid of judgment and good management" and societies of free Black people were marked by "the principle of

¹⁰¹ Thomas Dew, *Review of the Debate in the Virginia Legislature of 1831 and 1832* (Richmond: T.W. White, 1832), 95.

idleness and dissipation;” and (3) that freedom would always be illusory for slaves, who would inevitably be ruled by intrinsically superior whites.¹⁰²

Critically, he also argued that slavery itself was a boon to social-order and civilizational progress. He claimed that slavery resolved intergroup tensions by quelling the migration of people, thereby reducing war. It would also transform the weak character of uncivilized people, preparing them for entry into civilized society, “There is nothing but slavery that can destroy those habits of indolence... he may truly be compared to the wild beast of the forest – he must be broke and tamed before he becomes fit for labor and for the task of rearing and providing for a family. There is nothing but slavery which can effect this – the means may appear exceedingly harsh and cruel – and, as among wild beasts many may die... but in the end, it leads on to a milder and infinitely better condition than that of savage independence.”¹⁰³

Finally, Dew pitched for slavery in cold, realist terms, “Who would tamely look on and see their wives, mothers, brothers, and sisters, ignominiously enslaved, and not resent the insult. What then, will be done? Why, they will be certain to enslave too.” This was a race war, in Dew’s telling, and whites had the upper hand, “The history of the world has too conclusively shown, that two different races, can never harmonize upon a footing of equality. One must rule the other, or exterminating wars must be waged.”¹⁰⁴

In short, Dew was claiming that the perpetual subjugation of one racial group by another was desirable. This was a marked departure from contemporary thinking on the

¹⁰² Ibid, 8, 92-97.

¹⁰³ Ibid, 28 – 30.

¹⁰⁴ Ibid, 82.

subject of slavery in 1832, although his arguments reflected the changing status of slavery in American society.

Only Quakers seriously opposed slavery during the American Revolution. It was not until 1762 that the first radical anti-slavery tracts were published in Europe.¹⁰⁵ In America, Enlightenment values and protestant evangelism combined to create an expanded basis for religious anti-slavery activism, as preachers such as John Wesley claimed that all slaveholders and slave merchants would be judged in hell for their sins, but this was the minority view.¹⁰⁶

In the 18th century, Americans accepted that slavery was a brutal but necessary evil. Americans compared their colonial status in the British Empire to the condition of slavery, “The Question is of no less Magnitude than whether we shall continue to enjoy the privileges of Men and *Britons*, or whether we shall be reduced to a State of the most abject Slavery,” claimed William Tennent, a preacher addressing the citizens of Charleston.¹⁰⁷ John Dickinson, the author of “Letters from a Farmer” expressed his opposition to taxation without representation in just such terms, “*Those who are taxed without their own consent expressed by themselves or their representatives are slaves. We are taxed without our consent expressed by ourselves or our representatives. We are therefore – SLAVES.*”¹⁰⁸

¹⁰⁵ David Brion Davis, “New Sidelights on Early Antislavery Radicalism,” *The William and Mary Quarterly* 28, no. 4 (1971): 585–94, <https://doi.org/10.2307/1922188>.

¹⁰⁶ Davis, *The Problem of Slavery*, 47.

¹⁰⁷ William Tennent, 1774. Quoted in, Kenneth S. Greenberg, “Revolutionary Ideology and the Proslavery Argument: The Abolition of Slavery in Antebellum South Carolina,” *The Journal of Southern History* 42, no. 3 (1976): 365–84, <https://doi.org/10.2307/2207157>, 366.

¹⁰⁸ Dickinson, 1768. Quoted in Bernard Bailyn, *The Ideological Origins of the American Revolution*, Enlarged edition (Cambridge, Mass: Belknap Press, 1992), 233.

Revolutionaries who used “slavery” in this way inevitably considered the condition of the chattel-slaves who lived among them.¹⁰⁹ In 1774, before the issue had ossified into sectional conflict, all Americans understood that slavery was a brutal and unfair institution, but it was also so integrated in some parts of colonial life, that its dismantling was difficult to imagine. Jefferson, who was far from an abolitionist, declared that “the rights of human nature [are] deeply wounded by this infamous practice... the abolition of domestic slavery is the great object of desire in those colonies where it was unhappily introduced in their infant state.”¹¹⁰ Jefferson was not the only southerner to mount this complaint. There were more anti-slavery organizations in the South than in the North at the turn of the century.¹¹¹

But by the time Dew was writing, things had changed. Slavery had become a sectional issue with geographic characteristics, and its defenders were given renewed incentive to demand its preservation. This change was caused by several factors.

In the 18th century, slaves existed within a continuum of servitude which included apprentices and indentured servants. Benjamin Franklin estimated that in 1759, most of the labor in the middle colonies was performed by white indentured servants, many of whom were sold in markets upon arriving in Philadelphia. Tenants, who comprised a significant portion of “free” laborers in the colonies, were dependent upon the will of their landlords.¹¹² However, the revolutionary critique of patriarchal monarchy rendered

¹⁰⁹ Bailyn, *The Ideological Origins of the American Revolution*, 236 – 271.

¹¹⁰ Jefferson, 1774. Quoted in Bailyn, *The Ideological Origins of the American Revolution*, 237.

¹¹¹ Gordon S. Wood, *Empire of Liberty: A History of the Early Republic, 1789-1815*, Reprint edition (Oxford: Oxford University Press, 2011), 269.

¹¹² Gordon S. Wood, *The Radicalism of the American Revolution*, Reprint edition (New York: Vintage, 1993), 43 – 57.

all other forms of dependency suspect. In 1775, 40 – 50 percent of Philadelphia’s labor force was unfree, by 1800, that figure had dropped to fewer than two percent.¹¹³

The revolution produced a huge increase in anti-slavery tracts among Americans who grasped the irony of launching a violent revolution against unjust domination while simultaneously buying and selling human beings. Patrick Henry, of “Give me liberty, or give me death!” fame, reflected on this situation, “Would anyone believe that I am master of Slave[s] of my own purchase: I am drawn along by the general inconvenience of living without them, I will not, I cannot justify it.”¹¹⁴ This ideological contradiction led to changes in policy, which were justified in state legislatures. In Pennsylvania, Massachusetts, Connecticut, Rhode Island, and finally New York, plans for the gradual emancipation of slaves were passed between the end of the revolution and 1799.¹¹⁵

While these changes were significant for the slaves who lived in New England, the bulk of the nation’s slaves were toiling in the Chesapeake and the Lowcountry, where a different economic transformation was underway. The tobacco-dominated economy of Chesapeake colonies was collapsing, and commodity producers were transferring their land to produce more economically differentiated goods, which required fewer slaves. From 1790 – 1810 between 75,000 and 115,000 slaves left the mid-Atlantic as the ailing tobacco economy forced planters to diversify their crops.¹¹⁶ The slaves that left northern

¹¹³ Ibid, 169 – 189.

¹¹⁴ Patrick Henry. Quoted in, Robert Pierce Forbes, “Slavery and the Meaning of America, 1819-1837. (Volumes I and II)” (Ph.D., United States -- Connecticut, Yale University, 1994), 27, on the increase in production of anti-slavery tracts, 23 – 31.

¹¹⁵ Forbes, “Slavery and the Meaning of America, 1819-1837. (Volumes I and II),” 34 – 37.

¹¹⁶ Joyce E. Chaplin, “Creating a Cotton South in Georgia and South Carolina, 1760-1815,” *The Journal of Southern History* 57, no. 2 (1991): 171–200, <https://doi.org/10.2307/2210413>.

Virginia, Maryland, and Baltimore were sold to South Carolina, Georgia, and the Piedmont region of Virginia, where the cotton gin had removed the non-labor limiting factors in cotton production. Between 1760 and 1810, the proportion of slaves in South Carolina increased by 500 percent.

These changes deepened the commitments of southern states to slavery in more ways than one. Intuitively, they created economic incentives to maintain slavery. From 1795-1805 there was a 3000% increase in cotton exports.¹¹⁷ Additionally, they altered the demographic balance of southern states so that emancipation would result in freed Black slaves being the ethnic majority in many areas throughout the South. Anti-Black attitudes among southern whites made the prospect of living as an ethnic minority in a majority Black state extremely unpopular. These attitudes were intensified by the Haitian Revolution, which began in 1791 and ended in 1804, as well as two stifled attempts at slave rebellion launched in Virginia in 1800 and 1802, which led to intense fear among southern slaveowners that the infusion of slaves being sold south could lead to a slave rebellion in their territories, with a similar outcome as the one in Haiti.¹¹⁸

The South's hardening pro-slavery attitudes were balanced by growing anti-slavery attitudes in the North, giving the issue a regional character it had lacked in previous decades. During the Constitutional Convention, fierce debates over slavery erupted among southern and northern delegates. These debates emerged again when

¹¹⁷ Wood, *Empire of Liberty*, 528. Susan Wyly-Jones, "The Antiabolitionist Panic: Slavery, Abolition, and Politics in the United States South, 1835--1844" (Ph.D., United States -- Massachusetts, Harvard University, 2000), 5 – 7.

¹¹⁸ Douglas R. Egerton, "'Fly across the River': The Easter Slave Conspiracy of 1802," *The North Carolina Historical Review* 68, no. 2 (1991): 87–110. David P. Geggus, *The Impact of the Haitian Revolution in the Atlantic World* (Univ of South Carolina Press, 2020).

Missouri entered the union in 1819. James Tallmadge's anti-slavery amendment passed in the House and failed in the Senate. In both chambers, the South voted unanimously in opposition.¹¹⁹

Southerners had been shocked at the degree of northern consensus against slavery during the debate on the Tallmadge amendment. In response, they developed a fierce commitment to state's rights, which provided an ideological justification to reject northern abolitionism. In response to one abolitionists appeals to morality during the Missouri Compromise debate in 1819, Georgia governor George Troup said, "if this matter be an evil, it is our own."¹²⁰

Southerners began to produce new justifications for slavery that would move the issue beyond the pale of compromise. If northern abolitionists were publicly denouncing slavery, southern whites would need to publicly praise it, not sheepishly defend it on the grounds of convenience.¹²¹

By the turn of the nineteenth century, ethnonationalist justifications for slavery had a popularity and resonance in Southern states which that did not exist in Northern states, despite both regions sharing the same racial prejudice against Black Americans. Although racial discrimination was common in both the North and the South, the South had distinct cause to internalize those racial biases into a system of government, and the North did not.

¹¹⁹ Susan Wyly-Jones, "The Antiabolitionist Panic: Slavery, Abolition, and Politics in the United States South, 1835--1844" (Ph.D., United States -- Massachusetts, Harvard University, 2000), 95 – 97, 28.

¹²⁰ Wyly-Jones, "The Antiabolitionist Panic," 28 – 29, 38.

¹²¹ Davis, *The Problem of Slavery*, 34. Wyly-Jones, "The Antiabolitionist Panic," 32 – 35.

The 1820s saw an increase in anti-abolitionist polemic throughout the South, but after the Nat Turner rebellion in 1831, tolerance for moderation began to slip from slaveholder rhetoric in the Deep South. The contrasting intensity of commitment to slavery in the South can be illustrated by the different reactions to the Nat Turner rebellion in the Deep South and in the mid-South. In Virginia, it sparked a debate about the long-term viability of slavery as an institution, while in South Carolina and Georgia, it encouraged the suppression of any actions that could justify slave uprisings.¹²²

So, when Dew wrote his defense of race-based slavery on the grounds that it was desirable, rather than just necessary, his new reasoning reflected the political situation of the South in 1831. It showed the views of conservative southerners seeking to head-off colonization schemes and other attempts to dismantle slavery as a necessary evil, and began to promote slavery as a positive good, not despite its racially repressive function, but because of it.¹²³ Over the next decade, abolitionists would also reject colonization as a scheme that denied Black Americans the right to full political participation.

For this reason, although northern and southern states shared racial prejudice, I code southern cases as ethnonationalist, and northern cases as nationalist, on the grounds that race-based political ideology was far more accepted and important in the South than in the North.

¹²² Wyly-Jones, "The Antiabolitionist Panic," 36 – 43.

¹²³ Ibid, 44 – 45.

Jacksonian Mobbing– A brief introduction

The following section provides a brief introduction to mob violence in the 1830s. A review of *Niles' Weekly Register*, a newspaper which was widely read in the 1830s, showed that there were 7 incidents of mob violence reported from 1812-1819, and 115 from 1830-1839. Nearly all of the mobs in the 1830s were pre-planned actions carried out for some explicit purpose - usually to intimidate and silence abolitionist political figures.¹²⁴ This violence was decried by contemporaries. John Quincy Adams wrote, "My hopes of the long continuance of this Union are extinct. The people must go the way of all the world, and split up into an uncertain number of rival communities..."¹²⁵ While Hezekiah Niles wrote, "Does it not appear that the character of our people has suffered a considerable change for the worse... that a spirit of *force*, in certain cases, has begotten it in others. The saying of the sage, that 'truth is a victor without violence,' is passing into disrepute."¹²⁶

Similar sentiments would have sounded strange fifty years earlier. The use of a vigilant and armed public to enforce the law in 18th century America reflected the social disposition of the revolutionary period – trusting of the good impulses of public rule and averse to the accoutrements of state power, in particular uniformed police officers who acted as formal representatives of the state.¹²⁷ The 18th century mob was more likely to be

¹²⁴ Leonard L. Richards, *Gentlemen of Property and Standing: Anti-Abolition Mobs in Jacksonian America*, First Edition (New York: Oxford University Press, 1970)., 10.

¹²⁵ John Quincy Adams, 1834. Quoted in Carl E. Prince, "The Great 'Riot Year': Jacksonian Democracy and Patterns of Violence in 1834," *Journal of the Early Republic* 5, no. 1 (1985): 1–19, <https://doi.org/10.2307/3122502>, 3.

¹²⁶ Hezekiah Niles, 1834. Quoted in Prince, "The Great 'Riot Year,'" 3 – 4.

¹²⁷ Lawrence M. Friedman, *Crime And Punishment In American History* (New York, NY: Basic Books, 1994), 86.

viewed as a means to deliver an official demand or to enforce a law which could not be enforced using the formal tools of the state.¹²⁸ Many of the American Revolutions' most iconic moments are given titles which euphemize what they were, mob violence: the Boston Tea Party, the Boston Massacre, the tarring and feathering of tax collectors attempting to enforce the Townshend Act and the Stamp Act, would all be seen as mobs today, rather than legitimate expressions of popular grievance.¹²⁹

During the revolutionary period English authority was concentrated in the centralized apparatus of the monarchy and conceived of no formal means for lower-class political participation. Consequentially, mobs and riots were understood to be a legitimate expression of grievance, so long as they operated within certain bounds.¹³⁰ However, post-revolution, America envisioned a process for political participation, and the riot as an expression of public sentiment, lost legitimacy.¹³¹

This change produced a marked decrease in instances of mob violence until the 1830s, when demographic and political transformations produced the waves of violence this chapter chronicles. First, an increase in Irish, German, and Catholic immigrants led

¹²⁸ Pauline Maier, "Popular Uprisings and Civil Authority in Eighteenth-Century America," *The William and Mary Quarterly* 27, no. 1 (1970): 4–35, <https://doi.org/10.2307/1923837>; David Grimsted, "Rioting in Its Jacksonian Setting," *The American Historical Review* 77, no. 2 (1972): 361–97, <https://doi.org/10.2307/1868697>; Gordon S. Wood, "A Note on Mobs in the American Revolution," *The William and Mary Quarterly* 23, no. 4 (1966): 635–42, <https://doi.org/10.2307/1919130>.

¹²⁹ Gordon S. Wood, "A Note on Mobs in the American Revolution," *The William and Mary Quarterly* 23, no. 4 (1966): 635–42, <https://doi.org/10.2307/1919130>.

¹³⁰ Pauline Maier, "The Road Not Taken: Nullification, John C. Calhoun, and the Revolutionary Tradition in South Carolina," *The South Carolina Historical Magazine* 82, no. 1 (1981): 1–19, David Grimsted, "Rioting in Its Jacksonian Setting," *The American Historical Review* 77, no. 2 (1972): 361–97, <https://doi.org/10.2307/1868697>.

¹³¹ David Grimsted, "Rioting in Its Jacksonian Setting," *The American Historical Review* 77, no. 2 (1972): 361–97, <https://doi.org/10.2307/1868697>.

to clashes between the predominantly Protestant Americans who had immigrated previously and the non-Protestant newcomers. Second, the growth of partisan apparatuses capable of mobilizing ethnic groups provided an intuitive venue for conflict: elections. Democrats and Whigs in New York City, Boston, and Philadelphia would turnout crowds of voters at poll booths or for parades. Violence often developed when two groups from different camps encountered each other, and they often did.¹³²

Mob violence also increased in response to the growing abolitionist movement. Anti-Black and anti-Catholic riots smashed large sections of Philadelphia, Baltimore, New York, Cincinnati, and St. Louis. Abolitionism was both threatening to the South's socio-economic system and intensely unpopular among northerners who viewed it as a threat to the preservation of the Union.¹³³

New York – Background

I classify New York City as having a civic nationalist government (at least relative to Southern cities) and consider a period of rioting which occurred in the city in 1834. Functioning as an exploratory case, the response to mob violence in New York City provides an opportunity to identify the causal mechanisms that inform local response to mob violence. In New York, there are clear examples of ethnonationalist newspapers and city leaders calling for violence in response to abolitionist behavior. However, there are equally clear examples, in some cases from the same newspapers, of city elites

¹³² Gilje, *Rioting in America*, 67 – 69.

¹³³ Grimsted, *American Mobbing*, 8.

decrying the acquiescence to violence and calling for means of preventing violence in the future.

One explanation for the changed attitude of ethnonationalists in New York City is that they came to view violence's high material costs as outweighing whatever ideological gains could be accomplished by enabling mobs. As will be shown later though, this did not appear to be the case. Opposition to violence in these accounts was couched in terms of the city's reputation, not the damage mobs inflicted on its businesses. Similarly, condonations of rioters argued that they were justifiable because riots could deter abolitionism. Those who spoke out for violence did so because they believed that violence *could* be used to prevent abolitionists from speaking, while those who opposed violence did so because they believed that the reputational costs of resolving conflict through violence was in tension with their (civic nationalist) theory of government.

America's neutrality in the Napoleonic Wars was a boon for New York. Imports entering the city rose from \$1.4 million in the 1790s to \$7.6 million in 1807, while exports increased from \$2.5 million to \$26 million. By 1800, New York had overtaken Philadelphia as America's most active port. New York's harbor was both deep and directly accessible to the sea. It was also the center of the American finance and insurance industries, which were critical for stabilizing the prices and production of goods bought and sold across the Atlantic.¹³⁴ Its economic prospects were further strengthened by the construction of the Erie Canal. In 1825, the Canal was constructed,

¹³⁴ Edwin G. Burrows and Mike Wallace, *Gotham: A History of New York City to 1898* (Oxford University Press, 1998), 333 – 336.

providing a shipping lane that ran from the Atlantic Ocean to the Great Lakes, opening the American hinterland to global demand for commodities. By 1836, New York City held 62 percent of America's import business.¹³⁵

New York City's centrality in American commerce, and growing role in global commerce led to an explosion of population growth in the city, as immigrants from across the world flowed through New York's ports. In 1825, a fifth of the city's residents were foreign born. Anti-Irish and anti-Catholic organizations grew in strength and prominence as the proportion of New York's population which was Irish grew. Ethnic tensions were stretched over racial tensions, as the city's growing Irish population frequently lived side-by-side with its Black population, leading to clashes between the two groups.

This was especially true in the Five Points neighborhood, the site of both instances of New York City mob violence considered in this chapter. The Five Points neighborhood was also the site of the Chatham Street Chapel, which was owned by Arthur Tappan, a prominent New York City abolitionist, who leased it to evangelist Charles G. Finney. Under Finney and Tappan's leadership, the chapel hosted many abolitionist meetings and became an object of scorn for the city's anti-abolitionist press.¹³⁶

¹³⁵ Ibid, 435.

¹³⁶ Tyler Anbinder, *Five Points: The 19th-Century New York City Neighborhood That Invented Tap Dance, Stole Elections, and Became the World's Most Notorious Slum* (Simon and Schuster, 2001), 7-10.

Chatham Street Chapel

On June 12, 1834, Samuel Cox gave a lecture at the Chatham Street Chapel, condemning the intolerance he observed among its parishioners towards a Black minister who had been waiting outside that day before the service. The theme of Cox's lecture sparked criticism from the *Commercial Advertiser* and the *Courier and Enquirer*, which denounced Tappan as an advocate of amalgamation and called for the destruction of Tappan's brand of abolitionism.¹³⁷

Three weeks later, a small mob disrupted a Chatham Street Chapel meeting, and mobsters proceeded to City Hall Park, assaulting any Black people they encountered on their way. This mob was dispersed by the police, who arrested a few of the rioters. Then, on July 7, 1834, the Chatham Street Chapel was double-booked: the New York Sacred Musical society and a group of Black New Yorkers both planned on using the chapel for separate celebrations, and when the groups realized what had happened, a small mob attacked the Black congregants who had arrived at the Chapel. This conflict was relatively superficial, but as was the case with the earlier events, it was covered in the *Commercial Advertiser* and *Courier and Enquirer*.

The *Courier and Enquirer* published a piece under the heading "Negro Riot," which characterized the event as one in which the Black congregants attacked the Sacred Musical society, and ended with a question, "How much longer are we to submit? In the name of the country, in the name of heaven, how much more are we to bear from Arthur

¹³⁷ Ibid, 7-11.

Tappan's mad impertinence?"¹³⁸ The day the *Courier and Enquirer*'s piece was published, a mob disrupted a meeting of the Moral Lyceum, which was planning to discuss abolition, forcing the Lyceum's members to scatter.¹³⁹

The following morning, the *Courier and Enquirer* published yet another article denouncing abolitionists and included the time and location of an abolitionist meeting that was to be held that evening, and warned, "No one... can doubt that if the blacks continue to allow themselves to be made the tools of a few blind zealots, the consequences to them will be most serious."¹⁴⁰

The Riot: New York City Race Riot – 1834

On July 9, two days after the initial contest, a mob attacked the home of Arthur and Lewis Tappan.¹⁴¹ The mob broke into the house when its members realized that nobody was home. Although the New York Day Patrol arrived and tried to disperse the mob, the patrol was warded off, "with brickbats and other missiles."¹⁴² The riots then continued and spread from the Tappan's house to Black neighborhoods where, "seven churches were burned down, and a school for Black children was destroyed."¹⁴³ "The July riots, [were] the worst New York suffered until the Civil War."¹⁴⁴

¹³⁸ *Courier and Enquirer*, July 8. Quoted in Lewis Tappan, *The Life of Arthur Tappan* (Hurd and Houghton, 1870), 206.

¹³⁹ Paul A. Gilje, *The Road to Mobocracy: Popular Disorder in New York City, 1763-1834* (UNC Press Books, 2014), 180 – 181.

¹⁴⁰ *Courier and Enquirer*, July 9. Quoted in Lewis Tappan, *The Life of Arthur Tappan*, 207.

¹⁴¹ Kerber, Linda K. "Abolitionists and Amalgamators: The New York City Race Riots of 1834." *New York History* 48, no. 1 (1967): 28–39.

¹⁴² *Ibid*, 31.

¹⁴³ Bruce C. Johnson, *Law & Disorder: The Chaotic Birth of the NYPD*. Macmillan, 2017, 3.

¹⁴⁴ Kerber, *Abolitionists and Amalgamators*, 33.

The 1834 riots also marked some of the most racially charged and targeted rioting New York experienced in the 19th century. On the second and third day of the riots, rioters were organized and methodical in their attacks. Although by that time the Twenty-seventh National Guard was dispatched to stop the violence, when soldiers would arrive to defend one location, rioters would make their way to another. Members of the mob targeted the churches and homes of preachers who had spoken at the Chatham Street Chapel and moved to churches owned by Black preachers when they were driven off.¹⁴⁵

The violence was worst in Five Points. Whites were told to put candles in their windows to distinguish their homes from Black homes. Mobs deliberately targeted Black stores and left threatening notes telling Black merchants to close shop. The riots touched on both the socio-economic fears of poor white laborers, and also an intense racial animosity toward Black New Yorkers that manifested in a fear of the economic advancement of New York's Black community.¹⁴⁶

In a meeting of the Board of Assistant Alderman 10 days later, a communication was read from the mayor requesting appropriations to, "defray the expenses incurred during the late riots," which was referred to the Committee of Finance, although the riots that were mentioned in this resolution were in fact a smaller affair that had occurred earlier in the year.¹⁴⁷ Four months later, the Board of Assistant Alderman passed a

¹⁴⁵ Burrows and Wallace, *Gotham*, 558.

¹⁴⁶ Paul A. Gilje, *The Road to Mobocracy: Popular Disorder in New York City, 1763-1834* (UNC Press Books, 2014), 184-185.

¹⁴⁷ *Proceedings of the Board of Assistant Aldermen Volume IV* (The Board, 1835).

resolution calling for an increase in the number of police officers to prevent violence from occurring during the upcoming election.¹⁴⁸

Other than these two actions, there was no formal response to the July 1834 riots. The Board of Aldermen had been considering legislation from 1833 that re-organized the town watch, and this reorganization contained provisions stipulating that Watchmen from a given district assist Watchmen from another District in the case of a riot, and this legislation was passed in early-1834. Additionally, resolutions were passed paying constables and citizens for their role in helping suppress the July riots, but no other actions were taken by city leaders in New York in response.¹⁴⁹ It could be that the actions taken by the council earlier that year precluded the need, in the council's eyes, for further action against rioters to be taken, and the contemporary press expressed satisfaction with the city's ultimate ability to reign in the violence with the tools at hand.¹⁵⁰

Conflicting evidence regarding satisfaction with the city's response to the riots can be found in newspaper coverage of the event. The *Commercial Advertiser* and the *Courier and Enquirer* had been producing anti-abolitionist and anti-Black editorials for months, but still decried the actions of the mob, which appeared to be broadly disliked among New Yorkers, who voluntarily swelled the ranks of the militia which was ultimately dispatched alongside troops from the army to halt its progress. The prominent

¹⁴⁸ Ibid, 175.

¹⁴⁹ "Laws and Ordinances Made and Established by the Mayor, Aldermen & Commonalty of the City of New York" (Peter Van Pelt, 1834 1833). P. 186-187. See also "Proceedings of the Boards of Aldermen and Assistant Aldermen, and Approved by the Mayor from May 6, 1833, May 15, 1835," 1835, <https://babel.hathitrust.org/cgi/pt?id=hvd.li1gbf&view=1up&seq=2>. p. 310

¹⁵⁰ See for example the positive coverage in, "The Rioters," *New York Spectator*, July 24, 1834, Nineteenth Century U.S. Newspapers, http://link.gale.com/apps/doc/GT3003773116/NCNP?u=viva_gmu&sid=zotero&xid=ba1403f1.,

anti-abolitionist editor of the *Courier and Enquirer*, James Watson Webb, had an about turn and remarked, “The populace must never be the *executive* power of the country... [rioting is] destructive of all social order and will if permitted to go unpunished, unsettle everything like Government. Mobs must be suppressed!”¹⁵¹

Webb’s reaction is unsurprising, as opposition to “Mobocracy” was a frequent theme of all editorials in New York City press. As is noted earlier in this chapter, in Webb’s coverage of the July 7 conflict at the Chatham Street Chapel, he claimed that the mob had been initiated by Black congregants, rather than deny that it had occurred or claim that it was justified. The justification for suppressing Tappan articulated by the conservative press was always centered around the claim that he was advocating not just for immorality, but also disorder, by riling up the city’s Black residents.

At the same time, Webb was hardly penitent about his role in stirring up the mob, he remarked on July 14, “On the whole, we trust the immediate abolitionists and amalgamators will now see in the proceedings of the last few days, sufficient proof that the people of New York have determined to prevent the propagation among them of their wicked and absurd doctrines, much less to permit the practice of them. If we have been instrumental in producing this desirable state of public feeling, we take pride in it. Let our political opponents make the most of the avowal. New York will henceforth not permit the ears of her people to be polluted by tenets that degrade Christianity, are an insult to

¹⁵¹ James Watson Webb. Quoted in Gilje, p. 186

common sense, and threaten the greatest disasters to the inhabitants of our sister states.”¹⁵²

Three days earlier, Webb had written, “It is time for the reputation of the city... that these abolitionists and amalgamators know the ground on which they stand... they have no right to demand protection from the people they thus insult.”¹⁵³

In Lewis Tappan’s recollection, after the riot had commenced, but before its third day, the *Courier and Enquirer*, *Commercial Advertiser*, *New York Times*, *Journal of Commerce*, *New York Evening Star*, *New York Mercantile Advertiser*, *Truth Teller*, and *New York Observer*, had all published editorials and news coverage that were critical of the abolitionists. Only the *New York Evening Post* had been wholly opposed to the rioting.¹⁵⁴

An interesting feature of coverage of the mob is its vacillation between interpreting the riot as illegitimate, while also insisting that it was justified as a means to coerce the city’s abolitionists from spreading amalgamationist messaging. Translated into the theory I advance in this dissertation: the elements of New York City which believed that mob violence was appropriate held that belief because they thought that the **returns to violence** were capable of preventing a rupture in the color line.

The magistrate judge overseeing the conviction of the rioters observed that the city’s Black residents were relegated to the lowest rung of society but also stated that he

¹⁵² James Watson Webb. Quoted in Tappan, *The Life of Arthur Tappan*, 218.

¹⁵³ Ibid, 217.

¹⁵⁴ Tappan, *The Life of Arthur Tappan*, 220. Lack of access to primary materials prevents me from confirming the validity of this claim. Lewis Tappan is not a disinterested party, and he omits several cases of

“thanked God” that the city’s black residents, “were entitled to the protection of the laws.”¹⁵⁵ The public also agreed that although the actions of the mob were wrong, anti-slavery advocates deserved what had happened. Abolitionists were forced to clarify that they did not advocate for interracial marriage, and on at least one subsequent occasion, Tappan was discouraged by other abolitionists from hosting a Black minister in a church with white congregants.¹⁵⁶

In a report submitted by the newly elected Democratic Mayor Cornelius Lawrence to the majority Whig Board of Alderman, Lawrence wrote that, “the occurrences of the last week I doubt not, have awakened in your minds, as they have in mine, feelings, not only of regret, but of humiliation.”¹⁵⁷ The document describes the efforts of Lawrence to preserve the peace, calling out General Morton’s command on two successive nights, and calling out a posse of armed citizens to help suppress the rioters. Attached in this report, Lawrence included the proclamations he made to the citizens during the riots to encourage desistance. In that proclamation, Lawrence stated, “The Mayor feels himself compelled, by a sense of public duty, to notice the riotous conduct of large numbers of citizens, during the nights of the 9th and 10th instant. However repugnant to the good sense of the community, are the doctrines and measures of a few misguided individuals, on the subject which has led to the existing excitement of the public mind, their conduct affords no justification for popular commotion. The laws are sufficient to

¹⁵⁵ Judge Richard Riker. Quoted in the Commercial Advertiser, July 23, 1834. Quoted in Gilje, *The Road to Mobocracy*, 187-189.

¹⁵⁶ Edwin G. Burrows and Mike Wallace, *Gotham: A History of New York City to 1898* (Oxford University Press, 1998), 559.

¹⁵⁷ “Board of Alderman Volume 1. Document No. 17” (Board of Alderman, July 14, 1834).

restraint whatever is subversive of public morals, and to punish all violations of public decorum.”¹⁵⁸

Lawrence’s articulation of his disdain for abolitionists while simultaneously calling for them to be protected by the law is characteristic of the dynamic that I argue differentiates civic nationalist authorities from ethnonationalist authorities. Lawrence’s preconception about his role as mayor and that office’s responsibility to prevent violence, no matter who the victims of violence may be, cause him to treat mob violence as intrinsically disdainful in a way that, as will be shown later in this chapter, ethnonationalist executives would not.

On June 29, 1835, a report was commissioned to inquire, “what measures (if any) are required to establish a more efficient and permanent city police; and especially enquire into and report upon the expediency of a corp of mounted men, who shall be exempt from Military and Jury duty, and who shall act as a special police or Guard in times of excitement, riot or tumult...”¹⁵⁹ The report was adopted but no further action was taken.

The resolution to inquire into the creation of a new police department had been introduced unsuccessfully a week earlier at which time L.P. Jordan, an Alderman on the Committee on Police had explained that, “we have, at all times both ready and willing, a Military force of well organized Citizen-Soldiers who have shown, by their recent conduct during the last few years when the city was distributed by the Mobs and riots that

¹⁵⁸ “Board of Alderman Volume 1. Document No. 17, [A] PROCLAMATION” (Board of Alderman, July 14, 1834).

¹⁵⁹ New York (NY) Board of Assistant Aldermen, *Proceedings of the Board of Assistant Aldermen Vol. 6* (The Board, 1836).

grew out of Political dissensions, that they could at all times be depended on,”¹⁶⁰ suggesting that in the years immediately following the chaos of the mid-1830s the city viewed its response as adequate.

Ideological commitment to providing protection under the law to all people, regardless their ethnicity can be seen in the statements of New York’s mayor and city council, as well as in the statements of the judge who was given responsibility for trying those convicted of participating in the mob. But not everyone in New York City opposed mob violence. The city’s press was clearly informed by an ethnonationalist ideology, and interestingly, although that press pushed for violence before it happened, and justified violence as a sufficient tool to deter abolitionists once the mob broke out, they also denounced mob violence at the same time. Deeper examination of this case with additional archival materials may shed more light on the exact causal mechanisms that led the city’s conservative press to both celebrate and condemn the mobs, but the existing evidence implicates two variables which seem to weigh on the city’s response: (1) concern with reputation and (2) the capacity of violence to deter violation of ethnonationalist norms.

In my theory, these mechanisms are operationalized as **returns to violence**, which newspaper reporters like James Watson Webb believed to be high, and **salience of legitimacy**, which I argue is low. The city’s reputation, or legitimacy, was clearly an object of concern for New Yorkers, but New York was not attempting to influence other

¹⁶⁰ Ibid, 71.

city's form of government and its toleration of violence had no impact on America's foreign policy during a period of history when mob violence was common.

Salience of legitimacy is at best obliquely implicated in the previous case, which is what one would expect from a local government when salience is low. However, the concern with reputation hints at this causal mechanism, which are fleshed out in later chapters.

Postscript to New York and Introduction to Charleston

In the year following the July riots, Arthur Tappan vastly increased his printing of abolitionist tracts, notably the *Emancipator*. The editorials in the *Emancipator* denounced slavery, but never called for its dismantlement through means other than the voluntary choice of slaveholders themselves.¹⁶¹

However, the content of these publications was still intolerable to the South. In particular in Charleston, one of the South's largest and most prosperous cities, and home to a large and almost entirely enslaved Black population. Charleston's ethnonationalist ideology is clear. The Charleston citizenry's attitude toward race became more essentialist and paternalistic in step with the attitudes of other Americans in the 1820s and 1830s.¹⁶² Like most Southern cities, Charleston had passed a series of municipal ordinances after its foundation regulating the behavior of slaves as well as free Black people. Slaves were prohibited from selling goods or engaging in commerce without

¹⁶¹ William Goodell, "Anti-Slavery Constitution," *The Emancipator and Journal of Public Morals*, April 15, 1834.

¹⁶² Wood, 541-542, See also, Davis, *The Problem of Slavery in the Age of Revolution*.

certain licenses, from renting houses, from keeping boats, or from assembling in groups larger than seven in public or in the house of any free Black person.

With regard to slaves, any punishment could be meted out for the smallest crimes. The Charleston City Council empowered city wardens, “to inflict any punishment for the said offence, not extending to life or limb, as they shall in their discretion think proper.”¹⁶³ Similar and almost identical laws were passed prohibiting free Black people from gathering, dancing without permission from a city Warden, owning any boats, or engaging in the trading or selling of goods.¹⁶⁴

At the same time, the city’s economic significance grew. British cotton exports ballooned between 1780 and 1830, superseding sugar, the nation’s previously largest import, by 1825. Charleston’s ports helped meet that demand. In 1821, South Carolina became the largest producer and exporter of cotton on the planet.¹⁶⁵ The growing racial conservatism in the American South, combined with South Carolina’s renewed commitment to a slavery-dependent cotton economy, incentivized South Carolinians to react powerfully to any threats to race-based chattel slavery.

South Carolina also had developed an oppositional identity which pitted itself against its northern counterparts and produced a cultural belief in the self-determination

¹⁶³ W.P. Young, *Ordinances of the City Council of Charleston, in the State of South Carolina: Passed Since the Incorporation of the City, Collected and Revised Pursuant to a Resolution of the Council* (W.P. Young, 1802).

¹⁶⁴ *Digest of the Ordinances of the City Council of Charleston, from the Year 1783 to July 1818; to Which Are Annexed, Extracts from the Acts of the Legislature Which Relate to the City of Charleston.* (Charleston, 1818), <http://hdl.handle.net/2027/mdp.39015065429030>, 187-188.

¹⁶⁵ David Moltke-Hansen, “Protecting Interests, Maintaining Rights, Emulating Ancestors: U.S. Constitution Bicentennial Reflections on ‘The Problem of South Carolina,’ 1787-1860,” *The South Carolina Historical Magazine* 89, no. 3 (1988): 160–82.

of Charlestonians. The Nullification Crisis of 1828 – 1833, during which South Carolina attempt to block a tariff on manufactured imports, strengthened the sense of self-reliant defiance to intervention in its affairs.¹⁶⁶ In 1832, Nullifiers and Unionists rioted in Charleston over the protectionist tariffs passed by the Jackson Administration. The 1832 election was marked by violence, as pro-Nullification mobs kidnapped and assaulted Unionist voters in the nights leading up to the election, resulting in the Unionists seeking to arm themselves in self-defense.¹⁶⁷ The absence of newspaper reporting on mobbing in the South makes the historical record unclear, but there is no mention of the mobilization of the city guard or militia to defend the Unionists during the polling violence, and no laws were passed in the ensuing months expanding the capacities of the Guard to better deal with riot.¹⁶⁸

Finally, the attempted slave revolt by Denmark Vesey in 1822 further primed the fears of South Carolina's white society. Vesey's plot called for the seizure of the city's arsenal, which would be used to arm the slave population. When the plot was discovered, Vesey and all suspected of being co-conspirators, were executed, and many other slaves

¹⁶⁶ Paul D. H. Quigley, "'That History Is Truly the Life of Nations': History and Southern Nationalism in Antebellum South Carolina," *The South Carolina Historical Magazine* 106, no. 1 (2005): 7–33.

¹⁶⁷ "Life, Letters and Speeches of James Louis Petigru - Google Books,"

https://www.google.com/books/edition/Life_Letters_and_Speeches_of_James_Louis/62QIAAAAMAAJ?hl=en&gbpv=1, 104-105

¹⁶⁸ *Ordinances of the City of Charleston: From the 5th Feb., 1833, to the 9th May, 1837*. (Charleston, 1837), <http://hdl.handle.net/2027/dul1.ark:/13960/t1qf9t00d>, 16. There was one law passed on November 14, 1834 that added five horses to the City Guard, but there is no explanation for the purpose of this legislation and no evidence that it was specifically intended to prevent election rioting, although the timing of the ordinance certainly suggests that that may be a possibility, nevertheless this law was passed two years after the incidents described above.

were exiled from the state. The affair contributed to the sense of righteous rage felt by South Carolinian whites in response to abolitionism.¹⁶⁹

The Riot: Charleston Mail Burning - 1835

On July 29, 1835, a steamer containing mail bags from New York, alleged to be filled with abolitionist pamphlets, moored in Charleston. A large group of citizens gathered in front of the post office to demand the mail. Charleston's postmaster, Alfred Huger, refused to turn the mail over, but agreed not to deliver it until he received further instruction from his superiors.

The citizens were eventually dispersed by the city guard but returned later that night to steal the mail bag, which was subsequently destroyed. The next night, the Tappan brothers were burned in effigy before a crowd of 3,000 people.¹⁷⁰ A vigilance committee of South Carolinians was formed to monitor the city's free Black population and any further abolitionist efforts.¹⁷¹

In the course of the mail's capture all evidence suggests that the mail was intentionally turned over to the mob. Although the city guard arrived to disperse an initial crowd which had gathered outside the post office, it made no attempt at facilitating a further guard of the office later that day. Additionally, the abolitionist mail bag had been

¹⁶⁹ Edward A. Pearson, ed., *Designs against Charleston : The Trial Record of the Denmark Slave Conspiracy of 1822*, 1st Edition (Chapel Hill: Univ of North Carolina Press, 1999), William W. Freehling, *Prelude to Civil War: The Nullification Controversy in South Carolina, 1816-1836* (New York: Oxford University Press, 1992).

¹⁷⁰ Bertram Wyatt-Brown, "The Abolitionists' Postal Campaign of 1835," *The Journal of Negro History* 50, no. 4 (October 1, 1965): 227–38, <https://doi.org/10.2307/2716246>.

¹⁷¹ Ibid, 230-231.

separated from other mail bags in the Charleston station,¹⁷² and Huger claimed that “only a military force greater than the Undivided population of Charleston” could have prevented the incident.¹⁷³

Over the next month, without any intervention from the city, its newly formed vigilance committee harassed free Black Charlestonians and searched ships and stagecoaches moving through the city.¹⁷⁴ In correspondence, one South Carolinian stated that, “Our whole country is in a state of ferment... the people are holding meetings in every section & expressing their determination to use every exertion to punish those who interfere with their property. Several have been tried before Judge Lynch condemned & hung without a word.”¹⁷⁵

Mob action spread throughout the South. A Richmond publication called for Arthur Tappan to be punished and quipped sarcastically, “The scoundrel who set a whole country aflame, tightened the discipline upon two millions of people, and subjected innocent men to the lash ought by all means to enjoy unmolested security!”¹⁷⁶ That the lashing of two million slaves, as well as the assault and murder of dozens of people was Tappan’s fault, and not the fault of those committing the crime, is typical of the Southern response to abolitionist challenges to slavery.

In the aftermath of the event, Charleston postmaster Alfred Huger was successful in lobbying Postmaster General Amos Kendall to suspend abolitionist mail being sent

¹⁷² Richard R. John, *Spreading the News: The American Postal System from Franklin to Morse*, Revised ed. edition (Cambridge, Mass.: Harvard University Press, 1998), 257 – 259.

¹⁷³ Alfred Huger, quoted in Wyly-Jones, “The Antiabolionist Panic,” 53.

¹⁷⁴ Wyatt-Brown, “The Abolitionists’ Postal Campaign,” 231.

¹⁷⁵ Robert I. Gage to James M. Gage, 1835. Quoted in Wyly-Jones, “The Antiabolionist Panic,” 54.

¹⁷⁶ *Ibid*, 231.

South, and in the intervening period, he refused to deliver it, stating, “If I am directed to forward [the mail] they will unquestionably be arrested in the streets by the civil authority of the state and destroyed – this is inevitable – nor do I believe that any military force not strong enough to subdue South Carolina, can prevent it.”¹⁷⁷

Newspaper records indicate the city’s choice to tolerate the mob’s burning of the mail was received with at least some criticism from those within the city. Charleston’s newspapers shared a consensus that the mail must be destroyed, but excoriated the mobsters for not allowing civil authorities the opportunity to destroy it first. The *Charleston Mercury*, *Charleston Courier*, and *Macon Georgia Telegraph* all published mild denunciations of the lawlessness of the theft. The *Macon Georgia Telegraph* wrote that “Precedents of this kind are dangerous in the extreme,... they ought by no means to be countenanced by the friends of government and good order,” while the *Mercury* described burning the mail bags as “premature” given the communications that Huger had already commenced with Kendall, while the *Courier* wrote that although burning the mail “had much to excuse it,” the paper still regretted that such “extremities” had occurred.¹⁷⁸

Nationally, the Jackson administration gave a tacit endorsement of Huger’s response. Amos Kendall wrote to Huger and his counterpart in New York, Samuel L.

¹⁷⁷ John, *Spreading the News*, 266. With characteristic bloodlust, Jackson’s personal desire was for both the abolitionists who sent the mail “to be made to atone for this wicked attempt with their lives,” and also for the Lynch Men to be brought to trial.

¹⁷⁸ *Charleston Courier*, August 6, 1835. Quoted in Wyly-Jones, “The Antiabolitionist Panic,” 69.

Gouverneur, that although they had an obligation to uphold the law, they had a higher obligation to uphold the standards of their communities.¹⁷⁹

Two features of this incident are particularly notable. First, there was consensus in the Charleston press that although violence *would* be an appropriate response to the mailers if alternatives did not exist, alternatives did exist, and therefore violence was not appropriate. If its newspaper's views are taken to reflect the attitudes of the city's government, violence was considered as one of several policy options available to Charlestonians to suppress the mailers. Therefore, it was not necessary, and the use of a mob to burn the mailers was inappropriate. In other words, **returns to violence** in Charleston were low, which led to the condemnation of the mob in the press.

Second, Charlestonians evinced the same distaste for mob violence as New Yorkers in response to mob violence. Although in both cities some ethnonationalists agreed that violent usurpation of the law was appropriate in some circumstances, they also explained that such violence should not be tolerated by "the friends of government and good order." Ideology appears insufficient in explaining the response to violence in both cities, as Charleston's ethnonationalism does not appear to have meaningfully changed its citizen's distaste for the use of mob violence, at least not relative to the distaste expressed by the citizens of New York. The next case will explore this observation in greater detail, by considering how ethnonationalist violence is tolerated

¹⁷⁹ Susan Wylly-Jones, "The 1835 Anti-Abolition Meetings in the South: A New Look at the Controversy over the Abolition Postal Campaign," *Civil War History* 47, no. 4 (2001).

when the community believes that violence, or the threat of violence, is the only solution sufficient to preserve ethnonationalism.

Mobbing in the South

The following account of mob violence in Mississippi is unique in that its events were fairly well documented in the public press. In the case of many Southern mobs, little to no record of mob violence exists. This is the case for two reasons.

First, the southern justice system had two-tiers: 1) public justice, analogous to the justice system in the north, which operated according to formal laws and within systematized institutions and 2) plantation justice, which was enforced by marshals or other ad hoc collections of residents, and which often involved symbolic and discretionary punishment. Public whippings were the most common form of punishment. Plantation owners would have slaves whipped for offenses large and small. Acts that plantation owners perceived to be disrespectful or lazy, as well as small acts of theft, and things like minor violations of travel privileges, were punished by whippings. Slave-owners had absolute discretion in who and how they punished slaves they owned. The punishments for more serious offenses, especially those that threatened the system of race-based slavery in the South, were more serious. Plotting to kill a plantation owner or encouraging slaves to flee resulted in brutal violence. These punishments could range from physical mutilation to death. Harsh punishments served both a symbolic and deterrent function.¹⁸⁰

¹⁸⁰ Adamson "Punishment after Slavery: Southern State Penal Systems, 1865-1890," 556-559.

As a result of this two-tiered system, which ostensibly distinguished between individuals who lived as citizens and those who lived as slaves, but which functionally was also demarcated by race, the “private” tier of justice could, and often did, bleed into the public. A group of white men who beat an individual Black man, or a Black man and his family, or a Black man and his neighbors, was not necessarily newsworthy in the pre-Civil War south. Lynchings and beatings were so public and common as to be unremarkable.

David Grimsted summarizes the general relationship between the South and mob violence, “The South’s body count consisted very predominantly of mob victims, killed in situations where authorities rarely acted... In the South, social violence of most kinds was only rarely repressed or punished, so it became a tolerated, even a sanctioned mode of social control... Like riots, most Southern personal violence was done openly in a situation of assumed moral clarity and with expectation of communal and legal tolerance.”¹⁸¹ This was tied to a code of public silence about disorder, backed by the intimidation of anyone who sought to break that code.¹⁸² For example, after the *St. Louis Observer* publicly questioned the exoneration of members of a large crowd which had tortured, mutilated, and publicly burned Francis McIntosh, a Black man who killed a Missouri sheriff, a mob forced the newspaper to close shop and made its editor flee town.¹⁸³

¹⁸¹ Grimsted, *American Mobbing*, 86 – 88.

¹⁸² Ibid, 99.

¹⁸³ Ibid, 168 – 170.

Southern cities took pride in the claim that they did not suffer from mob violence, which they attributed to their harmonious system of government. When mob violence did occur, they would dismiss it as something other than mob violence, and redirect those who accused them of tolerating mobs to consider the disorder of northern cities.¹⁸⁴ For example, after a Vicksburg mob lynched several gamblers in 1835, the *Vicksburg Register* published an account of a northern riot with the title, “Very Likely to be True in 1860.”¹⁸⁵

Southern cities were also intolerant of discussion of riots and mobs, especially when the purpose of the riot was enforcing the color line. Mentions of lynching and abuse litter private correspondence between close relatives, but scarcely made their way into the press. In summary, there are good reasons to believe that public violence was very common, despite its scarce coverage in the Southern press.

Continuation of Mob Violence – Mississippi

As the mailing campaign continued, the Southern press argued that northern abolitionists were trying to incite a servile war. Although Southerners condemned any criticism of slavery as *de facto* incendiary on the grounds that it could incite slave rebellions, their reaction to the 1835 mailing campaign was particularly violent. After a wealthy slaveowner’s wife reported insolent behavior among slaves in her household, rumor of an impending slave revolt led to the formation of a vigilance committee.¹⁸⁶ In

¹⁸⁴ Ibid, 157.

¹⁸⁵ *Vicksburg Register*, August 20, 1835. Quoted in Grimsted, *American Mobbing*, 171.

¹⁸⁶ Susan Wyly-Jones, “The Antiabolitionist Panic: Slavery, Abolition, and Politics in the United States South, 1835--1844” (Ph.D., United States -- Massachusetts, Harvard University, 2000), 75.

Hinds, Warren, and Madison County, Mississippi, the committee killed or tortured dozens of Black and white people suspected of abetting or participating in the imaginary plot. The confessions of guilt the committee tortured from its victims were used to justify the committees mandate and tactics.¹⁸⁷

The Mississippi killings were atypical of the response throughout the south in their extent and documentation, but not in their extralegal nature or brutality. The vigilant committee undertook these executions under the auspices of widespread local support. A local editorial described the committee as comprising, “thirteen of the most respected citizens of the county, men of elevated standing in the community for moral worth, integrity, and discretion.”¹⁸⁸

The committee directly addressed why they, and not the civil authorities, had been called on to respond to the alleged insurrection, “[the civil authority] is always greatly preferred, when its powers are competent to restrain the evil. [However] The civil authority was inadequate to this end in Madison County... and it was unknown at what this protection would have been required; besides, immediate example, and its consequent terror, without hope from the law’s day or evasion, seemed, as in truth it was, indispensable to safety.”¹⁸⁹

The reasoning the committee gave for tolerating violence cleaves neatly to the explanation advanced in this dissertation: violence was used by the committee because of

¹⁸⁷ William James Harris, “Community and (Dis)Order in Antebellum Mississippi: Identity and Violence in the Making of a Slave Society” (Cornell University, 2015), 37.

¹⁸⁸ Harris, “Community and (Dis)order,” 157.

¹⁸⁹ Thomas Shackelford, 1836, “The Proceedings of the Citizens of Madison County, Mississippi at Livingston in July, 1835, In Relation to the Trial and Punishment of Several Individuals Implemented in a Contemplated Insurrection in This State. Quoted in Harris, “Community and (Dis)order,” 159.

inadequate law enforcement capacity among local authorities and violence's unique property as an instrument of terror.

Correspondence from contemporaries in Mississippi at the time describes the committee arresting, trying, and executing any person, white or Black, who it thought was connected to the plot, no matter how tangentially.¹⁹⁰ The exact number of people killed during this period is unknown, although estimates put the number upwards of twenty. Correspondence from Mississippi alone details the execution of dozens of slaves.¹⁹¹

The local response in Mississippi was defensive of the committee's actions. As details of the events leaked North, the abolitionist press published criticisms of what they understood was happening. The Mississippi press published no such criticisms. In one case, Mat Sharkey, a prominent Livingston planter, interceded in an attempt made by the committee to arrest two brothers with whom he was acquainted. After his intercession, Sharkey gathered a small company of men to defend himself from what he presumed (correctly) would be the committee's violent response, and sent a letter to Governor Runnels, asking for assistance in suppressing the committee, which he claimed had no authority to conduct such extensive extralegal actions. Runnels delayed responding until after a shootout commenced between Sharkey and a posse sent by the committee to kill

¹⁹⁰ Harris, "Community and (Dis)order," 167.

¹⁹¹ Ibid, 168. Also, Edwin A. Miles, "The Mississippi Slave Insurrection Scare of 1835," *The Journal of Negro History* 42, no. 1 (1957): 48–60, <https://doi.org/10.2307/2715969>.

him. The governor's response was to offer arms to the committee and included a demurral to the committee's authority.¹⁹²

There is no evidence that Mississippians were troubled the by the stateless nature of the 1835 violence. In 1836, acting governor John Quitman praised the committees, remarking that Mississippians "feel confident of the ready means we possess, of suppressing insurrection," and went on to blame the excesses of the previous year on northern meddling, "we cannot be insensible to the fact, that such unhallowed interference may... produce partial scenes of violence and bloodshed."¹⁹³

In 1836, the Mississippi State Legislature issued a report that resulted from an investigation requested by the legislature on the topic of the abolitionist mailers. The report neither denounced the mob violence of the previous year nor called for the expansion of the militia, either to suppress the mob or to replace the mob by providing assured capability of suppressing slave insurrections through formal civil and military authorities. Instead, it praised the mob's vigilance, called for northern states to suppress the abolitionist press by penal law, and "[found] a partial consolation in the proud assurance, that the physical power of the state is equal to any emergency, to which secret combinations, or the more manly violence of open enemies are likely to expose it. In looking to the possible contingencies of the future, and the portentous evils which may

¹⁹² Christopher Morris, "An Event in Community Organization: The Mississippi Slave Insurrection Scare of 1835," *Journal of Social History* 22, no. 1 (1988): 93–111, 107.

¹⁹³ "Journal of the Senate of the State of Mississippi 1836," 36 – 37. David Libby, *Slavery and Frontier Mississippi, 1720-1835* (University Press of Mississippi, 2008), <https://www.upress.state.ms.us/Books/S/Slavery-and-Frontier-Mississippi-1720-1835>, 115.

await us, your committee can perceive much that may come, they would deplore but nothing we should fear.”¹⁹⁴

The reaction within the legislature regarding state capacity is interesting in the context of the legislature’s previous findings regarding its readiness to address internal security. In the previous meeting of the state legislature, on January 21, 1835, Governor Runnels issued his annual address to the Mississippi State Senate. In that report, Runnels noted that “The militia of the state is in a deranged and disorganized condition...” and called for the reforms to improve militia recruitment. In that same report, Governor Runnels called for a ban on the practice of dueling due to the “frequent scenes of bloodshed which have occurred in the face of society, against law both human and divine.”¹⁹⁵ The violence produced during the panic produced no such censure.

The mob violence in Mississippi evinces the clearest examples of the toleration of mob violence among the cases considered in 1835. What was different about Mississippi? One clear difference is that the cases in Mississippi occurred in counties with much smaller townships relative to Charleston and New York. It would not be reasonable to say that Mississippi is more ethnonationalist than Charleston, South Carolina, as both places viewed upholding White Supremacy as a foundational purpose of government and viewed violence as a reasonable response to actions which challenged white rule.

However, in Mississippi, local authorities appeared to genuinely fear that they lacked the capacity to suppress a slave uprising if it were to occur. This is evidenced by

¹⁹⁴ John Henderson, “Journal of the Senate of the State of Mississippi 1836, Doc. No. 51,” 1836.

¹⁹⁵ “Journal of the Senate of the State of Mississippi 1835” (G.R. and J.S. Fall, 1835), 19, 22 – 23.

the defensiveness of Mississippi's governor and in the report by its state legislature, both of which claimed that the mob demonstrated Mississippi's *capacity* to suppress an uprising.

The statements made by the governor are revealing in another way as well. In previous cases, violence was described as necessary if unfortunate, but in Mississippi, there was no local condemnation, and the case was singled out by the legislature as a positive feature of the state's response to the mailing campaign. If New York's response to mob violence amounted to little more than performative lip service, it was lip-service that Mississippi's leadership felt no similar need to perform.

The contrast between these reactions speaks to another competing explanation for violence: electoral incentives. In New York City, the only Black people who could vote were property owners, and then only when able to present extensive documentation of their status as free, property-owning citizens. This documentation included evidence of freedom, place of birth, age, time when freed, time as resident of New York City, address, evidence that property or place of rent exceeded a certain value, and evidence of tax payment.¹⁹⁶ Black people did not have sufficient suffrage to meaningfully help either Whig or Democratic candidates in New York City at the time of the mob. In Charleston and Mississippi, Black people could not vote at all. The electoral contributions of Black people cannot explain the variation in tolerance of violence observed among the three cases because Black people were not a meaningful part of any political coalition.

¹⁹⁶ Bennett Liebman, "The Quest for Black Voting Rights in New York State," *Albany Government Law Review* 11, no. 2 (2018).

Returning to the facts of the case: Ultimately, Jackson endorsed Amos Kendall's plan to pull Tappan's mail from the post.¹⁹⁷ Andrew Jackson clarified his position on this matter in his annual address to Congress on December 8, 1835, in which he declared, "I must also invite your attention to the painful excitement produced in the South by attempts to circulate through the mails inflammatory appeals addressed to the passions of slaves... calculated to stimulate them to insurrection and to produce the horrors of a servile war... if these expressions of the public will shall not be sufficient to effect so desirable a result, not a doubt can be entertained that the nonslaveholding States, so far from countenancing the slightest interference with the constitutional rights of the South, will be prompt to exercise their authority in suppressing so far as in them lies whatever is calculated to produce this evil.

In leaving the care of other branches of this interesting subject to the State authorities... it is nevertheless proper for Congress to take such measures as will prevent the Post-Office Department... from being used as an instrument of an opposite character. The General Government, to which the great trust is confided of preserving inviolate the relations created among the States by the Constitution, is especially bound to avoid in its own action anything that may disturb them..."¹⁹⁸

The publications sent South were undoubtedly at times incendiary: a copy of *Anti-Slavery Record* argued that slaveholders should be placed on a list of felons, and another cover article for the same publication featured an image of, "a white planter holding a

¹⁹⁷ Burrows and Wallace, *Gotham*, 560.

