Evaluating Legality: Toward a Cultural Approach to the Study of Law and Social Change

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The role of law in social change has been a subject of many academic debates. However, not much attention has been given to the contradictory ways in which activists for social change justify or criticize the use of law. Drawing on in-depth interviews with 25 social justice activists, I analyze the ways in which activists evaluate the role of law in social change. I find that activists invoke three distinct schemas of evaluation: instrumental, political, and cultural. The instrumental schema emphasizes change in the allocation of concrete resources; the political schema views change as the empowerment of marginalized communities; and the cultural schema emphasizes the transformation of assumptions that are shared by all members of society. Each schema provides activists with a particular order of justification that enables them to justify or to criticize the role of law in social change. While the multiplicity of schemas sustains the commonsense notion of law as a means for social change, it also accounts for possible changes in this notion.

Introduction

Does law matter for progressive social change? Can social movements use legal tactics to promote social justice? These questions have been of great concern for sociolegal scholars in the past decades. Some studies of the effects of law on social change have tended toward a critical view of law, arguing that legal tactics are usually futile in bringing about meaningful social reform

(Rosenberg 1991). Reacting against this critical view of law, other studies have suggested broadening the definition of law to include the meanings that activists who participate in legal campaigns assign to legal norms. Based on this redefinition of law, scholars have argued that legal tactics may indirectly empower social movements and provide leverage for political mobilization (McCann 1994; Silverstein 1996). However, both perspectives on law and social change do not explore systematically the ways in which social justice activists conceptualize *social change* and the extent to which this conceptualization shapes their understanding of the role of *law* in social change. In other words, the current literature does not give us a good account of how culture works in the interaction between law and activism for social reform.

To study how the culture of law and activism works in action, I have conducted interviews with 25 social justice activists, all of whom work primarily on issues of educational justice. These interviews allow me to analyze the various ways in which social justice activists understand the relationships between law and activism. I find that activists express a variety of views about the role of law in promoting or preventing social change. At face value, these views seem chaotic. A closer analysis, however, reveals that ideas about the role of law in social change are justified based on three distinct cultural schemas: instrumental, political, and cultural. Each schema represents a different way of understanding activism for social change. The instrumental schema emphasizes the need of marginalized people to have concrete resources such as jobs, health care, and quality education. The political schema emphasizes the need of marginalized people to be empowered, united, and politically mobilized. The cultural schema emphasizes the need to transform the taken-for-granted assumptions that are shared by all members of society.

Each schema provides activists with a particular rhetoric, or "order of justification" (Boltanski & Thévenot 1991), which enables them to evaluate the role of law in social change. Under each schema, activists may praise or criticize the role of law, but their mode of justification is different in each schema. The various academic accounts on law and social change tend to ignore this complexity, and therefore, each of these accounts provides us with only a partial understanding of the relationships between law and social change. The model that I present in this article attempts to present the broad and complex picture of this relationship.

The proposed model views the role of law in social change as a social construct that is constantly produced and reproduced by people's actions and conversations (Ewick & Silbey 1998). Based on this theoretical approach, this model provides an explanation for

the continuing use of legal tactics in struggles for social change despite the general belief in their limited capacity to change society. It suggests that the contradictions between the schemas and within each schema sustain the idea that law is a means for social change. At the same time, this model also shows how the multiplicity of schemas creates spaces for transcending this idea.

Toward a Cultural Analysis of Law and Activism

The law and society movement is often associated with questioning the assumptions of legal liberalism and exposing gaps between these assumptions and the operation of law in reality. One of the central assumptions of legal liberalism is the idea that marginalized groups, struggling for social justice, can rely on legal norms and tactics in attempting to promote social reform (Kalman 1996). A famous reaction against this assumption is Scheingold's work on *The Politics of Rights* (1974). According to Scheingold, the belief in the ability of law (and especially litigation) to bring about meaningful social change is "a myth." In reality, he argues, legal norms and tactics are closely linked to prevalent hegemonic political culture and are therefore highly limited in their capacity to promote significant social reform. Rejecting the "myth of rights" and adopting the more realistic understanding of "the politics of rights," Scheingold urges viewing rights as resources for political mobilization rather than as ends in themselves. Yet even through the lens of "the politics of rights," Scheingold's overall conclusion is rather skeptical with respect to the capacity of legal strategies to alter the balance of power in society and to bring about meaningful change.

Following Scheingold's argument on the "myth of rights," several empirical studies were conducted to explore whether specific litigation campaigns had been successful in promoting social reform. Focusing primarily on the direct effects of legal tactics, many of these studies revealed a substantial gap between the promises of rights litigation and its minimal impact in reality. In his well-cited book *The Hollow Hope* (1991), Rosenberg concludes that major litigation campaigns for school desegregation, abortion rights, and environmental justice failed to produce significant social reform. According to Rosenberg, some of these campaigns even had negative effects on social movements, as they led to backlash reactions and the rise of reactionary social movements.[1] Other studies of the impact of litigation campaigns conclude with similarly pessimistic accounts of the fate of legal

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[1] For a critique of Rosenberg's findings and conclusions, see McCann (1992) and Feeley (1992). For Rosenberg's reply to this critique, see Rosenberg (1992). See also Canon and Johnson (1999).

