

Protest Policy Literature Review

There are many contextual factors affecting the current Tennessee policy of protest restrictions. It is essential to review both historical and current policies, key figures, theoretical and political forces, and societal views on protesting. Equally important is to research target populations that often suffer the most from laws restricting human rights in society.

Historical American Protests

Protesting has long been a part of American culture. Protest raises awareness and education on critical issues, oppression, and social injustice (Janowiecki, n.d.). Dudenhoefer (2020) reviews the major American historical protests and positive social change that resulted. The Boston Tea Party was one of the first significant protests. Colonists protested against the British government's unfair taxation without representation, resulting in independence for the United States. The Women's Suffrage Movement eventually helped create the 19th Amendment, allowing women the right to vote. The March on Washington led to the Civil Rights Act of 1964, and with the help of the Selma-to-Montgomery March, the Voting Rights Act of 1965 was enacted. The Stonewall Riots is also notorious for being a leading protest in change and advocacy for Lesbian, Gay, Bisexual, Transexual, and Queer (LGBTQ) rights (Dudenhoefer, 2020).

History of Police Violence, Racism, and Protests

Sugrue (2020) examines the deep roots of protest, violence, massacres, and tensions between the police and African Americans. He proposes three major waves of U.S. protest. The first wave, the Red Summer of 1919, followed World War I. It included the Great Migration, in which a large number of African Americans moved north to escape the Confederacy's violence.

In 1921, the Black Wall Street in Tulsa, Oklahoma, killed hundreds and resulted in homelessness for most of the city's black population.

The Second Wave occurred during the Depression and World War II (Sugrue, 2020). This wave showed an increase in black political organization. In 1941, President Franklin Roosevelt signed the Committee on Fair Employment Practices, a bill to prevent discrimination in defense and government jobs. He signed only after learning about the strategically organized March on Washington (Sugrue, 2020). This period saw an increased amount of peaceful and violent protests that snowballed nationwide after a white police officer shot Private Robert Bandy, an African American soldier in 1943 (Sugrue, 2020).

The Civil Rights Movement in the 1960s created the third wave. Grassroots organizations protested racial segregation and employment, housing, and transportation discrimination. Martin Luther King was a prominent figure of this era, promoting peaceful protests. Once police started unleashing guard dogs and fire hoses on peaceful protestors, some demonstrations turned violent in retaliation. Sugrue (2020) explains how whites instigated many of the violent protests. Furthermore, white police officers would regularly beat and shoot protestors in the street. These violent and racist actions were praised and encouraged by high political power, including the soon to be elected, President Richard Nixon.

Reflecting on the nation's roots of racism and inequality is necessary to understand the current tensions in the U.S fully. The American Constitution initially deemed Black people as only three-fifths human beings (Robinson, 2019). After the Civil War, slavery became illegal except as a punishment for crime and citizenship was established. Black men were then allowed to vote and serve political positions. Robinson (2020) notes America responded with the "Black Codes", laws that criminalized Black life. This manipulation of the new legal system started the

increased Black prisoner population (Robinson, 2019). Disenfranchised laws created during this period also stripped voting rights.

Historical Reactions and Restrictions to Protest

Attempts to restrict and silence protestors have roots in American history as far back as the colonization days. Some colonial codes enacted in 1690 applied to only African Americans and Native Americans (Petrella, 2020). These policies forbid Americans of color to be out past a certain time of the day without documentation of approval from their owners. These policies granted selective access and power to only some Americans in a response to an emerging racial order. American curfew laws continued to suppress the political and physical actions of Black Americans through the 1920's. These laws aimed to survey, control, and criminalize Americans of color. Throughout history, the government has resorted to curfew laws in a direct response to Black Americans showing effort to organize in efforts to empower themselves or practice freedom of speech (Petrella, 2020).

The United States had a history of disapproving of the Civil Rights Movement and protest demonstrations (Izadi, 2020). One strong example of this is the racial majority's reaction to the Freedom Riders during the Civil Rights Movement. Although the demonstrations during this period are now regarded as major historical movements, these protestors were not greeted with respect or regard during this period. Many Americans felt protesting would not help, but hurt Black Americans during the Civil Rights Movement (Izadi, 2020). The Freedom Riders that protested transportation segregation by sitting on buses meant for only white Americans were regularly attacked and beaten. On May 14, 1961, an angry mob of white Americans violently attacked Black passengers and the bus in Alabama (Holmes, 2009). The Alabama police did not provide any protection during this attack. The Freedom Riders, as well as other Civil Rights

activists, endured many attacks in different states during this period. Some lost their lives and many severely injured (Holmes, 2009).

Janowiecki (n.d.) reviewed past policy attempts to regulate or decrease public protests. Some American cities have tried to require local permits and ordinance restrictions for protest gatherings. Janowiecki points out how some local governments will misuse and manipulate the permit requirements to discriminate against unwanted groups from collectively gathering. This discrimination was prominent during the Civil Rights Movement when many peaceful Black protests were refused government permits. Without granted permits, many protesters during this era were arrested (Janowiecki, n.d.).