¹⁹⁸ Edwin Williams, *Statesman's Manual: President's Messages, Inaugural, Annual and Special, from 789 to 1846 Compiled from Official Sources, Vol. II.* (New York: Edward Walker, 1847), 888 – 921.

black baby by the wrist and whipping the child's weeping mother with the other hand," but they did not promote insurrection.¹⁹⁹ By the avowal of Postmaster General Amos Kendall, they did not violate any postal laws.²⁰⁰

Jackson's decision to suppress the postal mail demonstrates a theme of ethnonationalist response to violence that will resonate throughout the cases considered in this dissertation: the ethnonationalists are justified in suppressing a civil right if they believe that the civil right – in this case, the publication of abolitionist tracts – could precipitate lawless behavior.

A counterfactual that illustrates this point, and highlights the fatuousness of the Jacksonian position, is that Jackson did not contemplate, nor did any Charlestonian or Mississippian contemplate, expanding the law enforcement capacities of Southern states to *prevent slave uprisings*. Instead, they violated the free speech rights of Tappan and other abolitionists to mail anti-slavery literature South. If Charlestonians were truly concerned with unrest, presumably more law enforcement would be justified. That was not their concern, as is evidenced by the concerted lawlessness of anti-abolitionists who assaulted travelers even suspected of being allied with Tappan throughout the South over the summer of 1835.²⁰¹

In the aftermath of the abolitionist mailing campaign, Southern postmasters deferred to state law, over federal law, when delivering mail. At least one postmaster who refused to allow a vigilance society to inspect letters was imprisoned in South Carolina in

¹⁹⁹ Ford Risley, *Abolition and the Press: The Moral Struggle Against Slavery* (Northwestern University Press, 2008), 42-44. Quotation on p. 42.

²⁰⁰ Ibid, 43.

²⁰¹ Ibid, 44-46.

1849.²⁰² In South Carolina, a report issued by the state legislature called for the suppression of all abolitionist printing in the North and claimed that no northern state had any right to tolerate the publication of materials that demanded an end to slavery.²⁰³

In 1836, the House and the Senate debated legislation introduced to ban the “mailing of incendiary publications.” Neither Northern nor Southern representatives described the violence which had been occurring throughout the South as the immediate justification for the legislation, and allusions as to its purpose – preventing publications which “endanger the peace and safety of their citizens” – could equally likely have referred to the threat of a slave rebellion as mob violence. No further discussion of rioting, mob violence, or disorder occurred in Congress during 1836.²⁰⁴

John Forsyth, Secretary of State, called on then Vice President Martin van Buren to bring rough justice to northern abolitionist presses, “Instead of mobbing the poor blacks... a little more mob discipline of the white incendiaries would be wholesome at home and abroad.” The northern Democratic Party machine obliged, and anti-abolitionist mobs sprung up throughout the North.²⁰⁵

I found no evidence of discussion of the anti-abolitionist mailers in terms of international legitimacy in the Congressional Globe. However, this is unsurprising given that violence lacked the negative normative connotations which it would acquire in

²⁰² John, *Spreading the News*, 274 – 275.

²⁰³ “Report of the Joint Committee of Federal Relations on so Much of the Governor’s Message as Relates to the Institution of Domestic Slavery, and the Incendiary Proceedings of the Abolitionists in the Non-Slaveholding States.” (Columbia, South Carolina: American Periodicals Series II, January 9, 1836).

²⁰⁴ “Congressional Globe, 24th Congress, 1st Session, Pages 36, 325, 332, 347, 352, 353” (Congressional Globe, August 25, 1851).

²⁰⁵ Quoted in John, *Spreading the News*, 276.

later years. This can be seen, for example, in London's *The Times*, which covered the mob violence which broke out in the summer of 1835. *The Times* discussed the mob in the context of British abolitionist George Thompson, who it criticized as an interloper who incited violence against slaves. In *The Times*' coverage, slaveholders were not criticized, and America as a country which condoned slavery was not criticized.²⁰⁶

In Mississippi, ethnonationalists justified the toleration of extra-legal violence because they believed that it was necessary to maintain white dominance and that the state lacked an alternative to violence capable of suppressing a slave uprising. In other words, in Mississippi, **returns to violence** were high, while nationally, the **salience of legitimacy** was low.

Liberator – 1835

One of the mobs John Forsyth called for would manifest in Boston in 1835. On October 21, George Thompson was supposed to speak before the Boston Female Anti-Slavery Society. In the aftermath of the riot, a handbill was found which denounced Thompson as an "infamous foreign scoundrel" and said that his arrival was, "fair opportunity to *snake Thompson out*."²⁰⁷

William Lloyd Garrison was scheduled to introduce Thompson at the meeting, but a crowd gathered "as numbering from 6,000 to 10,000" and made their way to the office where the anti-Slavery meeting was to be held. Mayor Lyman, a known anti-abolitionist, attempted to mollify the crowd by telling them that George Thompson was not there, but

²⁰⁶ A GENEVESE TRAVELLER., "American Affairs," *The Times*, August 25, 1835, The Times Digital Archive.

²⁰⁷ Hindus, "A City of Mobocrats and Tyrants," 72.

the crowd persisted. Finally, Lyman agreed to break-up the meeting, and personally allowed the group to remove the anti-abolition signage that hung over the meeting space.²⁰⁸

The *Liberator* reported the following week, “The sign over the windows of the Anti-Slavery office was taken down, and... broken into fragments by the excited men beneath, no police or other officer offering the slightest resistance!” The precise details of what occurred changed from telling to telling, even within the same publication. Two weeks after the event, the *Liberator* described Garrison as having arrived at the meeting place with the mayor’s assistance after having been attacked by a crowd on the street. The mayor then determined that Garrison could not be kept safe without sending him to the jail.²⁰⁹ However, in its telling in 1853, the *Liberator* described the mob making its way to the *Liberator*’s office and forcing its way inside. Only then did Garrison flee through an upstairs window and was caught and assaulted by the mob waiting for him below, which took his wallet and possessions and tore his clothes from his body before he was finally freed from the mob by a group of men and escorted by a coach to the city jail, where he took haven.²¹⁰

In *Policing the City*, Roger Lane writes, “[The] public press, while condemning the riot and the abolitionists, praised the courage of the mayor. It was widely agreed that the crowd, while animated by basically patriotic motives, had gotten beyond control, but

²⁰⁸ Ibid, 55–83.

²⁰⁹ *Liberator*, November 7, 1835, Nineteenth Century U.S. Newspapers, http://link.gale.com/apps/doc/GT3005837828/NCNP?u=viva_gmu&sid=zotero&xid=0cf898e0.

²¹⁰ *The Liberator*, April 15, 1853, Nineteenth Century U.S. Newspapers.

this was due not to individual failure but to a lamentable lack of police resources....

Members of the council, on the afternoon of the riot, had not appeared to help the mayor, although the aldermen at least were enjoined by law to do so. Many, perhaps most, were fundamentally in sympathy with the 'Broadcloth Mob' of State Street. Samuel Turrel Armstrong, president of the Tremont Bank, was elected mayor a few weeks after the riot; and he was not eager to air the police problems which it had revealed."²¹¹

Certainly, the mob was anticipated by the city. The new Jerusalem Church, which hosted the meeting, demanded a \$20,000 bond to cover expenses should a mob attack the building because of Thompson's presence, and a meeting of city elites was held in advance of his arrival to discuss strategies to keep him from arriving in the city.²¹²

Mainstream conservatives in Boston's press had been intimating that they would meet Thompson's arrival with violence for weeks. The *Commercial Gazette* asserted that Thompson would "never be allowed to address another meeting in this country." In the days before the riot, the paper published that "gentlemen of property and standing" would be forced to "acts of lawless violence" if "Thompson, Garrison, and their vile associates in this city are to be permitted to hold their meeting."²¹³ The mob itself was intentionally designed by Boston's anti-abolitionist press and was understood as such by the city's leaders. The editor for the *Commercial Gazette* explained in correspondence to one of

²¹¹ Lane, Roger. *Policing the City*. Cambridge, MA: Harvard University Press, 1967, 30-33.

²¹² William Lee Miller, *Arguing about Slavery: John Quincy Adams and the Great Battle in the United States Congress* (New York: Vintage, 1998), 76 – 77.

²¹³ Wendell Phillips Garrison and Francis Jackson Garrison, *William Lloyd Garrison, 1805-1879: The Story of His Life Told by His Children [Wendell Phillips Garrison and Francis Jackson Garrison]* (Century Company, 1885).

his assistants that he had been commissioned to publish a handbill which would excite the public to violence, and that he had happily obliged.²¹⁴

Boston's mayor Theodore Lyman petitioned the owners of the venue for the meeting to be canceled out of fear for the damage which a mob might inflict on the adjacent storefronts.²¹⁵ The day of the meeting Lyman posted a small number of police officers in front of the store after Garrison told Lyman that Thompson would not be arriving that day. There is little clarity regarding Lyman's thinking throughout the rest of the day. Garrison received several threatening letters, and a placard placing a \$100 bounty for "who shall first lay violent hands on Thompson," was posted in the street.²¹⁶ In a more complete telling, Garrison's sons depicted significant interventions from Lyman on Garrison's behalf throughout the day – ensuring that police guarded a carriage used to spirit him to safety and securing officers to pry him from the mob in the first place.²¹⁷ In response to the event, an arrest warrant was dispatched by a Suffolk County Justice of the Peace for holding a "riotous assembly" although it is unclear whether this order was executed.²¹⁸ At least one contemporary member of the militia reported to Wendell Phillips that "the militia was in the streets" and could not suppress a mob of which it was a part.²¹⁹

In response to the failure of the city's capacity to suppress a mob which its perpetrators had clearly telegraphed in advance of it happening, would the city reform its

²¹⁴ Ibid, 8 – 11.

²¹⁵ Ibid, 8 – 9.

²¹⁶ Ibid, 9.

²¹⁷ Ibid, 25 – 26.

²¹⁸ Ibid, 28.

²¹⁹ Ibid, 32.

law enforcement capacity? The City Council records from that period show no mention of the mob in meeting minutes of the Board of Alderman and no actions were taken by the city in the ensuing weeks.²²⁰ The following week the *Liberator* published coverage of the mob from two friendly newspapers, the *Concord Herald of Freedom* and *Zion's Herald* both publications wrote stinging criticisms of the mob. Neither paper's coverage of the mob addressed the response from the perspective of city policy, but both took offense at the idea that the mayor's response to the mob was sufficient or appropriate.²²¹ Although a few progressives papers published rebuttals, there was little animosity against the rioters in the press.

The Boston case illustrates both the promise and failures of ideological explanations of city response to mob violence. On the one hand, there is substantial evidence that ideological opposition to abolitionism, which was undoubtedly adjacent to ethnonationalism if not the thing itself, informed the mob's actions. At the same time, despite the unpopularity of Thompson and the abolitionists, the city's weak law enforcement apparatus still made an effort to protect his safety. Although ethnonationalists in the city clearly felt that violence could be used to deter the abolitionist meeting, satisfying one criteria for **high returns to violence**, the demographic and ethnic characteristics of the city would not be meaningfully altered by the city's toleration of the mob, suggesting that the case could not be scored as having

²²⁰ "Boston City Council Proceedings, Summary Minutes of the Board of Alderman," 1835, <https://archive.org/details/bostoncitycouncil1835bost/page/232/mode/2up>, 232-238. Covers from October 26, 1835 through Monday November 2, 1835.

²²¹ *The Liberator*, October 31, 1835, sec. untitled and A Boston Mob, Nineteenth Century U.S. Newspapers, http://link.gale.com/apps/doc/GT3005837910/NCNP?u=viva_gmu&sid=zotero&xid=45a36c08.

either **high** or **low** returns to violence with confidence. With this in mind, the mayor and city elite's reasoning for suppressing or not suppressing the mob appeared to be rest on a prior commitment to preserving any citizen's safety, as is evidenced by the mayor's speeches and actions during and after the mob.²²² The apparent irrelevance of mediating variables in cities with civic nationalism will be explored in greater detail in the following chapter.

Federal Response

The following cases were not written with the assumption that **salience of legitimacy** was important for determining response to mob violence. However, an examination of the Congressional reaction to mob violence may illuminate why mob violence was allowed to persist, often unchecked. Early constitutional and legislative debates over the use of federal force to suppress violence were passed with little contention. The Calling Forth Act of 1792, which established the federal government's capacity to call forth the militia to suppress rebellions and domestic disturbance and to call forth marshals to enforce the law, was passed from committee over resistance from legislators who were troubled with the prospect of a standing army. Little legislative debate occurred on the topic of the use of the federal army to enforce the law in the first place.²²³

²²² William Lee Miller, *Arguing about Slavery: John Quincy Adams and the Great Battle in the United States Congress* (New York: Vintage, 1998).

²²³ Robert Coakley, *The Role of Federal Military Forces in Domestic Disorders: 1789-1878* (Washington, D.C.: Center of Military History United States Army, 2011), https://history.army.mil/html/books/030/30-13-1/CMH_Pub_30-13-1.pdf, 19 – 21.

In 1830 and 1831, the federal government twice dispatched troops to the South in response to Nat Turner's rebellion, and the subsequent rumors of rebellion which followed, and significant consideration was given to the federal government's capacity and willingness to respond to insurrection during the 1832 Nullification Crisis. This era saw a renewed federal commitment to the use of force in response to domestic opposition to federal law.²²⁴ Federal authorities were also requested in response to city authorities during a mob in New York in 1834, but this dispatch was rejected by two federal commanders who did not believe they had grounds to intervene.²²⁵ By 1834, although precedent for federal dispatch of troops in response to requests from state authorities existed, it was infrequently used and ambiguously defined.

In December of 1835, congressional representatives began arriving in Washington D.C. to begin the 1835 – 1836 legislative session. Ten days into the session, John Fairfield of Maine presented a petition, on behalf of 124 of his constituents, to abolish slavery in Washington D.C. This was not the first time such a petition had been presented to Congress, but the previous year's events made this event a flashpoint in the national slavery debate.²²⁶

The Southern response to the petition was to argue that slave revolt in 1831 made rejecting abolitionism not just a matter of dry sectarian interest to the South, but literally a matter of life and death. Southerners pilloried their opponents as enablers and stokers of violence, who deserved complementary violence in return. James Garland of Virginia,

²²⁴ Ibid, 98 – 102.

²²⁵ Ibid, 106.

²²⁶ Miller, *Arguing about Slavery*, 27 – 28.

described Northerners as “absent and secure” while Southern fathers had to contemplate “blood reeking from the bosoms of our wives and children, pouring from wounds inflicted through the instigation of these disturbers of our peace.” In response to this situation, Garland felt that “we should revenge to the utmost their blood, upon the heads of those who shed it.”²²⁷

Southerners continuously hammered the importance of Northern action as *violence* itself. Francis Thomson of Maryland called petitioners, “murderers, foul murderers,” while Garland called the letter writers behind the abolitionist mailers in 1835 “fiends of hell.” What was deserved for such people? Not the safety of the law. James Hammond was clear on that point, “...abolitionists, ignorant, infatuated, barbarians as they are, that if chance shall throw any of them into our hands he may expect a felon’s death. No human law, no human influence, can arrest his fate.” In correspondence, Hammond explained that there was only one solution to abolitionism, “terror – death.”²²⁸

The intensity of Southern opposition gave occasion for the few opponents of slavery in Congress in 1835 to speak out against slavery. William Slade of Vermont asked that the petitions be received for proper debate and called for the rejection of slavery and subjugation with appeals to Christian ethics. Slade’s speech was unique in his unapologetic tone. Unlike most other Northerners who were deferential to their Southern colleagues on the issue, Slade’s denunciation was unequivocal, and included powerful legal arguments for Congress’ right to legislate abolitionism.²²⁹

²²⁷ Quoted in Miller, *Arguing about Slavery*, 30.

²²⁸ Ibid, 39.

²²⁹ Ibid, 50 – 59.

Two pillars comprised the ideological underpinnings of the Southern defense of slavery. The first was racism. James Hammond argued, “I am perfectly satisfied that no human process can elevate the black man to an equality with the white...” But even if he was wrong about the capacity for Black Americans to succeed, he was still committed to white dominance, “to see them fill that chair – to see them placed at the heads of your Departments; or see, perhaps, some Othello, or Toussaint, or Boyer, gifted with genius and inspired by ambition, grasp the presidential wreath, and wield the destinies of this great republic? From such a picture I turn with irrepressible disgust.” This argument may be compelling to Hammond’s contemporaries who shared his aversion to racial equality, but it lacked analytical punch and was self-aware in its hypocrisy. The second pillar was the fear of violence. Susan Wyly-Jones observes that “southerners universally condemned the abolitionist publications for their alleged tendency, either directly or indirectly, to excite slave rebellion.”²³⁰

Wyly-Jones argues that the overreaction of the Southerners to abolitionist mailers is puzzling given the unpopularity of abolitionism in 1835. It can be explained by weakness of racial antagonism as a justification for slavery alone. Pamphlet campaigns were viewed by southerners as threats to the argument that race-based slavery was a moral system.²³¹ However, they could beat back that threat by implying that criticism of slavery incited slave-revolts and massacres, which Southerners had an easy time selling

²³⁰ Wyly-Jones, “The Antiabolitionist Panic,” 211.

²³¹ Ibid, 210 – 212.

as a horrific wrong to a national audience familiar with Nat Turner and Toussaint Louverture.

Race hate is not as broadly credible as a justification for behavior than anti-violence. Through the anti-abolitionist panic, Southerners found a way to appeal to a more universal justification for their system of government: the fear of violence and disorder.

There was little discussion of the illegitimacy of mob violence as a tool of free speech suppression in 1835. Nineteenth century nuisance law was a broadly accepted common-law doctrine which allowed the state to restrict individual rights for the purpose of the common welfare. These laws were regularly applied to justify silencing presses, or to hold publishers accountable for mob violence which targeted them, on the grounds that their actions incited public violence, as occurred to Garrison in 1835.²³²

The only mentions of mob violence during the 24th Congress were made by Southerners in reference to the burning of the Charleston mail bag, which was not depicted as an illegitimate act of mob violence, but as the inevitable outcome of abolitionist pamphleteers, or to suggest that abolitionism leads to mob violence and discord.²³³

The Congressional response to the abolitionist mailing campaign was focused on the legitimacy of Southern requests to “reject” petitions and establish a gag-order banning the discussion of abolitionism in Congress at all. When violence was evoked, it was done

²³² Richard B. Kielbowicz, “The Law and Mob Law in Attacks on Antislavery Newspapers, 1833-1860,” *Law and History Review* 24, no. 3 (2006): 559–600.

²³³ “Congressional Globe, 24th Congress, 1st Session, Page 287, 290.” (Congressional Globe, January 21, April 11, 1835).

so primarily by Southerners, who argued that abolitionists incited violence in the South and that slavery was the stopper which prevented the nation from being submerged in chaos.²³⁴ No concerns about the international implication of unchecked mob violence were expressed.

In summary, the congressional debate regarding mob violence was interpolated through the lens of slavery and abolitionism. Rather than ask whether congressional action was needed to preserve the rights of abolitionists or Black Americans, Southerners set a rhetorical frame which asked whether congressional action was needed to protect Southerners from speech which might incite violence. Black victims of violence were not considered, by Southerners, to be worthy of any protections. This tension was criticized by William Slade who asked how a nation founded on principles of Christian morality and freedom could tolerate an institution as violent as slavery, "...let gentlemen show me that Africans are not 'men,' and I will give up the argument. But, until that is done... shall slavery stand rebuked by this all comprehensive and sublime precept of the Saviour of men."²³⁵

Congressional debates regarding anti-abolitionism did implicate the role of violence as a rhetorical frame that can be used to delegitimize political behavior, but also showed how an ethnonationalist ideological frame, which assumes that some people have less worth than others, allowed violence's delegitimizing characteristics be applied subjectively: mobbing an abolitionist press is comeuppance; a slave revolt is a tragedy.

²³⁴ William Lee Miller, *Arguing about Slavery: John Quincy Adams and the Great Battle in the United States Congress* (New York: Vintage, 1998).

²³⁵ Quoted in Miller, *Arguing about Slavery*, 55.

Analysis

The cases in this chapter considered a wave of mob violence which targeted abolitionists in 1835. These cases make several contributions to my dissertation. First, they provide illustrative evidence of causal mechanisms posited by my theory. They show that ethnonationalists are more willing to countenance extra-legal violence as an appropriate response to behaviors which violate racial hierarchies. Unlike Charleston, or the Mississippi counties discussed during the anti-abolitionist panic, the New York Board of Aldermen, alongside even the most conservative parts of the city's press, viewed violence as at least somewhat illegitimate. Violence enacted against the city's most vulnerable and least popular residents was denounced, and efforts were made to suppress further violence. Similarly, Boston's elites expressed regrets at the violence, even after conspiring to bring it about. In no cases did Boston or New York's political establishment suggest that violence would have been appropriate if alternatives had failed.

In contrast, that was the party line in both Southern communities, and among the Southern representatives in Congress. The lone denunciation of violence in Charleston was predicated on the speed with which violence was tolerated, not that it was tolerated at all. Contrast this with the handwringing from newspapers in New York City and Boston: even if we hold the most cynical lens to the behavior of city authorities in those cities, the intuitive conclusion is that those authorities felt pressured to perform outrage at violence. City authorities in Charleston and Mississippi do not appear to have felt any similar pressure.

However, the reaction to violence among ethnonationalist governments suggest that mediating variables influenced the character of those jurisdictions' response. In particular, Southern state representatives sought to demonstrate the legitimacy of their form of government by insisting that they were incapable of suppressing mob violence when it threatened to curtail the free speech rights of northerners.

In contrast, the New York Board of Aldermen, alongside even the most conservative parts of the city's press, viewed the violence as at least somewhat illegitimate. Violence enacted against the city's most vulnerable and least popular residents was denounced, and efforts were made to suppress further violence. In the aftermath of the riots, the city commissioned a report on the need for further law enforcement to prevent mob violence and there was at least a mixed response to the violence in the press. This occurred despite the tremendous unpopularity of Arthur Tappan and the racism of the city's citizens toward Black New Yorkers.

In contrast, in Mississippi, and throughout the South, mob violence was not just tolerated, but celebrated. The governor of Mississippi ignored citizens who asked for civil intervention to stop a lynch mob and offered to help arm the mob. Boston and New York did not contain a similar precedent, nor was there a similar precedent in any northern city in the 1830s.

Although the Charleston press did claim that the mobsters should have waited for civil authorities to seize the mailbag, they only had this reaction because the city's commitment to violating abolitionist free speech rights was so resolute that it was

presumed with absolute certainty that if the mob did not prevent the shipment of the mail, some other civil authority would do it, illegally, if need be, in the mob's place.

There are other notable differences between the reaction in Boston and New York, and Charleston and Mississippi. If in the case of New York and Boston municipal authorities showed deference to mobs, they never asserted that the mob's will was so absolute as to nullify the rights of its victims. If mob violence succeeded in the North, because of the prejudices of Northern citizens and the indifference of Northern authorities, local authorities never used the threat of violence to deny rights *ex ante*. In the South, by contrast, that was the case. The impending threat of mob violence, as well as the actual violence which accompanied the abolitionist mailing campaign became evidence of the *necessity* of the suspension of abolitionist mailers, as Charleston's postmaster Huger said, "this is inevitable."

In short, **variety of nationalism** does seem to have explanatory power for a city's response to mob violence. In the limited controlled comparison cases set out in this chapter, ideology informed city response, but it did not inform all of a city's response. The perceived capacity for violence to alter the balance of power between ethnic groups clearly also informed how cities responded to mob violence. In Mississippi, where state capacity was lower and the potential harms of a slave rebellion were higher, the state all but deputized vigilance committees despite their violence and brutality.

These cases also demonstrated the contortions that ethnonationalists would put themselves through to balance internal legitimacy among their citizens and external legitimacy as they advocated for their system of government at the federal level. South

Carolina insisted, “that, by reason of an efficient police and judicious internal legislation, we may render abortive the designs of the fanatics and incendiary within our own limits, and that the torrents of pamphlets and tracts which the abolition presses of the north are pouring forth with an inexhaustible copiousness, is arrested the moment it reaches our frontier.”²³⁶

Yet at the same time, Charleston’s postmaster insisted that an army the size of the city would be needed to protect the mail. Indiscriminate violence was tolerated, even celebrated as judicious, in Mississippi, by the same actors who claimed that the reason for preferring a slave society is that it reduces the violent excesses of its citizenry. Mississippi, like South Carolina, made extravagant claims of the assuredness of its capacity to enforce the law when directing its statement to an internal audience, while using the claim of incapacity to justify tolerating extra-legal violence

The challenge to slavery posed by Northern abolitionists was a challenge to the legitimacy of the Southern states’ way system of governance. This incentivized Southerners to flagrantly misrepresent the conditions of their society in the press. They did this through appeals to the orderliness of Southern society, because orderliness is a fungible value which could easily be sold to people in the North. This argument was advanced both by members of the South’s elite, like James Hammond, who said that slavery is a more orderly way for the poor to be kept doing the work of the poor, unlike Northern “free labor,” which engenders endless confrontations, starvation, and

²³⁶ “Report of the Joint Committee of Federal Relations on so Much of the Governor’s Message as Relates to the Institution of Domestic Slavery, and the Incendiary Proceedings of the Abolitionists in the Non-Slaveholding States.” (Columbia, South Carolina: American Periodicals Series II, January 9, 1836).

beggary,²³⁷ and from everyday southerners, one whom explained the south's appeal to a tourist on his way through the region in a conversation that was recorded in the tourist's journal, "Modernity – alias Anarchism alias Abolitionism alias unsexed female fanatics – Mark my words, Sir, if we leave this Union, your modern North will erupt in class war. The South, sir, stands for conservatism, hierarchy, and order."²³⁸

This double-speak comes from the impossible contradictions wrought by a system that legitimizes itself internally through the right of one group of people to have absolute, and frequently violent, dominion over another, while externally legitimizes itself by claiming that the aforementioned system does not produce lawlessness. This is why a southern congressman in the next chapter will say that the term mob, "would do for the north" but not the South. The violence of white southerners must be described as an extension of the public will, while northern ethnic conflict is lawless mob violence.

Legitimacy and returns to violence were both implicated in how governments discussed and tolerated violence in this chapter, but their influence could only be observed in snatches. The next chapter extends this analysis, but instead tests the importance of variety of nationalism in informing response to mob violence when the victims of mob violence are European immigrants, rather than Black slaves or abolitionists.

²³⁷ Hammond, "Speech on the Admissions of Kansas" 318-319, paraphrased quotation from Peter Kolchin, "In Defense of Servitude: American Proslavery and Russian Proserfdom Arguments, 1760-1860," *The American Historical Review* 85, no. 4 (1980): 809-27, <https://doi.org/10.2307/1868873>, 814.

²³⁸ William W. Freehling, *The Road to Disunion, Vol. 1: Secessionists at Bay, 1776-1854* (New York: Oxford University Press, 1991), 15.

CHAPTER 5 – Nativist Antebellum Mob Violence

“I do not like the expression mob... It appears to me that it does not look well to apply it to the South; it might do very well for the North.” John Clarke, 1851.

The previous chapter considered anti-abolitionist mobs and asked whether cities with civic nationalist ideologies were more likely to respond to mob violence than cities with ethnonationalist ideologies. Again, region is used as a proxy for ethnonationalism, but in this chapter, Know Nothing control of government is used to achieve further variation for nationalism within-case. The cases I consider and their expected contributions are mapped out in Figure 3.

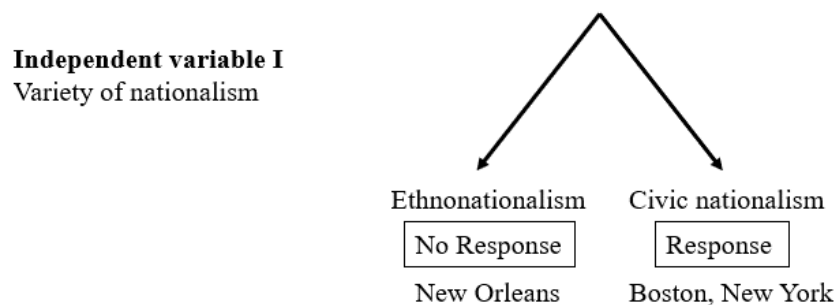


Figure 3 Expected Variable Map for Antebellum Era, Ethnic Cases

As was the case in the previous chapter, this chapter’s primary function is to explore alternative causal pathways that lead to the toleration of mob violence. The cases in this chapter relate to nativist mob violence in the antebellum era. Two of these cases

occurred in New Orleans in the 1850s and the remaining cases occurred in Boston and New York in the 1830s.

In New York in 1834, local authorities were inadequately prepared to stop election violence, and although some small action was taken to strengthen the town watch, the city's response was generally anemic. City authorities also failed to prevent riots in Boston, but in Boston, after both riots, the city took steps to strengthen its law enforcement apparatus. Authorities in Boston justified expanding their law enforcement capacity in a way that suggests ideological explanations of response to violence have conditional explanatory power: when it became clear that Boston's police forces were inadequate to respond to mob violence, the city took steps to expand its law enforcement capacity and explained its behavior by reference to the city's social contract to protect even unpopular citizens.

In contrast, in New Orleans, ethnonationalist administrators responded to mob violence by removing ethnic minorities from the city's law enforcement apparatus. Although this action was done under the pretense of preventing police officers from giving preferential treatment to their co-ethnic peers, in reality it served to ensure that ethnic minorities were unable to resist violent coercion.

The cases in New Orleans provide within case variation that further illustrates the failures of static structural accounts of violence which emphasize either a neoliberal or racial ideological account of response to mobs. After the city tried and failed to respond to mob violence during the 1854 election, it implemented significant reforms to its law enforcement apparatus, first shrinking and weakening and then

strengthening and expanding it. In contrast, when mobs attacked Spanish immigrants in 1851, the city both allowed violence to happen and suppressed attempts made by journalists and the Spanish consul to communicate about the event.

The response to violence during the election and the intensity of the city's reaction, speak to the importance of the potential **returns to violence** represented both by control of the city's electoral machinery as well as through the city's changing ethnic demography. Although my theory predicts that these circumstances should incentivize a city *not* to respond to mob violence, the form of response that the city took – changing the ethnic composition of its police force – reflects a parallel course of action to not responding: the intentional weakening of the city's law enforcement's capacity to respond to violence which targets an ethnic minority. The city's non-response after the anti-Spanish mob provides further evidence that **legitimacy** is an important contributor to response to mob violence.

In the following section, I describe the nativist sentiments which informed the mob violence considered in this chapter.

Immigration and Nativism

While southern attitudes toward slavery were becoming imbued with more racial essentialism, animus, and moral certainty, another transformation was engendering sectional tension across American cities. Anti-Catholic nativism was making a comeback. It had an early heyday in the American Revolution, where anti-papal sentiments informed the revolutionary rhetoric and self-conception of New Englanders. Anti-Catholicism informed the American notion of the need to separate church and state, and in turn was

informed by the aesthetic and cultural differences between agrarian, egalitarian, and ascetic protestant Americans and what they perceived as the urban, hierarchical, and ornamented character of the Church.²³⁹

The increase in Irish immigration informed the rise of nativism in the 1830s. In 1790, Irish immigrants were only 8 percent of the population of the first fifteen states, which had a cumulative population of just under four million residents, roughly three million of whom were free. Between 1820 and 1855, of the next four million people to immigrate to America, 1.7 million would be from Ireland, and another 1.2 million would be from Germany, forty percent of whom were Catholic.²⁴⁰ From 1830 – 1835, the number of Irish immigrants increased significantly and changed in character. In the mid-1830s, the Irish emigrating to America were primarily Catholics and unskilled laborers, in contrast to previous generations of Irish who were primarily Presbyterian or Anglican, and either artisans or businessmen. One visitor to America in the 1820s remarked that, “it is not the poorest who emigrate [but the] middle classes,”²⁴¹ while an Irish American journalist in the 1830s noted, “the Irish [immigrants] of the present day... seem to be a different race of the Irish ten, 15, or 20 years since.”²⁴²

²³⁹ Ray Allen Billington, *The Protestant Crusade, 1800-1860: A Study of the Origins of American Nativism* (Rinehart, 1952). Philip Hamburger, *Separation of Church and State*, Revised edition (Cambridge, Mass.: Harvard University Press, 2004). John T. McGreevy, *Catholicism and American Freedom: A History*, Illustrated edition (W. W. Norton & Company, 2004).

²⁴⁰ Luke J. Ritter, “Anti-Catholic America: Nativism and Religious Freedom in the Antebellum West” (Ph.D., United States -- Missouri, Saint Louis University, 2014), 35 – 36.

²⁴¹ Quoted in Anbinder, *Nativism and Slavery*, 4, for changing characteristics of Irish immigrants see same, 3 – 5.

²⁴² *Ibid*, 7.

The arrival of new immigrants engendered hostility among nativist protestants in the 1830s. In 1829, the emancipation of Catholics in Great Britain further increased tension between Irish Catholics and native-born Protestants, resulting in the export of British anti-Catholic tracts to America. These were supplemented by homegrown nativist publications, which gained remarkable traction in the American literary market from the mid-1830s into the 1850s.

In 1836, Maria Monk's *Awful Disclosures of the Hotel Dieu Nunnery of Montreal*, was published, alleging illicit sexual practices and infanticide as common in a Montreal nunnery.²⁴³ *Awful Disclosures* would be the best-selling novel in America until the publication of *Uncle Tom's Cabin* in 1852. The mid-1830s also saw the creation of the first nativist political organizations, such as the Native American Democratic Association (NADA), which was formed in New York in 1835, and promoted candidates on a platform of anti-Catholicism and opposition to the appointment of foreigners to positions in city government. Lyman Beecher's *A Plea for the West* and Samuel F.B. Morse's *Foreign Conspiracy against the Liberties of the United States* were also published in

²⁴³ Ibid, 9. All contemporary evidence characterizes the book as fiction rather than fact. As evidence mounted that the book was fraudulent in the 1840s, its publication itself became grist for the 19th Catholics to press the case that they were the victims of a vast conspiratorial smear campaign by American protestants – an argument which was not without merit, given the prodigious publication of anti-Catholic tracts in antebellum America. Ray Allen Billington estimates that as many as 400 pieces of anti-Catholic fiction and non-fiction were published from 1800 – 1860. The cycle of Protestant outrage at the events described in the book, and Catholic outrage at the illegitimacy of Protestant outrage, would be familiar to any news follower today, just as would the murkiness of the underlying truth. Monk was likely never at the nunnery where she alleged “Black Nuns” were made to have sex with priests and then kill any infants that were born from these sexual encounters. Similarly, the evidence that she was a murderer, liar, and prostitute, are equally questionable. She appears to have lived in an asylum after suffering a brain injury as a girl and left the asylum with a lover when she moved to New York, where the book was likely written by an anti-Catholic Protestant pastor. William S. Cossen, “Monk in the Middle: The ‘Awful Disclosures of the Hotel Dieu Nunnery’ and the Making of Catholic Identity,” *American Catholic Studies* 125, no. 1 (2014): 25–45, Ray Allen Billington, *The Protestant Crusade, 1800-1860: A Study of the Origins of American Nativism* (Rinehart, 1952).

1835, both alleging papist anti-American plots to critical acclaim and market success. The furor surrounding tracts such as *Awful Disclosures*, and the creation of anti-Catholic political organizations, re-energized anti-Catholic sentiments and imbued them with anti-Irish animus.²⁴⁴

Boston

As in the previous chapter, I classify Boston as having a civic nationalist background relative to the other cases considered in the antebellum era. The Boston cases illustrate ideology as a causal mechanism which informs city response to mob violence. Despite the prejudices of the city's elites toward Irish and Catholic immigrants, city authorities made meaningful efforts to expand their law enforcement capacity after both riots. City authorities justified these responses by explaining that although the Irish were generally unwanted in Boston, they still deserved some fundamental protections from violence. This occurred despite the city seeming to have **high returns to violence**, as manifested through the growing size and economic importance of Irish immigrants.

From 1740 to 1790, Boston went through a slump. It had a stagnating population which grew by only 1,300 residents over that 50-year period and lost both economic, social, and political ground to the nation's northeastern commercial ports: Philadelphia and New York.²⁴⁵ However, in the last decade of the 18th century, Boston's population began to surge. It grew to 25,000 residents by 1800. Twelve thousand five hundred of

²⁴⁴ Ray Allen Billington, *The Protestant Crusade, 1800-1860: A Study of the Origins of American Nativism* (Rinehart, 1952), Tyler G. Anbinder, *Nativism and Slavery: The Northern Know Nothings and the Politics of the 1850s*, 1994, 8 – 10.

²⁴⁵ Edward L. Glaeser, "Reinventing Boston: 1640-2003," Working Paper, Working Paper Series (National Bureau of Economic Research, December 2003), <https://doi.org/10.3386/w10166>, 13.

them were born in a city other than Boston.²⁴⁶ This rise was not as precipitous as New York's, but Boston still grew by an average of 37 percent per decade from 1800 to 1830.²⁴⁷

Boston's growth in the 19th century reflected its balanced economy. It was less export focused than its southern counterparts, but was still primarily oriented toward maritime commerce, primarily fishing and trade.²⁴⁸ Boston's growing immigrant population, in particular its growing Irish Catholic population, produced tensions with local Bostonians who sought to protect the city's local character. In 1800, Bostonians revived the colonial practice of "warning out," which allowed officials to expel strangers from towns.²⁴⁹ Anti-Irish and anti-Catholic sentiments in particular grew between 1800 and 1840. The Irish did not begin to enter America in great numbers until after 1845, when the potato famine forced more than 2.1 million Irish into exile. However, Irish immigration to Boston began to grow before the famine. Boston had been a popular destination for Irish immigrants since 1800. Its existing Irish population created opportunity networks for new arrivals, and it was cheap to travel from the British Isles to Boston. The Liverpool – Boston connection had a lower fare (\$20, as late as 1840) than any other connection between a British and American city.²⁵⁰ From 1820 to 1830, the

²⁴⁶ Christopher Sawula, "From the Lower Sort to the Lower Orders: Labor and Self-Identity in Boston, 1737-1837" (Ph.D., United States -- Georgia, Emory University), 294.

²⁴⁷ Glaeser, "Reinventing Boston: 1640-2003," 13.

²⁴⁸ Ibid, 14.

²⁴⁹ Sawula, "From the Lower Sort to the Lower Orders: Labor and Self-Identity in Boston, 1737-1837," 296.

²⁵⁰ Edward L. Glaeser, "Reinventing Boston: 1640-2003," Working Paper, Working Paper Series (National Bureau of Economic Research, December 2003), <https://doi.org/10.3386/w10166>, 19.

number of Irish Catholics in Boston increased from 2,120 to 7,000, an increase of over 300 percent.²⁵¹

Scale of new arrivals and the dilution of Boston's 18th century Protestant population eventually overtook Protestant efforts to prevent Irish immigrants from labor competition. Protestant laborers could rely on racial prejudice to prevent free Black laborers from competing in the 1820s, but employers would still hire the Irish. As a consequence, the relative power of Boston's Protestants began to slowly decline relative to its Catholic population. This transformation occurred against the backdrop of a collapse in the well-paid unskilled labor market in urban areas.²⁵² From 1820 – 1850 the number of urban residents increased by 500 percent, the most rapid period of urbanization in the country's history.²⁵³

The first Boston cases occurred during this period of demographic change in a city with a collapsing unskilled labor market and thirty years of simmering resentment toward immigrants, who were viewed by the city's mainstream Protestants as responsible for their lowered wages.

Several riots occurred in Boston between 1820 and 1830. In 1826, Irish and Black neighborhoods were attacked on July 4, after news of the deaths of John Adams and Thomas Jefferson reached the city. In response to this mob, the city discussed but decided against forming a police department, arguing that the benefits of establishing a police

²⁵¹ Wilfred J. Bisson, *Countdown to Violence: The Charlestown Convent Riot of 1834* (Garland Pub., 1989), 43-58.

²⁵² Sawula, "From the Lower Sort to the Lower Orders," 331.

²⁵³ Howe, *What Hath God Wrought*, 525-527.

force were offset by the costs to liberty that such a police force would incur.²⁵⁴ In 1825 and 1826, small anti-Irish mobs vandalized Irish homes and attacked the Irish section on Broad Street. In 1828, more fighting broke-out between Irish Protestants and Irish Catholics, which saw three nights of violence on Broad Street. A Catholic Church was attacked by a Yankee crowd in 1831, and in 1832, a petition called for the Mayor of Boston (Charles Wells) to suppress rioting in the city.²⁵⁵

In 1827, during a period of heightened suspicion of all Catholics in Boston, an Ursuline convent moved from its small location in the rectory adjacent to a Catholic church in the city to a large piece of property on Ploughed-Hill. The Convent was to be an elite academy and boarding school. The Ursuline's created a lavish estate with an impressive brick building, gardens, and a vineyard.²⁵⁶ The Convent excited the anxieties of the city's Protestants both because (1) the nunnery was, by design, intended to serve as a school for wealthy Protestants and Unitarians and (2) the Convent's physically impressive grounds was both a symbol of the growing imprint of the Catholics in the city, occupying space near historic Bunker Hill, and also the wealth and status of the Catholic convent.²⁵⁷

²⁵⁴ Hindus, Michael S. "A City of Mobocrats and Tyrants: Mob Violence in Boston, 1747-1863." *Issues in Criminology* 6, no. 2 (1971): 55-83.

²⁵⁵ Jack Tager, *Boston Riots: Three Centuries of Social Violence* (UPNE, 2001). p. 107

²⁵⁶ Daniel S. Sousa, "Anti-Catholicism and Gender Norms: Reassessing the Charlestown Convent Riot, 1834" (M.A., United States -- Massachusetts, University of Massachusetts Boston, 2015), <http://www.proquest.com/docview/1723196359/abstract/11C5DFB91F04D56PQ/1>, 33-34.

²⁵⁷ Jeanne Hamilton, "The Nunnery as Menace: The Burning of the Charlestown Convent, 1834," *U.S. Catholic Historian* 14, no. 1 (1996): 35-65. Christopher Sawula, "From the Lower Sort to the Lower Orders: Labor and Self-Identity in Boston, 1737-1837" (Ph.D., United States -- Georgia, Emory University, 2014), <http://www.proquest.com/docview/1614473158/abstract/9DAF6592C87F453EPQ/1>, 335; Daniel S. Sousa, "Anti-Catholicism and Gender Norms: Reassessing the Charlestown Convent Riot, 1834" (M.A., United States -- Massachusetts, University of Massachusetts Boston, 2015), <http://www.proquest.com/docview/1723196359/abstract/11C5DFB91F04D56PQ/1>, 30 -39.

In 1828, suspicions of the convent increased when it began to actively recruit students from Boston, increasing its proximity to the children of the city's elite. These tensions were exacerbated when Rebecca Reed, a charity pupil who left ("escaped," in her telling) the convent in 1832, launched a smear campaign against the convent in the local press. She alleged that she had been kidnapped, and although the story lacked any factual basis, it was reprinted over the next two years. This reprinting occurred at the same time that there was a general increase in the publication of anti-Catholic tracts in the American press, imported from Britain during the 1829 emancipation of Catholics.

On August 4, 1834, the *Boston Mercantile Journal* alleged that Elizabeth Harrison, another girl who was supposedly being kept at the Convent, had mysteriously disappeared, leading to uproar in the city and threats of violence.²⁵⁸ A week earlier a Sister at the convent, either frustrated by overwork or suffering from a temporary mental breakdown, briefly left the convent and went to a nearby home where she stayed for a few days before returning.²⁵⁹

The new allegations of abuse fueled rumors about the convent in the runup to the riot on August 11. Bostonians alleged that behind the convent's walls, nuns were engaging in abusive behavior odious to public morals. Testimonies produced after the riot noted that local residents had heard that unmarried bishops and priests lived together with

²⁵⁸ Ibid, 15–21.

²⁵⁹ Jeanne Hamilton, "The Nunnery as Menace: The Burning of the Charlestown Convent, 1834," *U.S. Catholic Historian* 14, no. 1 (1996): 35–65.

the nuns, who were kept at the nunnery to have sex with the priests, perhaps against their will.²⁶⁰

Riot: Ursuline Convent – 1834

On August 11, 1834, anti-Catholic mobs burned down the Ursuline convent. Two days before, city elites had taken a tour of the facility, at the invitation of a Sister, to investigate the allegations which had been made over the previous weeks. The investigation found no wrongdoing, and city representatives returned for another investigation on August 11. The second investigation was taken by some city residents as a sign that something was amiss at the convent. The night of August 12, fifty workers burned the Convent building and its outbuildings to the ground.²⁶¹ James Quinn, a Foreman of an Engine Company which had responded to the fire at the convent said that, “had the Charlestown authorities at that time set themselves resolutely at work to prevent the assembling of rioters, after the warnings which they had received, and when they saw the first manifestations of the mob-spirit early in the evening, the unhappy occurrences could not have taken place.”²⁶²

Quinn went on to allege that he saw a member of the Boston Board of Selectmen standing by the convent when his company arrived at the scene, but that the official did

²⁶⁰ Daniel S. Sousa, “Anti-Catholicism and Gender Norms: Reassessing the Charlestown Convent Riot, 1834” (M.A., United States -- Massachusetts, University of Massachusetts Boston, 2015), <http://www.proquest.com/docview/1723196359/abstract/11C5DFB91F04D56PQ/1>, 54-55.

²⁶¹ Christopher Sawula, “From the Lower Sort to the Lower Orders: Labor and Self-Identity in Boston, 1737-1837” (Ph.D., United States -- Georgia, Emory University, 2014), <http://www.proquest.com/docview/1614473158/abstract/9DAF6592C87F453EPQ/1>, 336-337.

²⁶² Ursuline Convent at Charlestown (BOSTON Mass.), *The Charlestown Convent; Its Destruction by a Mob, on the Night of August 11, 1834 ... Also the Trials of the Rioters ... and a Contemporary Appendix. Compiled from Authentic Sources* (Patrick Donahoe, 1870), 87.

nothing to stop the events. For Quinn's own part, he took no affirmative action to stop the fire, alleging that his authority to put out fires required the blessing of local authorities, which he never received.²⁶³ Defense counsel for Buzzell, a ringleader for the rioters that night, asked rhetorically a question this dissertation asks seriously, "He [the defense counsel] did not come into court to abuse [the convent] or its members; but the District Attorney having brought the character of the establishment into the case... would now merely ask, whether, if the institution was such as it was said to be, fifteen thousand or twenty thousand citizens would have suffered a few individuals destroy it? Where was our boasted militia? Where the Selectmen? They stand by with their arms folded, and suffer forty or fifty men, engaged in the transaction, to proceed unmolested. Must there not be some good cause for this supineness?"²⁶⁴

Where was the militia? Buzzell's counsel implies that it was understood by the city that they had refused to prevent the burning because the city understood that the convent should be burned. As is discussed below, in a smaller subsequent mob, the militia did respond to violence in the city, and one contemporary account revises Quinn's testimony to claim that some Selectmen had arrived and tried to stop the mob, but were ignored by mobsters who were themselves, often enough, members of the militia. In any case, there was not concerted effort by the city to stop the mob.²⁶⁵

On the August 16, Boston's mayor called a special meeting of the Board of Alderman to discuss the "consequences of the destruction of the Ursuline Convent in

²⁶³ Ibid, 87.

²⁶⁴ Ibid, 41.

²⁶⁵ Roger Lane, *Policing the City* (Harvard University Press, 2013), <https://www.degruyter.com/document/doi/10.4159/harvard.9780674493360/html>, 30.

Charlestown.” Later that evening, “the Board of Alderman, ordered that the mayor be authorized to establish in addition to the usual watch a strong and efficient body of patrol and stationary police for the preservation of good order during the night.”²⁶⁶ The precise amount of public support for the Ursuline Convent’s burning is unknowable. The rioters are believed to have been of varied socio-economic backgrounds which would reflect support for the riot across class lines.

In the day after the initial attack, the rioters paraded down the street and attempted to assault a different Catholic Church in town but were warded off. That group then proceeded to the remains of the Convent, which they further burned.²⁶⁷ A “test trial” of Buzzell failed to secure a conviction, signaling to the city that none of the rioters would be punished in a court of law. This was vindicated over the following week.²⁶⁸ Rioters against whom damning evidence was presented either were not convicted or were given token sentences.²⁶⁹

At the same time, the city and press had a fairly severe reaction to the event. Protestants condemned the violence at meetings at Faneuil Hall the next day in “one of the fullest and most animated meetings” that had been held at the town hall.²⁷⁰ A bulletin for a meeting at the Charlestown Town Hall referenced the events as “the atrocious and

²⁶⁶ “Boston City Council Proceedings, Summary Minutes of the Board of Alderman,” 1834, <https://archive.org/details/bostoncitycouncil1834bost/page/240/mode/2up>, 240-242

²⁶⁷ Ursuline Convent at Charlestown (BOSTON Mass.), *The Charlestown Convent; Its Destruction by a Mob, on the Night of August 11, 1834 ... Also the Trials of the Rioters ... and a Contemporary Appendix. Compiled from Authentic Sources* (Patrick Donahoe, 1870), 20 - 22.

²⁶⁸ Ibid, 29-75.

²⁶⁹ Tager, 116-118

²⁷⁰ Ursuline Convent at Charlestown (BOSTON Mass.), *The Charlestown Convent; Its Destruction by a Mob, on the Night of August 11, 1834 ... Also the Trials of the Rioters ... and a Contemporary Appendix. Compiled from Authentic Sources* (Patrick Donahoe, 1870), 16 – 17.

unexampled acts of violence.” Committees were formed in both Charlestown and Boston. The Charlestown committee denounced the violence and “urged the establishment of a vigilance committee to secure the public peace.”²⁷¹ A report issued from Fanheuil Hall condemned the event as “inconsistent with the principles of our national institutions,” and gave serious consideration to public safety preparations to subvert further riots.²⁷² The report asked,

“if for the purpose of destroying a person, or family or institution, it is only necessary to excite a public prejudice, by the dissemination of falsehoods and criminal accusations [and no authorities prevent it] who among us is safe?”²⁷³

It went on to recommend that civil authority be given responsibility for repressing mobs, and that municipal authorities be made accountable for recompensing mob damage, to deter future mobs.²⁷⁴

Riot: The Broad Street Riot – 1837

In the three years following the burning of the Ursuline Convent, working class anti-Irish sentiments intensified in the city. New Irish immigrants to the city had overwhelmingly migrated to lower-class neighborhoods. Unable to force their new neighbors to move, working class Protestants grew angrier at the strengthening Irish community.²⁷⁵

²⁷¹ Ibid, 18.

²⁷² Ibid, 28.

²⁷³ Report of the Committee, 1834. Quoted in Hindus, *A City of Mobocrats and Tyrants*, 70.

²⁷⁴ Ibid, 70.

²⁷⁵ Christopher Sawula, “From the Lower Sort to the Lower Orders: Labor and Self-Identity in Boston, 1737-1837” (Ph.D., United States -- Georgia, Emory University, 2014), <http://www.proquest.com/docview/1614473158/abstract/9DAF6592C87F453EPQ/1>, 342 – 343.

On June 11, 1837, these tensions boiled over. The Broad Street Riot began when a group of volunteer firefighters, returning from a fire in Roxbury, clashed with an Irish funeral procession that was heading down Broad Street.²⁷⁶ The fire company sounded an alarm bell on one of their engines, a call for assistance typically used to alert other fire companies that more help was needed to contain a blaze. As a result, other fire companies began heading toward the fray.²⁷⁷ The initial clash between the funeral procession and the first fire company abated, but as the funeral procession continued down the street, they encountered another fire company, which they assumed was arriving to join the first fire company in the fight. As a result, the funeral procession assaulted the second fire company, and as additional fire companies arrived at the scene of the brawl, the fighting soon transformed into a riot.²⁷⁸

Over the next few hours, citizens from across the city joined the fire company and attacked the funeral procession.²⁷⁹ The mob attacked Irish tenement housing along Broad Street. More than 15,000 men attacked the building, driving out and beating the

²⁷⁶ “Boston City Council Proceedings, Summary Minutes of the Board of Alderman,” 1837, <https://archive.org/details/bostoncitycouncil1837bost/page/203/mode/2up>, 212. See also, Arthur Wellington Brayley, *A Complete History of the Boston Fire Department: Including the Fire-Alarm Service and the Protective Department, from 1630 to 1888* (J. P. Dale, 1889), 197 – 199.

²⁷⁷ Ibid, 212-214, contemporary accounts claim that the newly emerging fire companies did not know that they were not responding to a fire, and claimed that those who rang the alarm did so under the assumption that once the fire companies saw the fighting, they would join in.

²⁷⁸ Christopher Sawula, “From the Lower Sort to the Lower Orders: Labor and Self-Identity in Boston, 1737-1837” (Ph.D., United States -- Georgia, Emory University, 2014), <http://www.proquest.com/docview/1614473158/abstract/9DAF6592C87F453EPQ/1>, 344.

²⁷⁹ “Boston City Council Proceedings, Summary Minutes of the Board of Alderman,” 1837, <https://archive.org/details/bostoncitycouncil1837bost/page/203/mode/2up>, 218.

residents.²⁸⁰ After two or three hours of violence the mayor summoned the militia to quell the rioting, and posted guards throughout the city.²⁸¹

The following day the city council convened and created a committee to inquire into the “origins and circumstances of the disturbances of the public peace.”²⁸² The council was sympathetic to the fire department which it noted “expressed regret” about the department’s participation in the mob and noted the fire companies’ history of helpful service to the city. The committee took a less sympathetic tone with regard to the Irish. The statements of one commissioner, recorded in meeting minutes, summarized the sentiments of the city’s elites, “The feelings [of regret] to which the Committee have alluded is strengthened by the indiscretion of the other party. Instead of assimilating at once with the customs of the country of their adoption, our foreign population are too much in the habit of retaining their own national usages of associating too exclusively with each other and living in groups together. These practices serve no good purpose and tend merely to alienate those among whom they have chosen to reside... The frightful excesses which were committed on Sunday the 11th [illegible] hitherto orderly City have led the committee to reflect upon the danger of beginning a brawl in the street, the termination of which no one can tell... It has been considered improbable that tensions could be excited among us which would produce such dreadful result... Let no man and no company of men who whatsoever name they may be associated imagine that turmoil

²⁸⁰ Ibid, 212, See also Lane, 33.

²⁸¹ Sawula, “From the Lower Sort to the Lower Orders: Labor and Self-Identity in Boston, 1737-1837,” 345.

²⁸² “Boston City Council Proceedings, Summary Minutes of the Board of Alderman,” 1837, <https://archive.org/details/bostoncitycouncil1837bost/page/203/mode/2up>, 203

once began can be checked whenever they themselves wish to check it. And let the few who are reckless of consequences on who are ambitious of producing such miserable scenes of violence and plunder take warning from the events of that day that the power of the law is sufficient to restrain them and that the public will is that public order shall be maintained at all hazards.”²⁸³

The city council also acknowledged in later sessions that a police force was needed to prevent further ethnic violence. The city council’s response communicated that although the Irish may not be deserving of the city’s respect and were likely to blame for the rioting, they were still entitled to certain rights, such as their personal safety, and that the creation of a police force was necessary to preserve these rights. By 1838, the general court passed a bill to allow the city of Boston to appoint policemen, “to deal with the immediate problem of riot.”²⁸⁴

City meeting records and local newspaper responses show how a civic culture which is intolerant of violence creates pressure for government authorities to prevent mob violence, even when the violence targets an unpopular group. In response to the perception of the city’s incapacity to address mob violence, Boston was pressured into expanding its law enforcement capacity.

How do competing interpretations of this response fair? Strictly ideological explanations which assume that law enforcement capacity would be expanded to *weaken*

²⁸³ Ibid, 189-190.

²⁸⁴ Lane, 38.

rather than strengthen an ethnic minority's position have no explanatory power for this case, as it produces a conclusion contrary to their expectations.

Similarly, the electoral incentives argument runs into problems with the timing of electoral reforms. In 1784, 1792, 1804, and 1815 the city had rejected reforms to its town meeting system, which allowed the consolidation of control by a handful of Bostonians who manipulated procedural rules to prevent democratic participation from the city's middle and lower classes. Reforms to this system, in particular the implementation of ward voting, which would give greater political power to geographically sorted ethnic minorities, like the Irish, would increase ethnic political power. Such a measure was passed on March 4, 1822.²⁸⁵

Municipal charter reforms increased the potential for Irish political participation in coalition politics more than any other single shift in the 1820s, and yet no municipal police reform was implemented in reaction to the riots described in the prelude to this section. Anti-Irish rioting *should* have precipitated the expansion of police reforms in 1820 and 1830, if the electoral incentives theory is correct.

As Joanne Lloyd explains in her history of Boston's "lower orders" from 1700 to 1850, on only one occasion did Josiah Quincy, Mayor of Boston from 1823 – 1828, form a posse to suppress mob violence. In 1825, he allowed a riot to rage for a week for fear the new city charter did not give him authority to suppress mob violence. In 1826, he did suppress a mob, but only after considerable time had passed.²⁸⁶ Lloyd writes that, "The

²⁸⁵ Matthew H. Crocker, *The Magic of the Many: Josiah Quincy and the Rise of Mass Politics in Boston, 1800-1830*, First Edition (Amherst: University of Massachusetts Press, 2000), 50,

²⁸⁶ Joanne Lloyd, "Beneath the 'City on the Hill': The Lower Orders, Boston, 1700–1850" (Ph.D., United States -- Massachusetts, Boston College, 2007).

riots in the North End in late July 1825 and the riot on Beacon Hill's northern slope the next year were not about prostitution nor were they about race relations. They were about a white middle-class growing weary of having town officials ignore their pleas for better policing of the city.”²⁸⁷

Middle class rioters sought to suppress “lower classes” in Boston through extra-legal violence in the 1820s, and the mayor did not intervene, despite the growing importance of lower-class political participation in the city, an argument inexplicable from the perspective a strictly electoral understanding of toleration of mob violence. However, if mob violence is conceptualized as a fungible policy alternative to low state-capacity, Boston’s earlier toleration of mob violence becomes clear: Boston’s political elites did not suppress mob violence, not because the victims of mob violence were politically irrelevant, but because violence served a political function unavailable to city authorities through other means. In other words, in the 1820s **returns to violence** were high because of weak state capacity to suppress unpopular behavior.

New Orleans – Background

New Orleans is classified as an ethnonationalist city in the 1850s and exhibits variation in its responses to mob violence through the cases considered below. In response to electoral mob violence, which was often attributed to the Irish, New Orleans reformed its law enforcement apparatus, first by shrinking it and stripping Irish officers from the force, and then by expanding it, in order to better address electoral violence in the city. In contrast, in response to an anti-Spanish mob, the city’s mayor allowed the

²⁸⁷ Lloyd, “Beneath the ‘City on the Hill,’” 389.