tactics as a tool for social reform (Johnson & Canon 1984; Becker & Feeley 1973).[2]

A second category of reaction against the "myth of rights" is more theoretical in nature. It includes studies that focus on the ideological biases of law. Those studies, often associated with Critical Legal Studies, demonstrate the extent to which legal doctrines are ideologically biased in support of status quo hierarchies (Kairys 1990; Kelman 1987). Due to this ideological bias, these studies see the use of legal norms and tactics as preventing or coopting the struggles of marginalized groups (Gabel 1982, 1984; Gabel & Kennedy 1984; Freeman 1988, 1990; Tushnet 1984; Perry 1984; Lynd 1984; Tigar 1984).[3] Both bodies of literature mentioned above—the empirical studies of judicial impact and the theoretical critique of legal ideology—share the idea that rights rhetoric and practice are generally futile, if not harmful, for progressive social reform.

However, recent work on law and social change tempers this generalized assault on rights and provides a more complex and nuanced description of the interplay between rights, political mobilization, and social change. Following Scheingold's "politics of rights" (1974), McCann's study of the pay equity movement (1994) finds that legal norms and tactics have had a rather positive effect on the movement. To understand this positive effect of law, McCann proposes that scholars re-envision law as including more than formal legal norms or institutions. Drawing on legal consciousness literature, he suggests that law should be understood as including the meanings that movement activists who use legal tactics assign to legal norms while participating in legal processes. Thus, while actual court decisions may have minimal effect on progressive social reform, McCann's model—to which he refers as the "legal mobilization model"—suggests that participation in legal processes may have positive effects on social movement mobilization. Based on this model, McCann finds that the use of legal tactics by the pay equity movement has been valuable for elevating rights claims and thus for mobilizing the movement. In particular, he finds that:

> Movement leaders effectively used successful legal actions—despite their doctrinal limitations—to organize women workers in

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[2] Studies that focus on the mobilization of rights by individuals (as opposed to social movements) also demonstrate the existence of gaps between the promise of law on the books and its working in reality. For example, Galanter's famous article "Why the Haves Come Out Ahead" (1974) suggests that "the basic architecture of the legal system creates and limits the possibilities of using the system as a means of redistributive (that is, systematically equalizing) change" (1974:95).

[3] For a critique on the approach of Critical Legal Studies scholars to rights, see Williams (1987, 1991), Minow (1987), Crenshaw (1988), Milner (1989), Delgado (1987), and Matsuda (1987).

hundreds of workplaces around the nation. A massive publicity campaign focusing on court victories initially put the issue on the national agenda and alerted leaders that wage equity was "the working woman's issue of the 1980s." Lawsuits were then filed on behalf of working women as the centerpiece of a successful union and movement organizing strategy in scores of local venues around the nation . . . Sustained legal action over time worked to render employers vulnerable to challenge, to expand the resources available to working women, to provide them a unifying claim of egalitarian rights, and to increase both their confidence and sophistication in advancing those claims. (1998:86)

Based on these findings, McCann argues that sociolegal scholars should rethink their critical view of the role of law in social change. He suggests that this critical view is based on scholars' tendency to overdetermine legal norms and to identify them too narrowly with formal legal institutions. He calls for a reconceptualization of law in more relational, context-specific terms that would alter the ways of assessing the value of law in social reform. Accordingly, he argues that judicial victories may be seen as more empowering for social movements than critics often recognize. Moreover, McCann maintains that the focus on *winning* judicial remedies is highly misleading. He suggests that movements may benefit from the use of legal tactics regardless of actual success in courts due to the empowering effects of participation in legal campaigns.

Silverstein (1996) has joined McCann in reacting against the critique of rights and litigation. Her study of the animal rights movement is symbolically titled *Unleashing Rights*. She finds that the use of legal tactics and of rights rhetoric by the animal rights movement has been useful in many ways. For example, she suggests that litigation has been used to dramatize abuses of animals, to embarrass particular institutional actors, and to win favorable media attention. Silverstein concludes that despite their many constraints, both rights talk and litigation are powerful resources for those who seek widespread and subtle change, especially when used by strategically minded activists (see also McCann & Silverstein 1997).

Thus, a central finding in both McCann's and Silverstein's studies—one crucial for supporting their model—is that contrary to Scheingold's argument, activists for social change are not caught up within a mythic perception of rights and legal institutions. Activists interviewed in these studies instead express a sophisticated and disillusioned understanding of the role of law. McCann and Silverstein suggest that activists use law not out of a mythic belief in its power, but rather as an optimal strategy among "highly limited options available to them" (McCann 1998:88). This view of law

enables activists to use legal tactics strategically to promote their goals without falling into a falsely conscious perception of law and without perpetuating the hegemonic nature of legal institutions. Relying on Gramsci's theory of counterhegemony (1971) and on Hunt's interpretation of this theory (1990), McCann argues that movement activists who struggle to promote social change often have no other choice but to use *existing* institutions, since "all struggles commence on old ground" (Hunt 1990:324).