Many Freedom Riders and other Civil Rights activists of this time went on to be teachers, lawyers, ministers, politicians, and journalists (Izadi, 2019). Some continue to practice civil disobedience today to bring awareness to the discrimination and racism that continues to exist in the country. During interviews, some protestors explain they were not trying to conduct criminal activity, but simply fighting for their rights as American citizens and the rights of future generations (Izadi, 2019).

Current American Protests

Police brutality, racism, and protest continue to be relevant in today's time. After the Civil Rights Movement, protests were more isolated until multiple police officers were caught on video beating Rodney King in 1991 (Sugrue, 2020). Soon after, Los Angeles became engulfed in mass protests and uproar after the police officers were acquitted (Sugrue, 1991).

More recently, the Black Lives Matter (BLM) movement was created in 2013 by three Black women in response to the killing of Trayvon Martin and the injustice still haunting Black

Americans (BLM, n.d.). Trayvon Martin was an African American teenager killed by George Zimmerman, who was eventually acquitted.

In the first eight months alone of 2020, 164 Black Americans were killed by active police officers (*CBS News*, 2020). One of the most notorious of these deaths was George Floyd. In May 2020, George Floyd was handcuffed and pinned to the ground while a white police officer knelt on his neck for an estimated seven to eight minutes (Taylor, 2020). Despite pleading for help, telling the officer that he could not breathe, and calling out for his mother, Floyd became another police brutality victim. The entire incident was filmed and posted on the internet, giving the world a chance to see the injustice and brutality first-hand. American citizens instantly took to the streets to publicly protest their outrage over Floyd's death and the injustice Black Americans regularly experience by police and society (Taylor, 2020).

Tennessee Protest

Tennessee citizens also joined in the protests of 2020. Soon after Floyd's death, protestors in numerous cities flocked to the streets. Many also protested night and day continuously for months at the Tennessee State Capitol building in Nashville (Sadler, 2020). A massive Juneteenth celebration was also held in the Tennessee State Capitol area, with poetry readings, songs, marches, and chanting (Hineman, 2020). The crowds celebrated Juneteenth, a holiday commemorating the end of slavery in the U.S. In response to the recent Tennessee protests, Governor Lee signed HB 8005 into legislation, enforcing a felony charge for camping overnight on state property and increasing other protest-related penalties (Elfrink, 2020).

Current Policy Attempts to Restrict Protest

Tennessee is not alone in its attempts to create new bills and laws concerning protests. The U.S. Law Tracker (2020) shows that from 2016 to 2020, 133 state and federal bills have

been made with 40 states considering policy implementation concerning protest-related activity, including traffic obstruction, vandalism, and wearing masks during protest (International Center for Non-profit Law, 2020). Florida, Minnesota, Mississippi, North Dakota, South Dakota, Washington, and Tennessee have all tried to pass laws increasing criminal consequences for obstruction of traffic during protest and some even freeing liability to motorists that injure or run over protestors (Ingraham, 2017). Missouri has tried to pass a law making it illegal for protestors to wear masks, robes, or any disguises (Ingraham, 2017). These are only some examples of the many ways states are attempting to restrict protest and freedom of speech in America. Many Republican legislators are sponsoring and supporting these bills on the basis that there needs to be an improvement of public safety (Ingraham, 2017). Democratic legislators that oppose these attempts to increase legal penalties for protest-related activity claim that laws already exist to punish criminal behavior and there is no need to create additional ones focusing on protest since it seems a tactic to silence freedom of speech and right to peacefully assemble (Ingraham, 2017).

Haynes (2020) discusses how the Tennessee Protest Law, heavily supported by Republican politicians, is simply another attempt in a long history for the white majority to hold all of the power and prevent change in Tennessee's discriminatory legislation. Haynes further discusses that the current Tennessee criminal system manipulates political power and targets the Black population's prosecution.

Some Tennessee legislators disagreed with the severity of the penalties imposed by the Tennessee Protest Law and raised questions of how the law may affect citizens that are not participating in protest, including families camping or having a picnic on state property or the homeless population (Allison, 2020). Republican Senator sponsors of the bill include Johnson, Bailey, Jackson, Stevens, Bowling, Reeves, Yager, Gardenhire, Rose, and Gresham. Republican

legislators in approval of the law claim it is needed to increase safety for the public and first responders (Allison, 2020). Democrat Representative John DeBarry approved of the law and received applause from Republican legislatures after a passionate speech in favor of the bill (Allison, 2020). Democrat Representative Johnny Shaw was initially showing approval of the Tennessee Protest Law, but ultimately voted against it. Republican Senator Steve Dickerson was the only GOP member that opposed the law (Allison, 2020).

Governor Lee's office raised concerns on these harsh legal consequences of felony convictions, as it contradicts some of his current criminal justice reform goals. The National Association for the Advancement of Colored People (NAACP) urged Governor Lee to veto the bill because of these contradictions causing more opportunities for convicted felons in Tennessee (Christen, 2020). Democratic representatives acknowledged that the new law seemed to communicate that the Tennessee government was not worried about recent protests of White Americans carrying automatic weapons. Instead, they are more focused on restricting the mostly peaceful Black Lives Matter protests that have consumed the State Capitol building (Christen, 2020). Ultimately, the Tennessee Protest Law was passed in August 2020.

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