Spanish consul to be destroyed alongside the shops of many Spanish merchants. The New Orleans case illustrates the failure of purely ideological explanations of mob violence for ethnonationalist cities and evinces how local mob violence implicates the legitimacy of supralocal authorities.

Although the proportion of slaves in New Orleans declined from 1810 – 1860, the significance of racial slavery grew. Slavery was both a labor system, an important stock of capital, and an increasingly visible feature of the city. Louisiana's entrance into the Union precipitated a significant transformation in New Orleans' economy. From 1820 – 1830, the number of slaves in the city doubled, while the white population grew by only 50 percent.²⁸⁸ Over that same period of time, both the number of slaveholders increased, as did the number of slaves owned per slaveholder.²⁸⁹ Over the next fifty years over 80% of capital raised in Louisiana was secured by equity held in slaves.²⁹⁰

At the same time, New Orleans retained its culturally unique tripartite social system which separated society into whites, *gens de couleur libres*, and slaves. From 1803 – 1860 over 550,000 whites moved to the city.²⁹¹ New Orleans was unique among southern cities in the extent to which the proportion of slaves relative to free people decreased over time. By 1860, only 8.3% of the population was enslaved, in contrast to

²⁸⁸ Matthew Stallard, "'The State of Society Is Awful': Poor Whites, Class, Mobility, and the Mixed-Labour Economy of New Orleans, 1820-1835" (Ph.D., England, The University of Manchester (United Kingdom), 2016), 44.

²⁸⁹ Ibid, 45-50.

²⁹⁰ Bonnie Martin, "Slavery's Invisible Engine: Mortgaging Human Property," *The Journal of Southern History* 76, no. 4 (2010): 817–66.

²⁹¹ Elizabeth Fussell, "Constructing New Orleans, Constructing Race: A Population History of New Orleans," *The Journal of American History* 94 (December 2007), <http://archive.oah.org/special-issues/katrina/Fussell.html>.

23.9% in 1830.²⁹² These transformations gave rise to a white immigrant population, primarily composed of Irish and Germans, who disrupted the city's existing social order.

From the 1810s forward, New Orleans' ethnonationalism increased. These changes can be seen in the shifts which occurred in the New Orleans militia. One analysis of the racial composition of the New Orleans militia and city guard found that while an 1814 sample of guardsmen was 20% non-White, by 1828, the number had diminished to fewer than 5%, and by 1850 it had disappeared completely.²⁹³

Prior to 1836, Irish and German immigrants were overrepresented on the police force. One city newspaper complained that, "The majority of the City Guard did not speak either French or English."²⁹⁴ In 1835, New Orleans passed a resolution, "that a standing committee of three members shall be appointed by the Recorder... whose duty it shall be to examine every member of the City Guard, and those who shall be discovered not to understand the French and English languages, or who shall not be able to speak them intelligibly, shall be disqualified from performing the duty of City Guardsman in future, and shall be immediately discharged."²⁹⁵ 1835 also saw the establishment of Night Watches which had, "the same powers as the City Guard."²⁹⁶

²⁹² Ibid.

²⁹³ Rousey, 46, see fn. 13.

²⁹⁴ Albert Emile Fossier, *New Orleans: The Glamour Period, 1880-1840; a History of the Conflicts of Nationalities, Languages, Religion, Morals, Cultures, Laws, Politics, and Economics During the Formative Period of New Orleans* (Pelican Publishing Company, 1957), 185, see also Rousey, 46.

²⁹⁵ Gaston Brusle, *A Digest of the Ordinances, Resolutions, By-Laws and Regulations of the Corporation of New Orleans: And a Collection of the Laws of the Legislature Relative to the Said City*, 1836. The resolution continues by empowering the committee to report on any further improvements which they deemed necessary to improve the organization of the police.

²⁹⁶ Ibid, 101.

These changes can be attributed to a variety of factors. The era from 1810 – 1830 is often referred to as the “Golden Age” for the city’s *gens de couleur libres*, who were then both more numerous and more powerful than at any other point in the 19th century. Free people of color were disproportionately skilled laborers and saw a 62% increase in their wealth from 1810 – 1840.²⁹⁷ White Americans in the city found New Orleans’ racial integration offensive and sought to segregate the city, for a time successfully, when New Orleans was divided into three municipalities. Additionally, European immigrants from Ireland and Germany had a material stake in supporting policies that targeted *gens de couleur libres*, with whom they competed in the city’s labor market.²⁹⁸ Finally, the re-growth of the cotton export economy in the first three decades of the 19th century led to a growth in racial paternalism as southerners sought to justify the continued existence of slavery in the face of growing opposition from northern abolitionists.²⁹⁹

Although laws segregating *gens de couleur libres* were first passed in the 1720s, they were reinforced and expanded in 1808 during the period of heightened racism that occurred after the turn of the 19th century. Laws were passed forbidding *gens de couleur libres* from marrying slaves or free whites and forbidding them from socializing with slaves, with a few narrow exceptions.³⁰⁰

²⁹⁷ Amy Sumpter, “Segregation of the Free People of Color and the Construction of Race in Antebellum New Orleans,” *Southeastern Geographer* 48, no. 1 (2008): 19–37.

²⁹⁸ *Ibid*, 24.

²⁹⁹ Wood 541-542, See also, Davis, *The Problem of Slavery in the Age of Revolution*, and Drew Gilpin Faust, *The Creation of Confederate Nationalism: Ideology and Identity in the Civil War South*, Reprint, 1995 edition (Baton Rouge: LSU Press, 1989).

³⁰⁰ Stacy K. McGoldrick, “The Policing of Slavery in New Orleans, 1852–1860,” *Journal of Historical Sociology* 14, no. 4 (2001): 397–417, <https://doi.org/10.1111/1467-6443.00153>, p. 7

La Union Riot - 1851

In 1848, General Narcisco Lopez fled to America after Spanish officials discovered that he was plotting a coup in Cuba. Over the next three years, Lopez would launch three failed expeditions against Spanish Cuba.³⁰¹ On August 3, 1851, Lopez launched a final expedition, which failed disastrously. He split his troops into two companies, one led by an American, William L. Crittenden. Crittenden's company was immediately destroyed, and those who were not killed in the initial gun battle were executed.³⁰²

In New Orleans, annexationists used news of the event to encourage retaliation. The New Orleans press ran articles detailing the mutilation of American volunteers in Crittenden's company in an effort to stir the American public to retaliate. In contrast to its peers, *La Union*, a Spanish-language paper, ran stories which were critical of the Lopez expedition, and denied that the massacre had occurred.³⁰³

In the early morning of August 21, 1851, a mob formed outside *La Union*, broke inside, and smashed its press and type fonts. The mob then smashed Spanish fruit stands and cafes nearby. That afternoon, the mob made its way to the Spanish Consulate, and destroyed its interior.³⁰⁴

³⁰¹ Richard Randal Tansey, "Economic Expansion and Urban Disorder in Antebellum New Orleans" (Ph.D., United States -- Texas, The University of Texas at Austin, 1981), <http://www.proquest.com/docview/303040007/abstract/989FA7469B9C4590PQ/1>, xiii – xiv.

³⁰² Ibid, 18 – 19.

³⁰³ Ibid, 20.

³⁰⁴ Tom Reilly, "A Spanish-Language Voice of Dissent in Antebellum New Orleans," *Louisiana History: The Journal of the Louisiana Historical Association* 23, no. 4 (1982): 325–39, p. 325–326, Tansey, "Economic Expansion and Urban Disorder," 20 – 23. See "Congressional Globe, Senate 32, 1st Session, Appendix to The Globe" (Congressional Globe, August 25, 1851), 34 for the Spanish version of events and 35 for the American version.

Two weeks later, after news of the capture and execution of General Lopez, a mob forced the closure of the *True Delta*, which had published stories questioning validity of the initial accounts of the soldiers' slaughter. Annexationists blamed the *True Delta* for revealing a plot in New Orleans to launch a retaliatory mission to Cuba.³⁰⁵ Local reaction to the mob is difficult to gauge. The destruction of the Spanish Consulate increased the stakes of the resolution of the event, which could have international consequences. The *New Orleans Picayune* published no story about the event, and a correspondent for the *Concordia Intelligencer*, a Louisiana newspaper, journaled, "I found my despatches [sic]... of the rioter's conduct afterwards though received at the New Orleans telegraphic office and promised immediate transmission, never have been sent through."³⁰⁶

Similarly, an article in the Philadelphia-based, *North American* notes a conspicuous misdirection in the New Orleans press, "It will be seen that the *Picayune* does not so much as to allude to the Spanish Consul... The account in the *Bee* is that a detachment of the rioters proceeded to Mr. Laborde's office... If the *Bee*'s account be the true one, an outrage was committed, but not of the aggravated character first reported."³⁰⁷

The formal response to the riots was anemic. Only five individuals were arrested, four of whom were found innocent, and the fifth was found guilty but given no sentence.³⁰⁸

³⁰⁵ Tansey, "Economic Expansion and Urban Disorder," 27.

³⁰⁶ *Concordia Intelligencer*, 1851. Quoted in Tansey, "Economic Expansion and Urban Disorder,"

³⁰⁷ "The Riots in New Orleans," *North American*, September 1, 1851, *Nineteenth Century U.S. Newspapers*.

³⁰⁸ Tansey, "Economic Expansion and Urban Disorder," 28 – 29.

The event led to the exodus of ten percent of the city's Spanish population and sparked diplomatic tumult. The Spanish consul was forced to flee and sent telegrams to the British and French embassies, requesting that they take authority for protecting Spanish citizens in America. Spanish representatives were outraged at both the news of the attempted invasion of Cuba as well as the destruction of the Spanish consul.³⁰⁹ In the investigation into the event launched by the Spanish consul in Mobile, Spanish authorities concluded that the Lopez expedition had been sent, "without hindrance." It went on to report that no effort had been made to prevent the destruction of *La Union* other than a visit from the mayor requesting that it desist in its criticism of Lopez.³¹⁰ The report stated, "The calling out the troops for the preservation of order was evaded in various ways. I was informed that the greatest portion of them partook largely of the same sentiments, and that they were not therefore to be trusted. The troops under General Twiggs, stationed at a short distance from this city, had become useless, inasmuch as their commander was temporarily absent... and even though he had been there, he would have turned a deaf ear."³¹¹

In the report prepared by Congress about the affair it was acknowledged that, "none of the police appear to have been present." The report goes on to detail subsequent attacks on Spanish cigar-shops. When residents came to assault the proprietor of one such shop, they were scattered by the police, but in subsequent mobs throughout the day, even

³⁰⁹ "Congressional Globe, Senate 32, 1st Session, Appendix to The Globe" (Congressional Globe, August 25, 1851), 33.

³¹⁰ "Congressional Globe, Senate 32, 1st Session, Appendix to The Globe" (Congressional Globe, August 25, 1851), 34.

³¹¹ Ibid, 34.

by the American accounting, there was little to no response. When the mayor first heard about an attack on the Consul, he was dispatched to the scene, but soon left with the police after which point the mob destroyed the building.³¹²

The Congressional report went out of its way to construe the actions of law enforcement as just. In the inquiry into the event, the New Orleans' mayor reported in official correspondence with the District Attorney that, "Previously to this occurrence I had issued orders to the heads of police to muster all their available forces, and to increase them to an extent that might be demanded by the public safety." However, the Mayor went on, "So spontaneously also were the disturbances in various parts of the city, that it was impossible for the police to act with concert, and the same difficulty was experienced with the military, who turned out in very limited numbers only, and were not enabled to effect an organization until an advanced hour of the evening."³¹³

Later in the American report, it was noted that the New Orleans postmaster had given the mayor advanced warning of the attack.³¹⁴ Yet even with advanced warning the mayor alleged himself to be incapable of preventing the mob from breaking out. Finally, the following day, the mob was dispersed, and the remainder of the report includes orders from the mayor demonstrating proactive measures enacted by the city to suppress the mob as it expanded.

In the congressional debate of the wording of the compensation that would be sent to Spain, southern Representatives called for the word "mob" to be struck from the

³¹² Ibid, 35

³¹³ Ibid, 36.

³¹⁴ Ibid, 36.

description of the event, “I do not like the expression ‘mob’ in the amendment. It appears to me that it does not look well to apply it to the South; it might do very well for the North.”³¹⁵ After the amendment was modified so that “mob” was replaced with violence, Senator Clemens, from Alabama, reiterated his colleagues’ point, “I want to hear something more about the facts of the case... I want to see whether there is anything that will justify the Congress of the United States in paying for those losses. I recollect that some time ago a church was burned near Boston, and I think that the Catholics would have at least as much right to compensation for that as these men for compensation for these losses”³¹⁶

These remarks extended from an earlier discussion between a smaller meeting of Senators. There, Senator Clemens from Alabama had asked, “Where is the obligation on the part of the Government to pay for it?... These were very bad men anyway. They kept bad houses. They were disreputable men – men who had no claim at any time upon the sympathies of the community... These men saw proper to excite a popular mob, and they felt the result of it. The laws are open to them; let them seek redress where an American citizen would seek it.”³¹⁷

Some historical accounts of the consolidation of New Orleans, which occurred on February 23, 1852, attribute the poor police response to the August 21 riot as the cause of the reform.³¹⁸ However this explanation is not credible for several reasons: first, the legislation to consolidate New Orleans (and consequently consolidate the police

³¹⁵ “Congressional Globe, Senate 32, 1st Session” (Congressional Globe, August 25, 1851), 2340.

³¹⁶ Ibid, 2341.

³¹⁷ Ibid, 2341

³¹⁸ See for example John Smith Kendall, *History of New Orleans* (Lewis publishing Company, 1922), 172.

department) was first introduced in 1850, a year before the *La Union* anti-Spanish riots. This interpretation is further supported by the context of the legislation: the New Orleans consolidation occurred while the city underwent a period of severe budgetary distress. In 1850, the city issued a report determining that the tri-municipal system could be contributing to the city's poor finances and the bureaucratic inefficiency of its administrative machinery in general, and recommended reforms be implemented to address this inefficiency.³¹⁹

New Orleans Election Riot – 1854

In 1853, the Democratic Party reached the apex of its pre-Civil War strength. It gained complete control over city council, amended the city charter of 1852, and gave the mayor complete control over the police force.³²⁰ The new Democratic police force would be able to contest elections in the city, engendering anger from the city's Whig press when the Democrats won sweeping victories in the municipal elections of 1853. In 1854, the collapse of the Whig party had begun in earnest, and its members began to re-organize as the Know Nothing party, which committed itself to contesting the 1854 election.³²¹

On March 27, 1854, a municipal election resulted in clashes between the Democratic Party and the Know Nothings. Small skirmishes early in the day grew explosive when rumors of double-voting began circulating among the Know Nothings. Evidence of Democratic electoral fraud spread among the Know Nothings, who forcibly

³¹⁹ Robert C. Reinders, *End of an Era: New Orleans, 1850-1860* (Pelican Publishing, 1964), 52

³²⁰ Leon Cyprian Soule, "The Know Nothing Party in New Orleans: A Reappraisal." (Ph.D., United States - Louisiana, Tulane University, 1960).

³²¹ Ruby Nell Gordy, "The Irish in New Orleans" (Louisiana State University, 1960), 53 – 54.

seized ballot boxes and destroyed thousands of ballots. Similarly, Democrats seized ballot boxes that they believed they had lost and began counting votes without an independent commissioner to oversee their operations.

In September 1854, the conflicts from March grew more precarious. After a watchman refused to arrest a man who killed a dog, brawls, assassinations, and killings spread throughout the city, as armed Know Nothing gangs marched through town, targeting immigrants and policemen. Rumors that the Know Nothings were planning on burning the Catholic churches triggered reprisals from the Irish immigrants, often aided by the police, who armed themselves and fought with the Know Nothing bands.³²²

The local press was critical of both the mayor and the city police's response to the riots. The *New Orleans Daily Crescent* excoriated the violence and denounced the mayor for his sluggish response, it wrote, "There are undoubtedly honest, faithful and efficient men among our police, but many are notoriously worthless and incompetent."³²³ The previous day the paper published another criticism of the mob titled, "Have We a Police Among Us?" where it echoed the same sentiments and noted that it hoped the parties responsible, "be ferreted out and suffer the severe punishment their offence so richly merits."³²⁴ By September 15, the riot had ended.³²⁵ After a week of disorder the mayor

³²² Leon Cyprian Soule, "The Know Nothing Party in New Orleans: A Reappraisal." (Ph.D., United States - Louisiana, Tulane University, 1960), 69 – 73.

³²³ National Endowment for the Humanities, "New Orleans Daily Crescent. [Volume] ([New Orleans, La.]) 1851-1866, September 14, 1854, Morning, Image 2," September 14, 1854, <https://chroniclingamerica.loc.gov/lccn/sn82015753/1854-09-14/ed-1/seq-2/>.

³²⁴ Ibid.

³²⁵ National Endowment for the Humanities, "New Orleans Daily Crescent. [Volume] ([New Orleans, La.]) 1851-1866, September 15, 1854, Morning, Image 3," September 15, 1854, <https://chroniclingamerica.loc.gov/lccn/sn82015753/1854-09-15/ed-1/seq-3/>.

issued a proclamation creating a special police force and acknowledged that the current police force was failing to maintain order in the city.³²⁶

By the end of 1854, the Know Nothing Party had seized city council. Know Nothing loyalists fired the chief of police and removed two thirds of all Irish police officers, as well as four fifths of all German police officers. All immigrants on the force were reduced such that they were now underrepresented given their proportion of the overall population.³²⁷ In 1855, the police force was re-organized to give the mayor greater regulatory power over its members, and to improve its performance. The reorganization also sought to give the force uniforms (an effort which failed for budgetary reasons). These did not stymie violence in the 1855 election, prompting the mayor to seek further reforms such as re-arming the police and manning the polls with deputized citizens. Similar reforms continued through the 1860s when the city was captured at the beginning of the Civil War, ending civilian authority until the Reconstruction Era.³²⁸

The New Orleans cases illustrate how varying features of mob violence inform municipal response to conflict. In response to the city police's failure to suppress electoral violence, the police force was shrunk in order to weaken its ability to suppress Know Nothing gangs. Electoral violence was not the domain of either Democrats or Know Nothings, and there were clearly Irish gangs which participated in the rioting. The

³²⁶ Leon Cyprian Soule, "The Know Nothing Party in New Orleans: A Reappraisal." (Ph.D., United States - Louisiana, Tulane University, 1960), 76 – 77.

³²⁷ Dennis C. Rousey, "Hibernian Leatherheads: Irish Cops in New Orleans, 1830-1860," *Journal of Urban History* 10, no. 1 (1983). p. 69-71

³²⁸ New Orleans Police Department, "History of the New Orleans Police Department" (New Orleans Police Department, 1984).

intention of the Know Nothing party in removing only immigrant officers, was clearly to weaken the power of those ethnic groups in the city's electoral politics.

This appears to comport with an electoral incentive explanation of the toleration of mob violence. However, the sequencing of events deviates slightly from what electoral incentives theory would anticipate: rather than just tolerating violence during the election, the city responded to violence by increasing the likelihood that violence would occur against a specific ethnic group in the future. This suggests that the high **returns to violence** that occur near elections likely had some role in the decision of the New Orleans authorities. The decision to remove officers, not just tolerate the mob, is an example of a city future-proofing its *incapacity* to respond to violence against the Irish as a means of maintaining the ethnic hierarchy, thereby locking in violence's returns.

During the *La Union* riot, city authorities intentionally allowed a mob to destroy the Spanish consul and a prominent Spanish language newspaper. As the violence expanded, the city dispatched forces capable of suppressing it. My theory cannot cleanly explain the proximal response to violence in this case. The Spanish were not a very large ethnic minority in New Orleans, nor was there any threat of the Spanish ethnic minority's relative power improving regardless the outcome of the Crittenden expedition. The reaction to the Spanish mob in Congress illustrates how the perception of state capacity to produce order was important to ethnonationalists in the South, and further suggests that **legitimacy** has bearing on government behavior for delayed response to mobs. Although the New Orleans authorities were clearly disinterested in providing equal protection to all of its citizens, Southern representatives insisted on depicting the mob as honorable

conduct delivered by well-intentioned citizens. Similarly, the New Orleans municipal authorities made no statements in the press in the ensuing days that suggested that the mob was undeserved or inappropriate.

Analysis

Boston municipal authorities had an ambiguous proximal response to the Ursuline Convent Riot, but clearly attempted to stop the Broad Street Riot once it had gotten underway. The city reacted to both the Convent and Broad Street Riots by recommending the expansion of civilian authorities to quell riots. Although Boston's response to the rioting was interpolated through the anti-Catholic and anti-Irish biases of Bostonians – nobody received a conviction for participating in the Ursuline Convent Riot – the city made meaningful gestures at policy change in the aftermath of each riot. In the case of the Broad Street Riot, these changes took the form of the development of one of the nation's first police departments, to which modern scholars attribute the absence of significant rioting in the city after the 1830s.³²⁹ The Boston cases illustrate how **variety of nationalism** can inform a government's decision to respond to violence. The explanations given by Boston authorities invoke civic nationalist ideology as a justification for expanding law enforcement capacity in response to the mob.

The New Orleans case provides three useful counterpoints to the experience in Boston and highlight the influence of an ethnonationalist **variety of nationalism** on the behavior of municipal officials: (1) even in the most generous reading of events, with

³²⁹ Hindus, Michael S. "A City of Mobocrats and Tyrants: Mob Violence in Boston, 1747-1863." *Issues in Criminology* 6, no. 2 (1971): 55–83.

forewarning of an impending riot, the mayor of New Orleans' first impulse was to ask *La Union* to stop publishing, rather than dispatch guards sufficient to protect the paper, (2) in New Orleans, an intentional silencing campaign was launched to prevent the mobs from harming the city's legitimacy, and (3) just as occurred in Charleston, in subsequent discussion at the federal level, ethnonationalist Southerners sought to reframe mob violence as a healthy expression of popular will, further suggesting that the perception of orderliness and **legitimacy** were important tools used by Southerners to justify their system of government.

New Orleans' Know Nothing riots showed that persistent low-level violence, when attributed to an ethnic minority, provides easy justification for ethnonationalist state response to mob violence. In New Orleans, police inadequacy was also implicated in both the election rioting and the September 1854 riots between Know Nothing gangs and Irish police forces, and the city responded with efforts at police reform. This suggests a scope condition for my theory: when rioters are primarily ethnic minorities and the jurisdiction is led by ethnonationalists, the local jurisdiction has incentive to forcefully respond to the riot both proximally and in the aftermath to ensure that minorities cannot riot again.

The varying response to violence between the election mobs and the *La Union* mobs demonstrates how mob violence during events where the **returns to violence** are high matter more to ethnonationalist authorities than mob violence which occurs through historical coincidence. The New Orleans cases demonstrate an overlap between the electoral-incentives explanation for city response and my theory: elections have intrinsically high **returns to violence** because of violence's capacity to lock-in political

gains through electoral manipulation for years to come. For this reason, both theories would expect a city to be more likely to allow mob violence which deters a minority group during an election. Wilkinson's causal pathway which posits that ethnic majorities allow violence against minorities in order to spur counter-mobilizations, which can be depicted as illegitimate and threatening to a majority group does a good job explaining ethnic politics in New Orleans, though, and merits further testing and consideration.³³⁰

Notably, this explanation struggles to explain mob violence in non-electoral settings. Mob violence against the Spanish was so facially illegitimate that even if the remaining Spanish had counter-mobilized, the precipitating cause of action would still appear unjustifiable. Similarly, the causal pathway from Wilkinson's argument that explains the electoral violence in New Orleans implicates the role of **legitimacy** as an internal mechanism which drives state behavior: states use the perception of illegitimacy among their peers to justify the exertion of power. Complimentarily, if the state takes an action that reduces its own legitimacy, it opens itself up to the application of power in turn.

The interplay between power and legitimacy in ethnonationalist jurisdictions is explored in greater detail in the following chapter.

³³⁰ Steven I. Wilkinson, *Votes and Violence: Electoral Competition and Ethnic Riots in India* (Cambridge ; New York: Cambridge University Press, 2006), 4.

CHAPTER 6 - Reconstruction

The previous two chapters revealed that two variables: **returns to violence** and **legitimacy** appeared to have bearing on when ethnonationalist cities responded to violence, and when they did not. The cases considered in this chapter were selected because they exhibit high **salience of legitimacy, returns to violence**, and **ethnonationalism**. None of the other cases considered in the exploratory chapters of this dissertation fit this criteria, see Figure 4.

| Local Jurisdiction | Returns to Violence | High | Low |
|--------------------|---------------------|--------------------------------|---|
| Ethnonationalist | High | New Orleans 1866, Memphis 1866 | New Orleans 1854, Mississippi counties 1835 |
| | Low | New Orleans 1851 | Charleston 1835 |
| Civic nationalist | High | Boston 1856 | Boston 1834, New York 1834 |
| | Low | | Boston 1837, Chicago 1855 |

Figure 4 Exploratory Cases by Level of IV and DV

The goal of this chapter is to provide an exploratory elaboration on the insights developed in Chapters 4 and 5. The New Orleans and Memphis mobs provide an opportunity to consider how **salience of legitimacy** influences the behavior local elite behavior. All political entities should care about their legitimacy to some extent; however, the more an administration's policy agenda is contingent on its reputation with

actors over which it has no control, the more important its legitimacy becomes. Former-Confederate states during Presidential Reconstruction organized their governments with the permission of federal authorities, who could choose at any time to change the terms of Southern autonomy. As a consequence, the legitimacy of the governments organized by Southern states was of greater importance to political authorities in the South in the Reconstruction era than it was to Southern political authorities in the Antebellum era.

In both New Orleans and Memphis, ethnonationalist violence was tolerated by local authorities. Mobs in both cities attacked Black community members in an intentional effort to safeguard the power of white community members. In both cities, local authorities allowed violence to progress for the purpose of signaling to the Black community that its members would not enjoy newfound respect in society. In that the authorities were concerned about preventing mob violence, it was so that Northern Republicans would not have justification to remove the autonomy of officeholders associated with the Confederacy.

After the Civil War ended, a two-year period of violence and disorder began in the South. The Confederate court system was abandoned and law enforcement outside of that system was inconsistent and confused. The United States Army's mandate, as an enforcer of laws was unclear, as was the source of legal authority in the newly occupied Confederate states. Outside of cities, where municipal law enforcement apparatuses tended to be better developed, there was often no reliable law enforcement. For newly

freed Black southerners, what law enforcement existed seldom provided protection from white criminals.³³¹

For many former Confederate citizens defeat was hard to accept. In the final weeks of the Civil War, the Southern press only dared print wishful thinking, outlining shoe-string chances for the crushed Confederates to salvage a victory. Accounts from journals and correspondence describe a Southern population which could not contemplate defeat and was terrified of what defeat might precipitate. Most feared of all was the prospect of the reversal of White Supremacy. Newspapers described “cultivated and refined ladies... subject to their own slaves, overawed by negroes in Yankee uniforms,” while others warned of the “revolutionary upheavels [sic] in the Caribbean.”³³²

As the United States Army made its way South in the aftermath of the war, looting and rioting broke-out in small towns as the local population took materials from Confederate storehouses that they assumed would be seized. This was compounded by the dissolution of the Confederate Army, which had fought for years without pay, and which counted on its rolls a significant number all Southern men. Released from their obligations to the army, many of these men returned to the South to “pay themselves,” from Confederate supply caches, and the homes and farms of nearby Southerners.³³³ Soldiers also suffered from post-traumatic stress disorder, known then as “the army

³³¹ Carole Emberton, “The Politics of Protection: Violence and the Political Culture of Reconstruction” (Evanston, IL, Northwestern University, 2006), 21 – 25.

³³² Dan T. Carter, *When the War Was Over: The Failure of Self-Reconstruction in the South, 1865–1867*, 1st edition (LSU Press, 1985), 6 – 10. Quotations from the *Richmond Whig*, February 11, 1865, in Carter, 7, Samuel Agnew Diary, April 1865, in Carter, 8, and the *Macon Daily Telegraph*, May 4, 1865, in Carter, 11.

³³³ Carter, *When the War Was Over*, 12 – 13.

disease,” “melancholia,” or “irritable heart,” which further contributed to crime among returning veterans.³³⁴

Violence was widespread in the immediate aftermath of the war. Murders, robberies, and assaults were commonplace. Southerners had tolerated significant violence before the war, and five years of military training and propaganda about the illegitimacy of the new order did nothing to dissuade that situation. Across the South, a culture that had justified brutal violence against Black slaves on the grounds that anything less would result in uprising, saw those same slaves freed. The war, wrote one Louisiana historian, “was only a foretaste of the future.”³³⁵

In reality, it would be the antebellum period, not the war, that was the foretaste of the future. In 1865, at the very least, it was a reasonable proxy for the present. White Southerners still treated Black people like slaves, or at best, hated second-class citizens. “In Louisiana... they govern... by the pistol and the rifle.”³³⁶ The law’s failure was felt most acutely in Texas, where Southerners described seeing Black bodies floating down the Sabine River. Mass lynchings were, if not common, certainly not rare. A dispute near a Black settlement in Arkansas led to the hanging of twenty-four Black men, women, and children. Even more common were shootings and beatings, which were meted out with little fear of punishment. In a community that had only valued Black life for its property

³³⁴ Eric Dean, “‘We Will All Be Lost And Destroyed’: Post-Traumatic Stress Disorder and the Civil War,” *Civil War History* 37, no. 2 (June 1991).

³³⁵ Carter, *When the War Was Over*, 21 – 23; Charles Etienne Gayarre, April 20, 1865. Quoted in Carter, *When the War Was Over*, 23.

³³⁶ Alfred Dockery, April 1865. Quoted in Foner, *Reconstruction*, 119.

value, the destruction of that value removed one of the few restraints that had previously checked the aggression of the South's white population.³³⁷

After the assassination of Abraham Lincoln, Andrew Johnson's presidency began the period referred to as Presidential Reconstruction. Johnson created an opportunity for almost all Southerners to be pardoned. He appointed Southern white men as governors in the former Confederate states, only one of whom, Texas' Andrew Jackson Hamilton, was a unionist.³³⁸ He recognized Southern governments which had reformed without granting Black people suffrage and sought to break the back of the "slaveocracy" which had oppressed Southern whites and Blacks, without extending meaningful rights to the latter. Johnson's reconstruction gave wide latitude to the new Southern political class, many of whom had supported the Confederacy, to recreate governments as they wished. What they wished for was as close a return to life before the Civil War as possible. Alabama's new Governor, Lewis Parsons, summarized the situation, "Every political right which the State possessed under the Federal Constitution is hers today, with the single exception relating to slavery."³³⁹

Federal law enforcement before the Civil War was limited to a handful of statutes closely related to interstate commerce: counterfeiting, mail robbery smuggling, embezzling federal funds, and impersonating a federal officer.³⁴⁰ Pre-Civil War legal theory held that civil rights and citizenship were split between the national government

³³⁷ Foner, *Reconstruction*, 119.

³³⁸ Carter, *When the War Was Won*, 27.

³³⁹ Ibid, 176 – 189. Quotation from "Journal of the Proceedings of the Convention of the State of Alabama," 1865, in Foner, *Reconstruction*, 189.

³⁴⁰ Stephen Cresswell, *Mormons and Cowboys, Moonshiners and Klansmen: Federal Law Enforcement in the South and West, 1870-1893* (University of Alabama Press, 2002), 2.

and its constituent state governments. The nature of this split was considered ambiguous by contemporary legal scholars, but states had traditionally been the primary guardians of the basic individual rights enjoyed by American citizens. After the Civil War, that ambiguity was resolved, but in such a way that the federal government would take on an outsized role in protecting individual rights. From the perspective of this tension, secession was the ultimate assertion of state's rights, while the Union victory asserted the final sovereignty of the national government's standing to ensure individual rights.³⁴¹

As Andrew Johnson was working to strengthen the power of white Southerners, Congress was working to undermine him. The 1866 Civil Rights Bill was an attempt to enshrine in federal law equal rights for all American citizens, regardless the color of their skin. It was introduced on the same day as the Freedmen's Bureau Bill, which would provide for a bureaucratic machinery capable of assisting freed slaves in the South.³⁴² Lyman Trumbull, the bill's author, situated its necessity as both an appropriate remedy to the plight of Black Americans in the United States under slavery, and also in the context of the South's Black Codes. Trumbull made this clear in the speech he gave introducing the Civil Rights Bill, "Since the abolition of slavery, the Legislatures which have assembled in the insurrectionary States have passed laws relating to the freedmen, and in nearly all the States they have discriminated against them. They deny them certain rights, subject them to severe penalties, and still impose upon them the very restrictions which were imposed upon them in consequence of the existence of slavery, and before it was

³⁴¹ Robert J. Kaczorowski, *The Politics of Judicial Interpretation: The Federal Courts, Department of Justice, and Civil Rights, 1866-1876*, 1st edition (New York: Fordham University Press, 2004), 1 – 2.

³⁴² Ruth Cowart Wright, "The Enactment of the Civil Rights Acts of 1866 and 1957" (Ph.D., United States -- District of Columbia, American University, 1968), 18 – 26.

abolished. The purpose of the bill under consideration is to destroy all these discriminations, and to carry into effect the [13th] constitutional amendment.”³⁴³

As would be the case for other legislation passed in the immediate aftermath of the Civil War, attempts at using the federal government to expand rights was met with opposition from the Democratic Party. The debate over the Civil Rights Act was highly partisan and boiled down to two arguments: in one camp were Trumbull and his supporters who believed that the 13th amendment had provided no means of securing or providing rights to freed slaves, which this legislation – later codified into the 14th amendment – sought to remedy, in another were the northern Democrats who argued that the bill was unconstitutional and even if it were not, making Black people citizens was unadvisable.³⁴⁴

Elijah Hise, summarized his opposition to the Bill through the latter reasoning. He explained that the bill’s authors, “assume the authority and power for Congress to impose upon all the states... the obligation to allow a class of people within their limits to take the government into their control, whereby, instead of promoting and securing property, life, liberty, and civilization, they would throw them back into a condition of barbarism; they would Africanize some, if not all, of the southern States by giving to the preponderant negro population therein the power to control their local governments, thus defeating all the ends that are intended to be securing by the institution of governments...”³⁴⁵

³⁴³ “The Congressional Globe, 39th Congress, 1st Session,” 1866, 474.

³⁴⁴ Ruth Cowart Wright, “The Enactment of the Civil Rights Acts of 1866 and 1957” (Ph.D., United States -- District of Columbia, American University, 1968), 28 – 44.

³⁴⁵ “The Congressional Globe, 39th Congress, 1st Session,” 1866, 475.

This was an explicit appeal to an ethnonationalist form of government, being put forth in opposition to a bill designed to undermine ethnonationalism, and although the bill would eventually pass over Andrew Johnson's veto, Johnson's control over the executive still hampered the execution of the Civil Rights Bill. Johnson's appointed members of the federal judiciary (the Department of Justice would not be created until 1869, to help enforce the federal government's expanded role in local law enforcement) were unwilling to enforce the Civil Rights Bill using federal courts, and the attorney general refused to give instructions to members of the federal judiciary regarding how to interpret federal laws.³⁴⁶

The debate over the appropriate authority of the federal government in the South pivoted on competing claims to the illegitimacy of rule: on the one side were Republicans who argued that Southern violence and lawlessness justified further federal intervention, and on the other were Democrats who argued that violence was justified if it secured the sanctity of Southern white society. In this way, the **salience of the legitimacy** of Southern governments was high: if their governments were viewed as illegitimate, it would justify an expansion of Northern authority, while **returns to violence** were also high, as violence was one of the only tools held by white Southerners that could achieve the same variety of ethnic dominance as existed prior to the Civil War. The cities considered in this chapter were both **ethnonationalist** as their leaderships were peopled by White Supremacists who were actively working to promote white dominance.

³⁴⁶ Robert J. Kaczorowski, *The Politics of Judicial Interpretation: The Federal Courts, Department of Justice, and Civil Rights, 1866-1876*, 1st edition (New York: Fordham University Press, 2004), 38 – 41.

The following mobs occurred during the first years of Presidential Reconstruction. They were instigated by white Southerners who were regulated by a lax, Confederate-aligned, municipal authority, and they targeted a newly freed Black population. They show how when the **salience of legitimacy** of a supralocal regime (the former Confederate states) is in question, there is greater incentive among ethnonationalists to prevent mob violence and to take steps to preserve the autonomy of those states. These cases also show how **high returns to violence** and **ethnonationalism** interact to create conditions in which local authorities are incentivized to tolerate violence. In New Orleans and Memphis, **ethnonationalist** ideology inhibited local authorities from conceiving of Black citizens as equal with whites pressured white local authorities to allow mob violence to commence. The creation of a new legal structure which extended nominal rights and protections to Black citizens made the **returns to violence** high in both cities because of violence's capacity to signal to Black Americans the limits of their newfound rights absent other legal mechanisms that could serve the same function.

New Orleans 1866

Although New Orleans was captured by the Union navy in 1862, its Constitutional Convention of 1864 was dominated by Democrats and Confederate-aligned conservatives. Unionists, separated by infighting, suffered a series of setbacks after the city's capture. They lost the governorship to Michael Hahn, the planter candidate, in early 1864, and faced a legislature also dominated by plantation interests. In the 1864 Constitutional Convention, they allowed a document to be passed which

acknowledged the end of slavery in the state but did little to protect the rights of freedmen.³⁴⁷

This document's failure would quickly become apparent. In 1865, Louisiana elected a raft of conservative planters and merchants who sought to preempt two potential reforms which were being considered as a result of the end of slavery: (1) the emergence of a system of free labor which would undermine plantation economic interests, and (2) the growth of Black socio-political independence in the state. The Black Codes functioned as a solution to both problems.³⁴⁸ These laws created a legal framework for compelling newly freed Black laborers to work, and enshrined the power of white Louisianans over their Black counterparts.

The Louisiana Black Codes prohibited competitive systems of labor and made "tampering with, persuading or enticing away" laborers a misdemeanor. It made vagrancy illegal, and defined vagrancy as, "idle persons who, not having visible means to maintain themselves, live without employment." For vagrants, the punishment would fit the crime: failing to work would be punished by up to six months of labor.³⁴⁹ They created racialized punishments for a variety of mundane behavior. If a Black person was on the street after 10 p.m. it would cost him five dollars or five days of work, if he were

³⁴⁷ Gilles Vandal, "The New Orleans Riot of 1866: The Anatomy of a Tragedy." (Ph.D., United States -- Virginia, The College of William and Mary, 1978), 2 – 30.

³⁴⁸ Marek David Steedman, "Before Dusk: Race, Labor, and Status in Louisiana, 1865–1900" (Ph.D., United States -- Michigan, University of Michigan, 2003), 71 – 72.

³⁴⁹ Ibid, 74.

on the street after 2 p.m. on a Sunday, it would cost him two dollars or two days of work.³⁵⁰

By April 1866, reform-minded politicians realized that the 1864 convention required revision to secure rights for Black citizens. They also wished to ensure that only political elements loyal to the union held power in the state. The 1864 convention provided two means to propose amendments, but both involved the input of the state legislature, which was dominated by conservatives. As a result, the reformers sought a third option using a loophole in the 1864 amendment: reviving the old convention of 1864. This effort was probably not legal, and it attracted considerable criticism from the city's ex-Confederate press.³⁵¹

On June 26, Judge Howell, president *pro tem* of the convention, called for a meeting to be held on June 30. During that meeting a list of convention vacancies was to be delivered to the governor of Louisiana, followed by an election on July 26. On the day of the convention, a procession of Unionists was parading around the city and were attacked by a few members of a crowd of white protestors. This resulted in an exchange of fire between members of the procession and the crowd.

Rumors about the nature of this smaller incident led to the assembly of a large mob. By the afternoon, the Unionist procession, comprised mostly of Black veterans, and a crowd of Black convention-goers, had gathered outside the hall where the convention was to be held. Opposing them was a crowd of white citizens who had gathered in

³⁵⁰ William Edward Highsmith, "Louisiana during Reconstruction" (Ph.D., United States -- Louisiana, Louisiana State University and Agricultural & Mechanical College, 1953), 117 – 118.

³⁵¹ Donald E. Reynolds, "The New Orleans Riot of 1866, Reconsidered," *Louisiana History: The Journal of the Louisiana Historical Association* 5, no. 1 (1964): 5–27.

reaction to: (1) rumors that the procession had shot the chief of police, which had spread after the earlier exchange of gunfire, and (2) a call by the New Orleans police department to gather in order to suppress an impending riot.³⁵²

Clashes between the two groups resulted in a volley of fire emanating from the white crowds, which was returned from the convention hall.³⁵³ Eventually the police mobilized with the other white groups and launched an attack on the Black crowd, some of which scattered, the rest took refuge within the hall. This resulted in widespread violence against Black people throughout New Orleans, who were attacked and shot on the street by white citizens reacting to the scene outside the institute, and the siege and slaughter of the convention-goers in the hall. The reports from the event observe that many Black convention attendees were killed after having been arrested by the police, and while the police took efforts to save the lives of white mob members who were threatened, no similar action was taken for their Black counterparts. By 4 p.m. federal troops had arrived after a request was sent by civil authorities after the rioting had spread throughout the city. In its aftermath, 38 people were dead and 119 were injured, almost all of whom were Black.³⁵⁴

The reaction to the riot by New Orleans municipal authorities can be clarified by considering the broader context of the riot. The attempt to call the convention was a naked power grab by the city's Republican elements, which New Orleans Mayor John Munroe had no interest in tolerating. On July 25, he wrote to General Absalom Baird,

³⁵² Vandal, "The New Orleans Riot of 1866," 214 – 220.

³⁵³ The convention was to be held in the Mechanics' Institute, which I refer to as the "convention hall" in this section.

³⁵⁴ Ibid, 221 – 223.

acting Army commander of the city, that he intended to arrest all members of the convention before it began in order to prevent it from meeting. Baird replied that if Munroe attempted such a course of action, Baird would deploy federal troops to block the New Orleans police. Baird's position was that the legality of the meeting was for the courts to decide, not the mayor.³⁵⁵

When Monroe received Baird's letter, he had a discussion with advisors which included Frank Herron, a former Union general, and several prominent citizens from the city. Herron proposed that the civil authorities be used to protect the meeting, as the municipal authorities had no grounds to breakup the meeting, even if the convention lacked legal authority to meet. His plan was endorsed by the group, although many in the room expressed that if it were up to them, the members of the meeting would be killed.³⁵⁶

Another person in the room during this meeting was Harry Hayes, the ex-Confederate Sheriff who oversaw the city's response to the rioting. In response to rumors of disorder, Hayes had sworn in and armed a posse of Confederate sympathizers, many of whom had served under Hayes in the Army of Northern Virginia during the war, in preparation to prevent conflict the day of the convention.³⁵⁷ Presciently, Monroe sent a warning to the citizens of New Orleans that attempts to violently disrupt the convention would give ammunition to opponents of Presidential Reconstructionist, who sought to reduce Louisiana's ability to reconstruct itself without outside intervention.³⁵⁸

³⁵⁵ Reynolds, "The New Orleans Riot of 1866, Reconsidered," 9.

³⁵⁶ Hollandsworth, *An Absolute Massacre*, 67.

³⁵⁷ Reynolds, "The New Orleans Riot of 1866, Reconsidered," 9 – 11. Hollandsworth, *An Absolute Massacre*, 74.

³⁵⁸ Hollandsworth, *An Absolute Massacre*, 68.

With Monroe's warning in mind, why did local authorities participate in, rather than suppress, the rioting? As James Hogue argues, they had every incentive to prevent a massacre which would risk federal intervention. Hogue theorizes that the slaughter in New Orleans was the result of the lingering ideology of Confederate radicalism. Confederate soldiers had frequently engaged in mass slaughters during the Civil War and were well-represented, sometimes within units that resembled their war time mobilization at the moment of the riot. The "no quarter" and "no truce" organizational practice may have informed the reaction of the police.³⁵⁹

An alternative interpretation is that city elites had an incentive to stop the rioting, but were incapable of doing so because of the incompetence of the police and the racial bias of the city's citizens.³⁶⁰ The classic position is advanced by historians like Eric Foner who argue that the event was an extension of Reconstruction Era politics, and that the massacre occurred because the city's white elite was willing to use violence to suppress a Black political convention.³⁶¹ Certainly, New Orleans' mayor wished to avoid violence. I argue, however, that such a wish did not extend specifically to the city's Black resident. Joe Gray Taylor summarizes the state of racial thinking among New Orleans' white political class in 1866, "There is not the slightest iota of evidence that anyone in Louisiana realized that the action of Louisianians were to any extent responsible for

³⁵⁹ James Keith Hogue, "Bayonet Rule: Five Street Battles in New Orleans and the Rise and Fall of Radical Reconstruction" (Ph.D., United States -- New Jersey, Princeton University, 1998), 81 – 96.

³⁶⁰ Vandal, "The New Orleans Riot of 1866," 243 – 257.

³⁶¹ Eric Foner, *Reconstruction Updated Edition: America's Unfinished Revolution, 1863-1877*, Revised ed. edition (New York, NY: Harper Perennial Modern Classics, 2014), 262 – 263; Gilles Vandal, "The Origins of the New Orleans Riot of 1866, Revisited," *Louisiana History: The Journal of the Louisiana Historical Association* 22, no. 2 (1981): 135–65.

reconstruction legislation. Southerners could not imagine anyone sincerely believing in rights for the Negro; therefore the actions of the Radical Republicans were for revenge against the South or for the advantage of the Republican Party, or for both. And the people of New Orleans had not changed their minds on the subject of Negro suffrage.”³⁶²

Although the evidence suggests that the riot was not the result of a conspiracy, it likely was the result of a belief on the behalf of the citizens of New Orleans that Black people fundamentally lacked political rights, and that the convention reflected an unacceptable violation of social norms. The police’s failure to enforce the law speaks to the willingness of city authorities to prevent violence against New Orleans’ Black residents.³⁶³

Moreover, city elites had a stake in preventing the meeting from occurring. If the meeting were to be held, it would threaten Democratic control of the city, and could lead to the organization of a new constitutional convention. In short, city elites had strong incentive to prevent this meeting in particular and did not believe that they had legal authority to stop the meeting. Additionally, although the mayor certainly wished to stop the violence because of his (in retrospect) farsighted concern with maintaining the legitimacy of Louisiana’s new government, many of the city’s decision-makers wished to use violence to stop the meeting from progressing. This is not certain evidence that city elites used violence to suppress the meeting because they lacked alternative means to do so, but it certainly suggests that that was the case. Ethnonationalist ideology also clearly

³⁶² Joe Gray Taylor, “New Orleans and Reconstruction,” *Louisiana History: The Journal of the Louisiana Historical Association* 9, no. 3 (1968): 189–208.

³⁶³ Reynolds, “The New Orleans Riot of 1866, Reconsidered,” 26 – 27.

informed the city's response to violence. Black members of society were simply not viewed as being deserving of the right to safety, and this belief was so ingrained in the ideology of the city's ruling class that they could not conceive of the consequences of massacring Black citizens.

The slow response by federal troops can be explained by the communication between Baird and Munroe. Before he left the city, General Sheridan had given Baird orders not to place his troops around the convention hall to avoid the appearance that the army was endorsing the convention, but to respond to any civil disorder that erupted.³⁶⁴

Albert Voohries, Louisiana's Lieutenant-Governor, sent President Andrew Johnson a copy of Baird response to Munroe. Johnson then telegraphed Voohries, who subsequently delivered Johnson's response to Baird, that "the military will be expected to sustain, not obstruct or interfere with, the proceedings of the courts." Baird received Johnson's message from Voohries the morning the riot would begin. He did know what Johnson meant by his reply, and sought advice by telegram from his superior, Secretary of War Edwin M. Stanton. Stanton favored the convention but did not want to openly contradict Johnson. His solution to this conundrum was to say nothing to Baird and hope that Baird would take his silence as an endorsement of Baird's original plan to protect the convention if violence were to breakout.³⁶⁵

While Baird waited for Stanton's reply, he and Voohries agreed on an intermediate course of action: sending a few troops to the convention, which Baird

³⁶⁴ James G. Hollandsworth, *An Absolute Massacre: The New Orleans Race Riot of July 30, 1866* (LSU Press, 2001), 62.

³⁶⁵ Reynolds, "The New Orleans Riot of 1866, Reconsidered, 10.

believed would begin at 6 p.m., rather than noon. As a result of Baird's scheduling error, the troops which he had sent for as a preemptive measure would not arrive until hours after the rioting had ended.³⁶⁶

In riot's aftermath a kangaroo court blamed the massacre on the meeting attendees. No members of the police and no white citizens were charged in response to the riot.³⁶⁷ Northerners were incensed. The riot occurred within a few months of the violence in Memphis, which is discussed in the second half of this chapter. General Joseph Holt summarized Northern feelings about the affair when he described it as, "the barbarism of the rebellion in its renaissance."³⁶⁸

In the House's extensive report released in the aftermath of the riot, congressmen made the link between violence and the extension of law, "... the time has fully arrived when Congress should intervene and should so legislate as to secure to the people of Louisiana a republican form of government. The condition of things existing there cannot continue consistently with the safety, security, or peace of loyal men. Since the surrender of the rebel armies rebellion has assumed another form, and now controls the government through the same agencies that led those armies in time of war... [loyal men] are now made to feel the vengeance of unrepentant although, it may be, pardoned rebels, and in person, property, and life are exposed to continual attack. Nothing but the presence of military power at this moment measurably protects them from injury."³⁶⁹

³⁶⁶ Hollandsworth, *An Absolute Massacre*, 95.

³⁶⁷ Ibid, 146.

³⁶⁸ Joseph Holt, 1866. Quoted in Eric Foner, *Reconstruction Updated Edition: America's Unfinished Revolution, 1863-1877*, Revised ed. edition (New York, NY: Harper Perennial Modern Classics, 2014), 262 – 264.

³⁶⁹ *Report of the Select Committee on the New Orleans Riots* (U.S. Government Printing Office, 1867), 34.

The report went on to call for Louisiana to be placed under the control of people loyal to the Union.³⁷⁰ Southern representatives also issued a minority report. This report emphasized the illegality of the meeting and the incendiary rhetoric of one of the convention organizers, which was characterized as the precipitating cause of the riot. It did offer some criticism of the conduct of the rioters. After giving perfunctory description of the killings which occurred after the convention-goers had surrendered, it says, “There can be no defense for such acts. But when a riot takes place in the streets of a large city between opposing bodies of armed and excited men such deeds are inevitable.” After this statement, the report goes on to praise the conduct of some police officers, blame General Baird for not preventing the riot, and claim that the riot did not have any bearing on the disposition of the people of New Orleans or Louisiana toward the Union.³⁷¹

Faced with attempts by Republicans in Congress to further reduce the autonomy of the former Confederate states, policymakers were aware that the perception of unchecked Southern violence degraded the South’s legitimacy. In response to that perception, New Orleans’ mayor appealed to the potential for lost legitimacy if mob violence was tolerated when violence against the convention-goers began to appear more likely. However, countervailing against the mayor’s concern with legitimacy was the fear shared by many members of New Orleans’ white ruling class, that the convention could shift the balance of power against the

³⁷⁰ Ibid, 35 – 36.

³⁷¹ Ibid, 38 – 44, 59 – 61.

Democrats in New Orleans and the belief that violence against Black citizens was always justifiable if they felt it was necessary to preserve white rule. In Congress, Southern violence *did* delegitimize the former Confederate states, and reporting on the violence in congress led to calls for an expansion of the federal government's authority and capacity to respond to the mob.

This response is a variation on the expectations generated by my theory. **Legitimacy** was not highly salient for the United States as a whole, but it was for the former Confederate states as a sub-national collective. Within the sub-national collective, evidence of the need to preserve the legitimacy of the Southern system of government can be seen by the reaction from New Orleans' mayor. The behavior of progressives in the federal government reflects how illegitimacy makes it harder for governments to advance their interests once their legitimacy has been degraded.

Memphis

In Memphis, as in New Orleans, there was a white mob which attacked newly freed Black citizens for the purpose of signaling to the city's growing Black population that they did not enjoy equal protection under the law. Memphis' white citizenry had **high returns to violence** through the changing ethnic composition of the city, and the newly gained rights Black citizens enjoyed through protection by federal soldiers and the end of slavery.

Memphis had been captured by the Union army in 1862 and served as a destination of arrival for thousands of slaves who had been liberated by the Union Army

or who had escaped from plantations and were seeking protection from their former masters.³⁷² The sudden influx of Black citizens intensified the racial animosities in Memphis. In 1860, there were 3,882 Black people in the city (17 percent of the overall population). By 1870, that number had increased to 15,741 (39 percent). At the time the riot commenced, the Black population had grown to at least 20,000 people, but shrunk after the violence of 1866. Within six years, Black people had more than doubled their proportional representation in the city and appeared to be on the cusp of gaining rights and status unimaginable before the Civil War.³⁷³

The white citizenry and Confederate-aligned press in Memphis found this situation intolerable. There were daily news-stories printed documenting Black soldiers and citizens violating Tennessee's Black Codes, despite these having lost their enforceable power after the state's capture.³⁷⁴ Memphis' new Black community was pushing for more than just demographic representation. Henry Maxwell, a Black Sergeant in 1865 summarize the aspirations of Memphis' Black community, "We want two more boxes besides the cartridge box – the ballot and the jury box."³⁷⁵

In 1865, Presidential Reconstruction led to ex-Confederate authorities taking back control of Memphis' municipal authorities, leading to further tension between Memphis' white and Black citizens. When Tennessee passed a labor policy that would force some

³⁷² Altina L. Waller, "Community, Class and Race in the Memphis Riot of 1866," *Journal of Social History* 18, no. 2 (1984): 233–46.

³⁷³ George Calvin Rable, "But There Was No Peace: Violence and Reconstruction Politics. (Volumes I and II)" (Ph.D., United States -- Louisiana, Louisiana State University and Agricultural & Mechanical College, 1978), <http://www.proquest.com/docview/302889705/citation/DED582A373DF4BD7PQ/20>, 203.

³⁷⁴ Bobby L. Lovett, "Memphis Riots: White Reaction to Blacks in Memphis, May 1865-July 1866," *Tennessee Historical Quarterly* 38, no. 1 (1979): 9–33, 11.

³⁷⁵ *Ibid*, 12.

Black citizens to return to plantations as laborers, Black soldiers intervened, furthering the suspicions of white citizens that Black soldiers promoted lawlessness and economic unproductivity. At the same time, white assaults and abuse of Black soldiers and citizens continued and were received usually without punishment.³⁷⁶

In 1866, a standoff was brewing in Memphis. For the past year a contingent of 4,000 Black soldiers had been stationed in the city, where they were waiting for mustering payroll. The presence of a large number of Black soldiers drew the ire of the city's conservative press. The soldiers frequently clashed with the police, who viewed them as misbehaving troublemakers. Newspaper reporting before the event revealed the anger felt by the city's white elite toward Black men clothed in Union uniforms, armed with rifles and muskets, moving freely about the city and, at times, arresting Memphis' citizens.³⁷⁷

This situation was compounded by Memphis' large Irish population which had thrived since the city's capture. The Union policy of disenfranchising Confederates led to the collapse of the existing political authority in the city, which had previously allowed the Irish only marginal political participation. By 1865, the Irish had secured legislative victory in city council and held 165 of 167 spots on the Memphis police force. However, the city's Irish population had historically antagonistic relations with its Black population, as many Irish viewed Black workers as a roadblock on their path to economic advancement and the source of unfree labor which suppressed their wages. The economic

³⁷⁶ Ibid, 13 – 16.

³⁷⁷ Melinda Hennessey, "To Live and Die in Dixie: Reconstruction Race Riots in the South." (Ph.D., United States -- Ohio, Kent State University, 1978), 22 – 25.

competition between the two groups had intensified further in light of the immigration of thousands of unskilled Black laborers to the city during the war. The tension between the city's Irish and Black residents is cited by some historians as contributing to the role of the police in inciting and furthering the violence, as is the corresponding relationship between Irish-Black labor competition.³⁷⁸ However, others have noted that of the many rioters who were identified during the subsequent congressional investigation, few were Irish or from Irish parts of the city.³⁷⁹

On the afternoon of May 1, a group of white policemen clashed with a contingent of Black soldiers. The police officers had attempted to arrest a Black citizen who was having a dispute with a white mule driver. A crowd of Black soldiers gathered near the scene. As the police tried to take the arrestee away, the soldiers fired their pistols into the air. Thinking that they were being fired upon, the police fired back into the crowd of soldiers, who then returned fire on the police. This event led to the Memphis Riot.³⁸⁰

In the aftermath of the skirmish the Black soldiers were ordered back to the fort and the violence appeared to be over. However, with the streets cleared of soldiers, small mobs formed throughout the city and began to assault Black residents. The first night of rioting resulted in the burning of over 100 homes, mass theft, at least six rapes, and

³⁷⁸ Lovett, "Memphis Riots," 20; James Gilbert Ryan, "The Memphis Riots of 1866: Terror in a Black Community During Reconstruction," *The Journal of Negro History* 62, no. 3 (July 1, 1977): 243–57, <https://doi.org/10.2307/2716953>; Jack D. L. Holmes, "The Underlying Causes of the Memphis Race Riot of 1866," *Tennessee Historical Quarterly* 17, no. 3 (1958): 195–221; Kathleen Berkeley, "'Like a Plague of Locust': Immigration and Social Change in Memphis, Tennessee, 1850-1880" (Ph.D., United States -- California, University of California, Los Angeles, 1980).

³⁷⁹ Altina L. Waller, "Community, Class and Race in the Memphis Riot of 1866," *Journal of Social History* 18, no. 2 (1984): 233–46.

³⁸⁰ Hennessey, "To Live and Die in Dixie," 25 – 26.

several murders. On the second day, the rioting continued. Stoneman, the Union general with authority over the city, delayed dispatching troops for over 24 hours while the violence and chaos continued. On the third day of violence, he dispatched his soldiers, and the riot was suppressed. At least 48 Black people were killed, and another 285 people were either assaulted or raped. No arrests were made.³⁸¹

During the incident, all accounts indicate that the police were active participants in the violence and made little if any effort to stop them. Mayor John Park was reported, by multiple witnesses, to have gotten drunk and stumbled through the town. The Select Committee on the Memphis Riots and Massacre (SCMRM) described park as “utterly unequal to the occasion, either from sympathy with the mob, or on account of drunkenness during the whole time.”³⁸² The Sheriff of Shelby County, of which Memphis is the county seat, was described as similarly incompetent. SCMRM found that he made faltering efforts to regain control of his force, which could be found participating in mob action, and that when he rallied a posse to bring his force in order, the men he peopled it with were drunk “ragamuffins” and boys.³⁸³ The Memphis Chief of Police attempted to rally his officers but met no success.³⁸⁴

Although it was illegal for any person to carry concealed firearms in Tennessee, Mayor Park created an exception for those who lived in, “that part of town infested with

³⁸¹ Altina L. Waller, “Community, Class and Race in the Memphis Riot of 1866,” *Journal of Social History* 18, no. 2 (1984): 233–46, 233 – 234.