Indeed, both McCann and Silverstein are careful enough not to simply take us back to the optimistic assumptions of legal liberalism. They emphasize the hegemonic nature of legal institutions and their function of perpetuating social inequality. They suggest that "legal norms and institutions work to restrict as often as to open up opportunities for mounting challenges to dominant institutional relations" (McCann 1998:88). However, their models suggest ways of unleashing rights from the conceptual structure that both Critical Legal Studies scholars and judicial impact scholars impose on them. While unleashing rights, their models make two preliminary arguments: (1) When it comes to using legal tactics, movements' activists are strategically minded rather than actors motivated by false consciousness; and (2) The definition of law should be expanded beyond its narrow association with formal legal institutions; scholars should shift the attention from winning legal processes to actual participation in such processes. Based on these two innovative arguments, both McCann and Silverstein conclude that (1) the use of legal tactics and norms may indirectly affect social movements in positive ways; and (2) since law always matters to some extent for social change, scholars should avoid asking *whether* law matters and instead focus on *how* law matters and on the various conditions under which law empowers or constrains social movements (see Paris 2001).

While the legal mobilization model proposed by McCann and supported by Silverstein provides us with a rich and complex way of analyzing the relationship between law and social change, it still does not answer all the questions that may arise with respect to this relationship. First, their model is based on case studies in which activists actually rely on legal tactics in advancing social reform. It therefore underemphasizes many other forms of activism for social change that are not centered on legal strategies. For a more complete understanding of the relationship between law and activism, scholars need to explore the experiences and under-standings not only of activists who engage in legal tactics, but also of activists who avoid the use of legal tactics. As Ewick and Silbey suggest, "[t]o know the uses of law we need to know not only how and by whom the law is used, but also when and by whom it is not" (1992:737).

More important, my analysis goes beyond the legal mobiliza-
tion model by paying close attention to the contradictions that exist
within the legal consciousness of movement's activists. Recent work
in cultural theory suggests that culture is polysemous and often
contradictory (Sewell 1992; Swidler 2001). In other words,
individuals have different cultural schemas in their "tool kit"
(Swidler 1986), and they use them in different contexts to justify
their actions or to critique the actions of others (Boltanski &
Thévenot 1987, 1991). The *same individual* may invoke contra-
dictory understandings, values, or expectations of the same
phenomenon, depending on the situation in which he is speaking
and what he imagines accomplishing through his speech (Ewick &
Silbey 1998:51). Scholars have found the contradictory nature of
culture to be important in many areas of cultural studies, including
legal culture and legal consciousness (Ewick & Silbey 1998; Silbey
2001). While both McCann and Silverstein acknowledge that
activists' legal consciousness might be "ambiguous" (McCann
1994:304) or "dual" (Silverstein 1996:218), they do not explore
systematically the various types of cultural codes that exist in the
consciousness of movement activists, nor do they attempt to
account for this multiplicity or for its broader implications.

Third, even though the legal mobilization model broadens the
definitions of "law" and "social change," it is still based on theory-
derived definitions of these concepts. It does not seek to explore
systematically the range of meanings that activists themselves assign
to these concepts and to the relationships between them. Relying
on social movements theory (McAdam 1982, 1989), McCann views
social change mainly as the political mobilization of social movements,
disregarding other meanings of social change that activists them-
selves may bring to bear. In addition, he uses legal consciousness
theory to redefine law in a way that includes legal processes and
legal meanings besides formal legal norms. Based on this
redefinition, McCann argues that the *effects* of law on social
change might be subtle or indirect. However, recent development
in legal consciousness theory suggests that scholars should
avoid imposing definitions and instead explore the ways in which
their respondents define different concepts such as law, social
change, and the relationships between them (see Nielsen
2000:1058).

Instead of using legal consciousness theory to redefine law and
to argue that its *effects* might be subtler, this article treats the role of
law in social change as a question of legal consciousness—or, if you
will, of sociolegal consciousness. It suggests that the role of law in
social change is a social construct that is constituted by the
meanings that people assign to it in their everyday life. Based on
this theoretical rationale, I allow my respondents to define law and

social change instead of imposing on them preconceived definitions of these concepts. I ask them to describe their experiences with activism, the strategies that they use, and the role that legal strategies play, if at all, in their struggle. I let them define *law,* define *change,* and then evaluate the relationships between the two concepts and justify their evaluations. My main concern is not whether they find law useful, futile, or irrelevant, but rather how they *justify* those evaluations and how they use culture to support these evaluations.[4] This investigation provides the basis for a cultural approach to law and social change. In addition, it provides a point of reference for analyzing other sociolegal questions from this perspective of sociolegal consciousness.

Methodology

The understanding of culture outlined above is associated with certain methodological assumptions. It suggests that one of the best ways for studying the workings of culture in general and of legal culture in particular is by conducting in-depth personal interviews (Nielsen 2000:1061). While survey methodology is another way of studying culture, it is more limited in its ability to capture the richness and subtleties of culture (Swidler 2001). Survey research often focuses on people's attitudes, while the main concern of legal consciousness theory is less with conscious attitudes and more with the subtle ways in which people use culture and tie it to their experience. In other words, it is less interested in what people think and more in what they "think with" (Swidler 2001:221). Thus, to understand how people define, evaluate, and justify the role of law in activism, a researcher needs to conduct in-depth, open-ended, nonstructured, or semi-structured interviews. Only through this methodology can a researcher follow the way legal culture is expressed and used to justify action.