³⁸² Elihu Benjamin Washburne, *Report of the Select Committee on the Memphis Riots and Massacres, 39th Congress, 1st Session, 1866* (Washington, D.C.: The House Select Committee on the Memphis Riots, 1866), 23.

³⁸³ *Ibid*, 24.

³⁸⁴ *Ibid*, 25.

lawless negroes, and other bad characters.”³⁸⁵ General Stoneman claimed that he did not respond to the riot sooner because he had yielded control of the city to civil authorities. In his report to the Select Committee on the Memphis Riots and Massacre he claimed that he was reticent to use force on the second day of rioting because the citizens of Memphis had been so opposed to the troops’ presence in the city prior to that point, that he preferred to demur to civil authorities if at all possible.³⁸⁶ This interpretation is endorsed by historians who observed that Stoneman took a very cautious attitude toward offending the citizens of Memphis and preferred to stay disengaged from local politics.³⁸⁷

Two days after the riot ended, General Stoneman sent a list of five questions to Mayor John Park, these included: (1) What has the city done to punish the rioters? (2) What has the city done to compensate the victims? (3) What are the sources of the city’s revenue? (4) Are city authorities able to prohibit people from carrying arms? (5) What is the city doing to protect its Black citizens?³⁸⁸

In response to this letter, Mayor Park gallingly³⁸⁹ responded that despite Black rioters being more numerous than white police, the police were able to quell the riot by their superior character, and that he could not assure that Black people would be protected in the city because he felt that they were intrinsically unruly and would

³⁸⁵ Ibid, 55.

³⁸⁶ Elihu Benjamin Washburne, *Report of the Select Committee on the Memphis Riots and Massacres, 39th Congress, 1st Session, 1866* (Washington, D.C.: The House Select Committee on the Memphis Riots, 1866), 2.

³⁸⁷ Lovett, “Memphis Riots,” 20; James Gilbert Ryan, “The Memphis Riots of 1866: Terror in a Black Community During Reconstruction,” *The Journal of Negro History* 62, no. 3 (July 1, 1977): 243–57, <https://doi.org/10.2307/2716953>

³⁸⁸ Paraphrasing of question in Washburne, from SCMRM, 4.

³⁸⁹ The committee did not print the mayor’s response and described it as being of a “very unsatisfactory and discreditable character.”

continue to cause violent disorder because of their newly acquired civil rights.³⁹⁰ In Park's response, he made no mention of any affirmative steps being taken by the city to address the disorder, compensate its victims, punish its perpetrators, or prevent its recurrence.

However, in the days after the riot, some steps were taken, although not by Park. Prominent white citizens in Memphis, disgusted with Park's performance during the riot, and the conduct of the police, petitioned the Tennessee State Legislature to intercede to remove Park's authority. The Tennessee Legislature obliged, and passed a bill creating a Metropolitan Police Department, transferring power from Mayor Park to a group of Police Commissioners, thereby removing Irish control from the police.³⁹¹

The Police Bill did not pass without tension. Although the events in early May were widely criticized, there was still resistance to passing legislation from conservatives who felt that keeping Mayor Park in power was preferable to allowing Republican interference in local affairs. The police commissioners would be appointed by the Tennessee Legislature and approved by the governor, over whom, conservatives feared, Union officers still would exert too much influence.³⁹²

The legislative debate over the formation of the police department exemplifies the causal pathway of specific interest to this dissertation. Faced with a threat to local ethnic

³⁹⁰ Paraphrasing Park, from SCMRM, 36 – 56.

³⁹¹ Memphis (Tenn.), *Digest of the Charters and Ordinances of the City of Memphis, from 1826 to 1867, Inclusive: Together with the Acts of the Legislature Relating to the City, with an Appendix* (Bulletin Publishing Company, 1867), 149 – 163; Jack D. Holmes, "The Effects of the Memphis Race Riot of 1866," *Tennessee Historical Quarterly* XVII (1958).

³⁹² Holmes, "The Effects of the Memphis Race Riot of 1866," 66 – 67; *House Journal of the Called Session of the General Assembly of the State of Tennessee* (Nashville: S.C. Mercer, 1866), 28 – 29.

hierarchy, Memphis' authorities tolerated a riot. That riot attracted national attention and was the subject of a congressional investigation during a time when federal expansion of its authority over the former Confederate states seemed inevitable, either through congressional action or through the election of a new president less sympathetic toward the former Confederates. Understanding that further disorder threatened the autonomy of Southern states, supralocal authorities in Tennessee's legislature created a Metropolitan Police Department in Memphis. However, for the authority to be sufficiently insulated from the local political conditions that led to the last riot, they needed to empower a non-local board of commissioners to manage the department. The debate over the creation of such a board was contested between two groups: those who feared that the **illegitimacy of violence** posed a threat to the autonomy of Southern states, and those who feared that centralizing the power of Memphis' police department at the state level would allow for easier cooptation of the police board by federal authorities, also threatening the autonomy of people in Tennessee. Both groups were reacting to the threat of illegitimacy posed by mob violence under the shadow of potential federal intervention.

In the immediate aftermath of the riot, two investigations were launched, one by Stoneman and the other by the Freedmen's Bureau.³⁹³ The media coverage after the riot was split into two camps. In one group were southern newspapers who remarked positively about the event, claiming that it was caused by Northerners and Northern meddling. "The negroes wantonly began the row, without provocation shot down officers

³⁹³ Stephen V. Ash, *A Massacre in Memphis: The Race Riot That Shook the Nation One Year After the Civil War* (Hill and Wang, 2013), see "Chapter 8: Recriminations and Investigations."

of the law while in the discharge of their duties – and so the storm began,” wrote the *Argus*, while the *Bulletin* claimed that newspapers which “pander to [the] passions” of freedmen were to blame for trying to, “make equal things created unequal... Their woes are recited by diseased philanthropy, till, maddened by supposed wrong and real evil, incident to poverty, ignorance, and idleness, they are prepared for outrage and crime.”³⁹⁴

Although most Southern newspapers denounced some of the violence, in particular the burning of schools and churches, the consensus was that the riots had served a beneficial purpose, “the negroes now know, to their sorrow, that it is best not to arouse the fury of the white man... the lessons these brutes have lately received, we think it will be many a day before a riot will occur here again.”³⁹⁵

In northern newspapers, the event was widely excoriated and met with calls for greater federal enforcement of the law, and for the use of the federal troops to prevent local discrimination.³⁹⁶ The view that southern lawlessness and bigotry required greater intervention from the federal government was shared in SCMRM which reported, “All the witnesses testify as to the improbability, if not impossibility, of convicting any of the parties guilty of the outrages... General Stoneman had heard... that the outrages had not been denounced in the newspapers as he hoped they would be, nor had any public meeting been assembled to express condemnation of the riotous proceedings... Stoneman further states that... he did not believe the perpetrators of the outrages during the

³⁹⁴ Ibid, “Chapter 8: Recriminations and Investigations.”

³⁹⁵ *Public Ledger*, May 1866. Quoted in Ash, *A Massacre in Memphis*, Chapter 8.

³⁹⁶ Ash, *A Massacre in Memphis*, Chapter 8.

Memphis riots would ever be punished unless the strong arm of the federal government was made use of for that purpose.”³⁹⁷

This statement alone is a remarkable departure from the discussion of the use of law enforcement by the federal government a decade earlier. Southerners had pushed for federal enforcement of the Fugitive Slave Act – a federal law, but never for the federal government to habitually enforce local laws that local governments were unwilling to enforce themselves. They had demonstrated a continuous resistance to this course of action. Similarly, northerners had also never showed an interest in using the federal government to enforce the law. Washburne noted, “Reference is particularly had to the testimony of General Stoneman, touching the necessity of troops in Memphis, and in the State of Tennessee, in order to protect all classes of people in their rights and persons, and he does not believe, with the present officers and executors of the civil law now in power, they could be protected if the military force should be entirely withdrawn. He was led to believe that there would have been indiscriminate slaughter of the colored people during the mob, had it not been for the presence of the United States troops in the city.”³⁹⁸

In 1866, some of the nation’s first civil rights bill were being explicitly framed as questions of law enforcement in Congress, not by Southern legislators who wished to subvert Black autonomy through the Black Codes, but by progressive legislators seeking to secure civil rights.

³⁹⁷ Washburne, “*Report of the House Select Committee on the Memphis Riots*,” 27 – 28.

³⁹⁸ Ibid, 28.

When the house investigation was finished, two reports were issued. The first report, issued by Washburne, was critical of the riot and the possibility for Southerners to deliver justice to the victims of the riot. A minority report was also written by George S. Shanklin of Kentucky. Shanklin denounced the riot's violence but also claimed that the cause of the violence was Black troops firing at the police, and the poor conduct of the Irish in Memphis. Shanklin argued that the removal of political rights for all southerners was the root issue that led to disorder.³⁹⁹

The violence of southern mobs in New Orleans and Memphis (as well as Norfolk and Mobile), the emergence of the Klu Klux Klan, and the election of Ulysses S. Grant in 1868, led to a change in disposition toward federal enforcement. In 1869, the Department of Justice was created, improving the bureaucratic administration of federal courts. Most importantly, in 1870, the Enforcement Act gave new tools to federal law enforcement agents seeking to safeguard the rights guaranteed by the 1866 Civil Rights Bill.⁴⁰⁰

On May 31, 1870, Congress passed the Enforcement Acts, which made illegal a variety of practices that had upheld Southern white dominance during Presidential Reconstruction.⁴⁰¹ The bill intended to protect Black suffrage, safeguard rights preserved under the 14th amendment, destroy the Klan, prohibit election fraud, prevent the use of

³⁹⁹ George S. Shanklin, *Views of the Minority on the Memphis Riots* (Washington, D.C.: The House Select Committee on the Memphis Riots, 1866).

⁴⁰⁰ Ibid, 42 – 61.

⁴⁰¹ Cresswell, *Mormons and Cowboys*, 20.

public offices to deny 14th amendment rights, and provide federal enforcement for each of these purposes.⁴⁰²

The 1870 acts originated with a bill introduced by William Stewart of Nevada the purpose of which was to “[extend] the provisions of the civil rights bill of 1866.”⁴⁰³ This bill was advanced swiftly through house with the help of Democrats who sought to prevent the passage of more restrictive legislation. The Senate, however, viewed the legislation as too weak, and proposed an alternative bill with stricter laws and a mechanism that allowed for enforcement using the United States Army. This bill was ultimately successful.⁴⁰⁴ During 1871, two more acts were passed, both of which sought to expand the federal government’s capacity to enforce the 1866 Civil Rights Act and the 14th amendment, which instantiated the 1866 Civil Rights Act into the Constitution.⁴⁰⁵

The purpose of these bills was unambiguous. The stricter version of the Enforcement Acts was passed to check white Southern violence, and it was passed over the objection of Democratic representatives who sought to slow its passage and dilute its measures. When the bill was passed in its final form, it included language that provided for the punishment of “conspiracies of disguised men,” an effort clearly directed at the emerging Klu Klux Klan, and it passed over a lengthy Democratic filibuster.⁴⁰⁶ During these debates, the rioting in New Orleans and Memphis was provided as evidence of the

⁴⁰² Paraphrasing Everette Swinney, “Suppressing the Ku Klux Klan: The Enforcement of the Reconstruction Amendments, 1870-1874.” (Ph.D., United States -- Texas, The University of Texas at Austin, 1966), 64.

⁴⁰³ Ibid, 58.

⁴⁰⁴ Ibid, 59 – 60.

⁴⁰⁵ Ibid, 93 – 154.

⁴⁰⁶ Ibid, 61 – 63.

lawlessness that had come with continued Confederate rule. Henry Wilson, speaking in favor of the 1871 Enforcement Act, provided Memphis and New Orleans as specific examples of the types of incidents that the 1866 Civil Rights Bill sought to prevent, and that the 1871 Enforcement Act would further act to prevent, “Bands of regulators during that year committed great outrages in Kentucky, and a bloody riot at Memphis, in Tennessee, by which many freedmen lost their lives, and the massacre at New Orleans, demonstrated that crimes against Union men and freedmen were increasing... Sir, the inhuman legislation, the oppressive acts, the appalling crimes, the deeds of inhumanity, and the earnest appeals of the freedmen for protection, penetrated the ear and touched the heart of the nation. Congress passed an act to secure to the freedmen civil rights.”⁴⁰⁷

Uncontrolled violence delegitimized Johnson’s Presidential Reconstruction. The nation had committed itself to free labor, but throughout the South, plantation owners had a vested interest in demonstrating that such a policy was impossible. “Among white southerners, the all-absorbing question of 1865 and 1866 was, ‘Will the free Negro work?’”⁴⁰⁸ This was more than just a debate about race, it was a debate about which social system America would adopt. Would liberal, hierarchically flat, free-marketeers prevail? Or were rigid hierarchies needed to ensure that the lower-classes stay productive?⁴⁰⁹

This was the question that made legitimacy salient during Reconstruction. Lincoln’s assassination had given the advocates of racial hierarchy a chance to prove

⁴⁰⁷ “Appendix to The Congressional Globe, 42nd Congress, 1st Session,” 1871, 251.

⁴⁰⁸ Eric Foner, *Politics and Ideology in the Age of the Civil War* (Oxford, England: Oxford University Press, 1980), 122.

⁴⁰⁹ Ibid, 122 – 123.

their system's merits. Left in control of many parts of local and state government, former Confederates auditioned their system of government with the national public. If they could show that it produced order, or that the abolition of slavery was to blame for the disorder in the first place, they had a chance of retaining the social system they desired. The mobs in New Orleans and Memphis, more than any other feature of Presidential Reconstruction, pushed the nation toward Congressional Reconstruction.⁴¹⁰ Unchecked mob violence was too illegitimate in the eyes of the broader public to be allowed to continue.

In investigations of the Klu Klux Klan before the second Enforcement Act in 1871, the riots were given as examples of why Democratic Party operatives did not fear punishment for enabling Klan violence in the South. During the 1871 Congressional investigation into the Klan, before the passage of the 1871 Enforcement Act, Congressmen talked to the Governor of South Carolina, Robert K. Scott, who described a campaign of intimidation launched against South Carolina's Republican Party and freedmen. When asked why the laws were not enforced, he responded, "Because of the political organizations set at defiance the officers of the law... I was forced to the conclusion that the Democratic party was organized for the purpose of preventing the officers of the law from enforcing the law against any of their political partisans and for the purpose of controlling the election... I believe, from evidence that I dare not regard as worthless, it was the intention of these men to inaugurate a civil war for the purpose of overthrowing the governments that had been established at the South... they expressed

⁴¹⁰ Ibid, 119 – 123.

their plan of operation, in which they stated that they would bring about a riot, in this riot they would kill off the leading Republicans, both white and black... In answer to an inquiry whether they did not fear that they would be called to answer for this wholesale work, they said, 'Who ever heard of anybody being punished for a riot?' and referred to Memphis, Camilla, and New Orleans in 1866."⁴¹¹

Violence's capacity to affect political change when alternative, more legitimate measures were unavailable, led to its development as a common tactic among Southern whites seeking to maintain social order. Once the precedent for non-punishment of the rioters had been established, the costs to riot were only the damage to local infrastructure and the cost to government legitimacy. Without the threat of punishment, Southern officeholders could use the threat of non-enforcement of the law to devastating effect, subverting federal civil rights law without consequence.

Analysis

The political forces that gave rise to the Memphis and New Orleans riots, the failed proximal response to the riots, and the subsequent expansion of Congressional Reconstruction, speaks to the interaction of power, violence, and legitimacy. In the cases considered in this chapter **ethnonationalist** authorities used violence, which had **high returns** in the immediate aftermath of the Civil War, during a time when the **legitimacy** of the South during Presidential Reconstruction was **highly salient**, to coerce Black citizens in Memphis and prevent a constitutional convention in New Orleans. These riots

⁴¹¹ "Appendix to The Congressional Globe, 42nd Congress, 1st Session," 1871, 292.

led to significant expansions of the federal government's role in enforcing laws in the South.

Within case variation in the response of governmental authorities in this case reveal that ideology does not have a strictly linear relationship with toleration of mob violence. In reference to the other cases considered in the previous chapters, one can see that **returns to violence** led to the conspicuous and intentional toleration of mob violence in Memphis and New Orleans, while the risk of federal of intervention pressured ethnonationalist politicians to attempt to prevent violence for the sake of strengthening the **legitimacy** of Presidential Reconstruction.

Does the mandate to give and protect civic rights originate with the federal government or with state governments? If the latter is true, can the federal government override the consensus of majoritarian groups in local communities to ensure the rights for minority groups? Specifically, can white Southerners assert a right to oppress their Black neighbors, and if they cannot, who has the right to stop them?

From 1860 – 1865, the Union and the Confederates fought a war over these questions, and the conclusion of the war showed that white Southern governments would neither realize the right to secede, nor the right to maintain an ethnonationalist system of government that denied fundamental civic and personal rights to Black citizens. However, because the Confederate states sought to resolve these issues through violence and warfare, and lost in that effort, the principle that determined the federal government's provision of rights was the supremacy of violence. Absent alternatives to violence during the first years of Reconstruction, former Confederate states were pressured to tolerate

non-state violence as an alternative mechanism to the legal institutions that were once available to maintain ethnonationalism.

The sudden transition from a legal system which denied Black rights to one which affirmed them, even if only through emancipation and the unenforced stipulations of the 1866 Civil Rights Act, created a situation in which there were overlapping claims to the legitimate use of violence, and in which white Southerners lacked formal recourse to instantiate certain forms ethnonationalist government. Although the Black Codes could deny some Black people their rights, it could not produce in Memphis the right to subjugate Black union troops, nor could it in New Orleans prevent the right of Black political activists from attempting to call a constitutional convention.

The use of violence to deny Black rights was viewed as a legitimate form of protest by Southern newspapers, as is evidenced by their positive response to violence in both New Orleans and Memphis, while that same violence was viewed as deeply illegitimate to Northerners, in particular Republicans who were seeking to justify an expanded role of federal intervention in Southern states. Southerners, parried by arguing that the presence of the United States Army was the true source of illegitimacy.

When Southerners attempted to resolve these ambiguities through violence, it damaged not just the reputations of Memphis and New Orleans, but the entire project of Presidential Reconstruction. I argue that the damage to the legitimacy of white Southerners' system of government posed a challenge to Southern lawmakers: how could they preserve the local tools that allowed them to reproduce pre-Civil War ethnonationalist power relations while preventing the federal government from impinging

on their autonomy to create such a system? In Louisiana, Tennessee, and in the speeches of Southerners in Congress, we can see evidence of ethnonationalists struggling to find the answer.

The Tennessee legislature created a police department to remedy the inadequacy of the existing police force in Memphis; however, the debate over the creation of that force couched two ethnonationalist camps against each other: 1) On one side were opponents of the bill who did not want to create a police commission with authority tied to the State of Tennessee, which could subsequently be coopted by federal authorities to enforce civil rights legislation in jurisdictions throughout the state. 2) On the other side were proponents of the bill who wished to provide higher quality policing, and who viewed the existing police force as already compromised by the an undesirable ethnic group – the Irish.

Similarly, the specific appeals for peace made by the mayor of New Orleans to the citizens of New Orleans, on the night before the mob, did not contain a denunciation of violence *on its own terms*. Instead, the mayor argued that violence could be used to demonstrate the illegitimacy of Southern rule, and to justify further federal intervention. One can infer that the mayor's proclamation was really a bargain with his ethnonationalist city: accept some violation of your social mores now to allow the continued dominance of white Louisianans over the coming years. His bargain was rejected.

The use of violence to secure or deny citizenship underpinned the claims of both the local Democratic municipal authorities in New Orleans and Memphis and the federal

authority represented by the United States Army. Republicans claimed that the New Orleans and Memphis riots (alongside other instances of unpunished violence) were evidence that the protection of equal rights required the expansion of federal authority. They argued that Southern violence tolerated for the purpose of denying Black Americans civil rights rendered local governments illegitimate, while southerners countered that (1) some violence occurred in all jurisdictions, including northern cities, (2) that the riots, or at least the New Orleans riot, was actually a Republican plot to delegitimize the South, and (3) that northern troops were occupiers who had no claim to legitimate rule in the South.

Southern ethnonationalists pushed to reduce the role of the federal government as a law enforcement body because federal law enforcement would entail the creation of a law enforcement apparatus capable of securing equal (or more equal) rights for Black and white Americans. At the same time, civic nationalists sought to expand the federal government's capacity to enforce the law in order to reduce the capacity of Southern elites to use the under-enforcement of the law to solidify their control over the Reconstruction South. This created the **contested response** to mob violence, which in its delayed form manifested as a Congressional debate over the creation of an expanded federal law enforcement apparatus, and in its proximal form, can be seen through the toleration and encouragement of mob violence by local sheriffs, and its eventual suppression by federal troops.

CHAPTER 7 - The Red Summer

“We have almost enough law in this country. What we want is enforcement of the law.”
– Neval Thomas, Washington D.C. NAACP branch president, 1920.

This chapter contains the first cases designed to test the theory developed over the previous three empirical chapters. The cases in the previous chapter suggest that three variables inform government response to mob violence: **returns to violence**, **salience of legitimacy**, and **variety of nationalism**. In my theory chapter, I describe how those three variables interact in detail. If a local government has a civic variety of nationalism, they will respond to mob violence because of its material costs and the costs that violence generates to legitimacy. All governments have strong incentives to respond to violence for these reasons, but these incentives may be outweighed for ethnonationalists, who incur lower costs to legitimacy for enacting violence against (at least in American cases) non-whites.

As a result, when authorities have **high returns to violence** because either (1) they lack alternatives to violence which could be used to safeguard an ethnic hierarchy, or (2) a supralocal authority expands civil rights or demographic change alters the underlying ethnic balance of power, a local ethnonationalist authority will have more incentive to tolerate the use of violence against an ethnic minority.

Although all jurisdictions care about their legitimacy, when a government is less local, it cares about legitimacy more. Violence’s deterrent effect may be wholly local, while its reputational costs will be shared regionally and nationally. As a consequence,

although any jurisdiction may suppress violence for reputational reasons, my theory posits that the less local the level of government, the more concerned that government will be with legitimacy. When **salience of legitimacy** increases for a given level of government, as represented by its need to implement policy without relying on coercion and in a forum over which it does not exert direct control, states will have greater incentive to respond to violence in order to prevent the loss of legitimacy.

The posited relationship among **variety of nationalism, returns to violence**, and **salience of legitimacy** is illustrated in Figure 5.

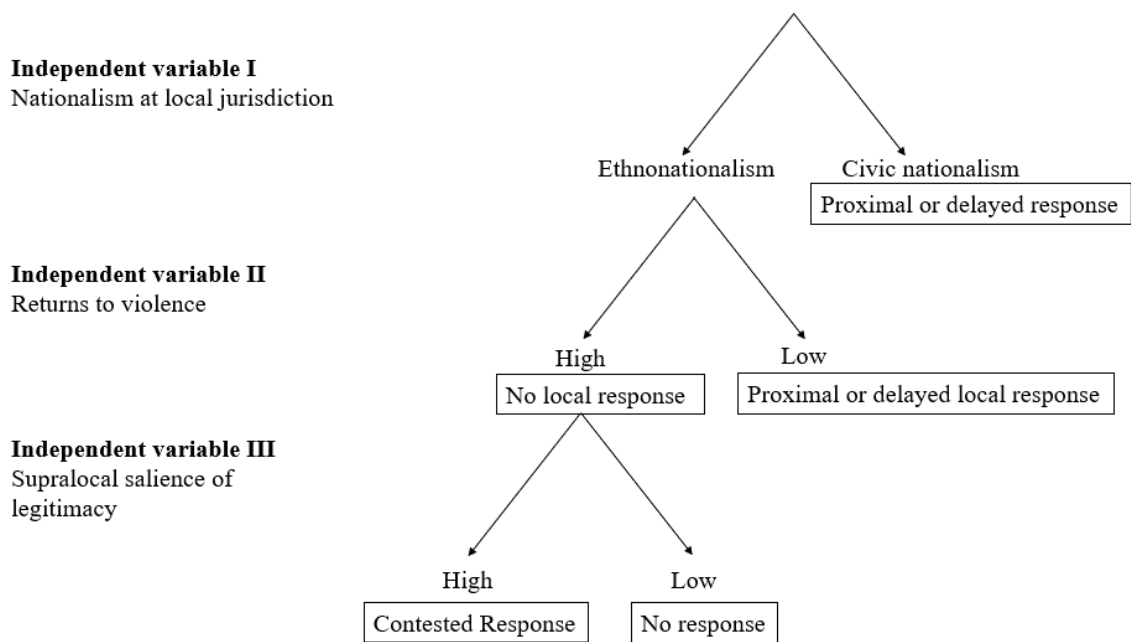


Figure 5 Expected Outcomes

The method that I use to test this theory is a **diverse case study**. I select cases which represent all theoretically salient combinations of my independent and dependent variables to see whether they comport with the expectations generated by my theory. These cases are enumerated in Table 7.

Table 7 Diverse Test Cases by Level of IV

| Local Jurisdiction | Returns to Violence | Salience of Legitimacy | |
|--------------------|---------------------|-------------------------|------------|
| | | High | Low |
| Ethnonationalist | High | Tuscaloosa, Little Rock | Ellisville |
| | Low | Clinton | Omaha |
| Civic nationalist | High | | Chicago |
| | Low | | |

This chapter, and the following chapter, implement the test of my theory. The events considered in this chapter occurred during an era of rioting after World War I, when Black soldiers were returning to the United States. The events considered in the next chapter occur in the early years of the civil rights era. The 1919 “Red Summer” cases have, at least relative to the cases considered in the next chapter, **low salience of legitimacy**. Although America was experiencing its first forays into international leadership, foreign policy failed to take as expansive a position in America’s political agenda as it would later in the century. Woodrow Wilson campaign to ratify the Treaty of Versailles failed and American foreign policy goals receded. However, foreign policy’s fading importance in American politics, evidence of the influence of America’s international agenda on America’s domestic anti-lynching policy can still be seen in how legislators considered the Dyer Anti-Lynching Bill.

Although progressives claimed that anti-minority violence was damaging America’s capacity to effectively negotiate with smaller European countries, such

violence did not invite moral outrage among members of the international community in 1919, as it would in 1957. Across the globe, nationalist and ethnic rebellions were producing bloody and racialized conflict. Poles, Lithuanians, and Jews fought in the streets of Vilna. Hungarians fought both Austria and Romania for territory in Transylvania and Burgenland, and Indian and Egyptian national movements fought for independence from colonial authorities.⁴¹² Many of these conflicts produced massacres, and although this violence was not condoned by the international community, it was not particularly unusual.⁴¹³

Increased capacity to resist violence among returning Black soldiers paired with Black migration to northern states created ambiguity in racial hierarchies across the country. In such a setting, **violence** had **high returns** as represented by its capacity to serve as a unique tool that White Supremacists could use to coerce Black citizens into accepting the old racial hierarchy. The following section introduces mob violence in 1919 and provides justifications for the classification of each case.

The Red Summer – 1919

In April 1919, a Black soldier was found hung outside of Pickens, Mississippi. The soldier had asked a white woman to write a note for him earlier that week and was arrested after it was alleged that he asked her to write offensive material. In an interview

⁴¹² William M. Tuttle, *Race Riot: Chicago in the Red Summer of 1919*, 1st THUS edition (Urbana: University of Illinois Press, 1996), 15.

⁴¹³ Savita Narain, *The Jallianwala Bagh Massacre* (Lancer Publishers LLC, 2013); Béla Bodó, *The White Terror: Antisemitic and Political Violence in Hungary, 1919–1921* (London: Routledge, 2019), <https://doi.org/10.4324/9780429507960>.

after the fact, the Pickens town marshal claimed that when a group of men arrived at the jail to take the soldier away, “they got the keys.”

The following week, the *New Orleans Item* published an editorial questioning the event. The *Item* argued that at the soldier was at most guilty of speaking offensive language, which should not justify murder. James K. Vardaman, Mississippi’s sitting governor, responded with an editorial of his own titled, “The only Remedy is the Rope,” in which he asked, “What else would a decent white man do to an infernal black scoundrel who was guilty of writing an insulting note to his wife or daughter but kill him?... I am opposed to mob law, but I am more opposed to negroes ‘writing insulting notes’ and committing rape on white women. It’s unfortunate that the situation calls for such a remedy, but there is nothing as good for the rapist as a rope... We have no complaint of bolshevism or anarchism or socialism, bomb throwing or any other acts of lawlessness, as long as these plutocratic gentlemen are permitted to go unwhipped of justice.”⁴¹⁴

What is the rope the only remedy for? For James K. Vardaman, the answer was letter writing – if that act involved a Black man interacting with a white woman. Vardaman explained that the situation had arisen from the man’s experiences overseas, where he had no doubt “enjoyed the lascivious embraces of the French prostitutes” allowing him to return to Pickens, Mississippi with the idea that “preach[ing] social

⁴¹⁴ Vardaman quoted in Vincent Mikkelsen, “Coming from Battle to Face a War: The Lynching of Black Soldiers in the World War I Era” (Ph.D., United States -- Florida, The Florida State University, 2007), 122 – 123.

equality” could be done without being lynched, “the remedy is horrible but what else can we do?”⁴¹⁵

Lynching continued in Mississippi throughout the fall and summer of 1919. Elsewhere in America, other forms of mob violence commenced as well. According to the NAACP, there were “at least 25 major riots and mob actions” which resulted in the lynching of at least 52 Black people. These mobs were characterized by (1) the return of Black soldiers from Europe at the end of World War I, leading to heightened anxiety among white southerners regarding calls for political and social equality, (2) the growing civil rights movement, facilitated by organizations such as the NAACP, which had been founded a decade earlier, and (3) an increased propensity among Black citizens to use armed force as self-defense.⁴¹⁶

This chapter considers three of those incidents: a multi-day race riot in Chicago, a mob and lynching in Omaha, and a lynching in Ellisville. Table 8 shows the observable implications and variable classification for each case.

⁴¹⁵ Ibid, 123 – 124.

⁴¹⁶ Cameron McWhirter, *Red Summer: The Summer of 1919 and the Awakening of Black America* (Henry Holt and Co., 2011), *Things Fall Apart*, Patricia Sullivan, *Lift Every Voice: The NAACP and the Making of the Civil Rights Movement* (New Press, The, 2009).

Table 8 Observable Implications of Explanatory Variables by Era

| Variable | Observable implications | Implication observed? | | |
|------------------------|--|-----------------------|--|---|
| | | Chicago | Omaha | Ellisville |
| Ethnonationalism | <i>Segregation</i> : Segregated facilities, services, and institutions, bans on interracial marriage, racialized housing laws | No | Yes: Miscegenation laws, blood quantum laws, school segregation, housing segregation | Yes: Seg schools, miscegenation laws |
| | <i>Civic segregation</i> : Proscriptions against voting, jury service, or civil service employment by race. | No | No | Yes: Poll tax, miscegenation law |
| Returns to Violence | <i>Ethnic Power Balance</i> : Violence can shift the balance of power between two ethnic groups in a community. | N/A | No: Black population less than 5% | Yes: Black population more than 30% |
| | <i>Coerce Rights</i> : Violence is used to coerce a group from enjoying a right, when other means of preventing that right do not exist (no legal means to prevent right). | N/A | No | Yes: Violence is explicitly framed as a necessary tool to control Black behavior. |
| Salience of Legitimacy | <i>Policy framework</i> : Decision makers discuss internal policymaking through the framework of external state/actor approval. | N/A | No | No |
| | <i>External competition</i> : States are competing with other actors to influence other party's behavior in a context where coercion is not reliable. | N/A | No | No |

Variety of Nationalism

Omaha and Ellisville are categorized as having ethnonationalist governments, and Chicago is categorized as having a civic nationalist government because of the differing extent to which Jim Crow laws had been passed in each city. Although all three cities evinced racially discriminatory social institutions and mores, that racism was more intense and officially sanctioned in the Southern cities than in Chicago.

In Mississippi and Nebraska, 19th century laws were passed mandating segregation in schools and most forms of transportation. Both states amended their

constitutions in the 1890s to create policies which would reduce Black voter participation and passed laws in the early-20th century which forbade interracial marriage.⁴¹⁷ In contrast, although Chicago's white residents held many racist beliefs about Black people, Chicago lacked even informal school segregation until the 1920s, when immigration of Black Southerners to the city spurred white Chicagoans to implement de facto school segregation.⁴¹⁸ Consequently, especially in contrast to its Southern peers, Chicago is considered a **civic nationalist** city, which lacked both the informal and formal tools of segregation which were common in **ethnonationalist** Ellisville and Omaha.

Returns to Violence

I classify Omaha as having **low returns to violence** and Ellisville as having **high returns to violence**. Less than 1% of Nebraska's population was Black in 1919.⁴¹⁹ Black immigrants to Omaha in 1910 typically moved into racially segregated wards, where prospects for economic and social advancement were poor.⁴²⁰ In 1919, Omaha was a mid-sized American city with a population of nearly 200,000. Without a large change in the absolute size of the city's Black population, there was no credible threat that immigration could pose to the city's ethnic power balance.⁴²¹ Thus, although there was

⁴¹⁷ Theodore C. Sorensen, "Nebraska Miscegenation Statute - Constitutionality," *Nebraska Law Review* 28 (1949 1948): 475; David Peavler, "Creating the Color Line and Confronting Jim Crow: Civil Rights in Middle America: 1850 - 1900" (University of Kansas, 2008); Leslie V. Tischauser, *Jim Crow Laws* (Santa Barbara, Calif: Greenwood, 2012).

⁴¹⁸ Michael Home, *Down From Equality: Black Chicagoans and the Public Schools, 1920-41*. (University of Illinois Press, 1984).

⁴¹⁹ Clayton Laurie, "The US Army and the Omaha Race Riot of 1919," *Nebraska History* 72 (1991).

⁴²⁰ Patricia Scott West, "Race Riot. Press Coverage of Urban Violence, 1903-1967" (Ph.D., United States - Mississippi, The University of Southern Mississippi, 2003), <https://www.proquest.com/docview/305307352/abstract/4833762E3577451EPQ/1>, 225 - 230.

⁴²¹ Sam Rogers and W.M. Steuart, "Fourteenth Census of the United States: State Compendium Nebraska" (Department of Commerce, U.S. Census Bureau, 1921).

in-migration during the 1910s, Omaha's Black population never comprised more than 5% of the city's total population and remained politically irrelevant in the city's politics.⁴²²

In contrast to Omaha, Ellisville had a much smaller population and had adopted more racially repressive policies. Unlike in Omaha, which developed as an industrial city in the 19th century, Ellisville's background as a haven for Confederate dissidents had produced a particular paranoia about interracial contact and cooperation.⁴²³ The need to prevent not just Black access to schools and jobs, but to prevent most social contact between Black and white residents created demand in Ellisville for tools capable of creating a social order dominated by whites.⁴²⁴ Mississippians believed that it would be difficult to create such a social order through laws alone.

This can be seen in the statements of Theodore Bilbo, who said that lynching would stop when, "right conception of the proper relation that must exist between the races," reemerged,⁴²⁵ and the *Jackson Clarion-Ledger's* claim that lynching was necessary "so long as busy-bodies, who know nothing of conditions south of the Mason-Dixon line attempt to regulate our affairs and preach social equality to the negro."⁴²⁶ Violence was clearly understood to be, at the very least, an effective policy for communicating the intentions of white elites in Mississippi to returning Black soldiers.

⁴²² Nicolas Swiercek, "Stoking a White Backlash: Race, Violence, and Yellow Journalism in Omaha 1919" (James A. Rawley Conference in the Humanities, Lincoln, Nebraska: University of Nebraska, 2008).

⁴²³ Terence Finnegan, *A Deed So Accursed: Lynching in Mississippi and South Carolina, 1881-1940* (University of Virginia Press, 2013).

⁴²⁴ Ibid, e-book section, "*Strictly a White Man's Country, with a White Man's Civilization.*"

⁴²⁵ Theodore Bilbo, quoted in Finnegan, *A Deed So Accursed*, e-book section, "*Strictly a White Man's Country.*"

⁴²⁶ *Jackson Clarion-Ledger*, quoted in Finnegan, *A Deed So Accursed*, e-book section, "*Strictly a White Man's Country.*"

Additionally, Ellisville only had a population of 1,681 people in 1920. Any change in the number of Black residents could have a significant change in the relative power between white and Black residents in the city.⁴²⁷ Moreover, unlike Nebraska, which was only 1 percent Black, Mississippi was nearly 40 percent Black in 1920, and Jones County, the location of Ellisville, was 28.2 percent Black in 1920.⁴²⁸ Any absolute change to the number of Black residents in Ellisville, including migration from other areas in Mississippi, could significantly transform the ethnic power balance in the city. For this reason, I classify Ellisville as having **high returns to violence**.

Chicago 1919

In Chicago, a **civic nationalist** local government deployed law enforcement in response to mob violence, but in an ineffectual manner such that dozens of Black citizens were assaulted and killed over the course of several days of violence. In response to the city's failure to respond to the mob, Chicago launched a commission to investigate race relations in the city and made recommendations to prevent the recurrence of mob violence. Recommendations included improving the ability of law enforcement in Chicago to respond to violence and crime directed at the city's Black residents. These results are summarized in Figure 6, which contains the variable map for this case.

⁴²⁷ "1920 Census: Volume 1. Population, Number and Distribution of Inhabitants, Detailed Tables: Population of Counties, Incorporated Places, and Minor Civil Divisions - Alabama through Mississippi" (Department of Commerce, U.S. Census Bureau, 1921).

⁴²⁸ Reporting on Ellisville's racial composition is unavailable. The census does not report on racial composition of places with populations smaller than 2,500 people in the year 1920. "Summary for the United States, by Divisions and States - Population, Agriculture, Manufacturers, Mining Centers of Population, 1790-1920, and Centers of Farms, Agricultural Products, and Manufactures, 1850 - 1920, Contents - Mississippi" (Department of Commerce, U.S. Census Bureau, 1921), <https://www2.census.gov/prod2/decennial/documents/06229686v20-25ch3.pdf>.

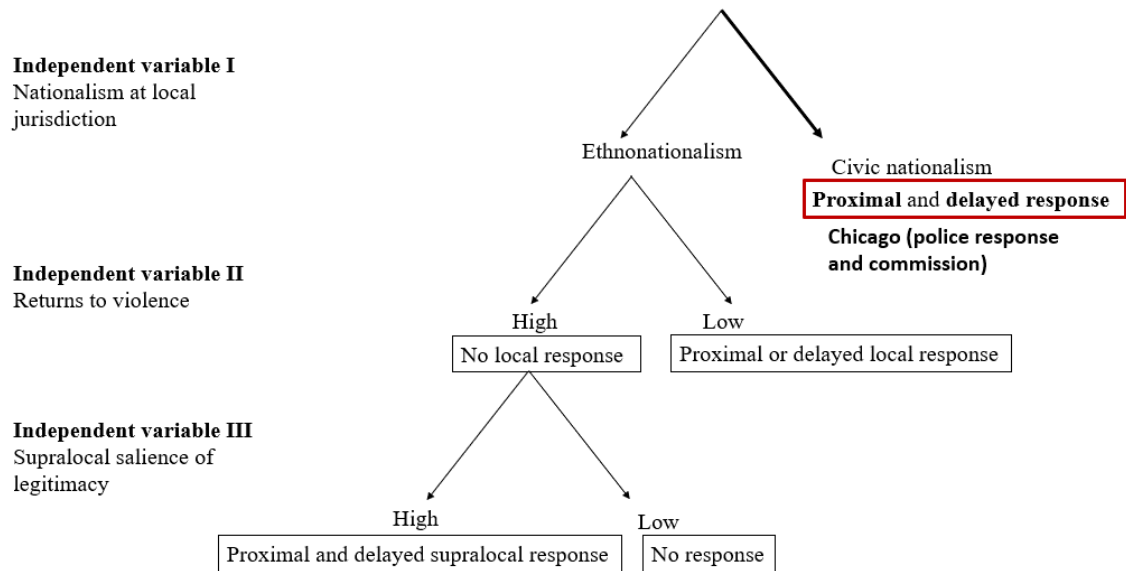


Figure 6 Variable Map for Chicago - 1919

In the introduction to the Chicago Commission on Race Relation’s report, which was released after the 1919 Chicago Riot, an introductory section titled, “THE PROBLEM” contains a description of the state of race relations in the city, “The relation of whites and Negroes in the United States is our most grave and perplexing domestic problem... Many white Americans, while technically recognizing Negroes as citizens, cannot bring themselves to feel that they should participate in government as freely as other citizens.”⁴²⁹

⁴²⁹ Chicago Commission on Race Relations, *The Negro in Chicago: A Study of Race Relations and a Race Riot* (University of Chicago Press, 1922), xxiii. From hereafter, this will be abbreviated “CCRR.”

From 1916 – 1918, more than 50,000 southern workers, most of them Black, moved to the city. In 1920, of the 180,000 Black people living in the state of Illinois, 76 percent were migrants from another state.⁴³⁰ From 1910 – 1920, Chicago’s Black population increased by 148 percent while its white population increased by only 21 percent.⁴³¹ During this period, Chicago’s Black population began to move from segregated housing on the city’s South Side to residential neighborhoods throughout the city. The families who left the South Side often faced violent opposition when they moved into new neighborhoods. A series of bombings in early 1919 targeting Black families who had moved into white neighborhoods was met with little interest by the city’s police.⁴³²

On July 27, 1919, these tensions came to a head in the aftermath of a massive riot which led to the deaths of 38 people, the injury of 537 more, and destruction which left over 1,000 people without homes.⁴³³ The riot began on a Sunday afternoon, when Black and white crowds made their way to a public beach to avoid the summer heat. The beach was *de facto* segregated. Eugene Williams, a seventeen-year-old Black boy, went for a swim and ended up stranded in the water on the white part of the beach after a small fight broke out between white and Black beachgoers. Williams could not make it to shore because he had been spotted by white beachgoers, who began to throw stones at him, keeping him in the water. Although he was able to stay afloat for by clinging to a railroad

⁴³⁰ Christopher Robert Reed, *The Rise of Chicago’s Black Metropolis, 1920-1929* (University of Illinois Press, 2011), 14 – 25.

⁴³¹ CCRR, 80.

⁴³² Nora C. Krinitsky, “The Politics of Crime Control: Race, Policing, and Reform in Twentieth-Century Chicago” (Ph.D., United States -- Michigan, University of Michigan, 2017), 37 – 39.

⁴³³ CCRR, 1.

tie, he eventually grew exhausted. When a white boy swam out toward him, he let go of the tie, swam for a few feet, and then drowned.⁴³⁴

This event infuriated the Black beachgoers, who demanded that the police arrest a particular white man who had been throwing stones at Williams. The policemen refused, and instead arrested a Black person accused of participating in the earlier fights. The Black crowd attacked the arresting officer, triggering the riot. Ten white men were either beaten, stabbed, or shot in the immediate aftermath of the drowning on Sunday afternoon. As night fell, rumors of the violence led to retaliation from white gangs, who beat, stabbed, or shot, twenty-seven Black people in small incidents over the course of the night.⁴³⁵

On Monday, the violence escalated. That afternoon, white mobs attacked Black workers who were returning home on trolley cars, leading to several severe beatings, and five deaths. Rumors of this violence reached Chicago's South Side, where small Black mobs retaliated, leading to several stabbing and shooting deaths. Similar patterns of killing escalated from Monday afternoon through Tuesday night but were stopped by heavy rains on Wednesday and Thursday. On Friday, a massive fire burned down forty-nine homes in the Lithuanian section of Chicago, on the South Side. On Saturday, the militia was dispatched, and after intermittent clashes with law enforcement over the next several days, the militia was withdrawn, and rioting abated.⁴³⁶

⁴³⁴ Ibid, 4.

⁴³⁵ Ibid, 5.

⁴³⁶ Ibid, 6 – 7.

A month after the riot occurred, Chicago launched a Commission on Race Relations, which released a report two years later, on January 1, 1921.⁴³⁷ The report found that police were “grossly unfair in making arrests,” and that there were instances of police participation in the riots, moreover, while the police responded in force to Black areas of the city, where the victims of mob violence were usually white, far fewer were dispatched to white areas, where the victims were overwhelmingly Black. Of the 3,000 officers on the Chicago police force, 2,800 were dispatched to the South Side during the conflict’s peak. The report found, more generally, that the police were of insufficient size to suppress extensive rioting.⁴³⁸

The city’s poor response to the rioting was compounded by bad decision-making by city elites. The militia was dispatched by Governor Lowden as early as the second day of the riot, but it was not requested or deployed by the mayor or the chief of police until the fourth. The chief of police claimed that he did not deploy the militia because he thought it would only make the rioting worse.⁴³⁹

The Chicago Commission on Race Relation’s report acknowledged that racial bias played a large role in the development of the conflict, “No one, white or Negro, is wholly free from an inheritance of prejudice in feeling and in thinking as to these questions. Mutual understanding and sympathy between the races will be followed by

⁴³⁷ Chicago Commission on Race Relations, *The Negro in Chicago: A Study of Race Relations and a Race Riot* (University of Chicago Press, 1922), i – xxi.

⁴³⁸ CCRR, 599, 602.

⁴³⁹ Ibid, 599 – 600.

harmony and cooperation. But these can come completely only after the disappearance of prejudice.”⁴⁴⁰

The commission went on to outline recommendations for improving the performance of the police and militia in response to the riots. Many of these focused on the particular grievances of Black Chicagoans. The report recommended the creation of a plan that would dispatch troops more evenly among communities, so that Black people would be defended in white neighborhoods with the same readiness as whites were defended in Black neighborhoods. It called on the police to protect street cars where Black commuters had been attacked on their way home from work, on reducing discrimination against the hiring of Black police officers, on the prompt investigation of police misconduct, and on removing racial bias in the arresting and charging of rioters.⁴⁴¹

The report’s recommendations went beyond just reforms to law enforcement. It also called for the construction of more schools and community centers in Black neighborhoods and addressing the racist attitudes of principals and teachers in Black schools. It called for removing residential segregation policy and for fair treatment of Black and white renters.⁴⁴² Although the report may not register as racially progressive by today’s standards, noting at one point that racist sentiments had emerged among white people as they watched the advance of “the Negro from savagery through slavery to citizenship,”⁴⁴³ and being generally inflicted with a biological notion of race and an implicit assumption that racial assimilation was a positive goal, it placed the lion’s share

⁴⁴⁰ CCRR, 640.

⁴⁴¹ CCRR, 640 – 641.

⁴⁴² CCRR, 644 – 646.

⁴⁴³ CCRR, xxiv.

of the blame for the rioting on white mobs, identified racist housing and labor practices as the root cause of the tensions between Chicago's white and Black communities, and called on the city to make a series of practical changes to address the issues that it identified.⁴⁴⁴ In another departure from other publicly produced documents regarding Black relationships with the police, the authors of the report used evidence of disparate arrests of Black citizens not as evidence of Black criminality, but as evidence of the discriminatory nature of policing.⁴⁴⁵

Although the failure to call the militia earlier in the conflict led to bloodshed, existing evidence suggests that failure was the result of political scuffling between Mayor William Thompson and Governor Frank Lowden, neither of whom wished to take responsibility for calling out the militia for fear that the militia's dispatch would lead to more deaths.⁴⁴⁶ Although the Black residents of Chicago "suffered more at the hands of the White Hoodlums, than the white people suffered at the hands of the Black Hoodlums," in the words of the Grand Jury overseeing cases connected to the riot, "notwithstanding this fact, the cases presented to this jury against the blacks far outnumber those against the white."⁴⁴⁷

The committee's results were reported on nationally and were well received within the city. In 1922, before the reports recommendations were finalized, the Chicago

⁴⁴⁴ CCRR, 640 – 651.

⁴⁴⁵ Ibid, 330; Khalil Muhammad argues in *The Condemnation of Blackness* that this was the first instance of a published study in America to reject criminal statistics as objective measures of crime. Khalil Gibran Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America, With a New Preface*, 2nd edition (Harvard University Press, 2019), 240 – 241.

⁴⁴⁶ Cheryl Anne Hudson, "Making Modern Citizens: Political Culture in Chicago, 1890-1930" (Ph.D., United States -- Tennessee, Vanderbilt University, 2011), 128.

⁴⁴⁷ Krinitsky, "The Politics of Crime Control," 108.

City Council passed legislation expanding the police department, in keeping with the recommendations that would be made by the Commission later that year.⁴⁴⁸

The Chicago case illustrates how **civic nationalist** ideology leads cities to seek to improve the quality of their law enforcement capacities in order to protect ethnic minorities, even when those minorities are discriminated against by members of the city. How do competing explanations fair? This case does not neatly comport with the expectation generated by the electoral-incentives theory, but it still seems to have some explanatory power. Chicago's growing Black population was a constituent of William Hale Thompson's Republican machine in Chicago.⁴⁴⁹ The electoral incentives theory predicts that the more important a group is to a given electoral coalition, the more effort that coalition would exert to protect the group from violence. In Chicago, Republican officeholders did not exert particular effort to protect their Black constituents from violence; however, they were active participants in the city's reforms after the fact. Although electoral incentives explanations for response to mob violence typically do not include the delayed actions taken by city authorities, it is reasonable to include those categories of actions as "response" for competing explanations if they count for my theory. Although there is not evidence of electoral calculation being a justification for launching the race commission, there also is not evidence elections were unimportant to politicians in the aftermath of the riot, and therefore this explanation cannot be ruled out.

⁴⁴⁸ Ibid, 122.

⁴⁴⁹ William M. Tuttle, *Race Riot: Chicago in the Red Summer of 1919*, 1st THUS edition (Urbana: University of Illinois Press, 1996), 188 – 190.

Structural explanations have little explanatory power. A purely racial or ethnic understanding of decision-making in the city will flounder to explain why the same city which allowed violent racists to assault Black citizens for several days would then institute reforms designed to protect the city's Black population. Neoliberal accounts do a little better, as Black workers were notoriously non-unionized, and clashes between Black scabs and white union labor were common in Chicago's factories. However, all accounts of the riot argue that labor conflict had little to do with the violence on the day of the riots. Instead, the primary instigators of violence were white athletic clubs filled with restless young men, not factory workers.⁴⁵⁰ Additionally, there is no evidence that industrial interests were influential in securing either the establishment of the commission or particular findings within the commission. The absence of evidence is not the evidence of absence, so this says nothing dispositive about the role of industrial interests in advocating for law enforcement expansion. More evidence is necessary to evaluate whether industrial interests advocate for protection of ethnic minorities in order to produce security for economic activity.

Omaha 1919

In Omaha, an **ethnonationalist** city, white rioters overpowered the city's law enforcement authorities to lynch a Black man after the city's conservative press accused him of raping a white woman. Omaha had **low returns to violence**, the city had nothing to gain from tolerating violence against its Black citizens, and its law enforcement apparatus, small though it was, resisted the mob to the best of its ability. Although the

⁴⁵⁰ Ibid, 108 – 156.

city's ethnonationalist ideology allowed certain political factions to gin-up a lynch mob among its residents, absent a reason to allow the violence to commence, the city's authorities attempted to stop the lynching. Figure 7 shows the variable map for this case.

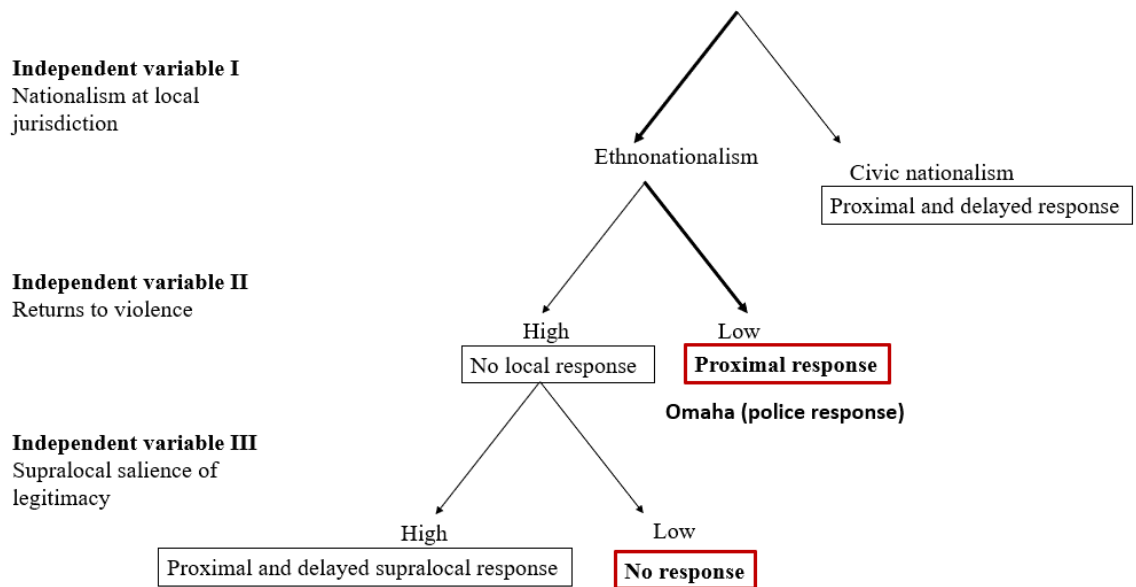


Figure 7 Variable Map for Omaha 1919

In 1919, less than 1 percent of Nebraska's population was Black, but nearly every Black person in Nebraska lived in Omaha. Omaha's population was a mix of white European immigrants and Southern Black immigrants and had experienced a series of strikes over the past year among working-class white laborers. Newspapers reporting on the strikes noted that Black immigrants acted as scabs, increasing tension in the city. At

the same time, earlier that year, a new progressive mayoral administration won a surprise victory to the ire of the city's conservative political machine.⁴⁵¹

The new administration immediately took to reforming the police department, which had been at the center of several scandals over the past year and was targeted by progressives for its failure to enforce prohibition. In February 1919, Police Commissioner Ringer announced that under his tenure, "Omaha shall be made clean of all vice and immorality," and declared war on "bootlegging, gambling, vagrancy, and immorality." In addition to refocusing the energy of the police, Ringer attempted to purge it of his political enemies.⁴⁵²

This move exposed Ringer to the critique that his new force was soft, and that in its efforts to target vice, it left the city vulnerable to violent crime. The conservative political establishment pounced on Ringer's reforms as a means to undermine the entire progressive administration. It launched a series of editorials in the *Bee* lambasting the police as corrupt and ineffective. Throughout 1919, the *Bee* published dozens of stories documenting the failure of the new mayoral administration, and the police department in particular. Many of these stories focused on crimes committed by Black men against white women.⁴⁵³

As a consequence, in the early months of 1919, the Omaha public became gripped by a racial panic, fueled both by rumors of Black crime and Black strikebreaking. In September, the anti-Black panic came to a grisly conclusion. On September 1, Omaha

⁴⁵¹ Clayton Laurie, "The US Army and the Omaha Race Riot of 1919," *Nebraska History* 72 (1991).

⁴⁵² Quoted in Louise Rickard, "The Politics of Reform in Omaha 1918 - 1921," *Nebraska History* 53 (1972), 434.

⁴⁵³ Laurie, "The US Army," 135 – 136.

police officers shot a bellboy to prevent him from escaping during a vice raid, sparking public outcry. A few weeks later, a rape allegation was published in the *Bee*.⁴⁵⁴

On September 25, a crowd of 250 people gathered at a school outside the home of the victim of the attack. Over the day, it grew in size to around 600 people as it made its way to the courthouse where Willie Brown, the alleged assailant, was being held. At the courthouse, Omaha Chief Marshal Eberstein coordinated 100 deputies who initially defended the building from the crowd, which continued to grow in size. At some point, Eberstein decided that the crowd would not attempt to lynch Brown and sent 50 of the deputies home.⁴⁵⁵ By late afternoon, the crowd now numbered over 4,000 people, and the deputies fewer than 50. The deputies attempted to placate the crowd by allowing them to search the courthouse. Outside white members of the crowd began to assault Black passerbys, and the tenor of the crowd turned riotous. A mob broke into local gun stores to arm itself. At the courthouse, an assault began. The mob pushed into the courthouse and burned its lower levels, while the remaining deputies fled to the top floor of the building with the 121 prisoners, including Brown, under their protection.⁴⁵⁶

The prisoners became trapped with the deputies on the upper floor of the courthouse. The mayor, who had gone to discuss the situation with the police when the conflict began, attempted to placate the crowd, but was assaulted, and hung from a lamppost, although other members of the crowd prevented him from being killed. Near midnight, almost 10 hours after the crowd first formed outside the courthouse, the

⁴⁵⁴ Rickard, "The Politics of Reform in Omaha," 437 – 438.

⁴⁵⁵ Cameron McWhirter, *Red Summer: The Summer of 1919 and the Awakening of Black America* (Henry Holt and Co., 2011), *Omaha*.

⁴⁵⁶ *Ibid*, *Omaha*.

situation had grown dire. Smoke from the fires lit in the courthouses lower level threatened to kill both prisoners and deputies, and snipers from the mob posted on adjacent buildings took shots at group stranded upstairs. Eventually the crowd captured Brown. The existing evidence leaves it ambiguous whether he was turned over by the deputies or whether the crowd was able to seize him by force. Once Brown was in the mob's hands, he was stripped naked, hung to death, shot dozens of times, and then dragged through town, and then set on fire. Brown maintained his innocence.⁴⁵⁷

In the aftermath of Brown's lynching, the mob continued to rage for several hours. By 3:00 a.m. federal troops had arrived in the city, and brought the situation under control. Local law enforcement evinced clear effort to both protect the prisoners as well as quell the mob. The mayor was nearly killed several times during the afternoon and was reported to have delivered himself to the crowd saying that if anyone had to be lynched, it should be him. Additionally, several policemen were beaten as they tried to stop the mob from entering the building.⁴⁵⁸

During crisis itself the mayor made several efforts to request support from state and federal law enforcement. Early in the afternoon, the mayor contacted Lieutenant Governor P.A. Burrows, who reported that he could do nothing while the Governor was still in the state.⁴⁵⁹ Burrows refused to dispatch troops despite a series of requests throughout the day. Governor Samuel McKelvie was unavailable during the incident. Eventually Burrows wired the request for assistance to Washington. Earlier that day, city

⁴⁵⁷ Ibid, *Omaha*.

⁴⁵⁸ Arthur Age, "The Omaha Riot of 1919" (Creighton University, 1964), 59 – 62.

⁴⁵⁹ Ibid, 59.

officials had contacted Baker, who eventually directed General Leonard Wood to intervene, resulting in the arrival of federal troops by 3:00 a.m., too late to prevent Willie Brown's lynching. As a result, although federal law enforcement demonstrated a willingness to respond to the mob – Colonel Jacob Weust, Commandant at Fort Omaha, dispatched his troops to the city without authorization to expedite deployment on the assumption that the order to intervene was coming – these actions were not sufficient to save Brown's life.⁴⁶⁰

The federal military's slow reaction has been attributed to the lack of knowledge among U.S. Army officers regarding the use of troops in domestic disorders. After the passage of the Posse Comitatus Act in 1878, which curtailed the use of federal armed force to support civil rights legislation, federal armed forces were left with deficient power to respond to emergencies. The act stipulated that only the president could declare martial law and authorize armed intervention, and only then if the president had received a request from local law enforcement and had determined that civil officials could not prevent the spread of conflict.⁴⁶¹

In the aftermath of the riot, General Leonard Wood launched an investigation into the origins of the riot. Wood's investigation was tainted by his political ambitions, and he spent weeks focusing on an illusory connection to the IWW, which did not materialize.⁴⁶² The riot was widely denounced by the local and national press.⁴⁶³

⁴⁶⁰ Age, "The Omaha Riot," 60 – 62.

⁴⁶¹ Clayton Laurie, "The US Army and the Omaha Race Riot of 1919," *Nebraska History* 72 (1991), 135 – 136.

⁴⁶² McWhirter, *Red Summer, Omaha*.

⁴⁶³ *Ibid*, *Omaha*.

In Omaha, despite the city's ethnonationalist ideology, law enforcers fought to prevent a lynching against tough odds. This response included requesting support from federal authorities. Despite these efforts, the mob was able to overpower the authorities. How do competing explanations stack-up? Racism was a prime motivator for mob participants, but that does not explain the actions taken by the city to attempt to suppress the mob after it had broken out. Neoliberal explanations might fare somewhat better, as interracial labor competition simmered in Omaha before the mob just as it did in Chicago; however, there is little evidence that labor *per se* led the mob, nor is there evidence that Omaha's industrial interests influenced the law enforcement response. Prior to the outbreak of the mob, the American Legion promised they would put down any labor unrest in the city. During the mob, the Legion did not respond, suggesting that the armed affiliates of the city's industrial interests were not interested in preserving order for order's sake.⁴⁶⁴

The electoral incentives explanation appears irrelevant to this case, as the mob did not occur before an election, and the city's Black residents were neither particularly important to the progressive coalition nor its conservative opponents, and yet they were still defended by the administration. However, the administration *was* responding to accusations that its reforms had made it weak on crime, so in a sense electoral incentives were meaningful for the administration's decision to respond, but that relationship was

⁴⁶⁴ Patricia Scott West, "Race Riot! Press Coverage of Urban Violence, 1903–1967" (Ph.D., United States - Mississippi, The University of Southern Mississippi, 2003), <https://www.proquest.com/docview/305307352/abstract/4833762E3577451EPQ/1>, 244 – 258.

not related to the consolidation of ethnic coalitions or the galvanization of ethnic groups within a coalition.

Ellisville

In Ellisville, a local **ethnonationalist** authority tolerated and encouraged mob violence in response to the perception that Black veterans returning to Mississippi from World War I threatened the racial order that existed in the city. As is shown in Figure 8, Ellisville was characterized by **high returns to violence** because of its small overall population, large portion of Black citizens relative to white citizens, and high demand for adherence to segregationist racial norms.

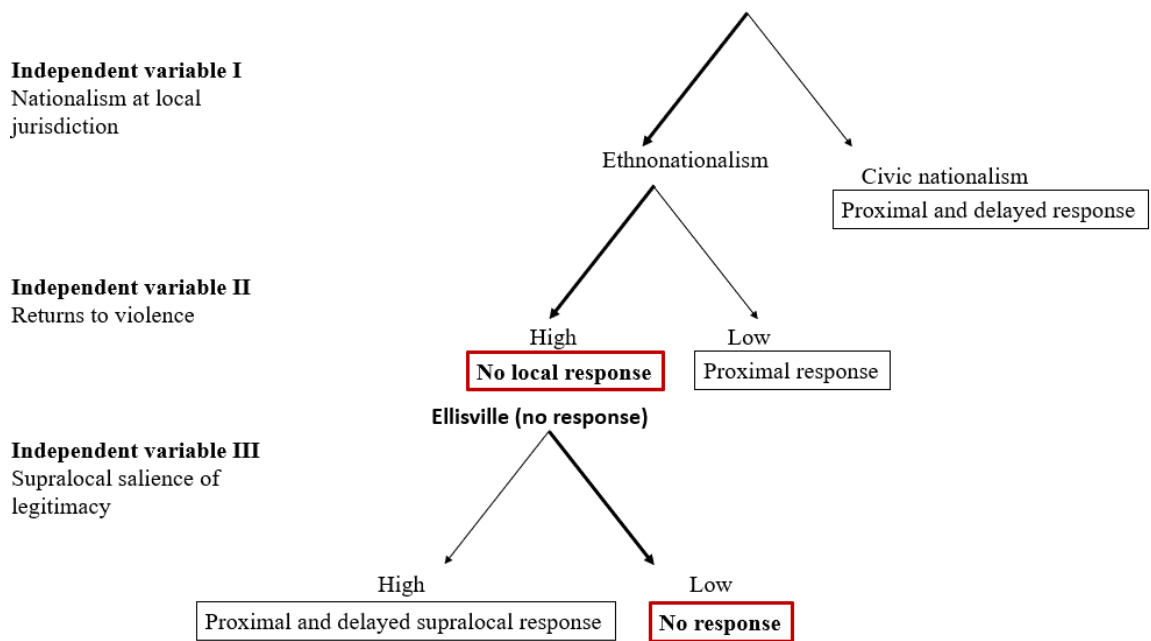


Figure 8 Variable Map for Ellisville - 1919

Unlike the violence in Omaha and Chicago, where local law enforcement made serious efforts to preserve victims' lives, in Ellisville Mississippi, state and city police were complicit in both the organization and execution of a lynch mob. In early June, a white woman named Ruth Meeks reported that she had been raped by a black man named John Hartfield. A manhunt was launched, and 10 days later, Hartfield was shot and captured as he tried to board a train leaving town. Hartfield was held in the Ellisville County jail for a short period, before a group of white people arrived and took him from the sheriff, who offered no resistance. The group, which local newspapers reported had formed a lynching committee before Hartfield's capture, ordered a local doctor to treat

his wounds. The doctor told the crowd that Hartfield was mortally wounded and would not survive another day. The committee began gathering railroad ties and firewood.⁴⁶⁵

On June 25, the *Jackson Daily News* ran an eight-page editorial about the impending lynching, describing the crime as well as the time of day and location where the lynching would occur. The next day, thousands of people arrived in Ellisville to watch it happen. The NAACP wrote to Mississippi Lieutenant Governor Theodore Bilbo asking him to prevent the lynching. Bilbo responded with a public press release, “I am utterly powerless. The State has no troops, and if the civil authorities at Ellisville are helpless, the State is equally so. Furthermore, excitement is at such a high pitch throughout south Mississippi that any armed attempt to interfere with the mob would doubtless result in the death of hundreds of persons. The negro has confessed, says he is ready to die, and nobody can keep the inevitable from happening.”⁴⁶⁶

At 5 pm, on June 26, the lynching occurred. In front of a cheering crowd, estimated to contain over 10,000 people, Hartfield was tortured, his fingers were cut off, and he was hung from a tree and shot with thousands of bullets. Parts of his body were sold in souvenir shops in town over the following week. Nobody was convicted, and although the affair was planned days in advance of Hartfield’s capture, and thousands of people witnessed both him being taken from the jail, treated by a doctor, tortured, and hung, none of the perpetrators were identified and nobody was punished.⁴⁶⁷

⁴⁶⁵ Cameron McWhirter, *Red Summer, Ellisville*.

⁴⁶⁶ Thomas, 1920. Quoted in United States Congress House Committee on the Judiciary, *Part 1. Segregation. Part 2. Anti-Lynching: Hearings ... on H.J. Res. 75; H.R. 259, 4123, and 11873*, 1920, 21.

⁴⁶⁷ Ibid, *Ellisville*

The *Jackson Clarion-Ledger* wrote in the aftermath of the lynching that lynching would continue “so long as busy-bodies, who know nothing of conditions south of the Mason and Dixon line attempt to regulate our affairs and preach social equality to the negro... This is a white man’s country to be ruled by white men as they see fit.”⁴⁶⁸ Bilbo agreed, and attributed lynching in Mississippi to the idea of social equality which Black soldiers were exposed to while living abroad.⁴⁶⁹ Speaking in the days after the lynching, Bilbo claimed that “any dream on the part of the negro race to share social and political equality will be shattered in the end.”⁴⁷⁰

The *Jackson Clarion-Ledger* and Bilbo’s candor about the function of lynching clarify why Southerners tolerated violence: to preserve the social and political power of white men in society. Lynching, especially with the active endorsement of local sheriffs and the attestation by the governor that not only would the state’s law enforcement not help, but that it *could not help*, signaled to Mississippi’s Black residents that they should not expect themselves to enjoy any social or political rights, regardless the changing political climate. Mob violence against Black people continued at a torrid place in small cities throughout the South. In Mississippi, Arkansas, and Alabama, there were additional lynchings in the month of June.⁴⁷¹ The day after the lynching, newspapers across the

⁴⁶⁸ *Jackson Clarion-Ledger*, 1919.

⁴⁶⁹ McWhirter, *Red Summer*, *Ellisville*.

⁴⁷⁰ Quoted in Terence Robert Finnegan, “‘At the Hands of Parties Unknown’: Lynching in Mississippi and South Carolina, 1881-1940” (Ph.D., United States -- Illinois, University of Illinois at Urbana-Champaign, 1993), 18.

⁴⁷¹ McWhirter, *Red Summer*, *Ellisville*.

nation carried coverage of the event. The NAACP asked that federal troops be dispatched to Mississippi, but their request was denied.⁴⁷²

Throughout the South, positive coverage of the lynching in newspapers was paired with efforts by Southern governors and legislators to parry the impression that they were tolerant of wanton violence. In Georgia, the governor delivered an inaugural address in which he asked for authority to deploy the militia in reaction to mob violence, and the power to fine local governments which allowed lynchings. His reasoning was that “If the legislature did not act... the federal government eventually would.”⁴⁷³ Governors in Tennessee and North Carolina also spoke out against lynching, although neither was successful in passing legislation to suppress mobs.⁴⁷⁴

In Ellisville, White Supremacist ideology was the prime motivator for mob violence, and law enforcement took no effort to suppress the mob violence which occurred. This outcome is consistent with my theory and comports with the internal logic of a structural racism account of response to mob violence, although that theory does not posit that states will intentionally signal their weakness to prevent mobs, which was a conspicuous characteristic of the local response to the mob, whereas my theory can account for that feature of legislative response. Ellisville was too small to have a meaningful industrial class, and commercial interests appeared to exert no influence on the mayor or governor’s decision making, although there is also no specific evidence that commercial interests were not involved in the response.

⁴⁷² Ibid, *Red Summer, Ellisville*.

⁴⁷³ Ibid, *Ellisville*.

⁴⁷⁴ Ibid, *Ellisville*.

Black voters were completely alienated from all Mississippi political coalitions in 1919, and there were no non-white ethnic groups in the city with any meaningful political influence whose white racial identity could be galvanized through lynchings. However, in Georgia and North Carolina, where elected officials made both speeches and efforts to reduce mob violence in the aftermath of the mob, Black people were also completely alienated from politics. Although the electoral incentives theory can provide an explanation for the absence of protection in Ellisville (local authorities had no cause to prevent violence) it cannot explain violence's outbreak, or the behavior of other Southern states which signaled that they would protect Black citizens, despite their lacking an electoral incentive to do so.

In contrast, my theory has a very clear explanation for the statements made by executives in other states: Southern states could rely on the threat of non-state violence to ensure the continued domination of the Democratic party and white rule. These states functioned as sub-national authoritarian enclaves which maintained autonomy from the federal government and only conditionally enforced federal law.⁴⁷⁵ If that arrangement were too damaging to the legitimacy of any national administration, or to the United States foreign relationships, then Congress would have incentive to rupture the autonomy of Southern states. Consequently, state level leadership throughout the South signaled that they were serious about preventing displays of mob violence which threatened federal intervention.

⁴⁷⁵ Robert Mickey, *Paths Out of Dixie: The Democratization of Authoritarian Enclaves in America's Deep South, 1944-1972* (Princeton, New Jersey: Princeton University Press, 2015); V. O. Key, *Southern Politics in State and Nation*, First edition (Knoxville: Univ Tennessee Press, 1984).

A purely electoral explanation cannot account for this behavior by Democratic governors who did not face pressure from their local constituencies to protect Black community members. Understanding their behavior requires considering the legitimacy of the system of government they sought to protect.

Below, I consider the congressional response to all three instances of mob violence.

Congressional Response

In Congress, the summer's violence sparked a revival of the Reconstruction Era debate between proponents of law and order and advocates of popular justice. In 1919, just as in 1867, this debate was held in explicitly racial terms. John Williams, Democratic Senator from Mississippi wrote, "the conduct of the criminal at Omaha deprives me of all inclination and power to say one word against the crowd that captured the criminal and punished the crime. Race is greater than law now and then and protection of women transcends all law, human and divine."⁴⁷⁶ William Borah, Republican from Idaho, responded, "I want to say considering the ultimate welfare of the human family... If the republic does not protect the lives of its people the seeds are planted that ultimately will lead its disintegration."⁴⁷⁷

In January of the following year, the House Judiciary Committee heard debate over three anti-lynching bills. None of these bills would pass, but the event marked a

⁴⁷⁶ Williams Quoted in McWhirter, *Red Summer, Omaha*.

⁴⁷⁷ Ibid, *Omaha*.

return to civil rights legislating in Congress, an effort which had been abandoned since the Civil Rights Act of 1875.⁴⁷⁸

The proceedings held before the Judiciary Committee heard testimony from over a dozen witnesses. Speaking for the NAACP, Neval Thomas summarized the asks of the Black community in response the prior year's violence, "What we want the Congress to do, and also the Department of Justice, is to enforce the thirteenth, the fourteenth, and the fifteenth amendments to the Constitution... We demand the ballot, for in a Government where men vote the voter is king, and the disfranchised man is the victim of the man who does vote. We demand the abolition of the infamous "Jim-Crow" car, which was simply made to insult us. We demand admission to all public places, in fact, we demand equality of treatment everywhere, and equality before the law."⁴⁷⁹

Thomas' request was for the enforcement of laws and the end to segregation, but the former, he thought, would flow from the latter, "We have almost enough law in this country. What we want is enforcement of the law. We have a constitution with 19 amendments, and with its imperfections it is the greatest political document that has ever come from the hand of man. What we want Congress to do is to enforce it... We have difficulties in this country, it is true, but the solution is not surrender. We should face the problem with courage, with resolution, and with statesmanship. We should enforce the laws that are flagrantly violated in most of the States of this Union; admit all the citizenship, regardless of color, into all public places, and if there is friction punish the

⁴⁷⁸ Leslie Friedman Goldstein, "The Second Amendment, the Slaughter-House Cases (1873), and United States v. Cruikshank (1876)," *Alabama Government Law Review* 2 (2008);

⁴⁷⁹ Thomas, 1920. Quoted in United States Congress House Committee on the Judiciary, *Part 1. Segregation. Part 2. Anti-Lynching: Hearings ... on H.J. Res. 75; H.R. 259, 4123, and 11873*, 1920, 9.

transgressor and not his innocent victim. That is justice; nothing else will we accept, and we ask nothing more.”⁴⁸⁰

Over the course of the hearings, the NAACP’s witnesses made their case for a law enforcement bill in order to preserve civil rights in the face of Southern mob violence. Their opponent’s arguments took two forms: (1) that segregation was desired by all races, an argument made by a Black nationalist speaker, Moses Madden,⁴⁸¹ and (2) that the Black unrest should be disavowed as anti-capitalist agitation stirred up by the IWW.⁴⁸²

The lynching bills heard before the Judiciary Committee would make it a federal offense for a city to take no action to protect a person who was killed by a mob or riot. In discussion of the legislation, the bill’s author clarified that the purpose of the bill was to extend federal authority when local authorities failed to protect victims of lynching, just as state authorities had attempted to pass legislation to address lynching the previous year.

This can be seen in an exchange between Hatton Sumners, a representative from Texas, and Frederick Dallinger, a representative from Massachusetts who supported the bill. Sumners asked Frederick Dallinger, “Do you consider default to mean the absence of an effort to protect, or in the absence of protection?” To which Dallinger responded that he meant that the outcome of the lynching was what mattered. Sumners sought to clarify, “[The sheriff] may be shot and the prisoner taken from him,” Dallinger explained that he envisioned such a situation would fall under the authority of the bill, “I do not think that

⁴⁸⁰ Ibid, 10.

⁴⁸¹ Ibid, 3.

⁴⁸² Ibid, 11.

would be protection. If a community where those things are occurring does not give to the sheriff and the officers of the law the protection which they should have for the enforcement of the law, I do not consider that there is equal protection to which every citizen is entitled.”⁴⁸³

Dallinger wanted to force local government to ensure enforcement of the law, not just when local police and sheriffs happened to have the manpower present to protect Black citizens, but by building a law enforcement apparatus capable of deterring local actors from violating the rights of Black citizens in the first place. This was a departure from previous efforts at upholding the law, which attempted to stipulate that federal force could be used in response to mob violence. The Civil Rights Act of 1875 and the Enforcement Act of 1870 both attempted to make the federal government enforce civil rights law by mandating certain civil rights violations could be tried in federal, rather than state courts. Dallinger’s effort went further. His first anti-lynching bill attempted to compel local governments to proactively enforce laws, rather than offer punishment for crimes that had already been committed.

Leonidas Dyer, a fellow Missouri Republican, presented a report to the committee justifying the need for an anti-lynching bill. Among the consequences of lynching considered by Dyer were that: (1) unpunished lynching leads to further lawlessness among white mobsters, (2) unpunished mob violence resulted in damaged property values and reduced economic productivity, (3) mob violence inflicted psychological damage on its victims and the communities in which it occurs, and (4) America experienced

⁴⁸³ Ibid, 14.

diminished reputation in the international community because it was perceived to underenforce the law.⁴⁸⁴

In Congress, Southerners sought to stall anti-lynching legislation. The Southern response to this challenge was both to justify lynching as an ugly, but ultimately necessary, response to Black crime and to propose alternatives to law enforcement that would achieve an end to lynching without breaking the color line. The latter policy took the form of the reimposition of segregation. On December 20, 1919, Kenneth Mckellar, Senator from Tennessee, submitted a speech written by White Supremacist Bolton Smith to congress. The speech detailed the solution Mckellar believed was appropriate to alleviate the threat of lynching: the complete segregation of white and Black Americans.⁴⁸⁵

A similar sentiment was shared by Ross Collins of Mississippi in 1922 when the first Dyer Anti-Lynching Bill was introduced on the floor. Collins argued that although “Everyone deplors the taking of human life. No one can be glad when a homicide is committed and lynching is but a form of homicide.” If “the Federal Government legislates and makes a felony a crime that is already condemned and made a felony now by every State in the Union...” what would be the purpose? Dyer argued that only segregation, not greater enforcement of anti-lynching laws, would cause the decline of lynchings. Collins said that “Lynchings are gradually becoming less frequent... Of course, there have been obstacles in the way. These obstacles still exist. Two entirely

⁴⁸⁴ Ibid, 21.

⁴⁸⁵ Submission of Kenneth Mckellar, 1919, “Congressional Record, Senate, 59th Congress, Volume 59, Part 1, December 1, 1919 - January 5, 1919.” (US Government Printing Office.), 963.

different races live in the same territory... The great body of good people of the country know that the Federal Government should let the States solve these purely local questions. They know that peace and confidence can not come from distrust and suspicion and that this Congress can not, by statute, change God's eternal laws."⁴⁸⁶

Southerners also attacked the expansion of federal police power, arguing that the legislation would turn the South into a "vassal" of the federal government.⁴⁸⁷ The Southern defense of lynching is perplexing. It is an institution that many Southern leaders sought to suppress and would usually denounce in abstract (although often with the caveat that it was justified in the case of rape). At the sub-national level, Southerners made efforts to suppress the most extreme cases of lynching and introduced laws that would strengthen state police power. However, when federal authorities sought to implement anti-lynching laws, Southerners joined hands in vehement opposition.⁴⁸⁸

What distinguishes federal anti-lynching law from state anti-lynching law? One explanation is an ideological commitment to states rights, but this is a bit of a dodge. The specific state's rights that the South is interested in are the state's rights to maintain White Supremacist institutions. In the case of lynching, the state's rights to enforce lynch law at its discretion. Even if Southern states have to suppress lynchings to maintain the legitimacy of single party Democratic rule, they (1) would not set the precedent of tolerating federal intervention in defense of non-white groups and (2) could still rely on

⁴⁸⁶ "Congressional Record, 67th Congress, Volume 62, Part 2, January 12 - February 3, 1922." (US Government Printing Office), 1134.

⁴⁸⁷ George C. Rable, "The South and the Politics of Antilynching Legislation, 1920-1940," *The Journal of Southern History* 51, no. 2 (1985): 201-20, <https://doi.org/10.2307/2208825>.

⁴⁸⁸ Ibid, 201 - 205.

the credible threat of non-enforcement of the law by using all white juries and Democrat-controlled prosecutor's offices to give soft or non-existence sentences to mobsters.

My theory predicts that the less local the body of government, the greater the concern that government will have with how violence affects its legitimacy relative to its concern with how violence affects its economy. In Georgia and North Carolina, that was apparent at the state level. At the federal level, Republican reformers emphasized how lynchings affected America's international reputation, and commented on the challenges that it posed to America's emerging international agenda.

This point was driven home by a letter submitted before the 1919 anti-lynching committee written by former President Taft, who described the international consequences of America's failure to enforce the law when mobs attacked citizens of other countries and went unpunished, "Since 1811 there have been many cases of mob violence against aliens. In all cases the local authorities have evidently sympathized with the mob spirit and or have been so terrorized by it as to avoid making a judicial investigation of real thoroughness... In some cases the feeling between the countries involved has run high, and with the increased popular control of foreign policies we may expect these incidents to become more dangerous to our peace... The secretaries have pointed out that if protection was needed... it was the duty of the State authorities to give it... It does not soothe one's pride of country to note the number of lynchings of our own citizens that go unwhipped of justice... Nor is our feeling in this regard rendered less acute by hearing from the governors of some of our State expressions brazenly defending and approving such lynchings... For lynchings of our own citizens within the jurisdiction

of the State we can say to ourselves for we have no other plea, that under the form of our government such crimes are a State matter, and if the people of a state will not provide, for their own protection, a machinery in the administration of justice that will prevent such lawless violence, and a public opinion to make it effective, then it is for them to bear the ignominy of such a condition. But when, in the case of lynchings of aliens, whom we have plighted our national faith to protect, the fact is that the Federal Government has the power to enact legislation to set its own administration of justice going by its own prosecuting officers and through its own courts, and has not done so, we may well hang our heads in the face of adverse criticism.”⁴⁸⁹

Taft’s remarks illustrate how lynch-law pressured the federal government to respond to sub-national crimes that otherwise would be the domain of state governments. In the specific case made by Taft, this was a function of the alien status of some lynch victims. However, the mechanism which Taft identified persists even when lynching victims are not aliens – foreign countries are uninterested in whether lynching is a Southern peculiarity from an American perspective, it is an American peculiarity from a global perspective.

Spingarn of New York added in his testimony, “What answer can we give to Mexico when we make charges against them, when they can point to the fact that, in 1917, 25 Mexican citizens were lynched in one State in this Union and not one of the persons who lynched them was ever indicted?... Here is the greatest cancer eating at the

⁴⁸⁹ Thomas, 1920. Quoted in United States Congress House Committee on the Judiciary, *Part I. Segregation. Part 2. Anti-Lynching: Hearings ... on H.J. Res. 75; H.R. 259, 4123, and 11873*, 1920, 24 – 25.

vitals of the American civilization, which makes America sneered at all over the world... In Turkey, I heard a lecture delivered by a Turk, and he showed pictures of American lynchings to show that America was not a civilized nation.”⁴⁹⁰

Other testimonies demonstrated how American lynching undermined its international credibility, especially on matters of ethnic representation and grievance, such as those being discussed in Czechoslovakia and Poland.⁴⁹¹ In summary, the salience of national legitimacy was of concern to Republican congressional representatives.

Lynching was not unique to 1919, yet for nearly 50 years there had been no federal response to lynching. What informed the congressional response in 1919? My theory argues that the salience of international legitimacy was low and so there should be no response. As predicted, no legislation was passed in Congress as a result of the lynchings, but anti-lynching bills were still brought up for debate. The simplest explanation for this delay is that until the first decades of the 20th century, institutional pressure groups with an eye on improving the quality of life for Black Americans had not formed or rose to prominence.

The NAACP’s formation in 1910 and subsequent campaign for the creation of anti-lynching laws allowed activists to take advantage of the national attention paid to lynching during the Red Summer of 1919.⁴⁹²

⁴⁹⁰ Ibid, 33 – 34.

⁴⁹¹ Ibid, 40 – 46.

⁴⁹² George C. Rable, “The South and the Politics of Antilynching Legislation, 1920-1940,” *The Journal of Southern History* 51, no. 2 (1985): 201–20, <https://doi.org/10.2307/2208825>.

Analysis

In Chicago, Ellisville, and Omaha mobs attacked Black citizens during the summer of 1919. In Chicago and Omaha, local authorities responded to the mob, with varying degrees of success, and in Ellisville, there was no local response to the mob. After the mobs had been suppressed, Chicago launched a commission to evaluate the city's race relations and implemented reforms to increase the city's capacity to respond to mob violence in the future. In Congress, Republicans introduced the Dyer Anti-Lynching Bill to address mob violence, but the bill was defeated in the Senate.

What explains the varying responses to mob violence between Chicago, Ellisville, and Omaha? I argue that in Chicago, which had a **civic nationalist** ideology relative to Ellisville and Omaha, city authorities had greater incentive to address mob violence for non-violence's sake. In contrast, in Ellisville and Omaha, where city elites inherited ideological beliefs which emphasized the inferiority of Black Americans and which justified violence against Black Americans, there was less incentive to respond to violence in order to save the lives of Black citizens. However, because violence is still costly no matter where it happens, Omaha still attempted to suppress the mob. Only in Ellisville, which had a proportionally larger Black population and more stringent segregationist norms, which could not be enforced with alternatives to violence (in other words, where **returns to violence** were **high**), was there outright toleration of mob violence.

At the supra-local level, lynchings brought into focus the need for greater protection of Black civil rights, resulting in the introduction of the first anti-lynching bills

in over forty years. To combat these bills, Southerners articulated the need for lynching as a means of *preventing* the violence and disorder which naturally emerged in racially integrated societies. Fearful of the federal enforcement of local criminal justice laws, some Southerners advocated at the state level for anti-lynching policies, while the South as a block resisted the passage of anti-lynching policies in Congress.

Advocates of Congressional anti-lynching bills emphasized the simple fairness of the bills, the demand for equal protection under the law, not special protection under the law, the damaging effect of lynching on race relations, and the damaging effects of lynching for America's international legitimacy. I argue that because the **salience of legitimacy** was **low**, at least compared to the civil rights cases considered in the next chapter, the federal government had less incentive to pass these bills – America's reputation was not critically damaged by lynching, nor was its reputation critically important to advance either a Democratic or Republican political agenda, which both had greater domestic than international focus (at least relative to the other cases considered in this dissertation.) In that legislators had compelling foreign policy challenges they wished to address, specifically the resolution of the Treaty of Versailles, lynching was invoked as a source of damage to America's legitimacy.

These cases also illustrate the weaknesses of purely ideological or electoral explanations for the toleration of mob violence. Variation in response to mob violence between Omaha and Ellisville demonstrate, minimally, that ethnonationalist tolerance of mob violence is conditioned on other features of local government. The variation

between ethnonationalist state and congressional response further shows that level of government conditions the ideological incentives to tolerate or respond to violence.

This variation does not strictly comply with my theoretical assumption that the less local a level of government, the greater the concern with legitimacy, as Southern governors attempted to respond to lynchings. This suggests a greater level of concern than is evidenced among federal representatives (from the South), who sought to prevent anti-lynching bills from being passed. However, the outcome does comply with the underlying mechanisms posited in my theory for two reasons: (1) Governments prefer credible threats to violence itself. Any anti-lynching case tried in Southern courts under Southern law could be reasonably expected to fail, preserving a greater capacity for Southern whites to threaten mob violence than would exist if comparable legislation were passed by the federal government; and (2) States care about their legitimacy if they are trying to influence a policy domain without the use of coercion. Ethnonationalist Southern states wished to preserve white dominance, which was threatened by federal intervention. Therefore, state governments should be concerned with preserving their legitimacy, while federal representatives (of those governments) should be concerned with the operational use of that legitimacy to preserve the autonomy of ethnonationalist governments, which in this case entailed opposing anti-lynching bills.

This dynamic is consistent with the **contested response** outcome my theory expects when legitimacy is high, except the response failed, in part, I argue, because of the absence of salient international demand for American legitimacy. Although there are other reasons why the legislation did not succeed, I will argue in the following chapter

(which considers cases that occurred when **salience of legitimacy is high**) that the absence of demand for international legitimacy was an important one.

Electoral explanations also struggle to explain the results of this case. Although the local response in all three cities is consistent with the expectations of an electoral theory of response to mob violence (the police response was most efficacious in Chicago, where Black voters were more important to local and state electoral coalition, and was lowest in Ellisville, where Black voters were less important to local or state electoral coalitions), it struggles to explain other features of the case which can be explained by the interaction between **returns to violence** and **salience of legitimacy**. Notably, why some ethnonationalist states sought to extend the state's capacity to protect Black citizens. This is only explicable if states are understood to respond to an interaction between returns to violence and the damage violence inflicts to state legitimacy. Although **returns to violence** can usually be explained by electoral incentives theory, the concern with legitimacy cannot, and electoral explanations fail to explain supra-local variation in response to violence.

CHAPTER 8 – *Brown v. Board* and the end of Local Autonomy

“You do it the night before the election. I don’t have to tell you any more than that. Red-blooded men know what I mean.” – Theodore Bilbo, 1946

States tolerate mob violence sometimes, and mobilize to prevent it other times, because of the varying costs and returns to violence between different levels of government. The cases considered in this chapter ask whether my theory can explain variation in response to American mob violence in the early civil rights era. The response to anti-integration mobs in Tuscaloosa, Clinton, and Little Rock serve to test the predictions generated by my theory: that variety of nationalism and returns to violence inform local government response to mob violence, and that salience of legitimacy informs how the state reacts to violence that is tolerated by a subnational regime.

Unlike the cases in the previous chapter which all occurred during a period when the **salience of legitimacy** was **low**, the cases considered in this chapter occur during a period when **high salience of legitimacy** informed federal response to mob violence. They occurred during a period when America’s Cold War competition dramatically transformed the international focus on American domestic affairs.⁴⁹³ All of these cases include some element of federal response to violence (although in the case of Tuscaloosa, it is only scantily evident that later civil rights legislation was propelled by anger at

⁴⁹³ Mary L. Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy* (Princeton University Press, 2011).

Autherine Lucy's situation).⁴⁹⁴ Figure 9 contains the variable map for the three primary cases considered in this chapter: Tuscaloosa, Clinton, and Little Rock.

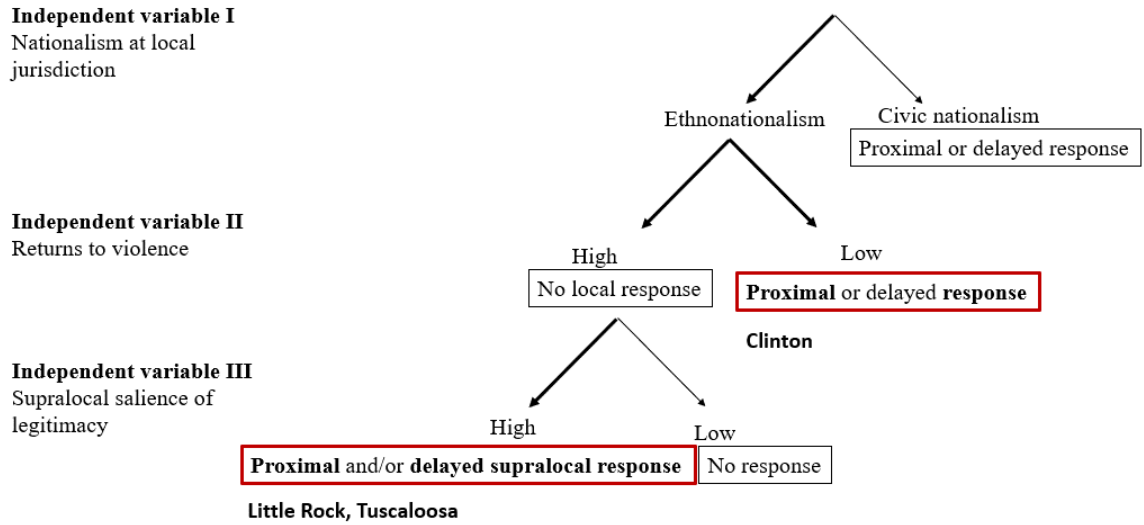


Figure 9 Variable Map for Civil Rights Cases

All of the cases explored in this chapter consider cities with **ethnonationalist** local governments. In Tuscaloosa and Little Rock, there are **high returns to violence**, whereas in Clinton, **returns to violence** are low see Table 9.

⁴⁹⁴ Gerring, *Case Study Research*, 99.

Table 9 Civil Rights Era Cases by Level of IV and DV

| Local Jurisdiction | Returns to Violence | Salience of Legitimacy | |
|--------------------|---------------------|-------------------------|-----|
| | | High | Low |
| Ethnonationalist | High | Tuscaloosa, Little Rock | |
| | Low | Clinton | |
| Civic nationalist | High | | |
| | Low | | |

Throughout these cases, I also consider competing explanations for state response to mob violence described in my literature review: structural racism, electoral incentives, and industrial development. Importantly, this era includes cases that test my theory's ability to explain an outcome of intrinsic importance to the formation of domestic policy and the transformation of American race relations:⁴⁹⁵ the expansion of law enforcement in the early civil rights era and the growth of America's carceral state.

The next three sections explain the score I gave on each independent variable to each case. In doing so, these sections also provide the historical context for this chapter.

Local Ethnonationalism

In 1944 Gunnar Myrdal wrote, "In the South three generations ago white people had for their defense a consistent and respectable theory, endorsed by the church and by all sciences, printed in learned books and periodicals, and expounded by the South's great

⁴⁹⁵ A theory's capacity to explain substantively important phenomena increases its desirability. Stephen van Evera, *Guide to Methods for Students of Political Science* (Ithaca, NY: Cornell University Press, 1997), 86 – 87.

statesmen in the Capitol at Washington... The Negro was a completely different species of mankind: undeveloped, 'child like,' amoral, and much less endowed with intellectual capacities than the white man... But now it is almost destroyed for upper class and educated people. Its maintenance among lower class and uneducated people meets increasing difficulties. *The gradual destruction of the popular theory behind race prejudice is the most important of all social trends in the field of interracial relations...* Everybody who has acquired a higher education knows that they are wrong. Most white people with a little education also have a hunch that they are wrong.”⁴⁹⁶

While not all southerners clung to racism in the 1940s and 1950s, many did. Surveys of white attitudes that were collected in the late 40s and early 50s paint a grim picture of race relations. In Guilford County, North Carolina, 73 percent of whites said that Blacks possessed a less developed sense of responsibility than whites, just under 70 percent said that Blacks were lacking in morality and ambition, and just under 60 percent said that they had inferior intelligence to whites. Fewer than 20 percent favored desegregation outright. In another survey of Southern attitudes, fewer than 10 percent favored integration.⁴⁹⁷

Although some white Southerners had shared experiences with Black soldiers during the war that softened their racial attitudes, many more felt that they had fought abroad to preserve freedom – their freedom to live in a segregated white society

⁴⁹⁶ Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy, Volume 1*, 1st edition (Routledge, 2017), 1,002 – 1,003.

⁴⁹⁷ Numan V. Bartley, *The Rise of Massive Resistance: Race and Politics in the South During the 1950's* (LSU Press, 1999), 13-14

unbothered by the meddling of federal law enforcement.⁴⁹⁸ As one woman wrote to the editor of the *Atlanta Constitution*, “My son was in the Marine corps during World war two and spent 14 months in the South Pacific fighting, and for what? I can answer that one, to see Soldiers with rifles and Bayonets pointed to the backs of his children being forced to obey a DICTATOR instead of enjoying a FREE America and choosing their friends and associates.”⁴⁹⁹ Most white southerners felt they were fighting to keep things “as they have been in America.”⁵⁰⁰

Although some evidence existed that these attitudes were thawing by 1954, when *Brown v. Board of Education* was handed down, ethnonationalist sentiments still predominated in the jurisdictions considered in the following cases. Ethnonationalism was readily observable in Clinton, Tuscaloosa, and Little Rock. All three jurisdictions existed in states which not only retained segregation laws from the 19th century but continued to pass them in the mid-20th century. During the 1955 campaign for Arkansas governor, four of the five candidates “publicly opposed integration and a fifth candidate said he hoped it would not be an issue.”⁵⁰¹ Within a year, a statewide initiative in Arkansas to abolish the poll tax – widely understood to be a tool used for racial suppression – failed 56.57% to 43.43%, that same year an initiative to have the state

⁴⁹⁸ Sokol, *There Goes My Everything*, 28-45.

⁴⁹⁹ Quoted in Sokol, *There Goes My Everything*, 45.

⁵⁰⁰ Edward Moe, Bureau of Agriculture Economics field agent, quoted in Daniel, *Going Among Strangers*, 892

⁵⁰¹ A. Stephen Stephan, “The Status of Integration and Segregation in Arkansas,” *The Journal of Negro Education* 25, no. 3 (1956): 212–20, <https://doi.org/10.2307/2293430>.

interpose its authority between the federal government and segregated school districts passed 55.93% to 44.07%.⁵⁰²

In the 20th century alone, Tennessee passed segregation laws targeting primary and secondary schools, streetcars, public carriers, mines, and asylums. Laws mandating segregation in public carriers, mines, and asylums were all passed in 1955.⁵⁰³ There is some evidence that ethnonationalism was less intense in Tennessee than elsewhere in the South. Tennessee was the only Southern state for which neither senator (Al Gore Sr. and Estes Kefauver) signed the Southern manifesto. Although in 1955, the Tennessee State Legislature called on Governor Frank Clement to engage in interposition using his police powers, Clement vetoed both bills.

Clement was an integrationist, although a moderate one who reached support for the policy through an appeal to law and order. Writing to the Tennessee General Assembly at the beginning of 1857, Clement clarified his beliefs about integration, “We have based our public school system on the concept that as a matter of constitutional law the separate but equal schools open to the negro afforded them the equal protection of the laws guaranteed all citizens under the Fourteenth Amendment to the Constitution of the United States... the Supreme Court of Tennessee found that the Tennessee statutes compelling segregation were unconstitutional. We must recognize that any school system we may develop which is based upon a legal foundation of compulsory segregation will, when challenged, be held unconstitutional by either or both the state and federal courts...

⁵⁰² “Initiatives and Amendments: 1938 - 2016” (Arkansas Secretary of State, 2018), https://www.sos.arkansas.gov/uploads/Initiatives_and_Amendments_1938-2016.pdf.

⁵⁰³ BlackPast, “(1866) Jim Crow Laws: Tennessee, 1866-1955 •,” January 3, 2011, <https://www.blackpast.org/african-american-history/jim-crow-laws-tennessee-1866-1955/>.

I am convinced that to do nothing would serve neither the white child nor the negro child, but rather would lead to confusion and chaos... I stand on these principles:⁵⁰⁴

In the same speech, Clement went on to elaborate a policy of integration which would provide for individual choice in schools and would strike mandated segregation, but which would allow for parents to opt into racially segregated schools.⁵⁰⁵

Alabama's opposition to segregation is notorious, primarily because of the reputation of its firebrand governor, George Wallace (of "segregation now, segregation forever," fame), and the violent confrontations between "Bull Connor" and civil rights demonstrators during the 1963 civil rights campaign in Birmingham. Alabama also deployed extensive and racially discriminating barriers to vote, such as the literacy test, which disproportionately eliminated Black voters relative to white voters. For example, in Elmore County, between 1959 and 1964, 95% of white applicants were accepted, in contrast to 7% of Black applicants.⁵⁰⁶ Like Arkansas, Alabama also passed legislation mandating school segregation, including 1956 laws which declared federal integration court cases null.⁵⁰⁷

This chapter is primarily about mob violence which occurred in response to *Brown v. Board of Education*. School segregation was important to White Supremacy in the South for reasons beyond the immediate discomfort white parents felt at the prospect

⁵⁰⁴ Frank Clement, "Special Message to the Eightieth General Assembly of Tennessee" (TRACE: Tennessee Research and Creative Exchange, 1957).

⁵⁰⁵ Ibid, 12 – 15.

⁵⁰⁶ Brian Landsberg, "Free at Last to Vote: The Alabama Origins of the 1965 Voting Rights Act Book Review," *Yale Law Journal* 117, no. 6 (2008 2007): 1132–79.

⁵⁰⁷ Numan Bartley, *The Rise of Massive Resistance: Race and Politics in the South in the 1950's* (Baton Rouge: Louisiana State University Press, 1969).

of sending their children to integrated schools. In Aldon Morris' survey of the origins of the civil rights movement he describes a "tripartite system of domination" that combined the economic, political, and personal oppression of Black people in the South.⁵⁰⁸ School segregation played a part in all three elements of this system, which produced racial castes in the American South.

The relationship between segregated schools and racial oppression in Alabama, the location of the first case discussed in this chapter, is illustrative. Most Alabaman schools were in states of significant disrepair.⁵⁰⁹ A Department of Education study found that in Alabama, in 1917, the average teacher's salary per child for white schools was \$9.41, for Black schools it was \$1.78.⁵¹⁰ In 1939, these numbers had scarcely improved. For every \$100 spent by the state on white schools, it spent only \$6.24 on Black schools.

In the 1930s, the average Alabaman student attended school for just under 120 days a year. The average number of school days were significantly fewer among Black students. On average, Black students in the South completed 26% fewer school days a year than their white counterparts.⁵¹¹ Black teachers received a salary of less than \$300

⁵⁰⁸ Aldon D. Morris, *The Origins of the Civil Rights Movement* (Simon and Schuster, 1986), 1-4.

⁵⁰⁹ Roberts, "The New Deal, Rural Poverty, and the South," 34. Roberts cites a study of social planning which found that the average schoolhouse in Coffee County Alabama scored 256 out of 1000 according to a depression era scaling system for evaluating the physical infrastructure of schools. *A Basis for Social Planning in Coffee County, Alabama* (Farm Security Administration, 1937), 30. A score of 500 – 600 would be a frame building with a water pump, no drinking fountain, and outdoor toilets. Scores of 400 indicate frame buildings with no electricity, no running water, and no outdoor toilets. Buildings with scores below 400 are seldom fit for upgrading for "modern" use. Scores below 200 indicate that the building merited abandonment. In areas with "inferior" quality land, the average rating was 191. Schools in Coffee County were only marginally above Depression Era standards for dilapidation so extensive as to render the building unusable regardless the upgrades or modifications to the facility.

⁵¹⁰ *Negro Education: A Study of the Private and Higher Schools for Colored People in the United States*, Bureau of Education, Department of the Interior, vol. II (Bureau of Education, Department of the Interior., 1917), <https://eric.ed.gov/?id=ED542635>.

⁵¹¹ Thomas Jackson Woofert, *Landlord and Tenant on the Cotton Plantation* (U.S. Government Printing Office, 1936), 129-134.

per year.⁵¹² In a research monograph prepared for the Works Progress Administration regarding social issues in the rural South, Thomas Woofter explained that, “Not only do such salaries fail to attract adequate talent into rural teaching but they serve to drive many of the most efficient of the present teachers either into other lines of work, into urban schools, or into other States which pay better salaries.”⁵¹³

This stark difference in public funding did not take into account differences in tuition and endowment that further benefited white schools.⁵¹⁴ Funding differences for higher education was similarly stark, in 1939 Alabama state appropriations for white institutions of higher education totaled \$1,975,962, for Black institutions that figure was only \$131,500. This amounted to roughly \$.13 of higher education spending on Black children for each \$1 of higher education spending for white children.⁵¹⁵

In short, educational opportunities available on the Black side of the color line in the first half of the century in Alabama were stifling. Schools presented few pathways out of rural poverty. The poor quality of schooling and the differences in budgetary outlays for Black and white students persisted as the slow collapse of the Alabaman agricultural sector from the end of World War I to the beginning of World War II removed opportunity for economic advancement for people of either race. Cotton, the staple crop

⁵¹² Ibid, 136.

⁵¹³ Ibid, 137.

⁵¹⁴ Culpepper and Carter, *The Schoolhouse Door*, XV.

⁵¹⁵ Population characteristics from “1940 Census of Population Characteristics of the Population. Sex, Age, Race, Nativity, Citizenship, Country of Birth of Foreign-Born White, School Attendance, Years of School Completed, Employment Status, Class of Worker, Major Occupation Group, and Industry Group, Alabama.” (U.S. Census Bureau, n.d.), <https://www.census.gov/library/publications/1943/dec/population-vol-2.html>., data on education spending from Culpepper and Carter.

of the Alabaman economy, dropped from \$.37 a pound in 1921 to \$.04 a pound in 1932.⁵¹⁶

The Alabaman Department of Health found that 85 percent of school-age children in 1924 were infected with hookworm. In 1910, there were roughly as many households in the South in which both parents were literate as there were households that were illiterate.⁵¹⁷ In 1930, the situation had scarcely improved: one-third of Alabaman adults in rural areas were illiterate, the fourth grade was the modal completed grade of education.⁵¹⁸

Poor education, low-funding, and rural poverty created a situation in which few Black Alabamans had hopes of working their way to a better life. Sharecropping tied poor economic prospects to a socio-economic institution that produced conditions of perpetual debt for many Black southerners. In 1930, around 44% of Southern farmers owned their farms, the remainder were tenants.⁵¹⁹ Sharecroppers faced tough lives. In 1938, a farming household that earned \$1,000 a year spent 60 percent of its budget on food and 93 percent on “purely physical needs.” The average income of southern

⁵¹⁶ Carter, *The Politics of Rage*, 23-24.

⁵¹⁷ Robert Margo, “Race and Schooling in the South: A Review of the Evidence” (National Bureau of Economic Research, 1990), <https://www.nber.org/system/files/chapters/c8792/c8792.pdf>.

⁵¹⁸ U.S. Census: 1930, Population Vol. III, Table 7. Cited in Thomas Jackson Woofert, *Landlord and Tenant on the Cotton Plantation* (U.S. Government Printing Office, 1936), 128.

⁵¹⁹ Charles Kenneth Roberts, “The New Deal, Rural Poverty, and the South” (Tuscaloosa, Ala, University of Alabama, 2012), 18-19. Not all farm tenancy was the same. Sharecropping, the form of tenancy best remembered in popular culture, involved the owner providing the land and all capital inputs required for farming except for the labor and, usually, half the fertilizer. Sharecroppers usually split the profits fifty-fifty. Share renting, by contrast, involved the renter providing work stock, tools, feed, and seed, in addition to the labor and about a quarter of the fertilizer. Share-renters split the earnings 65/35 with the owners. Finally, cash renting involved the renter providing everything but the land, house, and fuel. Cash-renters received the majority of profits and the land-owners received only a fixed amount of cash or cotton in exchange. Forty-eight percent of all tenants in 1930 were sharecroppers.

sharecroppers was \$312 a year and among farmers as a whole, \$309.⁵²⁰ The gap between annual incomes and the minimum amount of money needed to live was financed by debt, typically at relatively high interest rates. One third of Alabamans only purchased groceries and supplies on credit, never with cash. The annual interest rate for goods was usually set at between 20-25 percent, more than 100% the interest rates of farm loans in 2021.⁵²¹

High interest rates, unstable prices, and low incomes meant that tenant farming approached something close to the economic system of slavery for the poorest sharecroppers, who were typically Black, and who would accumulate debts too high to ever payoff, forcing them to live and work on the same lots of land until they died.⁵²² W.E.B. DuBois' claim that "the keynote of the Black Belt is debt," was as true when he wrote it in 1904, as it was 25 years later.⁵²³

Education was also explicitly linked to political participation and social equality. Voter registration boards would design tests to parse whether Black voters had an "adequate understanding" of the constitution and were of good characters. Gessner McCorvey summarized the attitude of many whites who believed that "the vast majority of Negroes have not yet fitted themselves to vote intelligently on important government matters."⁵²⁴

⁵²⁰ Roberts, "The New Deal, Rural Poverty, and the South." 23-24.

⁵²¹ "U.S. Department of Agriculture: Farm Loan Programs," U.S. Department of Agriculture Farm Service Agency, 2020, <https://fsa.usda.gov/programs-and-services/farm-loan-programs/index>.

⁵²² Roberts, "The New Deal, Rural Poverty, and the South." 26.

⁵²³ William Edward Du Bois, *The Souls of Black Folk* (Blue Heron Press, 1904), Chapter 8.

⁵²⁴ Quoted in James Tyra Harris, "Alabama Reaction to the Brown Decision, 1954-1956: A Case Study in Early Massive Resistance" (Middle Tennessee State University, 1978), 56 - 57.

Education contributed to political oppression in two ways. First, it contributed to democratic gatekeeping through poll-tests. Although racial bias influenced who was allowed to pass poll-tests as well, low-education and illiteracy were easy means of disqualifying Black voters and provided a patina of race-neutrality. By keeping all schools underfunded and the demands on agricultural households and tenant farms high, literacy tests and poll-tests could be used to prevent poor farmers from participating in politics. Because the poorest farmers were disproportionately Black and education expenditure was disproportionately skewed away from Black schools, these tests disempowered Black families in the South the most. Additionally, low education spending created conditions in which white families usually had more education than Black families, contributing to the belief that McCorvey expressed above: that Black disenfranchisement was warranted as a sort of beneficent paternalism.

The framework for relating school segregation to Black civil rights was explicitly adopted by reformers in the early civil rights movement. In 1909, the National Conference of Negroes included repeated testimony which described how the lack of opportunity for Black adults stemmed from educational differences, not racial differences, between groups, speaking before the conference, the now-famous philosopher John Dewey said, “Each generation biologically commences over again very much on the level of the individuals of the past generation, or a few generations gone by. In other words, there is no ‘inferior race,’ and the members of a race so-called should each have the same opportunities of social environment and personality as those of a

more favored race... if they have more drawbacks to advance, they lie upon the side of their surrounding opportunities, the opportunities in education..."⁵²⁵

Fifteen years later, the 1934 National Conference on Fundamental Problems in the Education of Negroes was held in Washington D.C. and identified "ultimate educational objectives and ideals" to increased education which included among other things "HOME LIFE. – Equal economic opportunity, and political and social justice for all, which will make the realization and maintenance of home and family life in keeping with American ideals and standards," and "CITIZENSHIP. – Full participation in all phases of life in accordance with the highest ideals and practices of good citizenship."⁵²⁶

Although education reforms could not completely change American race-relations, civil rights advocates viewed educational inequality as a contributor to other forms of racial inequality. In this way, the efforts to preserve segregated schooling and maintain differential quality of education was a part of the racial caste system which had been maintained in the American South since the end of Reconstruction.

Although Little Rock was more racially progressive than Arkansas' rural counties, its Black residents still confronted significant barriers to full and fair roles in society. In 1940, Little Rock's Black schools received \$40 per student relative to \$67 per student in white schools. Black principals were paid 63% the salaries of their white

⁵²⁵ "Proceedings of the National Conference of Negroes," 1909.

⁵²⁶ "Planning for National Conference on the Fundamental Problems in the Education of Negroes," 1934, Papers of the NAACP, Part 03: The Campaign for Educational Equality, Series A: Legal Department and Central Office Records, 1913-1940, Folder: 001509-020-0473, see item 85451 for description of educational objectives.

counterparts, and Black students learned in classrooms more crowded than those of white students.⁵²⁷

Despite Tennessee's proclivities for moderation relative to other Southern states, Clinton residents were almost unanimously opposed to integration. Town leaders reported to interviewers that, "if a poll were made, it would show that at least 90% of people would prefer segregation over integration, but it would also show that 90% would be in favor of obeying the law, if the law called for desegregation."⁵²⁸ In interviews with Black citizens from Clinton during the desegregation of its schools, historian Rachel Martin records one woman recalling how education functioned in the city, "Every time black people would get a job, they would be thrown out... because of a lack of education... We began to realize... that our children should have equal rights and go to school, that [if they did] they would be prepared for better jobs."⁵²⁹

In summary, in all three cities, laws mandating segregation had been recently passed (or would be soon passed) around the time of the riots considered in each case. Additionally, evidence from each city suggests that educational inequality between Black and white students was an intentionally designed to suppress full Black participation in civic, social, and economic life.

⁵²⁷ John Andrew Kirk, "Black Activism in Arkansas, 1940-1970" (Thesis, Newcastle University, 1997), <http://theses.ncl.ac.uk/jspui/handle/10443/145>, 17.

⁵²⁸ Holden et al., "A Tentative Description and Analysis of the School Desegregation Crisis in Clinton Tennessee," 10.

⁵²⁹ Mattie Bell Henley, quoted in Martin, "Out of the Silence," 32.

The Salience of Legitimacy

Just as Americans sent overseas returned with changed values and expectations, WWII also shined an international spotlight on America's successes and failures. The increased international attention on American race relations and America's expanded foreign policy ambitions made **the salience of legitimacy high** during the early civil rights era. The lynching of Emmett Till, in 1955, brought Southern anti-Black violence into international focus. Till's body was returned to Chicago and buried after an open-casket funeral, at his mother's request, drawing crowds of bereft and angry on-lookers. Newspapers across the nation, and the world, circulated images of Till's mutilated face. Most white northerners, and Black northerners who did not have relatives in the South, regarded the kind of brutality and violence experienced by Till as a relic of the 19th century. Till's murder changed those views. The story traveled around the globe. In Europe and the Soviet Union, the face of a murder victim in smalltown Southern America was quickly becoming the face of America.⁵³⁰

International coverage intensified national pressure to address Civil Rights grievances. During WWII, stories of lynching carried by the Japanese press were disseminated to their colonial subjects in China, Southeast Asia, and (present day) Indonesia. The Japanese argued that if they were defeated, America's racial politics could only deliver further oppression.⁵³¹ After the war, the Soviet Union successfully argued that countries with non-white people should be cautious of the type of freedom

⁵³⁰ Caro, *Master of the Senate*, 1043-1047. Caro describes news coverage in daily newspapers across Europe including Amsterdam, Germany, Italy, and France.

⁵³¹ Mary L. Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy*, Revised edition (Princeton University Press, 2011), 8 – 10.

that American democracy would deliver. Race relations in the American south became one of the primary themes of Soviet propaganda. The international embarrassment of American racism and its propaganda value for the Soviet Union encouraged foreign policy minded presidents, such as Eisenhower and Truman, to pursue a domestic civil rights policy agenda.⁵³²

The costs to legitimacy of civil rights violations would become a common theme in coverage of the Little Rock crisis in 1957, but it had always been a consideration for the city's response to lynching. In the prelude to a lynching in 1927, reverend J.O. Johnston stated, "A lynching right now, when the attention of the nation is focused on Arkansas as a result of the flood situation, would cause irreparable harm to the reputation of the state. I beseech you to leave the matter of punishment to the courts."⁵³³

Returns to Violence

This section provides my justification for codifying mob violence in Little Rock and Tuscaloosa as high, and in Clinton as low. How can we tell if returns to violence are high? I assume that the observable implications of high returns to violence are an **ethnic power balance** which threatens a dominating ethnic group and if violence can be used to **coerce rights** from an ethnic minority when alternative means of achieving the same end do not exist.

⁵³² Dudziak, *Cold War Civil Rights*, 14, 18-46, 113-14.

⁵³³ Johnston quoted in Stephanie Harp, "Stories of a Lynching Accounts of John Carter, 1927," in *Bullets and Fire: Lynching and Authority in Arkansas, 1840 - 1950* (University of Arkansas Press, 2018), <https://www.scribd.com/book/359403268/Bullets-and-Fire-Lynching-and-Authority-in-Arkansas-1840-1950>, 292.

On the one hand, there are good reasons to believe that all Southern jurisdictions had at least somewhat high returns to violence in the early civil rights era on the basis of the latter criteria alone. As Michal Belknap summarized in, *Federal Law and Southern Order: Racial Violence and Constitutional Conflict in the Post-Brown South*, “Extralegal violence against blacks was a bulwark of the southern system of white supremacy, and even those white southerners who refrained from such conduct themselves were disinclined to punish those who did engage in it.”⁵³⁴

When confronted with events that could lead to the disruption of white political dominance, White Supremacist leaders often called for political violence, and white southerners answered that call. After *Smith v. Allwright* banned white primaries, Theodore Bilbo, a Senator from Mississippi called, “for every red-blooded white man to use any means necessary to keep the n- away from the polls... You and I know what’s the best way to keep the n- from voting. You do it the night before the election. I don’t have to tell you any more than that. Red-blooded men know what I mean.”⁵³⁵

Edward Williamson and Lynwood Harvey knew what he meant. In 1946, they shot fellow-World-War-II veteran Maceo Snipes in the back outside of Snipes’ home in Taylor County, Georgia. Snipes was the first Black resident of Taylor County to register to vote in a Democratic primary. Two days later, two more Black residents of Taylor

⁵³⁴ Michal R. Belknap, *Federal Law and Southern Order: Racial Violence and Constitutional Conflict in the Post-Brown South* (University of Georgia Press, 1995), 1.

⁵³⁵ Michael Newton, *The Ku Klux Klan in Mississippi: A History* (McFarland, 2009), 104.