I conducted in-depth personal interviews with 25 social justice activists in the San Francisco Bay Area during 1999–2002. I supplemented this methodology by participating in a dozen public meetings, conferences, and speeches of social justice activists and by collecting documents and publications issued by activist organizations.[5] My focus on social justice activists derives from the research question that guides this study. As the purpose of this

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[4] For an extensive discussion of the importance of justifications in explaining social reality, see Boltanski and Thévenot (1987, 1991, 1999); Lamont and Thévenot (2000); Dodier (1993); and Wagner (1999).

[5] While these supplementary methodologies have proved useful in exploring the culture of law and activism, this article relies mainly on the primary methodology of this study, i.e., on in-depth interviews with activists.

research is to situate legal consciousness in the specific question of the relationships between law and social change, I chose to interview people to whom social change matters the most. While every member in society is likely to have an opinion on law and its relationship to social change, my concern was not with general opinions. Rather, I wished to understand how legal culture works in *action* and how it is related to experience. With this goal in mind, it only makes sense to study those who not only *think* of social change, but who actually *act* for social change.

The focus on activists has guided other sociological studies of cultural meanings. For example, in her study of the social meanings behind the abortion debate, Luker (1984) relies primarily on in-depth interviews with activists in the pro-life and pro-choice movements. Explaining this methodological choice, she suggests that "[i]f one wants to study what the pro-choice and pro-life movements *mean* to those involved in it . . . studying those most heavily involved is the way to get the 'purest' cases" (1984:250).

I focused on activists who were engaged with struggles for educational justice. Much of the sociolegal writing on law and social change has been centered on law's ability to promote change in the area of education. The focus on education is often associated with the fact that movements in the past relied extensively on legal tactics in struggles for educational equality. *Brown v. Board of Education* (1954) is perhaps one of the most famous court decisions in American history, symbolizing a joint effort by progressive movements and legal institutions to bring about social change. Other litigation campaigns for educational justice led to other favorable court decisions during the Civil Rights movement, which eventually led to the enactment of the Civil Rights Act in 1964, mandating equal access to education.

This apparent success of legal tactics in the area of educational justice has led sociolegal scholars to use this area as a case study for examining the *actual* effects of law on social change, as opposed to law's formal promise (Rosenberg 1991; McCann 1986, 1989; Sarat 1997; Davis 1997; Friedman 1997; Kateb 1997). Thus, while *Brown* has become a symbol for American values of egalitarianism and antidiscrimination, it has also become a site, at least among sociolegal scholars, for exploring and questioning the role of law in social change. Whereas this academic focus influenced my decision to study struggles for educational justice, I was less interested in the effects of past campaigns for educational equality. Rather, my concern was the ways in which activists in the *present-day* struggle for educational justice understand and negotiate the role of legal tactics in social change.

I conducted my first set of interviews with activists who were involved in a campaign to diversify school curriculum in San

Francisco in 1998. This campaign caught my attention as it seemed to symbolize contemporary struggles for educational justice, which are often struggles over educational content and not just over educational access or resources. I recruited the first interviewees in this set through newspaper articles and the rest through references from earlier interviewees, a tactic known as snowball sampling. Most activists interviewed in this first round were active in various areas of educational justice, and their participation in the multi-cultural curriculum campaign was only a small part of their broad range of activities. They also discussed activism for school funding, desegregation, and the hiring of minority teachers. In addition, they talked about struggles against standardized testing, tracking, and the biased implementation of school discipline.

This first round of interviews led to interviews with other activists for educational justice through references by interviewees as well as through a Web search of advocacy organizations in the San Francisco Bay Area. During the interviews, I learned that many of the activists were engaged in other areas of activism such as employment justice, environmental justice, police accountability, and so on. Thus, I broadened the scope of the study to include activism for racial and economic justice in general, while still maintaining a particular focus on educational justice. Therefore, I believe that the conclusions of this study, despite its primary focus on educational justice, could be generalized to other areas of progressive social activism.

Most of the participants in this study reside and work in the San Francisco Bay Area, primarily in San Francisco and Oakland.[6] The San Francisco Bay Area is often considered more politically progressive than the rest of the country. In a different type of study, this bias might lead to problems of sampling validity. However, the problem of political bias is not relevant for the purpose of this study. Since this study is a study of progressive activism, the Bay Area is in fact an ideal site for conducting such study. It often sets the tone and leads progressive activism in other places in the country. Second, the representativeness of the sample is not an issue for this research. I make no assertion about the distribution of views of law and social change within the wider American population or within the population from which my interviewees were drawn. Rather, I use interviews to explore how activists employ culture to justify their understandings of the role of law in social change.

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[6] Only one interviewee, a New York lawyer who worked on a litigation campaign for diversifying school curriculum, resides outside the Bay Area. I interviewed him on the phone. I conducted all other interviews in person.

Table 1. Basic Demographic Characteristics

Gender	Race	Age
Men (10)	Black (6)	20–29 (9)
Women (15)	White (8)	30–39 (9)
	Asian (4)	40–49 (3)
	Latino (7)	50+ (4)

Table 1 lists basic demographic characteristics of the sample included in my analysis.[7] One of the challenging issues with respect to a methodology of in-depth interviews is establishing a rapport between interviewer and interviewees that will enable interviewees to talk freely and openly about their experiences and views. This was a relatively easy task in my case. First, activists seemed to enjoy talking about their activism and about what is done and should be done for social change. It was clear that the issues that came up during the interviews were issues that activists were passionate about. Interestingly enough, many activists found the interview useful for them in the sense that it enabled them to reflect and to rethink many of their ideas about activism for social justice. Second, my own identity as a foreign student from Israel seemed to have a great advantage in creating rapport. I explained to my interviewees that my interest in studying their experiences is partly related to my wish to examine the extent to which these experiences could be applied in Israel, a country that often deals with similar problems of ethnic and economic inequalities. Activists were enthusiastic about their ability to help in this regard and were also interested in learning how their experience was similar or different from activism in Israel.

Interviews lasted between one and two hours and were tape-recorded and transcribed. The interviews involved an open-ended, semi-structured discussion about being an activist for social justice in general and for educational justice in particular. I took care not to introduce the topic of law or the use of legal strategies in activism, preferring instead to see if respondents brought it up independently. At later stages in the interview I asked more specific questions about strategic choices and, in those cases where activists had not brought the subject independently, finally brought up the issue of legal strategies. I was careful not to impose specific

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[7] As most of the participants in this study hold more than one occupational role, it is difficult to outline their distribution based on this characteristic. Many of the interviewees work for nonprofit organizations that deal with advocacy, service, community organizing, or training. Some are school teachers who advocate for educational justice independently or through their teachers' union. Others are academics who combine intellectual work with activism. Four of my interviewees are lawyers by training, but only two of them practice legal advocacy or litigation.

definitions of law or notions of social change but rather let respondents define them. In addition, instead of assuming, as many surveys do, that activists have one true opinion about law and social change, I was interested in exploring the entire range of understandings, ideas, and assumptions about law and social change that activists may bring to bear. In particular, I was interested in how activists *justify* their ideas. Thus, if an activist expressed a certain view about the role of law ("laws cannot change people's minds") I asked why and requested examples that would clarify this general statement.

This open-ended way of talking to activists about law and activism (and later of analyzing their responses) proved crucial to my efforts in obtaining rich data. It allowed me to explore the wide range of understanding that activists invoke with respect to law, social change, and the interaction between them. In the remainder of this article, I describe the results and the conclusions of this analysis.

The Culture of Activism for Social Change: Presenting the Three Schemas

> Commonsense and popular consciousness . . . contain multiple elements that "pull in contrary directions" through a series of dilemmas laid down by centuries of ideological sedimentation. (Patricia Ewick and Susan Silbey, *The Common Place of Law: Stories from Everyday Life*)

Respondents in my study express various views about the role of law and legal tactics in activism for social change. Some of them express a realistic/strategic view of legal rights, while others are highly critical about the idea of using legal rights. Some express a belief in the power of law to promote social reform while others are indifferent to the law, finding it irrelevant to their everyday efforts in bringing about social change. However, the focus of my analysis is less on the substantive views that activists express and more on the *rhetoric* that they employ to *justify* their understanding of the role of law. Based on my analysis of justifications, I find three different schemas—instrumental, political, and cultural—that activists invoke in justifying the role of law in social change. Each schema refers to a different way of understanding social injustice and the role of activism in correcting this injustice. As a result, each schema provides activists with a different grammar for evaluating the role of law in promoting or preventing social change. In this part of the article, I elaborate and demonstrate the main characteristics of each schema. In the next part, I show how each schema is invoked to evaluate the role of law.

The Instrumental Schema

Unit of Activism: Individuals' Needs

When activists invoke the instrumental schema, they talk about correcting injustice by providing individuals with their concrete needs. Such needs include jobs, health care, housing, education, language access, and others. Social power is not a major concern in this schema. Instead of focusing on the political empowerment of communities, activists emphasize the need to guarantee that members of these communities have their basic needs met. Those needs are often material in nature, they are concrete, and they are seen as basic for survival. Contrary to the cultural schema, which emphasizes the need to change assumptions that are shared by all members of society, the instrumental schema focuses on helping those who are more disadvantaged. In addition, it focuses on the concrete level of resources more than on the virtual level of thoughts, ideas, or assumptions. Consider the following quotes:

> Q: What do you think are the main problems in education?

> A: I'd say really the main problem is lack of resources. I work with poor students . . . You're supposed to take kids who are coming from poverty, have drug-addicted parents, all these things, and somehow give them the same—bring them to the same level as someone who comes from a household where there's so much support for education, tutoring, and all this other stuff. So . . . for schools to do that, we just need so many more resources (Peggy Siegel, grade-school teacher and activist for educational justice).

> A very good first step, regardless of what we've done about segregation, would be to really have equalized the funding of schools. That means equal resources to meet the challenges of the particular school in the school district. So it wouldn't just be a case that every school in the country gets the same per capita spending, but that in fact schools where the *needs* are greater, the physical plant is older and deteriorating, the *needs* of the students are greater because of other instances, in fact *need* more money (Kirsten Rosenberg, Activists Academics United).

As the second quote illustrates, activists in the instrumental schema invoke the rhetoric of needs to justify their demands. While justifying the demand to change school funding allocation, Kirsten Rosenberg argues that some schools have greater *needs* than others.