County registered to vote, and both were also lynched. Williamson and Harvey were both acquitted by all-white juries.⁵³⁶

James Vardaman, another Mississippi Senator, promised that he would, “kill all Negroes if necessary to preserve unsullied the honor of one Caucasian home.”⁵³⁷

Vardaman’s invocation of the “honor of Caucasian homes” was apt. Walter White, executive director of the NAACP from 1929-1955 claimed that “the vast majority of whites in the states where lynchings are most frequently staged really believe that most mob murders are the result of sex crimes.” That belief had little basis in reality. Sex crimes were implicated as the motive in fewer than a third of lynchings, and because a lynching typically occurs in lieu of, rather than after a trial, there is little evidence to substantiate the relationship in the cases where a sex crime was alleged.⁵³⁸

As early as 1893, Southern Democrats defended lynching as the byproduct of an inefficient court system which produced, “a constantly growing distrust, in the promptness and efficiency of the law.”⁵³⁹ This argument was repeated by Southern policymakers in the early-20th century, who claimed that inefficient enforcement of local law incentivized members of the public to lynch defendants, especially those convicted of sex crimes.⁵⁴⁰

⁵³⁶ Jason Sokol, *There Goes My Everything: White Southerners in the Age of Civil Rights, 1945-1975*, Illustrated edition (New York: Vintage, 2007), 35-37

⁵³⁷ Charles Crowe, “Racial Violence and Social Reform - Origins of the Atlanta Riot of 1906,” *Journal of Negro History* 53, no. 3 (1968).

⁵³⁸ Quoted in Belknap, *Federal Law and Southern Order*, 6.

⁵³⁹ Walter Clark, “The True Remedy for Lynch Law,” *American Law Review*, Vol. XXVIII, 802. Quoted in James Harmon Chadbourn, *Lynching and the Law* (Chapel Hill: The University of North Carolina Press, 1933), 5.

⁵⁴⁰ James Harmon Chadbourn, *Lynching and the Law* (Chapel Hill: The University of North Carolina Press, 1933), 5.

This explanation for tolerating lynching is undermined by the fact that: (1) lynchings usually happened to people who were either already in jail, or were captured in the presence of law enforcement officers, and were often taken from court houses where guilty verdicts were all but assured,⁵⁴¹ (2) by the 1890s lynching victims were overwhelmingly Black – slow justice was not a concern for white offenders,⁵⁴² (3) lynching was often accompanied by a celebratory atmosphere, horrendous torture, and the distribution of souvenirs, suggesting a social, cultural, or political motivation, rather than a bureaucratic one,⁵⁴³ and (4) that Southerners seldom denounced lynching and advocated for an improved criminal justice system in response to its perceived inefficiencies.⁵⁴⁴

What did seem to motivate lynching? We can observe variable toleration of violence in circumstances in which alternatives to violence were unavailable and white majorities feared a challenge to their ethnic hierarchy.

Violence was one of many policies available to Southern elites for suppressing political and social participation, but it was a generally inefficient one. For example, more than two decades after federally enforced Reconstruction ended, Black voter turnout remained relatively high, despite the vast increase in lynchings during that period.

⁵⁴¹ Stewart Emory Tolnay and E. M. Beck, *A Festival of Violence: An Analysis of Southern Lynchings, 1882-1930* (University of Illinois Press, 1995);

⁵⁴² Analysis using data from Charles Seguin and David Rigby, “National Crimes: A New National Data Set of Lynchings in the United States, 1883 to 1941,” *Socius* 5 (January 1, 2019): 2378023119841780, <https://doi.org/10.1177/2378023119841780>.

⁵⁴³ Amy Louise Wood, *Lynching and Spectacle: Witnessing Racial Violence in America, 1890-1940*, New edition (Chapel Hill, NC: University of North Carolina Press, 2011).

⁵⁴⁴ C. Waldrep, *The Many Faces of Judge Lynch: Extralegal Violence and Punishment in America*, (New York: Palgrave Macmillan, 2003); Michael James Pfeifer, *Rough Justice: Lynching and American Society, 1874-1947* (University of Illinois Press, 2004).

Black turnout in 1880 was at 62% in former Confederate States, only 5% lower than white voter turnout that same year. From 1880 to 1892, southern states amended their constitutions and passed legislation to implement poll taxes, literacy tests, and other stringent voter registration requirements. The result was a reduction in Black turnout to 4% in states with both a literacy test and poll tax, while white turnout was only reduced to 30%. Although there were reductions in states without poll taxes and literacy tests as well (Black turnout was 34% in Southern states with neither policy in 1900), non-violent means of formal voter suppression were far more effective than violence alone in reducing Black voting.⁵⁴⁵

In addition to being less effective than legal alternatives, violence is a less discriminating and risky substitute for formal law. As noted above, the period of decline in voter turnout from 1870 to 1880 was marked by a relatively indiscriminate decline in turnout among white and Black voters (voter turnout among white and Black voters differed by only 5%), whereas more general means of restrictive suffrage resulted in differences in racial turnout of more than 25%.

If violence is generally less preferable than non-violent alternatives, what are its upsides for Southerners? The answer seems to be in its accessibility and fungibility as a form of power. Violence was instrumental for the Democratic party to seize control of some Southern offices in 1876, when their opponents had won elections and controlled

⁵⁴⁵ Kent Redding and David R. James, "Estimating Levels and Modeling Determinants of Black and White Voter Turnout in the South, 1880 to 1912," *Historical Methods: A Journal of Quantitative and Interdisciplinary History* 34, no. 4 (January 1, 2001): 141–58, <https://doi.org/10.1080/01615440109598978>.

the formally recognized tool of policymaking.⁵⁴⁶ Similarly, in 1865, Black voter participation in the South was understood to be critical for Republican challenges to Southern Democratic party rule. Absent a legal mechanism for denying Black people the right to vote in the immediate aftermath of the Civil War and in the immediate aftermath of Reconstruction, Southern Democrats relied on violence to intimidate Black voters.⁵⁴⁷

As state capacity grew and means of suppressing Black political participation became available (through electoral mechanisms such literacy tests, poll taxes, and racialized grandfather clauses), violence became less critical. In 1904, a Congressional report on the reduction in lynchings found that violence was, “no longer necessary because the laws are so framed that the Democrats can keep themselves in possession of the governments in every Southern State.”⁵⁴⁸ Recent research on this topic has shown, similarly, that as violence became less available to Southern states at the beginning of the civil rights era, legal means of subverting Black participation were re-introduced.⁵⁴⁹

Although the use of violence diminished from the 1880s through the 1940s,⁵⁵⁰ the threat of violence retained its power. Violence was often an instrument of pure terror

⁵⁴⁶ Jerry L. West, *The Bloody South Carolina Election of 1876: Wade Hampton III, the Red Shirt Campaign for Governor and the End of Reconstruction* (McFarland, 2014); Edward L. Gibson, “Boundary Control: Subnational Authoritarianism in Democratic Countries,” *World Politics* 58, no. 1 (2005): 101–32.

⁵⁴⁷ Douglas Egerton, *The Wars of Reconstruction* (New York: Bloomsbury Press, 2014).

⁵⁴⁸ Smithsonian National Museum of American History, quoted in Brad Epperly et al., “Rule by Violence, Rule by Law: Lynching, Jim Crow, and the Continuing Evolution of Voter Suppression in the U.S.,” *Perspectives on Politics* 18, no. 3 (September 2020): 756–69, <https://doi.org/10.1017/S1537592718003584>.

⁵⁴⁹ Brad Epperly et al., “Rule by Violence, Rule by Law: Lynching, Jim Crow, and the Continuing Evolution of Voter Suppression in the U.S.,” *Perspectives on Politics* 18, no. 3 (September 2020): 756–69, <https://doi.org/10.1017/S1537592718003584>.

⁵⁵⁰ As a proxy for this violence more generally see data on lynchings which show a sharp increase in lynchings immediately after Congressional Reconstruction ends in 1876 followed by a period of gradual decline from the 1880s through the 1940s. Stewart Emory Tolnay and E. M. Beck, *A Festival of Violence: An Analysis of Southern Lynchings, 1882-1930* (University of Illinois Press, 1995).

designed to coerce Black Southerners from participating in civic or economic life.

Studies suggest that lynchings were more common during periods of populist political reform,⁵⁵¹ and that race riots and lynchings were deployed by wealthy whites to shore-up white cross-class political establishments that relied on poor-Black and poor-white labor to survive.⁵⁵²

The characteristics of lynch mobs also suggests that their purpose was to terrorize a Black audience. Racialized mob violence in the 1930s and 1940s was usually accompanied by gruesome spectacles of violence intended to terrify the Black public. Mobs would disfigure the bodies of their victims and prominently display the corpses of lynching victims in town. Trophies were pulled from dead bodies and distributed as souvenirs, and large crowds would attend public burnings. The ritualistic aspect of the violence communicated to the Southern Black community that its members' right to life and safety was contingent on the goodwill of the broader white public.⁵⁵³

Challenges to the racial order could cause that goodwill to wane. In a report prepared by the American Friends Service Committee on violence during the early civil rights era, the authors recorded 530 instances of violence or intimidation directed at Black southerners between 1954 and 1959. These included gatherings of Klansmen who

⁵⁵¹ Susan Olzak, "The Political Context of Competition: Lynching and Urban Racial Violence, 1882–1914*," *Social Forces* 69, no. 2 (December 1, 1990): 395–421, <https://doi.org/10.1093/sf/69.2.395>.

⁵⁵² Michal R. Belknap, *Federal Law and Southern Order: Racial Violence and Constitutional Conflict in the Post-Brown South* (University of Georgia Press, 1995).

⁵⁵³ Arthur F. Raper, *The Tragedy of Lynching* (Mineola, N.Y: Dover Publications, 2003). Although there were also some lynch mobs killed in secret in order to remove officials or activists viewed by local whites as causing trouble, this was not the modal category of lynching. See Mattias Smångs, "Doing Violence, Making Race: Southern Lynching and White Racial Group Formation," *American Journal of Sociology* 121, no. 5 (2016).

gave racially incendiary and threatening speeches, assaults and beatings of individual Black Southerners, bombings, murder, and mob violence.⁵⁵⁴

The instrumentality of violence in suppressing Black political participation can also be seen through micro-level studies of Black voters who *did* participate in elections, revealing the importance of violence in inhibiting their participation. Beyerlein and Andrews find that controlling for other variables, perception of violent repression and perception of non-violent repression were the two largest contributors to decision to vote in a 1961 survey of voting-age Black households in the 11 former confederate states.⁵⁵⁵

To make the threat of violence credible, its perpetration had to be relatively costless. Only four southern states had convicted any person for lynching between 1882 and 1933, and in only 40 of the 5,150 lynchings had any legal action been attempted against its organizers or participants.⁵⁵⁶ However, federal law enforcement threatened the exclusive jurisdiction of Southerners to ensure that violence was costless. As a result, Southern legislators fervently opposed attempts to expand federal anti-lynching capabilities. Although anti-lynching legislation had been introduced repeatedly between

⁵⁵⁴ “Intimidation Reprisal and Violence in the South’s Racial Crisis” (Southeastern Office of the American Friends Service Committee, 1959), https://www.crmvet.org/docs/60_src_violence-r.pdf. This dataset is not comprehensive and does not include instances of racial violence that occurred outside the South or that were not reported in local newspapers. To my knowledge, there is no comprehensive dataset of white racial or mob violence that covers the 1950s. Although there have been significant efforts to document lynchings, a similar effort has not been undertaken for other, more common forms of violence. There is also significant evidence that white violence during this period was chronically underreported as southern politicians sought to justify segregation as a peaceful institution.

⁵⁵⁵ Kraig Beyerlein and Kenneth Andrews, “Black Voting During the Civil Rights Movement: A Micro-Level Analysis,” *Social Forces* 87, no. 1 (September 2008).

⁵⁵⁶ *Ibid.*, 9.

1920 and 1957, Southern Democrats successfully undermined all attempts at passing anti-lynching bills.⁵⁵⁷

As long as a credible response to violence did not exist, Black political participation would be undermined. Further evidence for the importance of the threat of violence can be inferred by the declining number of lynchings over time. As is shown in Figure 10, during the 1920s, fewer than 100 people were lynched, a steep decline from the 500 lynchings that occurred in the decade proceeding 1880. However, during that decade, Southerners mounted concerted opposition to anti-lynching legislation in Congress, maneuvering to block dozens of bills, even after lynching had become nearly non-existent.⁵⁵⁸

Lynching also became a more racialized tool of political oppression over time. While Black people were only 35.35 percent of lynch mob victims in 1880 and 1890, from 1900-1930 they were 70.02 percent of lynch mob victims.⁵⁵⁹

⁵⁵⁷ George C. Rable, "The South and the Politics of Antilynching Legislation, 1920-1940," *The Journal of Southern History* 51, no. 2 (1985): 201-20, <https://doi.org/10.2307/2208825>.

⁵⁵⁸ Ibid.

⁵⁵⁹ Analysis using data from Charles Seguin and David Rigby, "National Crimes: A New National Data Set of Lynchings in the United States, 1883 to 1941," *Socius* 5 (January 1, 2019): 2378023119841780, <https://doi.org/10.1177/2378023119841780>.

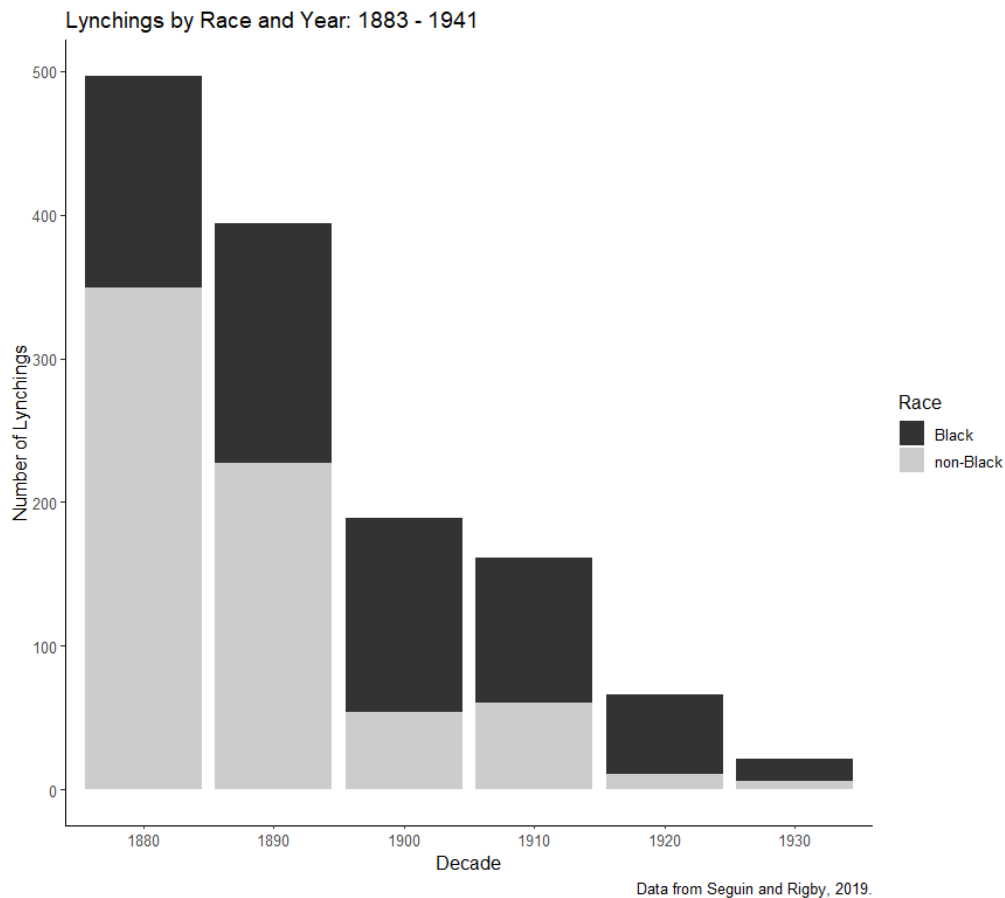


Figure 10 Lynchings by Race and Year: 1883 - 1941

By the 1930s, civil rights judicial victories began to erode the South’s alternatives to violence. In 1938, the Hughes court ruled in *Gaines v. Canada* that Missouri could not deny admission to the University of Missouri Law School because of race if Missouri did not provide a “separate but equal” law school for Black Missourians. A decade later, *Sweatt v. Painter* affirmed the Court’s finding in *Gaines*; however, in *Sweatt*, the Court found that Texas could not deny Black students access to the University of Texas Law School, not because Texas did not have any Black law schools, but because its Black law schools were obviously inferior to its white law schools. In a similar finding to *Sweatt*,

the court found in *McLaurin v. Board of Regents* that a Black student could not be denied access to a white cafeteria because such an action would deny the student opportunity to have intellectual exchange with her peers.⁵⁶⁰

In 1923, the El Paso branch of the NAACP won a ruling in *Nixon v. Herndon* which found that a Texas statute that forbade Black voting in Democratic primaries through the state legislature was a violation of the equal protection clause,⁵⁶¹ the principle was expanded in the 1944 *Smith v. Allwright* finding, which banned white primaries even if established through the party's machinery, rather than the state's legislation – laying a path to meaningful Black political participation in Southern elections.⁵⁶²

Such participation can be seen in the increase in the proportion of the voting age Black population in the former Confederate States, visualized in Figure 11.⁵⁶³

⁵⁶⁰ Numan V. Bartley, *The Rise of Massive Resistance: Race and Politics in the South During the 1950's* (LSU Press, 1999), 5; see also, Albert P. & Clarence Clyde Ferguson Jr. Blaustein, *Desegregation and the Law: The Meaning and Effect of the School Segregation Cases*, [2d ed. rev.]. edition (Vintage Books, 1962).

⁵⁶¹ Mickey, *Paths out of Dixie*, 97.

⁵⁶² Robert Mickey, "The Beginning of the End for Authoritarian Rule in America: Smith v. Allwright and the Abolition of the White Primary in the Deep South, 1944–1948," *Studies in American Political Development* 22 (Fall 2008): 143–82.

⁵⁶³ Data from Richard J. Timpone, "Mass Mobilization or Government Intervention? The Growth of Black Registration in the South," *The Journal of Politics* 57, no. 2 (1995): 425–42, <https://doi.org/10.2307/2960314>. Timpone sources his data from Donald R. Matthews and James W. Prothro, "Social and Economic Factors and Negro Voter Registration in the South," *American Political Science Review* 57, no. 1 (March 1963): 24–44, <https://doi.org/10.2307/1952716>.

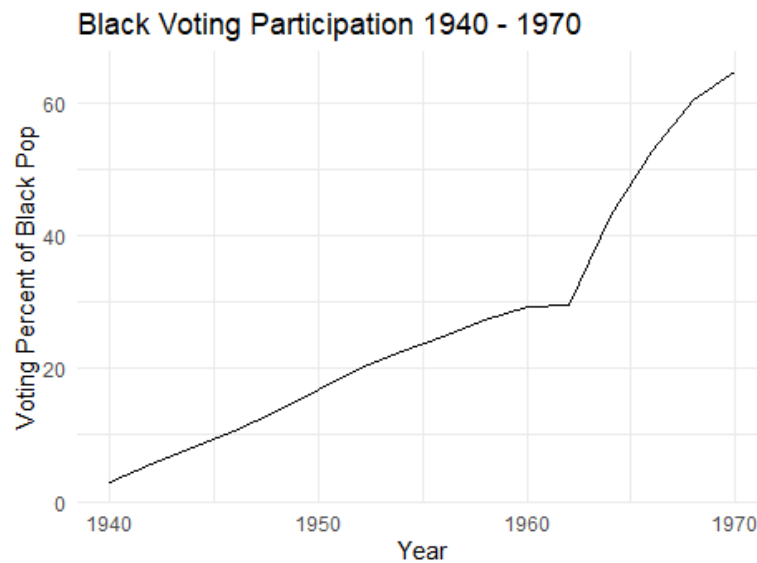


Figure 11 Black Voting Participation 1940 - 1970

Black voter participation began to increase linearly from 1940, through the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, at which point Black voting participation began to increase rapidly. The slope of the line in Figure 11 is one way of visualizing the beginning of the end of Black political oppression in America's South.

To summarize this section in terms of **violence's returns**: Black rights expanded across the south during a time when white communities lost many legal means of preserving their social control.

At the University of Alabama, the location of the first mob considered in this chapter, the use of violence is used to justify the closure of the university and the unfixed size of the school's Black student body (if Black students were to be admitted, any number of Black students may be admitted) satisfy both criteria of violence having high

returns. Additional evidence of violence's returns can be seen in Tuscaloosa, the nearest town to the University of Alabama. Tuscaloosa residents lynched three Black men as recently as 1933 after northern lawyers attempted to provide the men representation in a case involving the alleged rape of a young woman.⁵⁶⁴

In coverage of the event, Tuscaloosa's papers editorialized that the International Labor Defense League, which had supplied the lawyers, was to blame for the lynchings. One paper editorialized that "[T]he maggoty beaks of the belled buzzards of the International Labor Defense League are stained with the blood of the three negro boys whose torn bodies this morning lay in newly turned graves!"⁵⁶⁵ When denied sure conviction of Black men accused of a rape, Tuscaloosa turned to violence. Just because the community tolerated violence as a response to a violation of the city's ethnonationalist norms before, does not mean that the returns to violence now are high, but it does suggest that in the minds of local residents, violence had the capacity to deter violations of their cultural norms. In the case I consider later in this chapter, when the University of Alabama faced a similar rupture in the color line secured (in part) by northern legal representation, it would turn to violence again.

Twenty five percent of Little Rock's population was black by 1950, making an expansion of Black rights in the city a credible threat to the city's dominant white ethnic group. As was the case in Tuscaloosa, violence had also been shown to be conceived of by Little Rock's residents as being capable of deterring violations of the color line. In

⁵⁶⁴ B. J. Hollars, *Thirteen Loops: Race, Violence, and the Last Lynching in America* (University of Alabama Press, 2011), 12 – 27.

⁵⁶⁵ Quoted in Hollars, 31.

1904, Little Rock's *Arkansas Gazette* reported on four days of lynchings which left eleven Black men dead. "Defiance by the Negroes," the paper reported, caused eleven Black people to be "put to death," after two Black people knocked over one white man over a "trivial matter" and then knocked over a sheriff who tried to arrest them.⁵⁶⁶

The brazenness of the paper's reporting was dialed back two decades later when another lynching occurred in the city. In 1927, a white mob lynched John Carter and then terrorized the city's Black residents until Arkansas' governor called the National Guard to suppress the rioting. The tone of the *Arkansas Gazette* during that event had changed: the newspaper decried the failure of the city's aldermen and law enforcement to prevent the expansion of a mob, which at its grizzliest saw a man directing city traffic with John Carter's charred arm. The *Gazette* remarked on the "shame of being delivered over to anarchy."⁵⁶⁷

However, although the *Gazette* denounced violence, the mayor was unapologetic, noting that it was only one death, and that the crowd would have been averted if the attempted assault of a woman by a man were a capital offense.⁵⁶⁸ Similarly, the sheriff described the mob, as "orderly."⁵⁶⁹ The judge responsible for the grand jury which handled prosecution of the lynchers and the prosecuting attorney both told the NAACP

⁵⁶⁶ Vinikas Vincent, "Arkansas's Most Lethal Lynching and the Abrogation of Equal Protection," in *Bullets and Fire: Lynching and Authority in Arkansas, 1840 - 1950* (University of Arkansas Press, 2018), 152 – 153, 167.

⁵⁶⁷ *Arkansas Gazette* quoted in Stephanie Harp, "Stories of a Lynching Accounts of John Carter, 1927," in *Bullets and Fire: Lynching and Authority in Arkansas, 1840 - 1950* (University of Arkansas Press, 2018), <https://www.scribd.com/book/359403268/Bullets-and-Fire-Lynching-and-Authority-in-Arkansas-1840-1950>, 304.

⁵⁶⁸ Ibid, 305 – 306.

⁵⁶⁹ Ibid, 305.

that they thought that the matter should be left alone, so as to prevent a jury from finding for the defendants, providing encouragement to those considering mob violence in the future.⁵⁷⁰ As described before, a common explanation for the need for mob violence was an ineffectual legal system.

In both of the above cases, violence was understood to be an appropriate remedy to violations of the color line. Moreover, in both cases, absent some action by white community members, there could be a significant shift in the balance of power between white and Black members of a community.

I argue, in contrast to the previous two cases, that Clinton, Tennessee should be viewed as having low returns to violence, for several reasons. First, only three percent of Clinton was Black in 1950. From the perspective of white segregationists, this made the costs of allowing integration relatively small, as it was impossible for Clinton's Black community to meaningfully challenge white social dominance regardless the segregated status of public schools.⁵⁷¹ Second, Clinton was six miles away from Oak Ridge, a city constructed by the federal government as part of the Manhattan project, and which had been integrated by federal edict in 1955. Although Clinton's residents protested Oak Ridge's integration, there was no plausible mechanism to prevent school integration in Oak Ridge, and subsequently in the broader Clinton area in which many Clinton families lived. Finally, Clinton itself was small enough that it could never reasonably afford the

⁵⁷⁰ Ibid, 307 – 308.

⁵⁷¹ Rachel L. Martin, "Out of the Silence: Remembering the Desegregation of Clinton, Tennessee, High School" (Ph.D., United States -- North Carolina, The University of North Carolina at Chapel Hill), accessed October 6, 2021, <https://www.proquest.com/docview/1648168605/abstract/76C708D6278245D9PQ/1>, 8.

alternatives to integration envisioned in some other southern jurisdictions: the creation of an equally funded Black school, which might stave off demands for integration.

Recognizing that a separate Black school was financially impossible, Clinton's school board was already busing Black students to a school in a neighboring county, a situation which even the city's most racist members understood to be untenable long-term. Even if violence could purchase delays, Clinton could not afford segregation. There was no plausible way for Clinton to prevent integration through mob violence.⁵⁷²

Table 10 summarizes the justifications for case coding provided above. In the next section, I introduce the relationship between the *Brown v. Board* finding and Southern violence.

⁵⁷² For a description of Black migration to the Clinton area and Oak Ridge see Ibid, 11. For discussion of costs of maintaining separate schools see Ibid, 8. For a description of Oak Ridge's significance to Clinton see Holden et al., "A Tentative Description and Analysis of the School Desegregation Crisis in Clinton Tennessee."

Table 10 Observable Implications of Explanatory Variable by Era

| <i>Variable</i> | <i>Observable implications</i> | Implication observed? | | |
|------------------------|--|--|---|--|
| | | <i>Clinton</i> | <i>Little Rock</i> | <i>Tuscaloosa</i> |
| Ethnonationalism | <i>Segregation</i> : Segregated facilities, services, and institutions, bans on interracial marriage, racialized housing laws | Yes: Miscegenation laws, employment laws | Yes: Interposition, segregation transportation, segregation schools | Yes: Segregation schools, miscegenation laws |
| | <i>Civic segregation</i> : Proscriptions against voting, jury service, or civil service employment by race. | Yes: Poll tax | Yes: Poll tax | Yes: Poll tax |
| Returns to Violence | <i>Ethnic Power Balance</i> : Violence can shift the balance of power between two ethnic groups in a community. | No: 3% of Clinton is Black, integration unavoidable in Oak Ridge. | Yes: 25% of Little Rock is Black. | Yes: Integration of universities can result in any number of Black students attending. |
| | <i>Coerce Rights</i> : Violence is used to coerce a group from enjoying a right, when other means of preventing that right do not exist (no legal means to prevent right). | No: Integration unavoidable, local authorities and community make concerted effort to suppress violence. | Yes: Threat of violence can be used (is explicitly framed as having the potential to be used) as a justification to deploy National Guard to close schools. | Yes: Violence is used (is explicitly framed as having the potential to be used) as a justification to expel Autherine Lucy/maintain segregation. |
| Salience of Legitimacy | Decision makers discuss internal policymaking through the framework of external state/actor approval. | Yes | Yes | Yes |
| | <i>External competition</i> : States are competing with other actors to influence other party's behavior in a context where coercion is not reliable. | Yes | Yes | Yes |

Brown and the Threat of Violence

Brown v. Board of Education began an era of civil rights legislation and court cases that resulted in the overruling of the separate but equal doctrine, bans on *de jure* segregation, and the prohibition of segregation on the basis of race, religion, sex, or national origin.⁵⁷³ *Brown* also sparked a powerful response among white conservatives, especially those in the American South, who sought to preserve segregation and white rule. It demonstrates that non-response to violence was a crucial element in Southern strategies to undermine the growing civil rights movement, both through violence's coercive effects, and also through its capacity to justify using state police power to shut down schools if violence appears to be imminent. It also charts the civil rights activists' efforts to use the federal government to enforce civil rights law in response to violence. It shows how local **ethnonationalism**, under conditions in which **returns to violence** are high, leads to the toleration of mob violence and shows how federal reaction to that violence, in a setting in which **the salience of legitimacy** is high, leads to a **contested response** to violence.

Within weeks of the *Brown* decision, James Eastland of Mississippi would explain with surprising candor how the non-enforcement of the law, and the threat of unchecked violence, could be used to undermine school integration. Eastland argued before the Senate that integration would lead white citizens to attack Black citizens and integrated schools, and that such disorder was both justified and unavoidable, and

⁵⁷³ James Pfander, "Brown II: Ordinary Remedies for Extraordinary Wrongs," *Minnesota Journal of Law & Inequality* 24, no. 1 (2006); Juan Williams and Julian Bond, *Eyes on the Prize: America's Civil Rights Years, 1954-1965*, Reprint edition (Penguin Books, 2013).

therefore that the state could use the police to close schools, rather than secure the rights of Black students.

On May 27, 1954, Eastland remarked on the newly passed *Brown v. Board of Education* that “Racial instincts are normal, natural, human instincts. It is natural that persons of every race... desire to associate with their own kind... To do the things which the court is attempting to do... will justly cause, in my judgment, evasion and violation of law and contempt for law, and will do this country great harm.”⁵⁷⁴

After elaborating on the racial ideology which underscored his opposition to the case, Eastland went on to explain how the law could be resisted. The rights of the state to enforce the law, or not enforce the law, was critical to the strategies Eastland envisioned. Absent some transformation of federal law enforcement, Eastland argued, jury nullification would prevent the punishment of civil rights violators, “...there are more than 11,000 segregated school districts in the United States. Before the officials of a single one of those schools could be cited in a contempt proceeding before the Supreme Court, it would be necessary to obtain a judgment against that particular school, or a decree ordering the integration of the children in that school. The Department of Justice could... prosecute private citizens under the Federal civil rights statute... The indictment, however, must be returned by a grand jury in the State involved... For one to think that there would be indictments or convictions in most areas of the South is an absurdity. In

⁵⁷⁴ James Eastland, “Congressional Record - Senate” (Government Printing Office, May 27, 1954), 7251.

my opinion, no grand jury would indict, no trial jury would convict; the law would be a nullity...”⁵⁷⁵

Eastland observed that the absence of federal police power also implied another means of blocking integration: the state’s right to use its police forces to prevent disorder, which Eastland asserted would naturally follow any integration of public schools, “Mr. President, the police power of the State under our system of government is supreme and absolute to prescribe regulations to promote, secure, and maintain public order and to promote the health, morals, and education of the people. It is my judgment that when schools are not segregated because of race, but are segregated instead under the State’s police power to preserve order, prevent riots, and physical harm – occurrences which in my judgment will be widespread – then the recent decision will not apply... The governor of a sovereign State can use the force at his command... to maintain public order, and prevent crime and riots. He can use these forces to prevent racial integration of schools if this is necessary, under the police power of the State, to prevent disorder and riots...”⁵⁷⁶

Eastland’s plan to resist integration took the threat of violence as a given and extrapolated from that threat that the non-enforcement of integration policy would be a justifiable recourse for state officials seeking to avoid riots, violence, and disorder. For this plan to work, that threat of violence would need to be credible. The more credible the threat, the greater the chance that non-enforcement of the law could be justified by state

⁵⁷⁵ Ibid, 7256.

⁵⁷⁶ Ibid, 7256.

officials without federal intervention. At the same time, not enforcing any law because of the threat of violence posed its own second-order costs to the legitimacy of Southern states. For Southern ethnonationalists to be successful, they had to prove not just that violence was inevitable, but that no authority could reasonably prevent it, thus justifying both their own non-intervention, and also the non-intervention of the federal government.

Credible sources of such violence would quickly appear. Two months after the initial *Brown* finding in 1954, the first White Citizens' Council was founded in the Mississippi Delta. Between October and December 1955, the Alabama Citizens' Councils membership grew from a few hundred members to over twenty thousand.⁵⁷⁷

The catalyst for the growth of the organizations was a petition made by a group of Black parents in Alabama to allow their children to attend county schools, which confronted white parents with the prospect of actually sending their children to interracial schools, rather than just an abstract Supreme Court ruling.⁵⁷⁸ Many white Southern families turned to Citizens Councils, which promised to provide auxiliary support to government action intended to address the rupture of the color line.⁵⁷⁹ Although the Councils' stated goals were to tell the "Southern story" on race-relations to Northern audiences, and to provide legal advice to Southerners who sought to oppose integration, they also organized intimidation campaigns against Black Southerners who participated

⁵⁷⁷ Numan Bartley, *The Rise of Massive Resistance: Race and Politics in the South in the 1950's* (Baton Rouge: Louisiana State University Press, 1969); Neil R. McMillen, *The Citizens' Council: Organized Resistance to the Second Reconstruction, 1944-64*, 1st edition (Urbana: University of Illinois Press, 1994), 15 – 40.

⁵⁷⁸ Dan T. Carter, *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics*, 2nd edition (Baton Rouge: LSU Press, 2000).

⁵⁷⁹ Waltraut Stein, "The White Citizens' Councils," *Negro History Bulletin* 20, no. 1 (1956): 2–23.

in civil rights advocacy and linked their members, who were primarily socially-conservative, middle-class whites, to more extreme anti-Black and anti-Semitic organizations.⁵⁸⁰

While Citizens Councils were proliferating throughout the South, Southern moderates were developing alternative means of preserving school segregation. Virginia led this effort with the creation of a state commission to study opportunities to block school desegregation.⁵⁸¹ The Virginia commission drafted what would be called the Gray Plan, which called for using tuition grants to create a system of racially segregated private schools, and pupil placement programs, which would implicitly produce racial segregation.⁵⁸² The Gray Plan attempted to satisfy the text, if not the spirit of *Brown v. Board*, but was quickly rendered moot by two developments: (1) judicial rulings such as *Adkins v. School Board* which found that pupil placement bills were unconstitutional, and (2) an ideological shift toward more extreme and unequivocal opposition to integration among southern lawmakers.⁵⁸³

Hardcore segregationists had their first state legislative successes in 1955. In Alabama, a January special session of the legislature, originally called by Jim Folsom to pass an infrastructure bill, was used by segregationists to address the impending

⁵⁸⁰ Ibid, 2–23.

⁵⁸¹ Michael Mayer, “Eisenhower’s Conditional Crusade: The Eisenhower Administration and Civil Rights, 1953-1957” (Ph.D., United States -- New Jersey, Princeton University, 1984), 232 – 233.

⁵⁸² “Report of the Virginia Commission on Public Education (Gray Commission),” *Race Relations Law Reporter* 1, no. 1 (1956).

⁵⁸³ Carl Tobias, “Public School Desegregation in Virginia During the Post-Brown Decade,” *William and Mary Law Review* 37 (1996), 1270 – 1272.

integration of the University of Alabama, portended by the applications of Autherine Lucy and Pollie Meyers.⁵⁸⁴

Albert Boutwell, a gradualist segregationist in Alabama, presented the Alabama State Legislature with a plan that was created during his chairmanship of the Interim Committee on Segregation in the Public Schools.⁵⁸⁵

The committee's report began by summarizing the state of affairs facing Alabama,

"The Committee's study has led it to the firm conclusion that the people of our state are determined to have:

1. Education for all children of the state, and
2. No compulsory mixing of races in our schools.

Under the present Constitution and statutes of Alabama these two basic policies are incompatible as a result of the recent Supreme Court decision."⁵⁸⁶

Although it subsequently claimed that neither Black nor white Alabamans favored integration – a claim which is patently untrue for the former group, it did accurately summarize the problem from the perspective of white Alabamans: they did not want to integrate and yet were compelled to do so by law. It also argued for legislation that echoed Eastland's Senate testimony earlier that year, "if we are to save our schools and

⁵⁸⁴ For a history of the desegregation of the University of Alabama see, Culpepper Clark E., *The Schoolhouse Door: Segregation's Last Stand at the University of Alabama*, First edition (Tuscaloosa, Ala: Fire Ant Books, 2007).

⁵⁸⁵ "Alabama," *Southern School News*, February 3, 1955. "Report of Alabama Interim Legislative Committee on Segregation in the Public Schools" (Alabama Legislature, 1954), <https://bplonline.contentdm.oclc.org/digital/collection/p4017coll8/id/14983/>.

⁵⁸⁶ Boutwell, Albert. "Report of Alabama Interim Legislative Committee on Segregation in the Public Schools" (Alabama Legislature, 1954), <https://bplonline.contentdm.oclc.org/digital/collection/p4017coll8/id/14983/>, 1.

our children from violence, disorder and tension it is imperative that prompt action be taken.”⁵⁸⁷

The violence and disorder envisioned by the Boutwell report would not originate from Alabama’s Black community, but from Alabama’s white community, which the report’s authors assumed would react violently to the prospect of having their children attend interracial schools. The report developed several plans to undermine integration. It recommended making a series of constitutional amendments that would affirm the provision of education to Alabaman students, “but only to the extent of the available revenues of the State, and subject to the exercise of its police power to assure harmony and good order as the background for the education of Alabaman children,” while providing the legislature broad leeway in “conserving order and harmony and in asserting the paramount police power of the State.”⁵⁸⁸ The Boutwell plan’s discussion of “the exercise of its police power to assure harmony and good order,” referenced the threat of violence from white community members, which the plan *relied on* to justify not enforcing civil rights law.

The amendments would also allow the legislature to exclude groups “whose deficiencies in scholastic aptitude would compel undue lowering of school standards.” As a last resort, the report recommended replacing public schools with a voucher and stipend that parents could use to obtain “free” private education for their children.⁵⁸⁹

⁵⁸⁷ Boutwell, Albert. “Report of Alabama Interim Legislative Committee on Segregation in the Public Schools” (Alabama Legislature, 1954), <https://bplonline.contentdm.oclc.org/digital/collection/p4017coll8/id/14983/>, 1.

⁵⁸⁸ Ibid, 7.

⁵⁸⁹ Ibid, 7-8.

The Boutwell plan shows how the threat of non-enforcement of the law was used among moderate segregationists to block integration, but the Boutwell plan was not the only game in town. The threat of school integration had empowered hardline segregationists in Alabama, who pushed for their own, more radical plan to subvert *Brown*.

In addition to the Boutwell plan, which created tools to preserve segregation, but which did not envision completely blocking integration, two other proposals were advanced, both co-sponsored by Sam Engelhardt, a leading hardline Alabaman segregationist. The first would privatize all Alabama schools, in imitation of a last resort contemplated by the Boutwell report. The other would create a “placement board,” that would have broad discretionary powers to determine which students would be placed in which schools. One factor that Engelhardt’s proposed boards would be able to consider was, “whether or not in the judgment of the board the assignment would cause or tend to cause a breach of the peace, riot, or affray.”⁵⁹⁰

On February 15, 1955, Sam Engelhardt spoke about attempts to weaken classroom segregation during a hearing for his “placement board” bill. In his speech, Engelhardt echoed the Boutwell report’s premonition of violence if segregation was weakened, “... any weakening or reversal of that policy would bring about violence, disorder, breaches of the peace, riots, bloodshed, and ill-feelings to such an extent that it

⁵⁹⁰ “Engelhardt Plan,” *Southern School News*, February 3, 1955.

would be extremely difficult, if not impossible, for civil authorities to prevent regrettable action of this kind.”⁵⁹¹

In 1955, the threat of violence was not just deployed by fringe entities like the Klux Klan or the Citizens’ Council as a means of subverting the law. It was also a prominent feature of both centrist and radical segregationist messaging and legislative plans regarding school integration. The Boutwell report proposed defending school segregation for the specific reason that Alabaman authorities must be able to use their discretion in integrating schools “subject to the exercise of its police power to assure harmony and good order.” When confronted with the end of segregation, Southern ethnonationalists relied on the threat of violence: if law enforcement cannot prevent violence in integrated schools, schools cannot be integrated.⁵⁹²

In 1956, Virginia followed suit. Although an earlier report prepared for the state legislature recognized the possibility of a limited integration and some public funding of integrated schools, massive resistance made even those tepid concessions toxic to an increasingly conservative Virginian political establishment. In a special session of the Virginia General Assembly, the legislature proposed that Virginia “Assert and invoke the inherent and lawful police power of the Commonwealth by appropriate legislation,” to provide an “efficient” (segregated) school system, through the prevention of disorder which was assumed to follow integration.⁵⁹³

⁵⁹¹ “Court Criticized,” *Southern School News*, March 3, 1955.

⁵⁹² Boutwell, 1954. “Report of Alabama Interim Legislative Committee on Segregation in the Public Schools.”

⁵⁹³ Robbins L. Gates, *The Making of Massive Resistance: Virginia’s Politics of Public School Desegregation, 1954-1956* (The University of North Carolina Press, 2014), 172, 275, 287 – 286.

Two years later, after *Cooper v. Aaron* found attempts made by the Arkansas school board to preserve segregation to be illegal, plaintiffs in a desegregation case in Norfolk County, Virginia, won immediate relief from a Fourth Circuit judge, who mandated the immediate placement of 17 Black students in formerly all-white schools.⁵⁹⁴ In response, Governor Lindsay Almond used the same justification to order the closure of the Virginia schools which were slated for integration. He cited as his legal justification for closing the schools his law enforcement powers to “[protect] public property and the security of public peace and order.”⁵⁹⁵

In 1956, massive resistance went mainstream. In addition to Alabama and Virginia, the Georgia, Mississippi, and South Carolina legislatures all passed pro-segregation measures designed to undermine compliance with *Brown v. Board* and to create a legal pathway to block *Brown*’s implementation.⁵⁹⁶ In February 1956, Richard Russel and Strom Thurmond wrote the “Southern Manifesto,” which pledged “massive resistance” to school desegregation. By March, the manifesto had been signed by 82 Southern representatives and 19 Southern senators.⁵⁹⁷

⁵⁹⁴ Carl Tobias, “Public School Desegregation in Virginia During the Post-Brown Decade,” *William and Mary Law Review* 37 (1996), 1274.

⁵⁹⁵ Lindsay Almond, “Letter to Norfolk School Board from Governor Almond Stating Six Schools in Norfolk Are Closed,” September 27, 1958, <https://dc.lib.odu.edu/digital/collection/sdinv/id/3327>.

⁵⁹⁶ Michael Klarman, “Why Massive Resistance,” *Public Law & Legal Theory Research Papers* 03, no. 07 (May 2003); C.Vann Woodward, “The ‘New Reconstruction’ in the South: Desegregation in Historical Perspective,” *Commentary Magazine*, June 1, 1956, <https://www.commentary.org/articles/c-woodward-2/the-new-reconstruction-in-the-south-desegregation-in-historical-perspective/>.

⁵⁹⁷ Stephanie R. Rolph, *Resisting Equality: The Citizens’ Council, 1954-1989* (LSU Press, 2018). Clive Webb, ed., *Massive Resistance: Southern Opposition to the Second Reconstruction*, 1st edition (New York: Oxford University Press, 2005); George Lewis, *Massive Resistance: The White Response to the Civil Rights Movement*, 1st edition (London : New York: Bloomsbury USA, 2006); Strom Thurmond and Richard Russel, “The Southern Manifesto,” March 1956.

Pro-segregationist rhetoric during this period began to take on an explicitly violent cast. In Mississippi, editorials promised “bloodshed and loss of life” if integration were to proceed, while James Eastland ruminated that “to resist is the only answer I know.”⁵⁹⁸ In candid correspondence between Mississippi’s junior senator James Stennis and Mississippi Attorney General J.P. Coleman, a two-part strategy was devised: southerners would simultaneously offer concessions in the form of unprecedented school equalization funding alongside “some sort of under-the-table devices,” which would be used to compel Black southerners to accept status quo segregation.⁵⁹⁹

Southern intellectuals and lawmakers did not outright declare that violence would be used to prevent integration, but their legislative strategies at the state level, statements before Congress, correspondence, and messaging to the press, suggested that the acquiescence to the threat of extra-legal violence was an integral part of their plan. By 1956, the threat of violence was a critical part of the strategy of white Southerners who sought to preserve their system of ethnic hierarchy.

In the substantive cases that this chapter will cover, I demonstrate how ethnonationalists not only failed to protect Black activists from enjoying their civil rights, but also intentionally contrived to prevent the expansion of law enforcement entities capable of securing those rights. Put in terms of my independent variables, when the returns to violence are high, ethnonationalists will **contest** the federal government’s **response to violence**.

⁵⁹⁸ Quoted in Ward, *Saving Segregation*, 253.

⁵⁹⁹ Ibid, 279 – 280.

University of Alabama Integration Riot

In the following section, I evaluate the response to mob violence at the University of Alabama. Tuscaloosa was characterized by an **ethnonationalist local jurisdiction**, **high returns to violence**, and **high salience of legitimacy**. The threat of continuing violence in Alabama was used to justify the expulsion of Autherine Lucy, while the media coverage of mob violence at the university spurred discussion of an intervention from the Eisenhower administration and informed the formation of the 1957 Civil Rights Act. The outcomes for the case are illustrated in Figure 12.

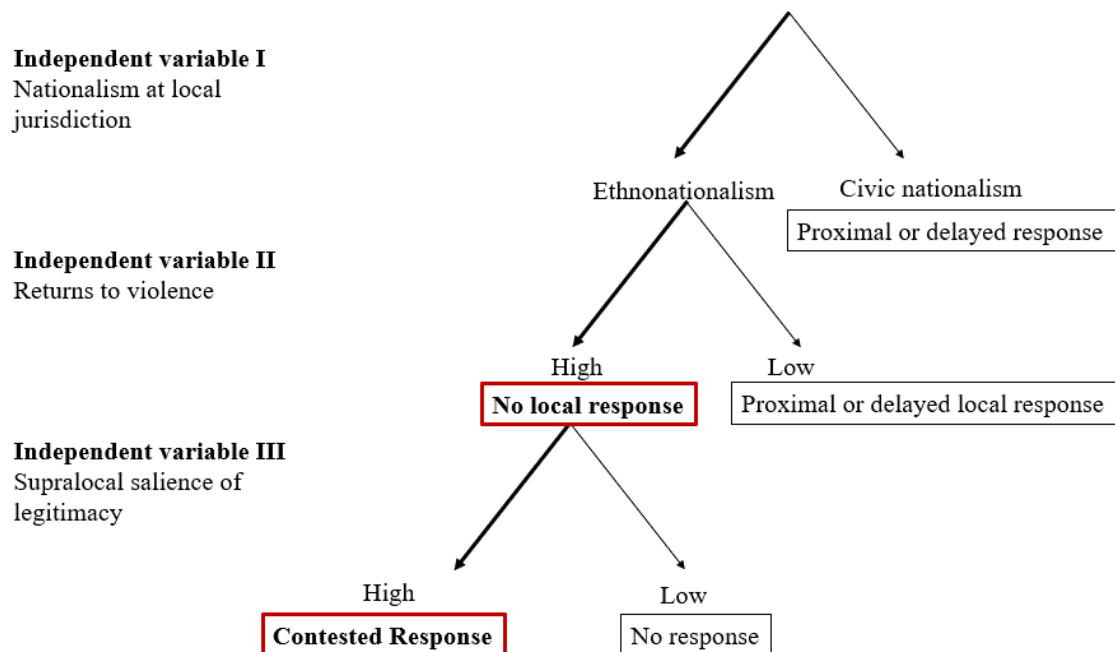


Figure 12 Variable Map for Tuscaloosa 1955

In 1945, Sergeant Harry Smith, a Black soldier stationed in Germany sent a letter to Raymond Paty, the president of the University of Alabama, asking why the university had not opposed Jim Crow laws even though it opposed compulsory military training with the reasoning that it would jeopardize the U.S.' relationships with other countries at the upcoming peace conference, Smith argued that Jim Crow was just as distasteful to other democracies, "you had better wake up or even defeated Germany will pass you up by being a working Democracy."⁶⁰⁰

By 1945, Paty's response to Smith was developed into a form letter that would be sent as part of a summary rejection to all Black applicants, "I am adding that we at the University of Alabama are convinced that relationships between the races, in this section of the country at least, are not likely to be improved by pressure on behalf of members of the colored race in an effort to gain admission to institutions maintained by the state for members of the white race."⁶⁰¹

In September of 1952, Autherine Lucy and Pollie Myers submitted applications to the University of Alabama and received acceptance letters a few days later. Pollie Myers had worked part-time for the NAACP and had asked for support from Ruby Hurley, the NAACP's regional director. Hurley was hesitant to extend the NAACP's support to Pollie, who had not been vetted by NAACP lawyers before her application, but eventually agreed. Hurley suggested that Pollie find a friend to apply as well, for moral

⁶⁰⁰ Quoted in, "Clark, E. Culpepper, *The Schoolhouse Door: Segregation's Last Stand at the University of Alabama*, 10, 12-14.

⁶⁰¹ Ibid, 13.

support. Pollie followed this advice and asked Autherine Lucy to submit an application.⁶⁰²

On September 19, the Dean of Admissions contacted the President of the University, John Gallalee to inform him that a mistake had been made and two Black students had been admitted. The university attempted to rescind the offers. In response, Myers and Lucy pressed charges. Their case would not be resolved until 1955. It was delayed in part by the University of Alabama's legal wrangling and pursuit of appeals as well as by the decision of Arthur Shore, their attorney, to defer to an NAACP strategy to file the suit against the State of Alabama rather than the University of Alabama. The NAACP wished to use the case as a test of the legal principal that it could not sue a state agency as well as the right of Myers and Lucy to receive an education. It failed in the former capacity, delaying Myers and Lucy for eight months. On June 29, 1955, Arthur Shores received a quick ruling from a federal judge who provided injunctive relief for Lucy and Myers.⁶⁰³

Although Lucy and Myers' lives may have been on hold during the court case, the civil rights movement was not. In the period between Lucy's first admission and the favorable ruling in 1955, *Brown v. Board of Education* eliminated the separate but equal doctrine in all public schools, not just institutions of higher education. White Citizens' Councils proliferated throughout the South in the aftermath of *Brown*. Between October and December 1955, the Alabama Citizens' Councils membership grew from a few

⁶⁰² Ibid, 17-18.

⁶⁰³ Ibid, 38 - 44.

hundred to over twenty thousand. The catalyst for the growth of the organizations was a petition made by Black Alabamans to allow Black applicants to attend county schools.⁶⁰⁴ Enraged white families saw conspiracy and northern meddling and asserted that the attempts to integrate the schools was an NAACP plot.⁶⁰⁵

In 1955, those same white families watched Martin Luther King Jr. lead the Montgomery bus boycott, not just in the local press, but on the national news.⁶⁰⁶ After decades of delay, the civil rights movement was blooming in Alabama, and the state's White residents were furious.

On January 30, Autherine Lucy received a renewed acceptance letter for the University of Alabama. Myers was not so lucky. University administrators had learned that she was pregnant and had determined that it made her unsuitable for admission to the school, a common practice in the 1950s. The next day, Lucy arrived at campus to register for classes. The night before, four crosses had been burned on a university lawn. At 12:53 p.m., on February 1, she registered, and became the first Black person to legally break the color line established by the state of Alabama.⁶⁰⁷

⁶⁰⁴ Dan T. Carter, *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics*, 2nd edition (Baton Rouge: LSU Press, 2000).

⁶⁰⁵ An irony of civil rights historiography is that the NAACP is now erroneously described by many current historians as having facilitated Lucy's enrollment, echoing the same belief as the local residents of Tuscaloosa in 1956, although without the latter party's sense of animus and conspiracy. Lucy and Myers decided to enroll independent of NAACP prompting, first through Myers' personal desire to break the color line and then through Lucy's tenacity when Myers was not admitted by the university. The NAACP did provide legal and financial support to Lucy and Myers, but rather than orchestrate their admission and shepherd their case through completion, the NAACP was reserved in its support of Lucy, who they viewed as an unvetted outsider who could damage their reputation, and "sapped local energy by insisting on its share of the proceeds from state and branch fund-raising efforts." Clark, *The Schoolhouse Door*, xxi-xxii.

⁶⁰⁶ Carter, *The Politics of Rage*, 83.

⁶⁰⁷ James Tyra Harris, "Alabama Reaction to the Brown Decision, 1954-1956: A Case Study in Early Massive Resistance." (D.A., United States -- Tennessee, Middle Tennessee State University, 1978), 260 – 261.

She attended her first class on Friday, February 3, and returned to Birmingham that evening to spend the weekend with her family. On Friday night, a drunken party formed outside the girl's dormitory and quickly metastasized into a violent mob. The mob was led by Leonard Wilson, a member of the Tuscaloosa Citizens Council and a close associate of many members of the Tuscaloosa Klu Klux Klan. Wilson led the mob, which had grown to over a thousand students, to the Dean of Admissions' residence, where they lit a cross on his lawn and then marched to the president's mansion, where they set-off smoke bombs and firecrackers. The president's wife emerged on the balcony and told the students that her husband was out of town. The crowd then moved off-campus and through downtown Tuscaloosa shouting, "Keep 'Bama white" and "To hell with Autherine." It met minimal resistance from local or campus police. The Tuscaloosa News reported that all available police on call were dispatched to the university to try to persuade the mob to dissipate, but no force was used, and nobody was arrested.⁶⁰⁸

The following night the mob returned. After the University of Alabama's basketball team defeated then-regional-rival Georgia Tech 93 – 60,⁶⁰⁹ students attending the game made their way back to the Student Union Building. They arrived just before midnight where a "festive air" had set in among the crowd.⁶¹⁰ A group of 500 students had arrived at the building an hour before the game ended. The enlarged group made its

⁶⁰⁸ "Cross Burns in Center of University Ave.," *The Tuscaloosa News*, February 4, 1956.

⁶⁰⁹ The rivalry existed from 1902 – 1984 but became defunct when Georgia Tech left the Southeastern Conference. "Tech Announces Football Series with Alabama, Georgia State," Ramblinwreck.com, n.d., [https://ramblinwreck.com/tech-announces-football-series-with-alabama-georgia-state/#:~:text=Georgia%20Tech%20and%20Alabama%20have,Conference%20\(1933%2D63\).](https://ramblinwreck.com/tech-announces-football-series-with-alabama-georgia-state/#:~:text=Georgia%20Tech%20and%20Alabama%20have,Conference%20(1933%2D63).) For game result see "1955-56 Alabama Crimson Tide Schedule and Results" (Sports Reference, 2021), <https://www.sports-reference.com/cbb/schools/alabama/1956-schedule.html>.

⁶¹⁰ "Cross Burns in Center of University Ave.," *The Tuscaloosa News*, February 4, 1956.

way to the University President's house, where they again chanted, "Keep 'bama White." President Charmichael asked the crowd to disperse, but detecting that they were not receptive, returned inside his home.⁶¹¹

A group of students then made their way to University Avenue, where a growing crowd of protestors bulged into the street. Men in the mob waved Confederate flags and students began to stop oncoming traffic to search for Black passengers. When they found a car with a Black driver, the students surrounded the vehicle. One student jumped on top, stomping on the roof of the car, others broke out its windows and kicked its sides as the car slowly made its way through the crowd.⁶¹² A picture was taken of a young man jumping on top of a car with terrified Black citizens inside. This image was reprinted in newspapers across the nation. After another mob gathered on Sunday night. The university hired Tuscaloosa policemen to control crowds and requested that the governor dispatch 30 members of the National Guard to the campus.⁶¹³

Lucy returned to school on Monday morning and was immediately confronted by a mob. Although she was able to sneak into her first class, an angry crowd grew outside the building where the class was held. The police force that had been assembled to prevent mob action was not deployed. The state troopers were given orders to only make arrests to prevent damage to property and buildings. Five hundred students gathered outside, and when Lucy emerged, they pelted her and her escorts with gravel, eggs, and rotten vegetables.⁶¹⁴

⁶¹¹ "Patrol Slips Lucy Away from Mob," *The Tuscaloosa News*, February 6, 1956.

⁶¹² Ibid.

⁶¹³ Clark, *The Schoolhouse Door*, 65-69.

⁶¹⁴ Gilliam, "The Second Folsom Administration," 291 – 293.

In anticipation of mob attacks against Lucy, the NAACP had arranged to have a car drive Lucy from class to class. Lucy made it to the car, but another car was driven in front of it to block its progress. Lucy's driver was able to divert onto an alternate route, but as Lucy made her escape, the windshield of the car was smashed by a brick and a barrage of rotten food and stones were directed at the car. By the time Lucy made it to her next class the atmosphere on campus had grown grim. Outside the building, a crowd of 3,000 people waited, augmented in part by members of the Klu Klux Klan, including Edward Chambliss, who would later bomb the Sixteenth Street Baptist Church. University administrators arranged for a police escort to transport her from the campus.⁶¹⁵

The following day the university's board of trustees forbade Autherine Lucy from returning to campus to preserve the safety of the university. The mob had won.

On February 7, Buford Boone wrote an editorial in *The Tuscaloosa News* for which he would eventually receive a Pulitzer Prize. In it he wrote, "When mobs start imposing their frenzied will on universities, we have a bad situation... What does it mean today at the University of Alabama, and here in Tuscaloosa, to have the law on your side? The answer has to be: Nothing – that is, if a mob disagrees with you and the courts."⁶¹⁶

Why were the Tuscaloosa police not deployed in numbers to stop the mob and why were national guardsmen not deployed when it was clear that the local police were not responding to the mob? Why was Autherine Lucy's right to attend university not ensured by law enforcement after the fact? The answer to both questions is complicated.

⁶¹⁵ Clark, *The Schoolhouse Door*, 73.

⁶¹⁶ Buford Boone, "What a Price for Peace," *The Tuscaloosa News*, February 7, 1956, <https://www.tuscaloosaneews.com/article/DA/20070508/News/606109745/TL>.

On the one hand, the ultimate decision to exclude Lucy from campus was made using the University's police powers to protect its students and faculty, a tacit admission that the University would choose not to uphold Lucy's rights to an education in acknowledgement of the university's unwillingness or inability to control the mob.