However, the instrumental schema is not limited to material problems or material demands. While employing this schema, activists acknowledge the fact that people may also have non-material *needs*. A good example of such a nonmaterial demand in the area of education is the demand for a multicultural curriculum. In justifying this demand under the instrumental schema, activists

argue that minority students *need* to have a multicultural curriculum in order to succeed in school and in future life. They maintain that because current curricula do not reflect the experiences of minority students, these students are alienated from school, and this alienation often leads to their failure or even dropping out of school. The following quotes exemplify such instrumental justifications of demands for multicultural curriculum:

> I've been doing this [activism for educational justice] since I was eighteen. Almost seventeen years now. And I've seen seventeen years of college students, and high school students, and the parents—all wanting this [multicultural curriculum]. And all attesting to how it has made a big difference. And I saw it in my own life. Because I was an English major studying nineteenth-century English writers writing about the upper-class English women. And it was very alienating to me. And when I switched over to African American studies, it was something that was more resonant and interesting to me. I was more interested, I did better, and I was more engaged (Glen Stevens, director of Social Concerns).

> There is a need to have some . . . way of insuring that, first of all, children aren't exposed to bias and racist material, at the minimum. And then secondly, more affirmatively, it would be good if education they received addressed their particular needs and interests (Miguel Paz, professor of education and an activist for multicultural education).

Thus, the boundaries of the instrumental schema are not defined by a traditional distinction between material and non-material resources. This schema includes both types of resources, as long as they are presented as something that people need.

Motivation for Activism: Serving Others

A central characteristic of the instrumental schema is the rhetoric of service. Activists often see their goal as providing services to those in need, and their motivation is based on a desire to help. They often talk about the satisfaction that they derive from helping other people to improve their lives. In the following quote, Jennifer Huang of Asians for Diversity describes her motivation to become involved in social justice activism:

> I started doing very rudimentary community work, social service work when I was in college. I joined this coed service fraternity, and we used to do a lot of community work. It was great because it wasn't your typical fraternity or sorority really. It was basically a group of people who liked to serve the community. It felt really satisfying. More satisfying than working at the Gap, or doing any type of retail business or science or anything like

that. So we would work with the elderly, the youth. So I did that all through college and I fell in love with community work in that way.

Strategies: Direct Service and Policy Advocacy

Based on this service-type of motivation, activists in the instrumental schema present a strategic perception that combines strategies of direct service and policy advocacy. By direct service, activists refer to situations in which they directly provide individuals with their needs. They may help individuals find jobs, help them build their skills, or conduct different projects in specific schools to improve services to minority students. By policy advocacy, activists refer to strategies that influence policymakers at different levels to enact policies that grant minorities specific benefits. Policy advocacy may also refer to fighting against policies that deny such benefits. In the area of educational justice, activists describe advocating for different policies that improve conditions for students of color in schools. Jennifer Huang describes the combination of direct service and policy advocacy, as it is perceived by her organization:

> We have an employment project that provides employment placement and interviews, [and] skills building for [the] hotel, janitorial, and construction industries. Within the employment project, there's also employment advocacy work that's being done to make certain that certain folks are being hired and the workforce is being diversified and multicultural. And then we have an education project that has a direct service component and an advocacy component. We have a three-way partnership to create school reform within that school . . . to create other opportunities for the student community so they would have as many advantages as possible . . . . And we also have an advocacy component, which works very closely with the San Francisco Unified School District, both the administrative stuff and the school board.

Assessing Success of Activism: Concrete Solutions to Concrete Problems

How do activists know that they are successful? What criteria do they use to measure their success? In the instrumental schema, activism is considered successful if it leads to concrete changes in specific times and places. Activists appreciate results that are short-term and that are manifested in particular places with respect to particular individuals. In addition, they attach value to changes that can be measured in objective ways. They use numbers, percentages, and other statistical types of measurement to define social problems and to propose solutions for such problems. Activists talk about the *proportion* of minority students in different schools, about

their success *rates*, expulsion *rates,* or the *number* of dollars allocated to their schools. In the following quote, Kirsten Rosenberg expresses her criticism of those who downgrade the importance of school funding. In justifying her critique, she provides evidence for the ranking of California's spending on schools compared to other state spending.

> People say you can't solve all education problems by throwing money at them. I say it would be nice to try. Let's do it first and then decide. Because, I mean, in '81 California was number one per capita spending in the country on education and now, depending on whose measure, it's like 43, 44, you know.

This quote exemplifies how injustice, under the instrumental schema, has a temporal dimension, a spatial dimension, and measurability. It is described as something that is manifested in specific time (today) that can be compared to a different time (the year 1981), and that takes place in a specific place (California) that can be compared to other places (other states). Finally, it is described numerically by stating the exact ranking of California compared to other states.

While objective measurability is an important criterion for success, activists point to the fact that such measurability is not always easy in today's reality. They suggest that in the past, when school injustices were centered on overt discrimination, injustices were more measurable. They maintain that school injustices today are often covert and harder to be objectively measured. Therefore, it is also harder to measure the success of activism. Yet under the instrumental schema, the covert nature of today's injustices does not diminish the value that is assigned to objective and scientific measurability. On the contrary, it only creates a greater challenge for activists to develop scientific techniques for measuring injustices. In the following quote, Kirsten Rosenberg talks about a computerized "report card," which was developed by her organization to assist communities in measuring the level of "institutionalized racism" in their schools. The goal of the report card is to enable communities to *prove* the existence of injustices in their schools and to specify demands for correcting them.

> Right now we're in a good campaign to push the report card out. We are giving it away free and we're seeding it in something like 20 or 30 different cities. Different community groups are going to take it and do it and then in November, we're going to have press events in all of those cities, and probably something nationally, saying, you know, we've been looking at racial justice in our schools and in all of this representative group of places in the United States, and we have a big problem here, and here are three or five proposals.

The Political Schema

Unit of Activism: Groups' Power

In the political schema, activists understand social injustice as primarily related to oppression. They emphasize the power structure and the need to struggle against this structure. Activists see power as the source of injustice and therefore as the main object to focus on in trying to cure injustice. The "enemy" involves people in power who oppress marginalized communities, and the main goal of activism is empowerment of these marginalized communities. One of the central characteristics of the political schema is the idea of "us against them." This is often presented as minorities against whites, the poor against the middle and upper classes, or progressives against conservatives. This approach involves recognizing the boundaries of a group, defining its identity, and distinguishing it from other groups. It also involves identifying the "enemy" against whom the group is fighting. As Anna Castro of the Oakland Citizens Union puts it:

> Our campaigns are always focused to culminate in some way in a direct action against a specific group—a target. And a lot of our analysis at the Oakland Citizens Union is looking at the racial dynamics.

While invoking the political schema, activists reject the rhetoric of needs as well as the rhetoric of service. They view such rhetoric as victimizing minority groups instead of empowering them. The goal of activism is to build leadership in communities of color and in poor communities and to ensure that members of these communities have more power and control over their lives. As the following quote suggests:

> We try to organize people who are working for progressive social change. People who want people to have a say in their lives and real influence, you know, have impact on their environment (Elli Smith, Youth for Change).

Earlier, we saw that when activists invoke the instrumental schema, they justify the demand for multicultural curriculum by suggesting that minority students *need* to have a curriculum that speaks to their experiences in order to succeed in school. When invoking the political schema, activists justify the same demand based on the rhetoric of power. In these moments, activists' focus is not on the needs of minority students but rather on the fact that minority communities lack power to make decisions about school curriculum. In the following quote, Bernard Roseman of Activist Academics United describes a battle against a history textbook that took place in Oakland in 1991. He explains that the Oakland community protested not so much because of the *content* of the

proposed textbook, but rather because the community wanted to have the power to make decisions about school curriculum instead of being subject to decisions made by the white, middle-class school establishment.

> He [the textbook author] came down to a citizens' meeting and he was dumbfounded. I could see it in his face. That you had people from a multicultural community who are Native Americans, who are Spanish, who are angry. And he'd say, "You know, I've been active in the Civil Rights movement, I'm a good guy, how could you . . . " He never really understood that the issue had to do with *who has the power to make the choices*. He didn't understand that. He thought it just had to do with what was in there [in the textbook]. . . . He never really grasped that the issue had to do with *power, who has the power to make the decisions*.

Motivation: Anger

When activists invoke the political schema, they often describe their motivation as related to feelings of anger. They describe past experiences that showed them the pervasiveness of social injustices, made them angry, and shaped their desire to join the struggle. They interpret injustices in their lives as oppression, and they see organizing as the solution for such oppression. Consider the following quote:

> I guess I grew up really angry at things I found around me, like the oppression that I saw. And organizing is a way that I don't feel like overwhelmed, like frustration and anger at the things that happened, because I feel that . . . doing this work, you can have an impact (Anna Castro, Oakland Citizens Union).

Others explain their motivation for organizing as rooted in a basic survival instinct. This is particularly the case with minority activists. Several minority activists describe how organizing provided them with a way of surviving in difficult environments. The following quote demonstrates this idea:

> MECHA is a statewide national student organization for Chicano and Latino students . . . . I started organizing with MECHA . . . . It was just the reality of going to [University of California at] Santa Cruz and the fact that I was the only Latina in all of my classes. It was really difficult to survive. So I really got organized on campus as a way to survive through the school. I know if I wouldn't have gotten involved in MECHA, there's no way I would have graduated. It just wouldn't have happened. A lot of it was just out of pure survival (Xiomara Silva, Social Concerns).

Strategies: Empowerment Through Organizing

In order to gain social power, activists in the political schema stress the need of disadvantaged people to be united with other

people in their community as well as with other disadvantaged communities. Therefore, the main strategy that they emphasize is organizing. They reject the focus on service or advocacy and instead stress the importance of community organizing and building grassroots power. Consider the following quote:

> There're a lot of organizations whose strategies are more advocacy or service, you know, like homeless shelters, or like job programs that help find people jobs or something like that . . . . But our ideology is that we want to build power, grassroots power in the community, we want to build the power of the people. That definitely reflects in our methods. Because we're not the kind of organization that's like "Oh, I'm going to go help you find a job," or "I'm going to advocate for you to do this," or "I'm going to file a lawsuit on your behalf." It's more like, "I'm going to give you these tools to do it yourself!" (Anna Castro, Oakland Citizens Union).