That interpretation of the University's decision-making with regard to Lucy's expulsion was muddled in subsequent investigations of the incident. In legal proceedings after the expulsion, Judge Grooms, who oversaw the court order that mandated Lucy be admitted to the University of Alabama, wrote that, "this court does not find that the law enforcement agencies are inadequate or unwilling to maintain order." In that same proceeding, Lucy's legal team, who had sought to prove collusion between the university officials and the mob, withdrew their complaint because they could not find evidence to substantiate the accusation of conspiracy. At the same time, John Caddell, a member of the university board of trustees testified that, "I don't say it's impossible for her to come back but if she does, she's almost certainly to come to bodily harm and she'll probably be killed."⁶¹⁷

Although the university ensured that police were in place on Monday and did not appear to be actively conspiring with the mob, their response on the day of the mob was slow and ineffectual. Contemporary newspapers reported that the University made no preparation to prevent a recurrence of violence. Evidence of the University's efforts to suppress the mob were only discovered in its aftermath.⁶¹⁸ Similarly, over three days of

⁶¹⁷ "Miss Lucy Victor in Court Appeal," *New York Times*, March 1, 1956.

⁶¹⁸ Thomas Gilliam, "The Second Folsom Administration: The Destruction of Alabama Liberalism, 1954-1958." (Ph.D., United States -- Alabama, Auburn University, 1975), 290 – 292.

rioting in which crosses were burned, cars were damaged, and numerous threats were made against the life of a University of Alabama student and other members of the Tuscaloosa community, there were no arrests of students.⁶¹⁹

While it was unquestionably true that university administrators, in coordination with local law enforcement, dispatched officers to the scene of the mob, they also expelled Lucy on the grounds that they could not protect her, her fellow students, and university faculty, from mob violence. It both cannot be that the university was willing and able to deter the mob and that the inability to deter the mob drove the Board of Trustees to expel Lucy. A more reasonable interpretation is that the university and Tuscaloosa police were willing and able to deter *a* mob, but not willing to face the consequences of using physical force to protect a young Black student from young white students.

In a faculty meeting after the riot commenced, professors pressed President Carmichael for a response, why did the University not exert more energy to defend Lucy? Lucy's political science professor asked why only the NAACP had called for the National Guard to protect Lucy if Carmichael felt that local authorities were inadequate to the task. Carmichael responded, "I cannot answer your questions," and attempted to end the meeting.⁶²⁰

The first instance during which police officers said that they were willing to use force was on Monday night, after Lucy had already left campus for the day. Clark

⁶¹⁹ Clark notes, however, that in the weeks following the rioting four students were suspended and Wilson was expelled. Clark, *The Schoolhouse Door*, 106. No legal action was taken against any of the students.

⁶²⁰ Ibid, 81.

observes that although a firetruck was deployed to the university to stop the mob, it never turned its hose on the students. His interpretation of police action was that they were simply unprepared, “nobody foresaw the situation that developed on Monday.”⁶²¹

The existing historical record is too thin to definitively parse the university’s intentions. What is uncontested; however, is that the university decided that in the future it would not protect Lucy’s right to attend the university from the mob, instead, under threat of mob violence, the university acquiesced to segregationist demands to expel her from the university under the auspices of keeping the university safe. Whether the mob violence was intentionally allowed in order to justify the expulsion of Lucy, or cynically deployed to justify her expulsion after the fact, the university administrators used the threat of mob violence in order to delay the integration of the University of Alabama.

If Tuscaloosa and the University of Alabama did not address the mob, why did state of Alabama do nothing to protect Lucy? The answer to this question is more challenging. The NAACP telegraphed for support from the National Guard two times over the weekend but received no response from the governor’s office. Interviews with contemporaries indicate that the calls were probably not received until Monday evening. Some evidence suggests Folsom was willing to help if asked. He coordinated with a National Guard general, who said that Folsom instructed him to do, “whatever circumstances and good judgment suggest,” to address violence on campus. At the same time, Folsom made a series of contradicting statements to the media about his knowledge

⁶²¹ Ibid, 78.

of the extent of the rioting and the seriousness of the situation. It seems likely that Folsom wanted to avoid becoming involved in an issue that would be politically toxic for his future electoral prospects. Folsom and University officials made directly contradicting statements about whether he was asked to send troops on Monday evening, although this ended up being irrelevant because at that point Lucy had been expelled and the mob had abated.⁶²²

In the aftermath of the violence Folsom commissioned a committee of white and Black Alabamans to study the incident and learn how it could be prevented in the future. He also drafted up plans to have the roads into and out of the university closed if Lucy was reinstated and arranged for armed protection to be provided to Lucy for her commute to and from the school. However, the University itself chose not to call out law enforcement sufficient to prevent Lucy from being forced from campus.

Throughout four days of rioting, highway patrolmen, Tuscaloosa police, and university security were reported to have waded into the crowd to ask the students to return home and dissuade them from further action, but no matter how intemperate or violent the mob became, the police did not respond in a manner sufficient to dissuade it.⁶²³

Jim Folsom was walking a political tight rope in 1956. Like many southern Democrats in the 1940s, he first ran for office on a populist New Deal agenda and attempted to deflect his unpopular racial policies by depicting issues of race as issues of

⁶²² Gilliam, *The Second Folsom Administration*, 297 – 299, Clark, *The Schoolhouse Door*, 80.

⁶²³ “Understanding the South,” *The New York Times*, February 26, 1956, sec. Archives, <https://timesmachine.nytimes.com/timesmachine/1956/02/26/313837222.html?pageNumber=156>., “Patrol Slips Lucy Away from Mob,” *The Tuscaloosa News*, February 6, 1956.

class. In the months leading up to Lucy's attempt to attend classes, Folsom had tacitly opposed the legislative push for Boutwell's school placement program that would preserve school segregation, "I wouldn't want to sign a bill that would let rich folks send their kids to all one school and the poor folks to another school." However, at the same time, he made no effort to galvanize public support for compliance.⁶²⁴

In short, he was racially progressive inasmuch as he did not actively oppose integration, and the conduct of the National Guard, which he commanded, reflected that disposition. Folsom made guardsmen available to local authorities before the mob appeared on Friday and asked to be kept up to date over the weekend, but he did not push Tuscaloosa or University of Alabama authorities to use the guard, nor did he mandate that the guard forcibly integrate the school on his orders.

The previous section describes the riot and proximal response to mob violence in Tuscaloosa. To situate it within the theory this chapter intends to test: a **local ethnonationalist** government (in this case, primarily the University of Alabama school board, which coordinated the response with Tuscaloosa police), when confronted with the integration of a public university in a situation which I argue above constitutes **high returns to violence**, dispatched law enforcement in small numbers and with orders insufficient to suppress mob violence.

Jim Folsom, the Governor of Alabama, the supralocal government which could most immediately respond to mob violence, failed to respond in a timely manner, but made gestures to strengthening the state's capacity to respond in the future. Folsom was

⁶²⁴ Carter, *The Politics of Rage*, 83.

less committed to **ethnonationalism** than government leaders in Tuscaloosa. There is clear evidence that racial ideology informed the university's decision suspend Autherine Lucy's, and it seems likely that it also informed their decision to not arrest or use force against the student body. The university clearly wanted to avoid the embarrassment of disorder and violence on its campus, and its response to mob violence was slow and anemic. The evidence available is not strong enough to demonstrate conclusively that the reason why the university tolerated violence was to block Lucy's admission, but their decision to expel her in order to prevent further violence suggests that they were not willing to prevent violence *in principle*, if the benefit of doing so was protecting a Black student.

Folsom's commitment to preventing mob violence in the future was more credible than that of the University of Alabama administrators, but it cannot be read as evidence of supralocal increased sensitivity to the **salience of legitimacy**, as his decision was confounded by his relative liberalism compared to that of local authorities.

How do competing explanations fair? Although the university's decision making was clearly influenced by racism, the structural racism thesis' specific hypothesis, that law enforcement capacity was expanded as part of an intentional program to oppress Black Americans, cannot explain the outcome in this case: unlike Bloody Tuesday seven years later, when police forces fought civil rights activists, during the Autherine Lucy incident, racial oppression was facilitated by the absence of adequate policing in defense

of Lucy, and her companions, from student mobs.⁶²⁵ As mentioned above, Folsom's decision to respond to the mob appeared more motivated by his personal ideological commitment to moderate integration than an electoral calculation that Black Alabamans would join his coalition: his failure to pivot to hardline segregationism is credited with his defeat in the 1959 Alabama Governor's race, and he was already receiving criticism for being too soft on integration in 1956.⁶²⁶

At the federal level, response to the Lucy case was clearly informed by political calculations at least partially informed by American foreign policy considerations. America's foreign policy demanded credible domestic institutions, in other words, **legitimacy** had **high salience** during the Lucy case. The federal response to the Lucy case occurred as the 1956 presidential election began. President Eisenhower announced his candidacy for a second term in office on February 29, less than a month after the Lucy mob. Eight days earlier, on February 21, Martin Luther King Jr. had been arrested in Montgomery, Alabama, and indicted according to a 1921 statute that banned boycotting against businesses.

In a briefing during the Lucy mob, Eisenhower discussed military intervention with Herbert Brownell, who was both his attorney general and the primary advocate within the Eisenhower administration of the legislation that would eventually become the Civil Rights Act of 1957. Eisenhower wondered whether military action would be necessary, "if the judge issues a certain writ and the U.S. marshal is not permitted to

⁶²⁵ B. J. Hollars, *Opening the Doors: The Desegregation of the University of Alabama and the Fight for Civil Rights in Tuscaloosa* (University of Alabama Press, 2013).

⁶²⁶ George E. Sims, *The Little Mans Big Friend: James E. Folsom in Alabama Politics, 1946-1958*, First edition (University, Ala.: University Alabama Press, 2003).

execute?” Andrew Goodpaster, the White House Staff Secretary, noted that the president could use force to protect the U.S. Marshal in the performance of his duties. In the following days, Brownell urged caution regarding Eisenhower’s response to the Lucy mob, “In no event should the president, I believe, answer any questions indicating that the Federal Government has even considered the use of Federal troops in the South.”⁶²⁷

The Eisenhower administration’s response to mob in Alabama, and the growing perception that Alabama would not protect the civil rights of its Black residents without external intervention, was split between three camps.

The first was led by Eisenhower himself, who believed that upholding the rule of law was paramount. In response to Brownell’s counsel to avoid using force, Eisenhower responded that, “In the long run, the Constitution, as interpreted by the Supreme Court, is going to be enforced. That’s my duty.” He argued that the South had made “big mistakes” regarding Lucy, and he believed that the civil solutions proposed by Brownell may be too moderate and that the use of federal troops could be justified.⁶²⁸

In contrast, Brownell wanted to empower the Justice Department to enforce civil rights without the need for extreme action from the executive, such as deploying the National Guard. Brownell’s legislation would allow for the Justice Department to take moderate action rather than be constrained to inaction or jailing non-compliant Southern office holders. Brownell and Eisenhower both feared Southern states shutting down all public schools, an outcome that had been discussed in Southern legislatures as the

⁶²⁷ Brownell quoted in David A. Nichols, *A Matter of Justice: Eisenhower and the Beginning of the Civil Rights Revolution* (Simon and Schuster, 2007). 125-126.

⁶²⁸ Nichols, *A Matter of Justice*, 177.

remedy of last resort if they were not able to block integration by other means. Activists in Eisenhower's camp encouraged him to use force to integrate the University of Alabama, an option to which he seemed personally inclined.⁶²⁹

Finally, advocacy for inaction was led by Herbert Hoover, who pushed back against the creation of civil rights legislation on the grounds that it would further embolden communist interests which he believed had captured the civil rights movement. He argued that "the area of danger lies in friction between extremists on both sides ready with violence."⁶³⁰

Brownell won the day. On April 9, 1956, Brownell sent a four-point recommendation to Vice President Nixon and to Speaker of the House Rayburn outlining a Civil Rights Bill which would:

1. Create a bipartisan commission to investigate civil rights violation, especially pertaining to the right to vote.
2. Create a civil rights division in the Department of Justice.
3. Create new laws to "aid in the enforcement of voting rights."
4. Amend laws to permit the Federal Government to seek preventive remedy in civil courts in civil rights cases.⁶³¹

Brownell's letter preceded the introduction of several civil rights bills in the Senate, including bills to implement his proposed civil rights agenda, anti-lynching bills,

⁶²⁹ Ibid, 177.

⁶³⁰ Hoover quoted in David A. Nichols, *A Matter of Justice: Eisenhower and the Beginning of the Civil Rights Revolution* (Simon and Schuster, 2007). 172

⁶³¹ United States Congress Senate Committee on the Judiciary, *Civil Rights Proposals: Hearings Before the Committee on the Judiciary, United States Senate, Eighty-Fourth Congress, Second Session, on S.900 [and Others]* (U.S. Government Printing Office, 1956). 77.

a bill to protect members of the armed forces from being bodily attacked, a bill to protect the right to political participation, as well as several other bills related to modifying civil rights statutes.

Over the next eight months these bills would be discussed in the Senate Judiciary Committee as well as in hearings in the House of Representatives and on the floor of the Senate. The discussion of these bills usually pivoted on the question of the enforcement of laws to prevent non-state violence to be used as a means of denying civil rights. In his testimony before the Judiciary Committee on May 25, 1956, Roy Wilkins discussed the Civil Rights and anti-lynching bills, "...while lynching has changed in character over the years, protection of the person is still a problem. Organized mob violence and terror of the Ku Klux Klan variety, often in collusion with local enforcement officials, are reappearing in new forms... In Monroe, La. representatives of the councils have actually invaded the office of the registrar of voting for the purpose of purging colored voters. At one point the action of those who oppose voting by colored people became so flagrant that a former Governor of Louisiana, Mr. Knowles, went to the office of the registrar to challenge the proceeding. A near fist fight ensued... There was no machinery, there was no law, and the Federal Government, the Department of Justice, had no law under which it could proceed. The result was that in 10 days or 2 weeks, after the summary action against them, an election was held and they were denied an opportunity to participate in it."⁶³²

⁶³² United States Congress Senate Committee on the Judiciary, *Civil Rights Proposals: Hearings Before the Committee on the Judiciary, United States Senate, Eighty-Fourth Congress, Second Session, on S.900 [and Others]* (U.S. Government Printing Office, 1956). 107-118.

Wilkins went on to provide several more examples of violence and threat of violence that had been directed at would-be voters in Mississippi.⁶³³ By the beginning of summer in 1956, the violence at the University of Alabama had set in motion a string of civil rights legislation that saw the federal government expanding its law enforcement capacity. My theory predicts that the **high returns to violence** in many Southern jurisdictions would incentivize ethnonationalist representatives in Congress to contest the federal response to mob violence.

On June 26, the Judiciary Committee held a hearing on the proposed civil rights bills and Southern legislators and politicians voiced their objections. James Davis of Georgia presented two arguments against the bill, which would be echoed by other southern legislators: his contentions were that: (1) there was a double-standard regarding the enforcement of civil rights laws, noting that when violence happened in Northern states, there were not calls for intervention by the federal government and (2) aspects of civil rights legislation like the anti-lynching legislation would result in the creation of extensive new police powers for the federal government, which was onerous to a free society. George Washington Williams, on May 25, 1956, articulated a third argument commonly made by opponents of the civil rights bills. He argued that the purpose of these bills was to illegally destroy the separate but equal doctrine and that forced integration only exacerbates racial tensions, “When ‘race hatred’ is used as an argument against segregation, the fact is ignored that race hatred will be much worse, if whites are forced to have social relations against the will, or what is equivalent to social relations...

⁶³³ Ibid, 107-118.

Many people feel that they should not be forced to associate in such a way if they do not want to.”⁶³⁴

The civil rights bills were introduced late enough in 1956 to allow the Senate to avoid a hearing on the floor.⁶³⁵ On the House and Senate floors, discussion of the riot was relatively muted. In the days immediately following the University of Alabama mob, the incident was mentioned twice. On March 2 and 5, Armistead Selden of Alabama and Allen Ellender of Louisiana both briefly discussed the Lucy case as part of denunciations of the NAACP, which both representatives claimed was stirring up racial hostility in the South.⁶³⁶

My theory posits that **high salience of legitimacy** will increase the propensity for supralocal authorities to respond to violence. America’s Cold War international agenda made its reputation more important than at any previous point in its history.

On June 13, Harrison Williams, a representative from New Jersey, ended a lengthy exposition in defense of the civil rights bills with an evocation of the Lucy case and the importance of resolving American civil rights tensions to demonstrate to the international community the legitimacy of the American form of government. He explained, “A graphic demonstration of this fact came to my attention quite recently. An adolescent girl who only some weeks ago emerged from behind the Iron Curtain was in

⁶³⁴ United States Congress Senate Committee on the Judiciary, *Civil Rights Proposals: Hearings Before the Committee on the Judiciary, United States Senate, Eighty-Fourth Congress, Second Session, on S.900 [and Others]* (U.S. Government Printing Office, 1956). 150-163.

⁶³⁵ Caro, *Master of the Senate*, 1239.

⁶³⁶ Armistead Selden, “Statement of Armistead Selden,” March 2, 1956, <https://www.congress.gov/bound-congressional-record/1957/07/02/senate-section>, Allen Ellender, “Statement of Allen Ellender,” March 5, 1956, <https://www.congress.gov/bound-congressional-record/1957/07/02/senate-section>.

my office. I asked her many questions about the educational system behind the curtain and got the usual answers about the emphasis on the glorification of Lenin and theories of Soviet communism. I then asked her what was the first thing that came to her mind when she was asked what she had learned about the United States in the Czechoslovakian school she had attended. Without hesitation, her answer was, ‘You don’t treat the colored people the same as you treat the whites:’ She then recited in detail the history of the Autherine Lucy case. The only way we can successfully meet this Soviet propaganda abroad is to face the facts of discrimination and segregation at home and act to put our house in order.”⁶³⁷

In 1956 these discussions would end with legislative inaction. Although the house passed Brownell’s civil rights bill, it was blocked in the Senate. In the final months of 1956, violence in the South intensified. A series of bombings, shootings, and beatings occurred in Montgomery after a Supreme Court ruling found the city’s bus segregation laws to be unconstitutional. Illegal arrests of Black riders on city buses contributed to a new sense of urgency for federal civil rights enforcement legislation in Washington D.C.⁶³⁸

In summary, the toleration of mob violence at the University of Alabama directly informed the push for civil rights legislation in the Senate, and there is considerable evidence that the international and national attention paid to the Lucy case informed Eisenhower’s response. The embarrassment caused by the seemingly flagrant violation of

⁶³⁷ Harrison Williams, “Statement of Harrison A. Williams before the 85th Congress,” June 13, 1956.

⁶³⁸ Caro, *Master of the Senate*, 1242-1244.

the law clearly contributed to Eisenhower, Brownell, and Hoover's thinking about mob violence, but that does not prove that the salience of legitimacy *per se* was critical for the case.

Many authors have observed that there were forces propelling civil rights forward independent great power political competition: the domestic embarrassment of a state ignoring federal law on its own may have been sufficient to spur change, and it could be that intense coverage of the Lucy event for a domestic audience, rather than an international audience, was sufficient to motivate the Eisenhower Administration to begin pushing for reform.

This topic emerges in debates about the capacity for judicial activism to propel civil rights, most notably Gerald N. Rosenberg's, *The Hollow Hope*, which argues that international pressure was perhaps more critical than *Brown v. Board* in transforming American civil rights.⁶³⁹ That is not the argument made here. However, Rosenberg's many critics often argue that there are not good reasons to suspect that international political calculation was more influential than domestic political calculation.⁶⁴⁰ My position on this topic is something of a dodge as I do not argue that "high salience of legitimacy" *caused* the federal government to intervene. Instead, I argue that it increased the reputational damage of violence, and that it helps explain why intervention happened in the 1950s instead of in the previous decades.

⁶³⁹ Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change? Second Edition*, Second edition (Chicago: University of Chicago Press, 2008).

⁶⁴⁰ See for example, David J. Garrow, "Hopelessly Hollow History: Revisionist Devaluing of *Brown v. Board of Education* Twentieth-Century Constitutional History," *Virginia Law Review* 80, no. 1 (1994): 151–60.

It is not that an international lens was unique just to the Lucy case. Since World War II, American policy makers had been discussing civil rights as a foreign affairs issue. Donald McCoy, Richard Ruetten, and J. R. Fuchs, Harry Truman historians, observe that “just about every speech... [Harry Truman] made on the civil rights issue... always brings up this point: The rest of the world is watching us. We must put our own house in order.”⁶⁴¹ The landmark civil rights legislation of the Truman administration, “To Secure These Rights,” is generally understood to have been a product of both domestic and international political calculation about the embarrassment generated by Southern lynchings. Its moderation is often described as an attempt by Truman to counter Russian propaganda regarding Southern civil rights abuses while ensuring that the most significant actions recommended by the report would need to be implemented by congressional action, where Southern Democrats could block any legislation that meaningfully threatened white rule in the South.⁶⁴²

The previous chapter illustrated how post-World War I international considerations contributed to the introduction of anti-lynching bills in 1922, although these bills did not ultimately pass. Salience of legitimacy is clearly confounded by many other variables, but what is undeniable is that a reason given for the consideration of laws intended to prevent violence throughout the 20th century was the reputational damage of

⁶⁴¹ Quoted in Azza Salama Layton, “International Pressure and the U.S. Government’s Response to Little Rock,” *The Arkansas Historical Quarterly* 66, no. 2 (2007): 243–57, 244.

⁶⁴² Mary L. Dudziak, “Desegregation as a Cold War Imperative,” *Stanford Law Review* 41, no. 1 (1988): 61–120, <https://doi.org/10.2307/1228836>; see also, Harvard Sitkoff, “Year of the Locust: Interpretations of Truman’s Presidency Since 1965,” in *The Truman Period As A Research Field: A Reappraisal* (University of Missouri Press, 1974).

unchecked violence, and those arguments held more sway over the decisions of policy makers during periods of international competition that called for the use of soft power.

As the after-effects of the University of Alabama mob rippled through the first months of 1956, across the South, other Southern communities considered how they would respond to integration. In Clinton, Tennessee, this resulted in several days of mob violence during the integration of the Clinton High School.

Clinton: Precipitating Cause of Riot

In Clinton Tennessee, a local ethnonationalist community attempted to stave off mob violence for several days before support from the state and federal government provided local authorities relief. I argue that despite the state having an **ethnonationalist** political ideology, its **low returns to violence** can help explain why it resisted mob violence, this is illustrated in Figure 13.

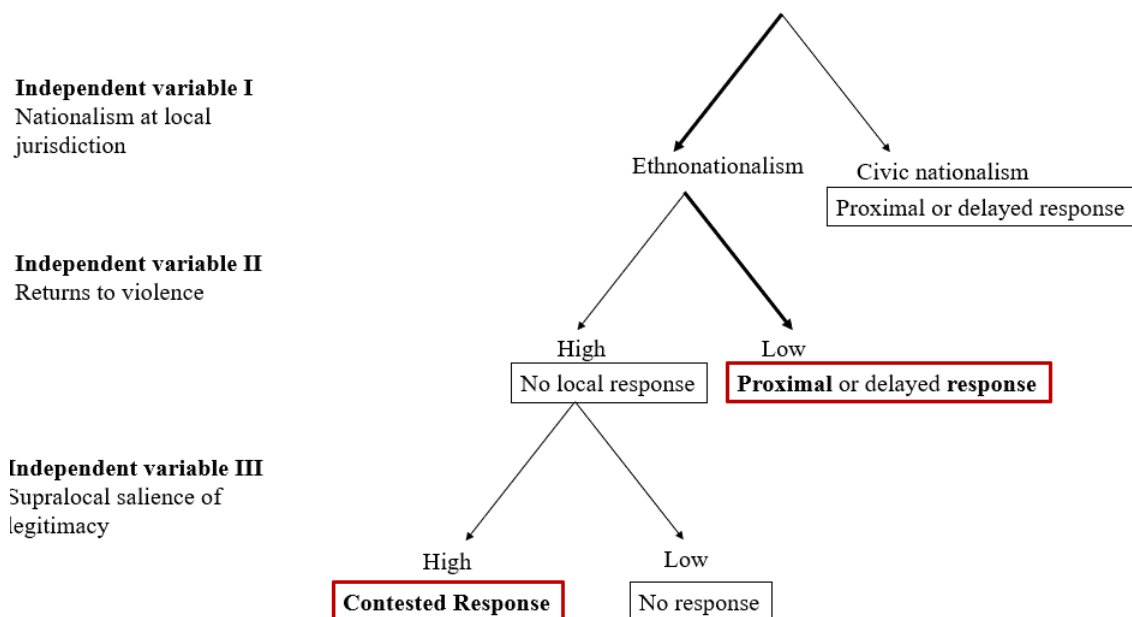


Figure 13 Variable Map for Clinton 1956

When the *Brown v. Board of Education* decision came down in 1954, an existing case to integrate Tennessee’s schools was already underway. That case, *McSwain v. County Board of Education of Anderson County*, had first been tried in 1952, and was waiting for a hearing in Appellate Court. The federal judge overseeing *McSwain* recalled the case in light of the Supreme Court’s finding, and on January 4, 1956, ordered Clinton High School to fully desegregate by the Fall of the 1956 school year.⁶⁴³

The *McSwain* ruling was the second defeat within a year for segregationists in Tennessee, who had been blocking efforts by Black Tennesseans to enroll in Clinton

⁶⁴³ *McSwain v. County Board of Education*, No. 138 F (US District Court for the Eastern District of Tennessee January 4, 1956).

schools since 1950, when five Black students, with the assistance of the NAACP, filed suit against the Anderson County School Board to furnish equal facilities.⁶⁴⁴

Two days before the integrated school in Clinton would open, the Seaboard White Citizens Council sent John Kasper, their Executive Secretary, to challenge the city's attempt at integration, in order to prevent a peaceful integration from setting a precedent the Citizen's Council hoped to avoid.⁶⁴⁵ Kasper arrived on August 25, 1956.⁶⁴⁶ The city's leadership, including several members of the Board of Alderman and the Mayor, attempted to dissuade Kasper from picketing the school, but he ignored their request.⁶⁴⁷

On August 27, 1956, integration began as the first Black students arrived at a desegregated Clinton school. That morning, there were only a few non-violent protestors, but the crowd grew in both size over the course of the day, and came to number several hundred by evening. Over the following day, the protest turned into a riot, as people attacked the cars of Black motorists and threatened public buildings.⁶⁴⁸

By Wednesday, August 29, a crowd of 100 people arrived outside the school. The crowd harassed and chased both the Black adults and students it encountered.⁶⁴⁹ That

⁶⁴⁴ Anna Holden, Bonita Valien, and Preston Valien, "A Tentative Description and Analysis of the School Desegregation Crisis in Clinton, Tennessee" (Anti-Defamation League of B'nai B'rith, 1956), 5.

⁶⁴⁵ Craig Anderson, "Before Little Rock: The Desegregation Crises at Mansfield, Texas, and Clinton, Tennessee" (1995).

⁶⁴⁶ Lana Carmen Seivers, "Words of Discrimination, Voices of Determination: Reflections on the Desegregation of Clinton High School" (Ed.D., United States -- Tennessee, The University of Tennessee), 65. Interestingly, Kasper was a "disciple" of Ezra Pound, with whom he was a frequent correspondent. Pound's letters would contain instructions for how Kasper should pursue White Supremacist activism. At least one historian claims that Kasper's activities in Clinton were undertaken on Pound's behalf. See Seivers, 67 – 68.

⁶⁴⁷ Ibid, 69.

⁶⁴⁸ Rachel Martin, "Out of the Silence: Remembering the Desegregation of Clinton, Tennessee, High School" (Chapel Hill, 2012), 12 – 13.

⁶⁴⁹ Lana Carmen Seivers, "Words of Discrimination, Voices of Determination: Reflections on the Desegregation of Clinton High School" (Ed.D., United States -- Tennessee, The University of Tennessee),

day, federal marshals arrested Kasper, and on August 31, he was sentenced to a year in prison for violating the restraining order he had received two days earlier.⁶⁵⁰ On August 30, Asa Carter arrived from Alabama, galvanizing the crowd. Around 3,200 people joined a crowd which marched through town, threatening to burn down the courthouse, and the mayor's house, and damaging the cars of Black residents driving through town.⁶⁵¹ These riots continued over the following days, and on September 1, the national Highway Patrol arrived, and then the following day, on September 2, a significant deployment of the National Guard did as well, arresting the actions of the rioters.⁶⁵²

After a week of quiet during which time school attendance began to rise, the National Guard left Clinton, despite the protestations of Sheriff Woodward, who felt that the crisis was expanding into a national issue that his small police force was ill-equipped to address.⁶⁵³ On November 13, Kasper was tried for inciting a riot, and his testimony excited further violence in Clinton after a White Youth Council was organized at his request. On November 28, Black students were assaulted at the school. When a Baptist Reverend, Paul Turner, offered to assist the students moving to and from the school, he was severely beaten. This assault led to over a dozen arrests by federal authorities on December 5, and the temporary closure of the school while the School Board sought measures to ensure the safety of the students.⁶⁵⁴

accessed July 5, 2021, <http://www.proquest.com/docview/305472508/abstract/5BB9EEF0D2543FFPQ/2>, 71.

⁶⁵⁰ Anderson, "Before Little Rock," 77. Seivers, "Words of Discrimination," 73.

⁶⁵¹ Seivers, "Words of Discrimination," 73.

⁶⁵² Anderson, "Before Little Rock," 78 – 83; Seivers, "Words of Discrimination," 73 – 77.

⁶⁵³ Anderson, "Before Little Rock," 84 – 85.

⁶⁵⁴ John Popham, "New Clinton Violence Stirs Decisive Action," *New York Times*, December 6, 1957, <https://timesmachine.nytimes.com/timesmachine/1956/12/09/90761732.html?pageNumber=234>.

Mob violence was unanimously opposed in the Clinton press. An August 30 editorial in the *Clinton Courier-News* noted, “The trouble this man Kasper is creating will... turn this community upside down – bringing us headlines throughout the country, headlines that will make it practically impossible to interest new *industries* to come and locate here... He calls others communists, but he is using the very same tactics they use... This is a democracy – if students and their parents are willing to accept the ruling of the court and attend school, then the majority certainly has ruled and that should be the final decision.”⁶⁵⁵

Local law enforcement could very credibly claim to be incapable of stopping any mob action. The Clinton Police Department was comprised of six men, a contemporary report stated that, “probably no one was under 60 and all were untrained,” while the county sheriff’s office consisted of only eight men, which faced compounded organizational problems by a new sheriff taking power on August 31, after a late-summer election.⁶⁵⁶ Both law enforcement bodies added members during the rioting, and the Board of Alderman deputized 37 volunteers, while also hiring six additional experienced policemen.⁶⁵⁷ Moreover, law enforcement made proactive plans to try to keep the peace. The mayor called a meeting of all available law enforcement and reached an agreement with the county sheriff to coordinate with the Clinton Police Department if required to maintain calm. The nature of the riots, occurring during both day and night, periodically,

⁶⁵⁵ *Clinton Courier-News*, August 30, 1956. Quoted in Seivers, “Words of Discrimination, Voices of Determination,” 72.

⁶⁵⁶ Anna Holden, Bonita Valien, and Preston Valien, “A Tentative Description and Analysis of the School Desegregation Crisis in Clinton, Tennessee” (Anti-Defamation League of B’nai B’rith, 1956), 15.

⁶⁵⁷ *Ibid*, 15.

for several days; the relatively few members of law enforcement; and the absence of training, led locals to characterize the police as, “bewildered and confused,” while the police described themselves as being exhausted from 50 hour shifts during the crisis and untrained to handle large crowds.⁶⁵⁸

Evidence of meaningful effort to suppress the conflict is further demonstrated by the immediate attempts by the Board of Alderman and the Mayor to bring in assistance from Governor Clements. The mayor sent a telegram on September 1 asking for, “immediate relief,” followed by a resolution from the Board of Alderman repeating that request, and a formal written request from Sheriff Glad Woodward flown to Nashville by special plane asking for “State Assistance.”⁶⁵⁹

Finally, local attorneys and a local judge organized a band of auxiliary policemen, in coordination with the Clinton Police, to contain the mob after August 31, which strongly suggests commitment from the town’s elites to maintaining order in the city.⁶⁶⁰ At the state level, although Clement’s response could be seen as slow, (he did not dispatch the highway patrol until rioting had already commenced for two days) it was relatively prompt once local authorities asked for help. On September 2, Clement responded to the riot with overwhelming force, dispatching the Tennessee National Guard, including 600 guardsmen, seven tanks, and three armored personnel carriers.⁶⁶¹

⁶⁵⁸ Ibid, 15-16.

⁶⁵⁹ Seivers, “Words of Discrimination, Voices of Determination,” 75.

⁶⁶⁰ Holden et al., “A Tentative Description and Analysis of the School Desegregation Crisis in Clinton Tennessee,” 15-16.

⁶⁶¹ Seivers, “Words of Discrimination, Voices of Determination,” 77.

A cursory examination of Clinton's response to mob violence reveals a city that strongly opposed mob violence, as was evidenced both by its newspapers' reporting on the event, and the statements of community leaders that "if a poll were made, it would show that at least 90% of people would prefer segregation over integration, but it would also show that 98% would be in favor of obeying the law, if the law called for desegregation."⁶⁶² The consensus view from primary interviews is that the majority of Clinton residents felt that there was nothing that could be done to undermine the ruling, and so they would go along with it.⁶⁶³

Competing explanations for local response to mob violence share little insight into this case. Although evidence from newspaper coverage suggest that the reputational damage the city incurred may have been interpolated through the lens of potential loss of commercial investment, class interest *per se* does not seem to have been on the minds of Clinton residents so much as the general fear of loss of commerce that violence produces. Structural racism is the least informative of the three theories, as it fails to explain why a group of avowed ethnonationalists would exert considerable effort to respond to anti-segregation mob violence, and it would anticipate that the demand for greater law enforcement would come from opponents, not proponents, of integration.

As both the local, state, and federal governments responded to the mob, this outcome is consistent with my expectations for a case in which a **local ethnonationalist** jurisdiction has **low returns to violence**. Nevertheless, the next section considers

⁶⁶² Holden et al., "A Tentative Description and Analysis of the School Desegregation Crisis in Clinton Tennessee," 10.

⁶⁶³ See Ibid, 10.

supralocal response to mob violence in greater detail. Once federal officers had been deployed, how did ethnonationalists respond?

In December, the School Board sent a letter to Attorney General Herbert Brownell request federal aid and claiming that the FBI was oblivious to the problem. Brownell told the New York Times regarding the request that the FBI had been investigating the Clinton case and that they had issued sixteen arrests over the last week in response to individuals violating an injunction preventing interference with school integration.⁶⁶⁴

Congress did not reconvene until January 1957, after which time the mob action in Clinton had mostly abated. However, the issue did receive consideration during the discussion of the Civil Rights Act of 1957, which would expand the federal government's law enforcement capabilities when individuals attempt to infringe on another individual's right to vote. In his speech opposing the bill on June 10, 1957, Representative Whitten of Mississippi remarked that the Clinton case illustrated the unfairness of the principle proposed in the 1957 act, "In the Clinton Tenn., case they issued an injunction restraining the folks who were before the court, and who had been subject to the suit. Subsequently, the FBI was sent into the area and 16 persons whose names were not in the original action, who were not parties defendant, whose names had not been used in the order of the court, were arrested and are now being held for contempt of that court... Such a course absolutely violates all the common law, all the substantive law, all the statute law

⁶⁶⁴ "Action in Clinton," *New York Times*, December 9, 1957, <https://timesmachine.nytimes.com/timesmachine/1956/12/09/issue.html>.

in every English-speaking country...If you will check Hitler's actions in Germany or Stalin's actions in Russia, the first thing they did was issue an order; and they too, always claimed it was to help some group... I feel very, very strongly that the legislation before us would be destructive to our form of government."⁶⁶⁵

Through the rest of the debates that day, Clinton was evoked twelve times by southern legislators troubled by the precedent the Clinton case had set for the use of federal law enforcement to advance civil rights. No advocates of integration were similarly critical.⁶⁶⁶ Georgia Congressman Forrester described a situation which, "ought to outrage the sensibilities of every person in this country... The defendants had no idea that the FBI had been down there. The FBI had been down there for days and days and days hunting them [Kasper and the other defendants] like partridges."⁶⁶⁷

In the Senate, on July 10, the precedent of the Clinton case was debated further and in more granular terms, Senator John Carroll of Colorado summarized, "As I understand the whole matter, stated briefly it is that the Federal Government is now attempting to add to its powers the powers to intervene and to institute on behalf of the individual under the injunctive process, rather than to leave it to the private individual to institute suit on his own behalf." To which Sam Ervin of North Carolina, one of the architects of the Southern legislative strategy interjected, "And in order that the Federal Government may evade the two benefits which the defendants otherwise would have under sections 402 and 3691 of title 42 of the United States Code," which Senator

⁶⁶⁵ Remarks by Congressman Whitten. "Congressional Record - House, 8643," 1957.

⁶⁶⁶ Ibid.

⁶⁶⁷ Remarks by Congressman Forrester. "Congressional Record - House of Representatives" (US Government Printing Office, June 10, 1957), 8699 – 8700.

Sparkman of Alabama clarified, “In other words, the right of trial by a jury and the limitations on punishment.”⁶⁶⁸

Ervin went on to explain how this bill would significantly shorten the process by which a party could seek injunctive relief against a counterparty whose right to trial by jury would be compromised. In further discussion with Ervin, Carroll again sought to clarify Ervin’s position, “I put this question again, just as I put the question on segregation. What the Attorney General seeks to do is enlarge the power of the Federal Government to intervene on behalf of an individual or a state official or a group of individuals to guarantee the right to vote. The Federal Government seeks to enlarge and broaden its powers to move into this field.” To which Senator Ervin responded, “The Attorney General seeks to obtain for himself complete authority over this proposed law... he wants the proposed law so he can avoid the right of trial by jury. That is what he frankly admits. He puts it in more polite language. He says juries may be reluctant to convict.”⁶⁶⁹

The reaction to the Clinton case shows how Southern legislators sought to undermine the federal response to mob violence. Confronted with the reality that federal law enforcement had been used to enforce civil rights law, Southern representatives argued to undermine legislation that would codify and clarify the role of the federal government as a law enforcing institution, and also attempted to characterize the prior use of federal force as illegitimate. The purpose of this defense was to ensure that civil rights

⁶⁶⁸ “Congressional Record - Senate” (US Government Printing Office, July 10, 1957), 11202 – 11203.

⁶⁶⁹ Ibid, 11203.

cases would be resolved by jury trials in state courts, not by federal law enforcement, thereby preserving the South's capability to continue to rely on violence as a credible deterrent to civil rights. As a consequence, Brownell's use of federal authority to suppress mob violence threatened their defense of segregation. This outcome is consistent my theory's prediction of a **contested response** to violence.

Little Rock: 1957

In Little Rock, an **ethnonationalist** local government with **high returns to violence**, when confronted with the integration of its schools, used mob violence to delay integration. In doing so, it drew international attention to racial inequality in America, spurring the Eisenhower Administration, sensitive to the **high salience of** American **legitimacy** produced by the Cold War, to nationalize the Arkansas National Guard.

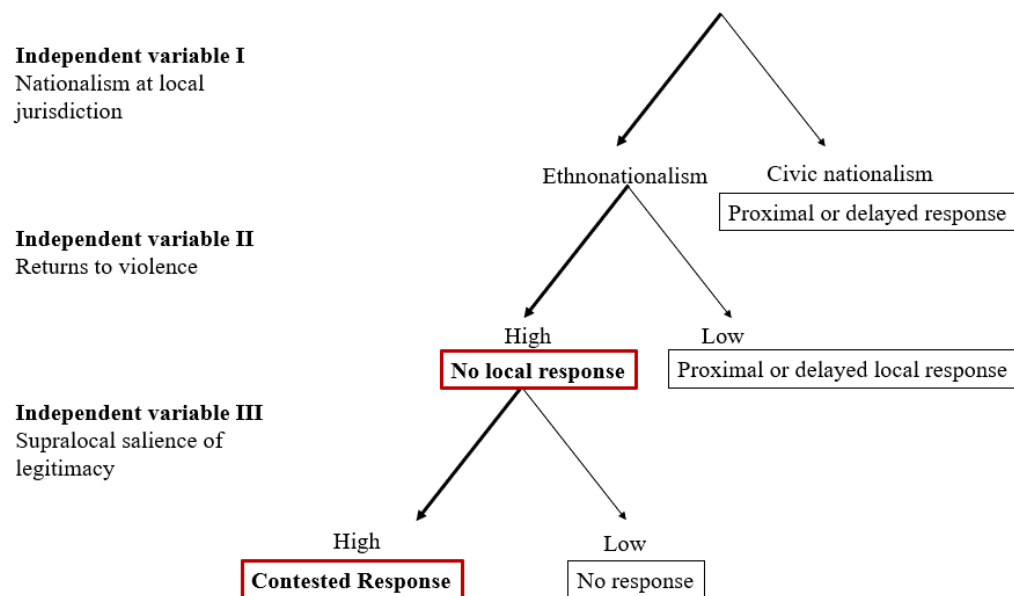


Figure 14 Variable Map for Little Rock 1957

Arkansas Governor Orval Faubus' did not begin his political career as a segregationist. He won his first seat because of support in the Ozarks. Poor populist Ozark counties typically voted against Arkansas' large agricultural interests – a microcosm of the internal political competition that had occurred throughout the South since 1876. Just over 50 percent of voters in the Ozarks supported segregation, in contrast to the Border and Delta regions which supported segregation at around 55 percent and 65 percent, respectively. In 1954, Faubus won just under 50 percent of the vote in the Delta region during the Democratic Primary run-off. In 1958, he won over 75 percent of that region's vote.⁶⁷⁰

⁶⁷⁰ Thomas Pettigrew and Ernest Campbell, "Faubus and Segregation: An Analysis of Arkansas Voting," *Public Opinion Quarterly* 24, no. 3 (1960).

From 1954 – 1956, Faubus twice refused to hold special sessions of the general assembly requested by segregationists to advance legislation and constitutional amendments designed to subvert *Brown v. Board*.⁶⁷¹ In 1955, Jim Johnson, a rabid segregationist, called for a constitutional amendment which would allow Arkansas to nullify *Brown v. Board* and ran for governor in 1956, winning 27 percent of the vote in the Democratic primary. Faubus ran as a moderate candidate to the left of Johnson and Jim Snoddy, another segregationist. In 1956, Faubus also endorsed a “pupil assignment bill” that would devolve power to school boards and which, in his words, “took no authority away from any school board and would not bar integration in any district which desired it.”⁶⁷²

Faubus, like Folsom, had a powerbase rooted in populist support from Arkansas’ poor, white counties, and was threatened by the increasing salience of segregation, a policy on which he was viewed as a moderate prior to Little Rock.⁶⁷³ This is not to say that he shared Folsom’s integrationist views. Faubus was a through-and-through segregationist and White Supremacist. However, he was neither the most ardent segregationist nor the most fervent White Supremacist candidate in the election,⁶⁷⁴ and his support was weakest in the parts of Arkansas that most favored segregation.⁶⁷⁵

⁶⁷¹ A. Stephen Stephan, “The Status of Integration and Segregation in Arkansas,” *The Journal of Negro Education* 25, no. 3 (1956): 212–20, <https://doi.org/10.2307/2293430>.

⁶⁷² Quoted in, A. Stephen Stephan, “The Status of Integration and Segregation in Arkansas,” 214.

⁶⁷³ A. Stephen Stephan, “The Status of Integration and Segregation in Arkansas,” *The Journal of Negro Education* 25, no. 3 (1956): 212–20, <https://doi.org/10.2307/2293430>.

⁶⁷⁴ Jim Johnson, founder of Arkansas’ White Citizen’s Council, was the most intense White Supremacist in the election. He would later become Associate Judge on the Arkansas State Supreme Court.

⁶⁷⁵ Thomas Pettigrew and Ernest Campbell, “Faubus and Segregation: An Analysis of Arkansas Voting,” *Public Opinion Quarterly* 24, no. 3 (1960).

In 1955, largely because of Faubus' disinterest in advancing hardcore segregationist policies, the far-right wing in Arkansas politics had experienced a series of legislative setbacks. In addition to Faubus' unwillingness to hold a special session of the legislature to advance segregationist legislation, several pro-segregation bills, which had been passed out of Arkansas' House of Representatives during a normal legislative session, had been defeated in the Arkansas Senate.⁶⁷⁶ There was also evidence that the Citizen's Council's policies were too radical for most people in Arkansas. In Star City, which was 53 percent Black, a White Citizens' Council meeting was blocked by white community members because, as the local sheriff explained, "We're getting along fine without anybody stirring up trouble."⁶⁷⁷ In a 1956 article published in the *Journal of Negro Education*, Stephen Stephan advanced an optimistic interpretation of the reaction to school integration in Little Rock, "Rabble rousing based on race has not made substantial headway in Arkansas."⁶⁷⁸

Stephan's observation would be proven untrue over the following year. Facing local opposition, judicial defeats, and executive indifference, segregationists sought an alternative strategy. In 1956, Jim Johnson organized the Arkansas Citizen's Councils into the Association of Citizens' Councils of Arkansas (ACCA). The exact size of the organization is unknown, but estimates put its membership at around 20,000. It had

⁶⁷⁶ Tony A. Freyer, "Politics and Law in the Little Rock Crisis, 1954-1957," *The Arkansas Historical Quarterly* 66, no. 2 (2007): 145-66.

⁶⁷⁷ Quoted on 129, Neil R. McMillen, "The White Citizens' Council and Resistance to School Desegregation in Arkansas," *The Arkansas Historical Quarterly* 66, no. 2 (2007): 125-44.

⁶⁷⁸ A. Stephen Stephan, "The Status of Integration and Segregation in Arkansas," *The Journal of Negro Education* 25, no. 3 (1956): 212-20, <https://doi.org/10.2307/2293430>, 220.

affiliates in just under half of Arkansas' 75 counties.⁶⁷⁹ ACCA's most influential affiliate, the Capital Citizen's Council (CCC), "the most vocal and potent group within the community," as one contemporary observed, was a significant voice in the integration narrative over the following years. The ACCA allowed segregationists to apply pressure in any given community with greater ease, streamlining the ability of segregationists to coordinate regional pressure.⁶⁸⁰

New organizational capacity in place, segregationists planned to block the integration of Little Rock. To do so, rather than focus on judicial challenges against Central High School, which had failed the previous year during the integration of Hoxie,⁶⁸¹ they instead sought to use legislation, protests, and the threat of a violent reaction to integration to freeze organizational activities by the NAACP and other pro-integration groups while pressuring elected officials to adopt segregationist policies.⁶⁸²

They would have the opportunity to put their plans in action the following year. On January 18, a District Judge ruled in favor of the NAACP's suit against the Van Buren school board. Eight days later, 27 black students would arrive at the doors of Little Rock High School, requesting a transfer for the Spring semester. Superintendent Virgil

⁶⁷⁹ Neil R. McMillen, "The White Citizens' Council and Resistance to School Desegregation in Arkansas," *The Arkansas Historical Quarterly* 66, no. 2 (2007): 125–44. There are not accurate estimates of the organizations size, either in terms of membership or affiliated organizations. 20,000 members is likely an exaggeration. One count of the number of affiliates estimated that there were organizations in 32 of 75 counties, this is also, likely, an exaggeration.

⁶⁸⁰ Neil R. McMillen, "The White Citizens' Council and Resistance to School Desegregation in Arkansas," *The Arkansas Historical Quarterly* 66, no. 2 (2007): 125–44.

⁶⁸¹ For a narrative of the failed campaign to block the Hoxie integration see, Jerry J. Vervack, "The Hoxie Imbrolio," *The Arkansas Historical Quarterly* 48, no. 1 (1989): 17–33, <https://doi.org/10.2307/40027804>.

⁶⁸² David Wallace, "Orval Faubus: The Central Figure at Little Rock Central High School," *The Arkansas Historical Quarterly* 39, no. 4 (1980): 314–29, <https://doi.org/10.2307/40024134>.

Bloom would deny their request.⁶⁸³ In total, 33 students would apply for and be denied admission to previously all-white high schools in Little Rock. On February 8, 1956, Wiley Branton filed suit on the student's behalf under *Aaron v. Cooper*.⁶⁸⁴

Just as occurred in Tuscaloosa, leaders and spokespeople for the segregationist movement relied on the threat of violence and the need to preserve public safety as part of their justifications for opposing integration. These threats were never made directly, violence, "would follow" integration, perhaps not enacted by the speaker or author, but they were promised as *inevitable*s which could not be avoided or suppressed through any action but acquiescence to segregationist demands.

Amis Guthridge, now the CCC's most prominent speaker, warned that desegregation of Little Rock would be followed by, "hell on the border."⁶⁸⁵ In 1957, segregationists successfully had the state legislature create a State Sovereignty Commission to, "resist the usurpation of the rights and powers reserved to this State or our sister states by the Federal Government,"⁶⁸⁶ with the power to compel organizations to register with the state. The commission had the right to investigate organizations and compel them to publicize the names of donors.⁶⁸⁷ Although the commission did not engage in any explicit violence, an implicit purpose for its ability to collect the names of

⁶⁸³ "Arkansas' Segregation Laws Again Are Ruled Unconstitutional," *Southern School News*, February 1956.

⁶⁸⁴ John Kirk, "Massive Resistance and Minimum Compliance: The Origins of the 1957 Little Rock School Crisis and the Failure of School Desegregation in the South," in *Massive Resistance: Southern Opposition to the Second Reconstruction* (New York: Oxford University Press, 2005), 84.

⁶⁸⁵ Neil R. McMillen, "The White Citizens' Council and Resistance to School Desegregation in Arkansas," *The Arkansas Historical Quarterly* 66, no. 2 (2007): 133.

⁶⁸⁶ Quoted in Jackoway, *Turn Away Thy Son*, 43.

⁶⁸⁷ "Four Large Arkansas Districts Will Begin Integration," *Southern School News*, July 1957, <https://gahistoricnewspapers.galileo.usg.edu/lccn/sn59049440/1957-07-01/ed-1/seq-10/>.

NAACP donors was to intimidate people who might donate to the NAACP with the threat of punishment from the public, which in 1955 could range from economic sanctions to violence. Its legislative opponents claimed that its aim was to create a “Arkansas Gestapo” which could use the public to root out opponents of integration.⁶⁸⁸

Faubus viewed the events at Little Rock through the lens of the 1956 gubernatorial election. He perceived, correctly, that the greatest threat to his reelection was the hardcore segregationist block, and he sought to exploit the Little Rock crisis for his political advantage.⁶⁸⁹ To parry Johnson, Faubus shifted right on integration, commissioning a poll showing that 85 percent of Arkansas citizens did not support integration and then, using his poll as justification, claimed that, “I cannot be a party to any attempt to force acceptance of a change to which the people of Arkansas are unalterably opposed.”⁶⁹⁰

This was short of the call put out by the radical segregationists who wanted Faubus to unilaterally block integration, which segregationists called on Faubus to do with his police powers for the purpose of preventing violence. In 1957, CCC spokesman Robert Brown explained what he wanted Faubus to do, “Under the sovereignty of the state of Arkansas, you can under our police powers to preserve tranquility, order the two races to attend their own schools.”⁶⁹¹

⁶⁸⁸ Quoted in Jackoway, *Turn Away Thy Son*, 43.

⁶⁸⁹ David Wallace, “Orval Faubus: The Central Figure at Little Rock Central High School,” *The Arkansas Historical Quarterly* 39, no. 4 (1980): 314–29, <https://doi.org/10.2307/40024134>.

⁶⁹⁰ Ibid, 319.

⁶⁹¹ David Wallace, “Orval Faubus: The Central Figure at Little Rock Central High School,” *The Arkansas Historical Quarterly* 39, no. 4 (1980): 314–29, <https://doi.org/10.2307/40024134>.

That summer, when Faubus met with Winthrop Rockefeller, the chairman of the Arkansas Industrial Development Commission (AIDC), Faubus claimed that he feared violence would break out if Little Rock were to be integrated. In August 1957, the CCC invited Marvin Griffin and Roy Harris, the Governor of Georgia, and the former speaker of the house in Georgia, respectively, to speak in Little Rock in opposition to integration. At the meeting Harris promised to use the highway patrol and if necessary, enlist “every white man in Georgia.”⁶⁹² On August 27, the Mothers’ League of Central High filed suit in chancery court on the grounds that the integration order would cause civil commotion, confusion, and unrest. The league called Faubus as its witness and the Governor claimed that he believed that if Little Rock schools were integrated, violence would occur. The Mothers’ League was successful in its legal action, but three days later the School Board had the ruling for the Mothers’ League vacated in a subsequent lawsuit.⁶⁹³

On September 2, 1957, Faubus claimed that civil disorder was imminent and that he would order the state’s National Guard to maintain the peace.⁶⁹⁴ That night, National Guardsmen cordoned off the school. Faubus ordered that no Black students would be allowed to enter until the threat of violence had been addressed.⁶⁹⁵

⁶⁹² Quoted in John Kirk, “Massive Resistance and Minimum Compliance: The Origins of the 1957 Little Rock School Crisis and the Failure of School Desegregation in the South,” in *Massive Resistance: Southern Opposition to the Second Reconstruction* (New York: Oxford University Press, 2005).

⁶⁹³ Ibid, 88-89.

⁶⁹⁴ Tony A. Freyer, “Enforcing Brown in the Little Rock Crisis Symposium Proceedings: Fifty Years Later: Brown in the Appellate Courts,” *Journal of Appellate Practice and Process* 6, no. 1 (2004): 67–78.

⁶⁹⁵ John Kirk, “Massive Resistance and Minimum Compliance: The Origins of the 1957 Little Rock School Crisis and the Failure of School Desegregation in the South,” in *Massive Resistance: Southern Opposition to the Second Reconstruction* (New York: Oxford University Press, 2005), 89.

An FBI investigation was launched to determine if Faubus' claims had merit and found that, "not a single individual had any knowledge of any act of violence or actual threats of violence prior to the time the Governor called the Guards on September 2." Surprisingly, this memo was incorrect, although widely circulated in the aftermath of the conflict.⁶⁹⁶

The memo asserted that the FBI found that evidence of weapons sales did not exist and that while many members of White Citizens' Councils came to Little Rock from other areas in the state, there was no evidence of a conspiracy to provoke mob violence.⁶⁹⁷ In the clearest explanation of the events that I have found, Elizabeth Jacoway writes convincingly that Faubus' testimony regarding violence was correct. The FBI report showed that there were many out-of-town actors who were moving into Little Rock, many of whom were heavily armed, and that many people in the town had heard about planned violence. There is no clear consensus on how real the threat was, how seriously Faubus took the threat, or whether Faubus had gained access to the entire FBI report prior to his testimony.⁶⁹⁸

Early morning on September 4, Faubus changed the National Guard's orders to explicitly prohibit Black students from entering the high school.⁶⁹⁹ A group of Black and White ministers met with the students at 8:30 and escorted the students to the entrance of

⁶⁹⁶ Quoted in Jacoway, *Turn Away Thy Son*, 145.

⁶⁹⁷ David Wallace, "Orval Faubus: The Central Figure at Little Rock Central High School," *The Arkansas Historical Quarterly* 39, no. 4 (1980): 314–29, <https://doi.org/10.2307/40024134>.

"Under the Magnifying Glass: The FBI Investigates Little Rock" (University of Arkansas at Little Rock Center for Arkansas History and Culture, n.d.), <https://ualrexhibits.org/legacy/fbi/>.

⁶⁹⁸ Jackoway, *Turn Away Thy Son*, 125, 145 – 146, 157 – 158.

⁶⁹⁹ Ibid, 126.

the school. One student, Elizabeth Eckford, did not receive word of the plan to meet as a group and took the bus instead. Outside the school, a crowd of 300 angry protesters had formed a mob. After being turned away from the school by the guard, Elizabeth found herself caught in the mob, which surrounded her and threatened to lynch her, but with the help of the bus driver she was able to escape. A picture of the incident was captured by Will Counts and was widely circulated after the event. Counts would eventually win a Pulitzer Prize for his photograph.⁷⁰⁰

Over the following days, Faubus would be bitterly attacked in the national and local press for his deployment of the guard to close the schools. Little Rock was becoming the posterchild of Southern race-hate and disorder in the wake of the *Brown* ruling. Little Rock's local political establishment felt that its authority had been usurped, and its business interests believed that the reputational damage to the city would have permanent effects on the city's commerce. On September 7, a federal judge ordered that integration proceed immediately, and Faubus stated that he would not let a federal judge override his authority; the schools remained closed. Faubus was now explicitly positioning himself between federal law and the integration of Central High School.⁷⁰¹

On September 3, Eisenhower had a meeting in which he discussed three options with his advisers: a contempt citation, federalization of the Arkansas National Guard, and the issuance of an injunction. They decided to wait, while Judge Davies, who had overseen the Mothers' League case, considered the contents of the forthcoming FBI

⁷⁰⁰ "Little Rock Told to Integrate Now," *New York Times*, September 4, 1957, <https://timesmachine.nytimes.com/timesmachine/1957/09/04/issue.html>.

⁷⁰¹ Ibid, 129-138.

investigation into the extent of the threat in Little Rock. On September 8, the FBI passed an incomplete report to Davies, who, with consultation from U.S. Attorney General Herbert Brownell, made Faubus a defendant in the case, clarifying the pathway for federal intervention on behalf of the Justice Department.⁷⁰² Five days later, Brownell met with Eisenhower and presented him the erroneous Department of Justice summary memo which claimed that “the result of the entire investigation shows that the governor did not at any time have any real evidence of impending violence or even serious threats of violence in order to justify mobilization of the Arkansas National Guard... that it could be explained ‘only as a political move.’”⁷⁰³

The memo was leaked to the national press, which delegitimized Faubus’ position and further pressured Eisenhower to intervene – if Faubus had concocted a mythical mob to block integration with the National Guard, it would pressure Eisenhower to take more decisive action than if Faubus were responding to a real threat.⁷⁰⁴

On September 20, Judge Davis, still also reliant on the erroneous memo prepared by the Department of Justice, issued an injunction against Faubus and ordered that integration proceed. Faubus ordered the Guard be sent home and issued the following statement, “With the curtailment by the order of Judge Davies of my authority to preserve the peace and good order of the community and protect all citizens, I now can only say that I will use all other means at my command to preserve the peace, and sincerely hope

⁷⁰² David A. Nichols, *A Matter of Justice: Eisenhower and the Beginning of the Civil Rights Revolution* (Simon and Schuster, 2007), 233 – 246.

⁷⁰³ Quoted in Jacoway, *Turn Away Thy Son*. 145-146.

⁷⁰⁴ *Ibid*, 145-146.

that all citizens will cooperate in this endeavor.”⁷⁰⁵ This is an explicit example of an executive using his police powers to *not enforce the law* as a means to degrade civil rights. By September 20, Faubus was signaling that if he could not block integration legally, he would block it by removing the police protection from the students.

With the Guard withdrawn on Faubus’ orders, Little Rock Police Chief Marvin Potts placed thirty-five officers at the school with riot gear and prepared a plan to increase the number of officers using his own force, and the National Guard, if he could secure their assistance.⁷⁰⁶ Although Potts had told Mayor Mann that without assistance from the Fire Department’s water cannons, it could not control the crowd, Mann refused to order the Fire Department to the school. Little Rock’s Fire Chief had told Mann, “I can’t go along with my firemen using water on a crowd... If you order me to supply the men and equipment, I’ll have to do it, but you’ll get my resignation... I’d hesitate to turn water on a n- much less a white person.”⁷⁰⁷ Mann’s statements illustrate how ethnonationalist ideology informs individual rights to protection from violence: the fire chief did not want to turn hoses on anyone, but he wanted to turn his hoses on white people less than Black ones.

On September 23, integration began. The Little Rock Nine arrived at school and were met with a mob of over a thousand white protesters. Four Black reporters had arrived at the school a few moments before the students and were attacked by a group of men from the mob, causing a violent spectacle which distracted the crowd, allowing the

⁷⁰⁵ Ibid, 159.

⁷⁰⁶ Shawn A. Fisher, “The Battle of Little Rock” (Ph.D., United States -- Tennessee, The University of Memphis, 2013), 131.

⁷⁰⁷ Ibid, 132.

students to slip inside.⁷⁰⁸ More newspaper reporters from out of state were beaten throughout the day. Rioters surrounded and overcame police checkpoints, although to the credit of local police, the mob was kept from entering the school.⁷⁰⁹

Eventually, as the violence grew, the Black students were taken from the school, “for their protection.” Mann never attempted to deploy the National Guard. He never requested any external help, although he had a call with the Arkansas National Guard the night before to explicitly confirm that they were prepared to assist in protecting the school if need be.⁷¹⁰

The Black students did not attend school the following day. On Tuesday, the crowd was smaller, and the police made over forty-five arrests. Despite the mob being mostly suppressed by Tuesday evening, Mayor Mann communicated to Eisenhower that the mob was out of control and was uncontrollable by local police. Mann asked Eisenhower to send in the army, and Eisenhower agreed.⁷¹¹

That evening, Eisenhower deployed the National Guard and elements of the 101st Airborne. In a press release he declared that “mob rule cannot be allowed to override the decisions of our courts.”⁷¹² In the aftermath of the clash, the Little Rock Nine attended Central High School for a year, under the protection of federal troops. In 1958, Faubus proposed a referendum which was passed by the Little Rock residents, closing the school

⁷⁰⁸ “Mob in Little Rock,” *New York Times*, September 24, 1957, <https://timesmachine.nytimes.com/timesmachine/1957/09/24/84765440.html?pageNumber=34>. Benjamin Fine, “Students Unhurt; Negro Newspaper Men Are Attacked at High School in Little Rock,” *New York Times*, September 24, 1957.

⁷⁰⁹ Ibid.

⁷¹⁰ Fisher, “The Battle of Little Rock,” 131 – 137.

⁷¹¹ “Mob in Little Rock,” *New York Times*, September 24, 1957, also Nichols, “*A Matter of Justice*,” 253.

⁷¹² Nichols, “*A Matter of Justice*,” 266.

district for a further year. Closing the school turned out to be a political miscalculation, and significant turnover on the Central School District board and among its administrators allowed moderates to force the school to re-open in 1959.⁷¹³

In discussions with his confidants, Faubus signaled that he viewed the decision to deploy the guard through the lens of politics and felt trapped in a lose-lose situation. If he did not deploy the guard and there was a race riot, he would be pilloried as a coward who could be bullied by a mob. If he did deploy the guard and there was no riot, his opponents would say that there was never going to be a riot, and that he was participating in political theater.⁷¹⁴

For Faubus, whether there was actually a threat of riot was secondary to his calculation that the rumor of riot was politically poisonous. Elizabeth Jacoway argues that Faubus genuinely did believe that violence was imminent, although he likely came to that position because of information that had been sent to him by Johnson and Blossom.

Significant for the argument advanced in this dissertation, however, Faubus never considered using the national guard to preserve the rights of Black students at Central High School. He considered using the national guard to preserve order in Little Rock and to avoid the political embarrassment of a mob. However, he had no desire to use force to protect the rights of the Little Rock Nine or to ensure that *Brown v. Board* was enforced. If anything, the opposite was the case. Using force to preserve order, if it also meant defending integration by force, could be politically damaging. In a conversation with

⁷¹³ Jacoway, *Turn Away Thy Son*,” 328 – 348.

⁷¹⁴ Ibid, 115, 126.

Wayne Glenn in early-summer he said, “I’m not going to enforce the Court’s orders. In fact, I’m going to see to it that the Feds have to enforce it.”⁷¹⁵

Faubus’ action also illustrates how violence and legitimacy interacted in Arkansas. He knew that the deployment of federal troops in the South could be depicted as a violation of state’s rights and would secure his electoral prospects for years to come. He also knew that if integration appeared impossible without the creation of violence, then he could delay its coming without facing stiff resistance. Faubus recognized that violence degraded the legitimacy of both Arkansas and the United States, but also knew that the threat of violence was a politically powerful tool to block the advancement of civil rights.

The next year, Faubus proposed laws that would institutionalize the principle that the threat of violence is sufficient to deny integration. He announced a plan to address the disorder that had occurred in Little Rock the previous year. The first item on the list he delivered before the state’s legislature was a measure to close schools, “in order to maintain the peace against actual or impending violence which endangers the citizens, students, teachers and others, and to provide for the safety of buildings and property.”⁷¹⁶ He went on to list other reasons that a school could be closed, each of which was related to preventing integration.⁷¹⁷

⁷¹⁵ Ibid, 111.

⁷¹⁶ New York Times, “Text of Faubus Speech to Arkansas Legislature on Integration,” *The New York Times*, August 27, 1958, sec. Archives, <https://www.nytimes.com/1958/08/27/archives/text-of-faubus-speech-to-arkansas-legislature-on-integration.html>.

⁷¹⁷ Ibid, 18.

Faubus likely misunderstood the pressure his intransigence was putting on both Eisenhower and Mann. Although Faubus had successfully contrived a situation where he would not have to be the one to enforce integration, he likely believed that Mann would not be willing to risk riot and mob violence to put egg on Faubus' face. At the same time, Faubus seemed unaware of the international pressure faced by Eisenhower to demonstrate American willingness to enforce integration.

Congress ended its 1957 legislative session on August 30 and did not reconvene until January 7. Eisenhower deployed troops to Little Rock on September 23. Two weeks later, the Soviet Union launched its Sputnik 1 satellite, launching the space race and dominating the attention of federal government. As David Brinkley, an observer on an NBC news segment submitted to the Congressional Record, "three months ago I might have thought – I did think – this would be a civil rights Little Rock session of Congress. But I think the best guess now is that it'll be a rockets and missiles session of Congress with civil rights in a very slow second place."⁷¹⁸

Brinkley's observation would turn out to be correct. Little Rock received some attention from Southern representatives who excoriated the federal intervention and called for greater legislative control over executive interventions in judicial affairs, but the primary rhetorical frame deployed regarding Little Rock was the damage that it did to the U.S.' cause of promoting democracy internationally.

⁷¹⁸ "Transcription of Huntley-Brinkley Report Submitted to U.S. Senate" (U.S. Congressional Record, January 13, 1958), <https://www.congress.gov/85/crecb/1958/01/13/GPO-CRECB-1958-pt1-4.pdf>.

However, among Southerners, the reaction to Little Rock was an amplification of their reaction to previous efforts to enforce civil rights using the federal government. On January 8, Arthur Winstead of Mississippi introduced two pieces of legislation that typified the Southern congressional response to Little Rock. The first would remove the president's authority to call the "National Guard into Federal service, except in time of war threat or invasion" while the second would "prohibit the use of Federal troops to enforce Federal court orders and State laws."⁷¹⁹

Winstead's legislation was a response to the "disgraceful" action of the Federal government at Little Rock. In his testimony, Winstead noted that when Eisenhower issued Executive Order No. 10730, in which he had nationalized the Arkansas National Guard he had also sent copies of his orders to generals in Texas, Virginia, Georgia, North Carolina, and Kentucky in anticipation of needing to nationalize these national guards as well. Winstead objected to the use of federal troops in state law enforcement and was concerned by the prospect of widespread deployment of federal armed forces to enforce integration.⁷²⁰

On January 9, another Southern state responded to the crisis in Little Rock. The Legislature of the State of Florida passed a resolution and sent it to the Committee on Appropriations which resolved to, among other things, "withhold all funds and

⁷¹⁹ Arthur Winstead, "Remarks of Arthur Winstead Before The 85th Congress," January 8, 1958, <https://www.congress.gov/85/crecb/1958/01/08/GPO-CRECB-1958-pt1-2.pdf>.

⁷²⁰ Ibid.

appropriations from any federal military forces directed to occupy any sovereign State without the express approval of the Governor therein.”⁷²¹

The day that Eisenhower deployed troops, Richard Russel sent him a telegram protesting, “the highhanded and illegal methods being employed by the armed forces of the United States under your command who are carrying out your orders to mix the races in the public schools of Little Rock, Arkansas.” Eisenhower responded that, “Failure to act in such a case would be tantamount to acquiescence in anarchy and the dissolution of the union.”⁷²²

The influence of international political calculations was clear in the case of Little Rock. America’s **legitimacy** was damaged as soon as violence commenced outside the school, and American policymakers evinced sensitivity to the notion that America’s foreign policy was being harmed by Faubus’ obstinacy.

H. Alexander Smith, a long-standing Rockefeller Republican from New Jersey made the archetypal statement regarding the reputational damage that the U.S. would suffer because of Little Rock. An argument that would be repeated dozens of times over the coming weeks. Smith argued the failure to address civil rights in Little Rock was having a noxious effect on the U.S.’ ideological competition with the Soviet Union, writing, “Well, with some reluctance, I must recall that before we got into the sputnik cloud we were suffering from a black eye called Little Rock. The ugly photographs of

⁷²¹ “A Resolution of the Legislature of the State of Florida Presented before the Committee on Appropriations” (U.S. Congressional Record, January 9, 1958), <https://www.congress.gov/85/crecb/1958/01/09/GPO-CRECB-1958-pt1-3.pdf>.

⁷²² Telegram from Richard Russel, 1957 and telegram from Dwight Eisenhower, 1957. Quoted in Nichols, “*A Matter of Justice*,” 274.

white mobs beating up Negroes appeared on the front page of almost every newspaper on earth and I don't think the press abroad was very fair to us. I don't think they noted the fact that in fact we've made a great deal of progress on this problem and I think we still are. They just noticed that the mob did this. And in a world which we have to court for our own survival and a world which is two-thirds colored, I don't think we can afford any more Little Rocks.”⁷²³

After the initial standoff on September 3, Eisenhower came under intense pressure to remedy the situation in Little Rock. Will Counts’ photograph carried on the front page of newspapers across the globe. The London *Times*, *Times of India*, *Tanganyika Standard*, and *South China Morning Post*, led with the story, as did many other international newspapers. American allies in Sweden and London criticized the timidity of Eisenhower’s response and noted that it augured poorly for America’s prospects as an international promoter of democracy and human rights. Stockholm’s *Svenska Dagbladet* wrote that without a powerful response from the federal government, Little Rock posed a threat, “not only to President Eisenhower’s personal prestige but also to [the] position of [the] U.S. in [the] eyes [of the] free world.”⁷²⁴

American newspapers described how the event would become fodder for the communist press, and their predictions generally came true. *Pravda* ran a story with a picture of an Arkansas National Guardsman ordering a Black girl away from Central High School, while other Soviet papers editorialized about the experiences of Black

⁷²³ H. Alexander Smith, “Remarks of Congressman Lawrence Smith before the 85th Congress” (U.S. Congressional Record, January 13), <https://www.congress.gov/85/crecb/1958/01/13/GPO-CRECB-1958-pt1-4.pdf>.

⁷²⁴ *Svenska Dagbladet*, 1957. Quoted in Mary L. Dudziak, *Cold War Civil Rights*, 120.

children in southern states, who faced violence and oppression at the hands of both the Klan and the police. *Izvestia* closed an excoriating article describing the “the tale of the American racists,” by observing that it was, “even more impossible to remain silent when these gentlemen attempt to act as the world’s mentors.”⁷²⁵

America’s embassies reported protests and indignation at the events in Little Rock. Secretary of State John Foster Dulles claimed that the issue “was ruining our foreign policy,” and Henry Cabot Lodge, U.S. ambassador to the United Nations shared a similar sentiment noting, “I suspect that we lost several votes on the Chinese communist item because of Little Rock.” When Eisenhower described the decision to deploy troops he wrote in his memoirs, “around the world it could continue to feed the mill of Soviet propaganda who by word and picture were telling the world of the ‘racial terror’ in the United States.” Mary Dudziak argues in her analysis of Eisenhower’s decision to deploy troops that, “it was a mix of factors, domestic and international, that led to Eisenhower’s extraordinary action in Little Rock.”⁷²⁶

This case provides powerful evidence of the role of the **salience of legitimacy** in pressuring federal authorities to prevent violence.

Over the following year, progressive Senators and Representatives would push hard for the expansion of federal law enforcement capacities in response to the South’s unwillingness to enforce federal civil rights law. John F. Kennedy’s testimony on August 23, 1958, in support of an amendment to the Civil Rights Bill of 1957 made explicit the

⁷²⁵ *Izvestia*, 1957. Quoted in Dudziak, *Cold War Civil Rights*, 121, 123.

⁷²⁶ John Foster Dulles, 1957 and Henry Cabot Lodge, 1957. Quoted in Dudziak, *Cold War Civil Rights*, 128, 130, 131.

need for more muscular law enforcement in order to protect civil rights, “Mr. President, on May 28, I called to the attention of the Senate the repeated defiance of law and authority evidenced by a series of bombings in which homes, churches and schools have been damaged. Since then there have been two additional bombings. In all, there have been 47 instances of such outrageous conduct... In some instances there have been only a vague connection between the object of the attack and civil rights, but by telephone calls and other devices, the attackers have indicated that the explosions were designed as threats.”⁷²⁷

Kennedy and other progressive senators sought to expand the federal government’s capacity to punish Southern violators of civil rights laws in circumstances when it seemed that local law enforcement was unwilling to act on its own. Kennedy’s reaction to the subsequent bombings help contextualize how he and other progressive legislators thought of the impediments to the civil rights progress in 1957: Southerners would not follow civil rights laws unless compelled to do so by force and would turn to violence if need be to preserve White Supremacy. The 1957 Civil Right Bill was about law enforcement. This framing was mirrored by the bill’s opponents.

On July 2, 1957, Richard Russel bluntly laid out the position and concerns of the Southern states, “I said then, Mr. President, and I reassert now that the bill is cunningly designed to vest in the Attorney General unprecedented power to bring to bear the whole might of the Federal Government, including the Armed Forces if necessary, to force a

⁷²⁷ John F. Kennedy, “Statement of John F. Kennedy Regarding a Bill, "Prohibition of Certain Acts Involving Importation, Transportation, Possession, or Use of Explosives,” August 23, 1958, <https://www.congress.gov/85/crecb/1958/08/23/GPO-CRECB-1958-pt15-3.pdf>.

commingling of white and Negro children in the State-supported public schools of the South.”⁷²⁸

Russel explained that Section IV of the bill, “...undoubtedly deals with voting rights. I shall not discuss the full effect of this language. At an appropriate time I shall undertake to show that there are already on the statutes of the United States any number of laws to assure the right to vote, including criminal statutes which punish by fine and imprisonment any person who interferes with that right.”⁷²⁹

Russel’s point in making this argument is to demonstrate that the bill was not actually a voting rights bill, but a voting rights *enforcement* bill. His argument, by extension, is not about having bills on the books that ensure the right to vote regardless a person’s race, but about having a law enforcement apparatus capable of enforcing those bills. He goes on to say, “I shall demonstrate... that the talk about voting rights is a smokescreen to obscure the unlimited grant of powers to the Attorney General of the United States to govern by injunction and federal bayonet. This section of the bill strikes at our whole theory of a government of men. It grants to one man or to men sweeping powers to deny individual rights by wholesale and to jail and imprison peaceful American citizens according to the whim or caprice of the man or men exercising the power... I unhesitatingly assert that part III of the bill was deliberately drawn to enable the use of military forces to destroy the system of separation of the races in the Southern States at the point of a bayonet, if it should be found necessary to take this step... It can

⁷²⁸ Richard Russel, “Statement on Civil Rights Made before the U.S. Senate,” July 2, 1957, <https://www.congress.gov/bound-congressional-record/1957/07/02/senate-section>.

⁷²⁹ Richard Russel, “Statement on Civil Rights Made before the U.S. Senate,” July 2, 1957, <https://www.congress.gov/bound-congressional-record/1957/07/02/senate-section>.

be used to jail and imprison American citizens and to deny them elemental rights inherent to all our people...”⁷³⁰

Lingering behind his opposition to an empowered federal government which might forcibly integrate Southern schools and allow Black Southerners to vote was the promise of white violence, “If Congress is driven to pass this bill in its present form, it will cause unspeakable confusion, bitterness, and bloodshed in a great section of our common country. If it is proposed to move into the South in this fashion, the concentration camps may as well be prepared now, because there will not be enough jails to hold the people of the South who will oppose the use of raw Federal power forcibly to commingle white and Negro children in the same schools and places of public entertainment.”⁷³¹

The Senate found Russel’s testimony compelling, and two months later passed a final version of the bill, the first civil rights bill passed in over 82 years,⁷³² without section three, ending a notable legislative debate that included Strom Thurmond’s record-breaking 24-hour filibuster.

Civil rights actors responded scornfully to the attempts made by Southern senators to weaken the enforcement mechanisms of the bill. In a memorandum sent to President Eisenhower’s Chief of Staff, Sherman Adams, by E. Frederic Morrow (Eisenhower’s Administrative officer and the first Black person to hold an executive

⁷³⁰ Richard Russel, “Statement on Civil Rights Made before the U.S. Senate,” July 2, 1957, <https://www.congress.gov/bound-congressional-record/1957/07/02/senate-section>.

⁷³¹ Richard Russel, “Statement on Civil Rights Made before the U.S. Senate,” July 2, 1957, <https://www.congress.gov/bound-congressional-record/1957/07/02/senate-section>.

⁷³² Thomas R. Winquist, “Civil Rights: Legislation: The Civil Rights Act of 1957,” *Michigan Law Review* 56, no. 4 (1958): 619–30, <https://doi.org/10.2307/1286055>.

position at the White House), Morrow stated that “Negro citizens are alarmed over reports that the Administration will ‘soften’ the requirements of the Administration bill on Civil Rights before Congress.”⁷³³

Senator Paul Douglas of Illinois, in that same session, remarked in rejoinder to Richard Russel that, “The Senator from Georgia very ably shifted the focus of his speech away from protection for the right to vote to the alleged horrible consequences which he declared might come from part III of the bill, H.R. 6127. I think it is very important that we keep a proper sense of emphasis in this discussion of the proposed civil rights bill and realize that the primary purpose of those who are supporting this civil rights legislation is to throw added federal protection around the right to vote.”⁷³⁴

Three days later Val Washington, the RNC’s Director of Minorities wrote to Eisenhower echoing Morrow’s sentiment, “your Civil Rights Bill is a very moderate one, so what is there to compromise... Most certainly if the southern opponents of the bill do not intend to continue taking advantage of and ignoring the Civil Rights of Negroes, there is nothing in any of the four points which they could possibly resent either in language or in fact.”⁷³⁵

Law enforcement was understood by policy makers in the 1950s as critical for advancing civil rights. The opponents of the bill opposed it on the grounds that it would

⁷³³ Frederic Morrow, “Memorandum for Governor Adams,” July 12, 1957, <https://www.eisenhowerlibrary.gov/sites/default/files/research/online-documents/civil-rights-act/1957-07-12-morrow-to-adams.pdf>.

⁷³⁴ Paul Douglas, “Statement on Civil Rights Made before the U.S. Senate,” July 2, 1957, <https://www.congress.gov/bound-congressional-record/1957/07/02/senate-section>.

⁷³⁵ Val Washington, “Letter from Val Washington to Dwight Eisenhower,” July 18, 1957, <https://www.eisenhowerlibrary.gov/sites/default/files/research/online-documents/civil-rights-act/1957-07-18-washington-to-dde.pdf>.

expand federal law enforcement capacity when laws against the crimes covered in the bill were already on the books. The proponents of the bill emphasized that the only justification for opposing the bill was a desire by the bill's opponents to aid those who would break the law.

In another letter sent in early August, shortly after the passage of the act, William Rogers, Eisenhower's acting Attorney General, explained to Joseph Martin, a representative from Massachusetts, his specific opposition to the final form of the bill, "...the Senate amendment would limit punishment of 'natural' persons for willful contempt to fines not exceeding \$1,000 and to imprisonment not exceeding 6 months... The practical effect, if adopted, will be to hamper not only the enforcement of the Civil Rights Bill itself, but also to make it much more difficult to enforce federal law and policy in other vital areas involving the public interest."⁷³⁶

A year and six months later, Jacob Javitz, a newly elected Senator from New York, called out the weakening of the Civil Rights Act of 1957, "whatever may not have been done that should have been done by the congress when the Senate eliminated part III of the civil rights bill of 1957 [the part of the bill that called for the creation of new laws to aid in the enforcement of voting rights], the fact is that we must act now with the means we have at hand... the Department of Justice should lend the full weight of the United States Government to the current judicial proceedings... and intervene in the Little Rock case. The history of the 1957 disorder at Little Rock's Central High School

⁷³⁶ William Rogers, "Letter from William Rogers to Joseph Martin," August 9, 1957, <https://www.eisenhowerlibrary.gov/sites/default/files/research/online-documents/civil-rights-act/roger-to-martin.pdf>.

which required Federal troops to be sent to Little Rock last September and the continuance of the position of Governor Faubus along exactly the same lines which brought on the previous emergency demand that this be done... The time has not yet come in these United States when an order of a Federal court must be whittled away, watered down, or safely withdrawn in the face of violent and unlawful acts of individual citizens in opposition thereto. To hold otherwise would result in accession to the demands of insurrectionists or rioters and the withholding of rights granted by the Constitution of the United States.”⁷³⁷

In Stennis’ speech responding to Javitz’s call for greater enforcement he made clear that adequate enforcement of the law was what Stennis and other Southern senators sought to avoid, “The use of force cannot achieve any constructive goal, for the real opposition to integration is not found in lawless elements...”⁷³⁸

The passage of the 1957 Civil Rights Bill, and its subsequent discussion in congress after the Little Rock Crisis is a clear example of how the threat of legitimacy informed federal expansion of a law enforcement apparatus, and how that response was contested by ethnonationalists who desired to preserve their capacity to use violence in order to coerce the expansion of civil rights.

Analysis

The integration riots discussed in this chapter present evidence regarding why municipal, state, and federal authorities respond to mob violence in some cases, and not

⁷³⁷ Jacob Javitz, “Statement of Jacob Javits Regarding a Program of Federal Government Action at Little Rock before the Senate,” August 21, 1958.

⁷³⁸ John Stennis, “Statement of John C. Stennis before Congress,” August 21, 1958, <https://www.congress.gov/85/crecb/1958/08/21/GPO-CRECB-1958-pt15-1.pdf>.

others. The cases considered are each example of **local ethnonationalist** administrations. In Little Rock and Tuscaloosa, there were **high returns to violence**, while in Clinton, there were **low returns to violence**. In all three cases the **salience of legitimacy was high**.

Of the three riots considered in this chapter, the Tuscaloosa riot during Autherine Lucy's brief enrollment at the University of Alabama, the Clinton Tennessee integration riot, and the rioting outside of Central High School in Little Rock Arkansas, only the Clinton riot demonstrated evidence of concerted effort at the city and state level to suppress the violence.

Clinton residents were almost unanimously opposed to integration. The reasons given for Clinton's suppression of mob violence are instructive regarding why a jurisdiction responds to mob violence when it could have shuttered the newly integrated school. City newspapers editorialized about the long-term economic harm that could come from rioting and how outside rioters would not have to live with the socially damaging consequences of violence.⁷³⁹ While local Clinton residents, who were, in their own telling, racists strongly opposed to integration, they welcomed efforts from both the state and federal government to prevent further rioting.

This contrasted with the reaction from segregationists in the Senate who vehemently opposed the use of federal authority to support local law enforcement. House segregationists like Whitten and Forrester described Clinton as a case of federal

⁷³⁹ Anna Holden, Bonita Valien, and Preston Valien, "A Tentative Description and Analysis of the School Desegregation Crisis in Clinton, Tennessee" (Anti-Defamation League of B'nai B'rith, 1956), 15.

overreach and an omen of what would happen if civil rights advocates got their way – the federal government would be able to enforce the law at its discretion.

My theory posits that at the state and federal level, legitimacy matters more than it does at the local level, where material concerns predominate.

During both the University of Alabama mob and the Little Rock mob, local authorities used the threat and reality of mob violence as a pretense to close schools and block integration. In Little Rock, Orval Faubus deployed the National Guard to block students from entering the school, and when he was forced to rescind that order, rather than leave law enforcement near the school sufficient to prevent further violence, the purported threat of which caused him to deploy the guard in the first place, he removed the guard, leading to violence and disorder in the city.

Local authorities in Little Rock were hardly better. The Police Chief refused to use officers to escort Black students to school. The Fire Chief refused to cooperate with the Police Chief and would not lend the use of firehoses for mob suppression. Although the Mayor, Woodrow Wilson Mann, said that he would use the police to enforce the law, he privately observed that the police may be too segregationist to stop a mob action against the students.⁷⁴⁰

In Tuscaloosa, it could be argued that Jim Folsom was willing to enforce the law, although the existing record is not definitive on that point. What is clear, is that he was not willing to risk the political costs of forcefully enforcing the law. Similarly, the school administrators who oversaw police protection for the university were equally unwilling to

⁷⁴⁰ Jacoway, *Turn Away Thy Son*. 158-162.

prevent mob violence if that meant suppressing white students in order to ensure a Black student could attend school safely.

State legislatures in all three states, and segregationists across the nation, used the threat of imminent mob violence as a justification to close schools. When southerners said that disorder would follow integration, there was a subtext: disorder would follow because we are not willing to enforce the law, if that means providing equal rights to white and Black citizens.

The strongest evidence for my theory exists at the federal level where segregationists waged a multi-year fight against the expansion of federal law enforcement. They did this while explicitly referencing the riots described in this case, while arguing that disorder was inevitable if integration were to occur. The senators and representatives who made this argument claimed that law enforcement was impossible at the local level and undesirable at the federal level.

At the state level, Jim Folsom was the only governor to put in place purposeful plans to prevent mob violence in the event that Autherine Lucy returned to school. Frank Clement made no such plans, but he also effectively dispatched state law enforcement in response to the immediate disorder to protect the right of Black students to attend. Orval Faubus, by contrast, called for laws that would clarify the position that the threat of disorder was sufficient justification to close a school.

America's growing international leadership pressured Eisenhower to signal to other international actors that the United States did not tolerate mob violence, and that a democratic system of government could credibly provide for the rights of a

disempowered minority.⁷⁴¹ The references to international news stories even among state and local papers shows how the international implications of the Little Rock and Tuscaloosa crisis influenced the thinking of American policy makers. This is evident from the way the issue was discussed in both the House and the Senate, where civil rights advocates made connection between the lawlessness of the southern response to integration and the Cold War.

The statements of Senators such as James Eastland and Richard Russel make clear that ethnonationalist opposition to law enforcement expansion was informed, at least in part, by the desire to preserve the capacity of Southern states to make violent threats, during a period of civil rights expansion which removed many of the non-violent tools which Southern ethnonationalists had relied on to prevent the expansion of civil rights.

This case illustrates how the interaction between **high returns to violence** and **high salience of legitimacy** incentivizes Southerners to oppose the expansion of law enforcement capacity – an outcome unanticipated by theoretical explanations of the growth of the carceral state which emphasize the racially repressive function of police – in order to preserve for Southern communities the capacity to use the toleration of violence as a means to preserve White Supremacy.

Electoral explanations for this case have greater explanatory power than structural ones. Clearly both Eisenhower and Faubus were sensitive to how their decisions would play before domestic political audiences. However, these electoral incentives acted

⁷⁴¹ Mary L. Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy*, Revised edition (Princeton University Press, 2011).

through causal pathways that were also anticipated by my theory: Faubus' concern with preventing segregation was a response to Southern segregationist ideology and also a response to the electoral implications of that ideology. Eisenhower cared about America's international reputation, which was also important to American voters. The one exception to this case is the evidence that Eisenhower was responding to domestic political competition for Black and racially progressive voters. I argue that although this seems to have influenced Eisenhower's decision to respond, the previous case has illustrated that America's international legitimacy was also a critical for his decision to intervene.

In summary, these cases demonstrate a dynamic I argue influences response to mob violence. When violence is important to local ethnonationalists, they will be more likely to tolerate it, spurring federal response, which in turn will be contested by supralocal representatives of ethnonationalists. This case also demonstrates how *the end* of Southern opposition to the expansion of law enforcement was critical to the growth of America's carceral state.

The move toward federal enforcement of civil rights legislation which began in 1957 would continue to progress into the 1960s. In 1962, federal troops were again deployed to safeguard school integration when mobs threatened James Meredith at the University of Mississippi. In 1963, the military deployed outside Birmingham, but was not activated in response to unchecked mobs and bombings which had been directed at civil rights advocates in the city. The same year, National Guard troops were activated in

Tuscaloosa to force the University of Alabama's desegregation, fourteen years after Autherine Lucy and Pollie Myers applied to the school.⁷⁴²

The Civil Rights Act of 1957 was followed by the Civil Rights Act of 1960, the 24th Amendment, the Civil Rights Act of 1964, and the Voting Rights Act of 1965. The civil rights measures passed in the first half of the 1960s outlawed the use of poll taxes and literacy tests to restrict suffrage and made it a crime to deny the right to vote on the basis of race. They established federal inspection of local voter registration, created penalties for violating a person's right to vote, empowered the Attorney General to challenge violations of the law in state and local elections, and required certain jurisdictions to receive preclearance from a District Court for any new voting practices that they wished to implement.⁷⁴³

At the same time, the late 1950s and early 1960s saw further federal efforts to tighten penalties for the use of violence to repress civil rights. In 1959, 38 bills were proposed to create federal penalties for the use of explosives. In 1961, liberal criminal justice reformers pushed for more federal funding for local police recruitment and

⁷⁴² Charles W. Eagles, *The Price of Defiance: James Meredith and the Integration of Ole Miss* (Univ of North Carolina Press, 2009); for a discussion of federal military interventions in the civil rights era see, Paul Scheips, *The Role of Federal Military Forces in Domestic Disorders, 1945-1992* (Washington, D.C.: Center of Military History, 2012), 39 – 164.

⁷⁴³ Robert D. Loevy, *The Civil Rights Act of 1964: The Passage of the Law That Ended Racial Segregation* (SUNY Press, 1997); C. W. H., "Federal Legislation to Safeguard Voting Rights: The Civil Rights Act of 1960," *Virginia Law Review* 46, no. 5 (1960): 945–75, <https://doi.org/10.2307/1070567>; Garrine P. Laney, *The Voting Rights Act of 1965: Historical Background and Current Issues* (Nova Publishers, 2003); Bruce Ackerman and Jennifer Nou, "Canonizing the Civil Rights Revolution: The People and the Poll Tax," *Northwestern University of Law* 103, no. 1 (2009).

screening in response to observations made by the Presidential Committee on Civil Rights reflecting the widespread use of police brutality as a means of race repression.⁷⁴⁴

In their totality, civil rights expansion and enforcement bills significantly degraded the capacity of Southern states to use violence in response to challenges to ethnonationalism. Violence stopped being a credible deterrent to civil rights – its returns ceased being high.

Segregation as a fact on the ground in Southern states was not over, but practical attempts at preserving Southern authoritarian autonomy was. In January 1965, Louisiana Senator Russell Long, a stalwart defender of post-war segregation, became Senate Whip and made candid remarks to that effect, “I’ve been able to recognize that things move, they change and to adjust myself to a changing world, and I think that all southerners will have to do that.” That same day, Long announced his support for minimum voting rights reforms.⁷⁴⁵

In addition to Russell Long, George Smathers of Florida, J. William Fulbright of Arkansas, and Al Gore Sr of Tennessee, also signaled their willingness to support at least minimal civil rights reform. Earlier that year, Richard Russel fell ill and was forced to convalesce at Walter Reed Medical Center. Without Russel or Lyndon B. Johnson, who began working against the southern caucus in 1957, segregationists were left without leadership. Moderate defections broke the capacity for Southern Democrats to use the

⁷⁴⁴ Naomi Murakawa, *The First Civil Right: How Liberals Built Prison America*, 1st edition (Oxford ; New York: Oxford University Press, 2014), 60, 74.

⁷⁴⁵ Russell Long, 1965. Quoted in Keith Michael Finley, “Southern Opposition to Civil Rights in the United States Senate: A Tactical and Ideological Analysis, 1938–1965” (Ph.D., United States -- Louisiana, Louisiana State University and Agricultural & Mechanical College, 2003), 334 – 335.

filibuster or legislative horse-trading to stave-off further desegregationist policies. By 1965, southerners knew that further defense of segregation was doomed. John McClellan of Arkansas said of the Voting Rights Act of 1965, “I am a realist, and I know the proponents of this proposed legislation have the votes to pass practically any version of a voting rights bill they choose to pass...”⁷⁴⁶

By 1965, Southern states lost the capacity to control who participated in elections and who did not, and the ethnonationalist ideology they had fought to preserve, though still manifest in social and political institutions across the region, was no longer reflected in the explicit exclusion of Black Americans from political participation. In 1969, Bill Clay won a seat in Missouri’s 1st legislative district, and became the first Black Congressman elected from a former Confederate State since George Henry White in 1897.⁷⁴⁷ That same year, Charles Evers became the first Black mayor in Mississippi since Reconstruction.⁷⁴⁸

Absent Southern incentives to oppose the expansion of federal law enforcement capacity, the federal government’s role in American law enforcement began to balloon, and racial conservatives began to campaign on the connection between crime and civil rights legislation.⁷⁴⁹ Without a mechanism through which Southern states could channel

⁷⁴⁶ Ibid, 329, 334 – 339.

⁷⁴⁷ William L. Clay, *Bill Clay: A Political Voice at the Grass Roots* (Missouri History Museum, 2004).

⁷⁴⁸ E. C. Foster, “A Time of Challenge: Afro-Mississippi Political Developments Since 1965,” *The Journal of Negro History* 68, no. 2 (1983): 185–200, <https://doi.org/10.2307/2717721>.

⁷⁴⁹ Vesla M. Weaver, “Frontlash: Race and the Development of Punitive Crime Policy,” *Studies in American Political Development* 21, no. 2 (ed 2007): 230–65, <https://doi.org/10.1017/S0898588X07000211>; Michael Flamm, *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s* (New York, NY: Columbia University Press, 2007).

violence, Southern incentive to oppose the expansion of law enforcement capacity disappeared.

CHAPTER 9 – Analysis and Conclusion

I have argued that state response to mob violence is conditioned by **variety of nationalism, returns to violence, and salience of legitimacy**. Mob violence is both materially and reputationally costly, and as a consequence, most governments respond to mob violence most of the time. However, there are exceptions. When mob violence serves to advance political goals in ethnonationalist governments, those governments are more likely to overlook the costs of mob violence and tolerate its perpetration.

However, the returns to mob violence that incentivize a given level of government to tolerate it are usually enjoyed only by the local level of government, while the reputational costs of mob violence are shared among the local government and its affiliated supra-local counterparts. When a local ethnonationalist government tolerates mob violence, supra-local branches of government may respond by expanding their capacity to enforce the law in the ethnonationalist jurisdiction, although this effort will be resisted by the representatives of the local ethnonationalist government who wish to preserve their capacity to use violence.

Through the immediate response to mob violence in local governments with civic nationalist ideology, and the delayed response to mob violence in state and federal governments when ethnonationalist states tolerate violence, law enforcement capacity expands.

In the primary testing cases advanced in my dissertation, I examined six cases of mob violence, three of which occurred during the civil rights era and three of which

occurred during the “Red Summer” of 1919. One of these, the 1919 riot in Chicago, occurred in a civic nationalist jurisdiction, while the other five occurred in ethnonationalist jurisdictions. Three of the ethnonationalist mobs, those in Tuscaloosa, Little Rock, and Ellisville, had high returns to violence, while the other two, which took place in Clinton and Omaha, had low returns to violence.

In total, these cases represent all combinations of levels of my independent and dependent variables, as is shown in Figure 15. This design follows a logic of diverse case selection with an intent to maximize variance among values of nationalism, returns to violence, salience of legitimacy, and response to mob violence. These cases failed to disconfirm my theory’s predictions.

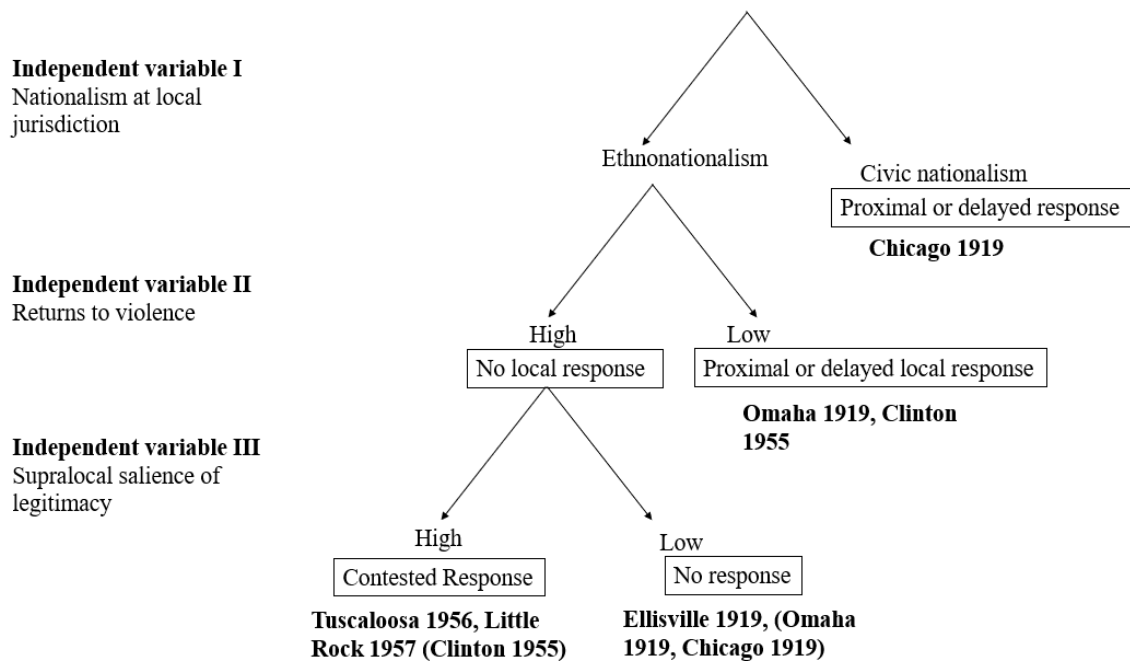


Figure 15 Variable Map for Diverse Test

Both in cases where the salience of legitimacy was high and in cases when the salience of legitimacy was low, federal policy makers described the failure to suppress violence as problematic for America's foreign policy. During the Eisenhower Administration, the federal enforcement of civil rights law was justified through appeals to the damage unchecked mob violence inflicted on America's Cold War agenda. Although Congressional representatives in 1919 also evinced a concern with the reputational damage of legitimacy, racial violence was less unusual then than it would be 40 years later, and America was less concerned with its foreign policy then than it was in 1957. At the sub-national level, government officials from local, state, and federal government made speeches and introduced policies suggesting the importance of

legitimacy as a consideration in suppressing violence, but the discussion of legitimacy as a reason to suppress violence was most intense at the federal level, as my theory predicts.

In ethnonationalist jurisdictions where the returns to violence were high, local authorities were far more conspicuous in their toleration of violence, and in their signaling that violence would be tolerated if there were violations of segregationist norms, while *even* in ethnonationalist jurisdictions, when returns to violence were low, cities mounted some attempt at suppressing mobs. Moreover, even in civic nationalist jurisdictions, the individuals who sought to justify mob violence typically did so by appeals to ethnonationalism.

In addition to the main findings of my dissertation, which show that governments are more likely to dispatch law enforcement to respond to violence, or expand their capacity to respond to violence, if they are civic nationalist, or if they are ethnonationalist and have low returns to violence, my research also suggests the circumstances during which supralocal governments are likely to expand their law enforcement capacity. When ethnonationalist governments tolerate mob violence, it creates incentives at the supralocal level to expand the state's law enforcement capacity. This response will necessarily threaten the autonomy of ethnonationalist governments to preserve ethnic hierarchy, and so will be resisted by the agents of ethnonationalist local governments. This resistance is more likely to be overcome when the costs of the illegitimacy produced by mob violence are high. That occurs when states have greater need for their legitimacy, such as when they are attempting to influence international actors over whom the state cannot exert coercive force. In the American context, this theory can explain the introduction of Anti-

Lynching Bills in 1919 and also Congress' failure to pass a civil rights law enforcement bill until 1957. It can also explain why ethnonationalist state governments evinced concern with the reputational costs of lynching and took actions to prevent or head off future lynchings: when state governments' legitimacy is damaged, it increases the chances that they will lose a Congressional fight over alternative legislation that would intervene in their domestic affairs, potentially undermining ethnonationalism.

This research, like most social science, is incomplete. In the rest of this chapter, I will describe the implications of this research for scholarship on American political development, collective violence, and nationalism, the implications of my research for policy discussions, and gaps and weaknesses in this dissertation that can be addressed in future research.

Implications for Scholarship

The primary contribution of this research is demonstrating a novel causal pathway for the growth of American law enforcement capacity. The current state of the literature regarding the origins of mass incarceration and the American police state emphasize the role of the state's coercive apparatus as a tool to oppress Black Americans.⁷⁵⁰ This research often claims that the link between crime and civil rights was forged in the 1960s in order to justify the expansion of America's police state and law enforcement capacity. For example, Vesla Weaver argues that the "early" crime/civil rights linkages made by conservatives pivoted around efforts to (1) criminalize activities related to civil rights

⁷⁵⁰ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2012); Loic Wacquant, "Deadly Symbiosis: When Ghetto and Prison Meet and Mesh," *Punishment & Society* 3, no. 1 (2001); David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society*, 1st edition (Chicago: University of Chicago Press, 2002);

reforms or (2) argue against expanding civil rights legislation on the grounds that increased equality would lead to increased crime.⁷⁵¹ Similarly, Katherine Beckett writes, “In the years following the Supreme Court’s 1954 *Brown v. Board of Education* decision... Crime rhetoric thus reemerged in political discourse as southern officials called for a crackdown on the “hoodlums,” “agitators,” “street mobs,” and “lawbreakers” who challenged segregation and black disenfranchisement.”⁷⁵²

This dissertation has shown that at a minimum, these assumptions need to be revisited or rescoped, if not rejected. Chapters 6, 7, 8, and 9, cover periods in which the federal government’s capacity to enforce state laws was debated. The terms of those debates were always the same: progressives sought to expand state capacity to enforce laws to protect Black Americans, while Southern conservatives resisted the passage of law enforcement laws which threatened the ability of Southern states to oppress Black Americans with violence. The Enforcement Acts, the Dyer-Anti Lynching Bill, and the Civil Rights Act of 1957 were both law enforcement bills and civil rights bills. They were considered as such by their advocates, as Neval Thomas said, “We have almost enough law in this country. What we want is enforcement of the law.”⁷⁵³

Additionally, this dissertation explores the relationship between violence and legitimacy, two foundational attributes of all states, and as an extension all politics in the modern era. This dissertation has shown that violence and legitimacy trade-off. Violence

⁷⁵¹ Weaver 240 – 242.

⁷⁵² Katherine Beckett, *Making Crime Pay: Law and Order in Contemporary American Politics*, Revised edition (New York: Oxford University Press, 1999), 30.

⁷⁵³ Thomas, 1920. Quoted in United States Congress House Committee on the Judiciary, *Part 1. Segregation. Part 2. Anti-Lynching: Hearings ... on H.J. Res. 75; H.R. 259, 4123, and 11873*, 1920, 10.

is a fungible resource. It can be deployed quickly and if an actor has the power, can be used independent any legal framework which extends rights or protections. At the same time, a state which uses violence has a less fungible form of legitimacy. Violence is always a means to an end, and the more a jurisdiction relies on violence, the fewer people will be interested in adopting its system of government.

The tradeoff between these two fungibilities is the basic mechanism that drives both toleration of mob violence and expansion of law enforcement apparatuses in America. As violence is used to achieve policy ends, it damages the legitimacy of supralocal governments, which are then pressured to expand their capacity to enforce local laws. This theoretical framework may be applicable to other situations in which layered authority grants sub-governmental or sub-organizational entities authority to implement policy which has bearing on organizational reputation, such as troop behavior in multi-national military coalitions and supra-governmental organizations like the EU.

Additionally, it implies that legitimacy as a desirable property for governments should be given more credence by scholars who typically focus only on power. The competing explanations for state response to violence focus narrowly on power competition between groups as reflected through either political parties, racial groups, or class interests. Similarly, many theories of international conflict focus narrowly on state capacity and information.⁷⁵⁴ My dissertation has also shown that actors are very concerned with their general reputation, not just their relative power. Through the

⁷⁵⁴ John J. Mearsheimer, *The Tragedy of Great Power Politics* (W. W. Norton & Company, 2001); Kenneth N. Waltz, *Theory of International Politics* (McGraw-Hill, 1979).

previous case studies, I have shown that actors often defend unpopular groups against violence when they have nothing material to gain, at times at the risk of their lives, as was the case in Omaha in 1919, or the careers, as was the case in Tuscaloosa in 1956. One explanation for this behavior suggested by my case studies is that legitimacy is important for many policy goals that cannot be achieved through coercion alone, and states are wary of pursuing a course of action (like tolerating lynching) that would destroy their legitimacy.

That legitimacy is important as a source of state capacity in itself can be seen by the push among Southern states to expand local anti-lynching capacity in 1919, which they hoped would fend off an expansion of federal law enforcement, while opposing federal expansion of law enforcement for the same reason. The ultimate goal for these actors was maintaining ethnonationalism, which was a locally popular but (increasingly) nationally unpopular system of government. This task demanded seemingly paradoxical behavior of Southern lawmakers, who found themselves advocating for weaker federal law enforcement capacity and stronger local law enforcement capacity at the same time. The former was intended to deny protection to Black Americans, and the latter to extend protection to Black Americans. This was a gamble: Southerners believed that they could extend a more conditional form of protection that would not ultimately threaten the autonomy of the Democratic party to uphold segregation, and which might satisfy reformers.

Implications

There are two primary contributions that this dissertation makes to contemporary discussions about American politics, both take the form of cautionary tales.

The first is that law enforcement apparatuses which are created to protect a group can be coopted to oppress that group. I am not the only person to observe that American criminal justice systems which were created for reasons other than racial oppression were later used for racially repressive purposes.⁷⁵⁵ Well intentioned civil rights advocates in the 1950s trailblazed a system for federal intervention into criminal justice policy for the very good and reasonable purpose of enforcing civil rights law. That system would eventually be manipulated to oppress Black Americans, to devastating effect. Advocates of using harsher punishments or an expanded federal law enforcement bureaucracy to advance social justice today should take notice: systems of punishment created for one purpose can be repurposed for others.⁷⁵⁶

The second contribution that my dissertation makes is implied by the interplay between violence and legitimacy. Violence always harms the legitimacy of the movements that deploy it. America was a deeply and growingly racist country in 1920. Many of the nation's housing covenants and school segregation practices emerged in the early 20th century. They were not simply holdovers from a more racist time. Why did the 1920s, which saw the growth of these covenants also enjoy a profusion of civil rights

⁷⁵⁵ Naomi Murakawa, *The First Civil Right: How Liberals Built Prison America*, 1st edition (Oxford; New York: Oxford University Press, 2014).

⁷⁵⁶ "The Paradox of 'Progressive Prosecution,'" *Harvard Law Review* 132 (December 10, 2018); Hadar Aviram, "Progressive Punitivism: Notes on the Use of Punitive Social Control to Advance Social Justice Ends," *Buffalo Law Review* 68, no. 1 (January 2020).

victories? Why did response to racist practices increase just as racism intensified? Part of the answer is that the formation of the NAACP and other advocacy groups increased the civil rights movement's organizing capacity. Another answer is that the measures of racism which I referenced above were consequences of greater social contact in the North between white and Black Americans because of the Great Migration, and so perhaps racism was not intensifying, but racial contact was.

However, although not the direct object of the research in this dissertation, the previous case studies have shown that increased knowledge of the violence of Southern racists transformed the urgency of the civil rights movement in the minds of Northerners. Segregation proper did not bother them, in general, Northern whites were becoming more like their Southern counterparts in terms of acceptance and promotion of racist policies as the years went on. What was really unique about the year 1919 was the wide publication of mass lynchings in the news. The northern public became aware of the horrors of Southern lynchings and the day-to-day terror experienced by Black Americans at the hands of Southern whites. This violence made the entire project of White Supremacy appear unjustifiable.

The New Orleans and Memphis mobs were the nail in the coffin for Presidential Reconstruction not because they revealed the intensity of Southern racism, which was already obvious, but because they revealed the *violence* of a White Supremacist system. Complementarily, when White Supremacists sought to justify the violence of their system of government in the antebellum era, they did so by claiming that in truth, it was Northern whites who were the racist ones. This is what John Clarke meant when he said,

“I do not like the expression mob... It appears to me that it does not look well to apply it to the South; it might do very well for the North.”

Violence can destroy legitimacy. The Albany Movement, Martin Luther King Jr.’s campaign to combat segregation in Albany, Georgia, is now mostly forgotten outside of civil rights scholarship, because there was no spectacle of violence against civil rights protestors in its aftermath. In 1963, Martin Luther King’s children’s crusade called for students to march through a Birmingham policed by Bull Conner, who was generally regarded as one of the South’s most violent, racist law enforcement officers. King held months of non-violence training for SCLC volunteers who simulated reacting peacefully to taunts, aggression, and attacks. None of this was coincidence. It was an attempt by Martin Luther King to use violence to delegitimize White Supremacists. On May 3, 1963, when Bull Conner turned his hoses on peaceful protestors “the power of nonviolence became manifest... because it became evident who was the evildoer and who was the victim.”⁷⁵⁷

Violence is nearly impossible to justify, and in the cases considered in this dissertation, which span over 150 years of American history, no matter the short-term gains captured by practitioners of violence, violence came with long-term costs.

There is an increasing tendency among American progressives to abandon their commitment to non-violence. In dozens of left-leaning newspaper articles, blogs, and op-eds in the aftermath of the murder of George Floyd, Martin Luther King Jr.’s statement

⁷⁵⁷ John J. Ansbro, *Martin Luther King, Jr.: Nonviolent Strategies and Tactics for Social Change* (Madison Books, 2000), xxvi.

that “a riot is the language of the unheard,” was used as to justify protests which turned violent during the summer of 2020. Many publications wavered between denying that violence was happening during the protests, or when acknowledging that it occurred, claiming that critiques of violence were unethical appeals to white comfort in the face of injustice experienced by Black Americans.⁷⁵⁸

Martin Luther King’s speech, which was given after the Watts riots in 1965 to a primarily white audience, did not condone violence or advocate for it, but sought to explain it to an audience member, who asked why violence was occurring. In his own advocacy, and as is evidenced by the consequences of his assassination, violence was shown to be a self-defeating strategy. Policymakers who seek to advance racial justice through apologism for violent protests of inequality are likely to harm their movements more than they help them. Violence may be understandable, but it will always degrade the legitimacy of a movement which condones it.

Further Research

This project can be improved in many ways. The independent variable **returns to violence** is an agglomeration of other independent variables which relate both to inter-group dynamics as well as the politico-legal structure in which a given government is

⁷⁵⁸ Lily Rothman, “What Martin Luther King Jr Really Thought About Riots,” *Time*, April 2015, <https://time.com/3838515/baltimore-riots-language-unheard-quote/>; Peter Weber, “‘A Riot Is the Language of the Unheard,’ Martin Luther King Jr. Explained 53 Years Ago,” *The Week*, May 29, 2020, <https://theweek.com/speedreads/917022/riot-language-unheard-martin-luther-king-jr-explained-53-years-ago>; Christina Maxouris, Jason Hanna, and Steve Almasy, “Prosecutors Do Not Announce Charges in George Floyd’s Death but Say ‘Justice Will Be Served,’” May 29, 2020, <https://edition.cnn.com/2020/05/28/us/minneapolis-george-floyd-thursday/index.html?sr=twCNN052820minneapolis-george-floyd-thursday1124PMVODtop>; Audra D. S. Burch et al., “The Death of George Floyd Reignited a Movement. What Happens Now?,” *The New York Times*, April 21, 2021, sec. U.S., <https://www.nytimes.com/2021/04/20/us/george-floyd-protests-police-reform.html>.

making decisions. Greater testing is required to identify whether ethnic-competition or absence of legal alternatives to violence matter independent each other. Similarly, **variety of nationalism** could be enriched by formalizing non-ethnonationalist local varieties of nationalism rather than treating them as a reference variable for ethnonationalism. Greater conceptual clarification of this variable may improve theoretical scope conditions and applicability.

This is particular notable for cases of mob violence which are unrelated to ethnic violence. At some point in the research process, I excluded cases of mob violence that had no relationship to ethnic competition or racism. Mobs targeted labor organizers, gambling dens, tippling houses, bars, and brothels throughout the 19th and 20th centuries. If there are unique pressures in civic nationalist governments to provide protection from mob violence, then civic nationalist governments should still have a greater propensity to respond to these mobs relative to ethnonationalist governments, even if the mobs are not targeting an ethnic minority or an institution that works against ethnonationalist projects. The reasoning for an intrinsic anti-violent propensity would be justified by the ideological characteristics of civic national governments and may require decomposing “civic nationalism” into a more granular scheme for classifying American political traditions.⁷⁵⁹

In the final version of my dissertation, I cut several cases of mob violence where the perpetrators of the mob were ethnic minorities. These cases seldom had interesting

⁷⁵⁹ Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven and London: Yale University Press, 1999); Rogers M. Smith, “Beyond Tocqueville, Myrdal, and Hartz: The Multiple Traditions in America,” *American Political Science Review* 87, no. 3 (September 1993): 549–66, <https://doi.org/10.2307/2938735>.

variation in outcomes and appeared to be unrelated to my theoretical approach. However, in researching shadow cases during the later civil rights era, it appeared that although all cities responded to mobbing and rioting done by ethnic minorities, some cities responded with much greater violence than others. I believe that this is a fruitful avenue for further research, and I hope to later piece together the cases that were rejected from my dissertation into a consideration of variation in response to mob violence when mobs are not members of an ethnic majority group.

Additionally, while conducting my research, I observed that wartime conditions create several causal pathways that lead to riots or mobs. Those pathways include: (1) *Mobilization* of an army or movement of troops, which can transform an underdeveloped state's ability to respond to riot, if militias are key to riot response; (2) *Ethnic empowerment* – as soldiers from minority groups gain training and resources, they become more able to respond to prejudice and gain a greater sense of efficacy, which can correspondingly generate reprisal from ethnonationalists who seek to degrade ethnic minority autonomy; (3) *Nationalism salience* –war heightens feelings of national pride and can emphasize divisions between ethnic groups, which can lead to the targeting of ethnic groups with ties to the state with which the home country is at war; (4) *Call to arms* – war demands that soldiers fight, which lowers a soldier's threshold for violent resistance to the state if the alternative is dying in war, which can encourage rioting among those who do not wish to join the army; (5) *Geographic displacement* – the basing of soldiers in disparate regions across the country makes riots more likely among groups who are unfamiliar with local cultural norms, or with the expectations of soldiers.

As far as I am aware, there is not a literature that typologizes these pathways or tests my empirical observation that mobs are more likely during wartime. I would like to research how warfare and rioting interact as an extension of my research project's broader interest in how foreign affairs inform state incentive to respond to mob violence.

This project suffers from many methodological limitations. Conducting case studies in multiple cities resulted in less empirical rigor than I had hoped for at the outset of research. Adding archival data could improve the quality of my research. Similarly, my inability to access adequate archival materials led me to relegate the antebellum era and Reconstruction era to exploratory cases and to rely on the early civil rights era, which has greater coverage in the broader secondary literature, for theory testing. Further archival research may allow me to incorporate some of the cases from the 19th century as tests of my theory.

At various times while conducting this research I sought to find ways to test my theory quantitatively. The simplest test for the claim that ethnonationalists were opponents of law enforcement expansion is an analysis of roll call and congressional bill datasets. Unfortunately, extant datasets treat anti-lynching bills and criminal justice bills as belonging to the same category of legislation as other civil rights bills. Recoding a dataset of law enforcement bills alone would allow me to test whether ethnonationalist representatives voted against law enforcement bills in the way my case studies imply.

Although my theory in its current form is only considered in an American context, its observations are generalizable to other countries with a federalized government and ethnic competition. In the future, I would like to apply my research to cases in Russia,

China, and the United Kingdom. My project in its current form is a first step toward a broader exploration of violence and state policy. Violence is understood to be a very low gear in the workings of modern states, yet in many academic treatments of state behavior, violence that is not targeted at the state itself is treated as a fluke of insufficient state development or administrative incompetence. In this dissertation I have sought to show that this is a mistake. The toleration of violence is an intentional, programmatic element of sub-state actors who lack alternatives to accomplishing their goals. Especially in the context of supposedly race-neutral administrative machinery, we may improve our understanding of American politics by paying more attention to the toleration of violence.

BIOGRAPHY

Adam Bernbaum graduated from the University of Washington with a Bachelor of Arts in Political Science in 2012. He received a PhD in Political Science from George Mason University in 2022. While finishing his dissertation, he worked as a policy analyst for the Council for Court Excellence. He currently lives in Belfair, Washington with his partner Hannah.