Thus, when activists invoke the political schema they mention tactics such as door knocking, marches, mass meetings, and other tactics that are designed to bring people together and to recruit new members to the movement. One of the central complaints under the political schema is that organizations are too isolated and separated from each other. Many activists view this problem as the main weakness of progressive social movements. The challenge, as they perceive it, is to bring people and organizations together and to ensure that they become familiar with each other and cooperate. The following quotes represent this strategic philosophy:

> I'm in the process of starting a new organization called Movement Strategies Center . . . . One of our main projects is to bring together leaders from different organizations and movements in particular places and regions, cities, metropolitan regions . . . to help them figure out what kinds of new institutions they can build to help further the work they are doing in their individual organizations. We're trying to get people to think outside of the context of their organization about a context of a broader movement for change (Elli Smith, Youth for Change).

> That's something that we're looking at in the Oakland Citizens Union right now. How can we work with the labor organizations? How can we work with the housing organizations, the service organizations, more effectively, to sort of confront, you know, Jerry Brown [Oakland mayor] and the common enemies that we have (Anna Castro, Oakland Citizens Union).

Success: Mass Movements

Based on the philosophy of social change described above, the success of activism in the political schema is measured by the number

of people who are recruited to the movement. Activists are proud when they report on rallies, marches, or conferences that they organize and that are able to bring together a large number of people.

> We organized the conference because we were trying to get people connected. To empower people, so we can say that we are a collective. About six hundred people showed up. And now what we're trying to do is actually to say, "Okay, this is just the first step; we have to come together; we know what the problems are, we said that so many times to each other; let's do something about it!" (Jennifer Huang, Asians for Diversity).

> I got there, and it was this march, and there were ten thousand people, and there were community people, and parents and kids and teachers, and it was really the first time I'd ever been a part of any kind of a large movement. And it amazed me not just logistically how they got everybody there, but just how everybody was on the same page in terms of the issues that people were fighting for (Xiomara Silva, Social Concerns).

To sum up, the political schema is centered on a desire to shift the power balance. It urges disadvantaged people to organize and to fight common enemies.

The Cultural Schema

Unit of Activism: Thoughts, Ideas, and Assumptions

When activists invoke the cultural schema, they view social injustice as rooted in people's unconscious and taken-for-granted assumptions. They believe that injustices exist because all members of society are unconsciously biased against and disrespectful of other people, other social groups, and other cultures. They believe that the goal of activism is to expose and then to change those cultural biases that are deeply ingrained in the general social consciousness.

Contrary to the instrumental schema, when activists invoke the cultural schema, they do not view social injustice as a matter of unequal resource allocation. They believe that as long as people's way of thinking remains intact, the redistribution of resources is not going to solve social injustices. To attain a meaningful social change, they argue, we need to ensure that people *think* in ways that are respectful of other people and of other cultures. Consider the following quotes:

> Q: What do you think is the biggest problem of people of color in the United States?

> A: The biggest problem? I think the lack of cultural acceptance by other individuals and a lot of stereotyping. I think that's usually the biggest barrier that people have in terms of trying to advance

themselves, not just in education, but also in the workplace, and also in society . . . . I think that's the biggest challenge. Because if that were to go away, then people would be able to have more economic opportunities, and not always be in poverty. I think that's the biggest [problem]. Because everything else, it's sort of just a domino effect (Jennifer Huang, Asians for Diversity).

I have worked in schools where they had the basics. In terms of the buildings and the books, and where . . . everything that we say should be done is being done, and it's still not enough. It's still not working. So then you look at, "Well, what's left?" And that's when you really start to try and reach out and touch *racism* in a way that's beyond the, you know, "Is there the same amount of money going to this school as to that school?" "Do they have their basic supplies?" "Are the teachers trained?"—some of the really easy things, which unfortunately a lot of places are still dealing with. But even when you get *past all that*, there're some other issues. And those are the issues that I think we're focusing on [racism in schools] (Beth Handler, Social Concerns).

As the second quote suggests, the cultural schema is often developed after concrete gains have been achieved. In other words, when the attainment of concrete resources does not bring about the desired changes, activists may come to the conclusion —as Beth Handler does—that social problems originate in people's thoughts, not in their possession of actual resources. For Beth Handler, it is the experience of working in schools that had "everything" and yet were still unjust that leads her to shift her attention from the gross level of actual resources to the subtle level of thoughts. She realizes that the problem is not in the books or in the buildings, but is rather in people's minds.

While the cultural schema rejects the instrumental focus on individuals' needs, unlike the political schema it does not replace this focus with a focus on social power. In fact, when activists invoke the cultural schema they find the rhetoric of power to be similarly problematic. In particular, they reject the idea of a struggle between two opposing groups or the rhetoric of "us against them." They view such rhetoric as futile, arguing that it only adds negativity to people's thoughts instead of transforming them into positive thoughts of love and respect. Consider the following quote:

I don't feel like any change can happen for the good of humanity if you organize around hate. I feel like for a lot of people, you have to go through the process of healing, and you have to go through the process of really forgiving a lot of shit that's happened in your life, and kind of gaining your strength, and then being able to come to the table. And only then will you be able to make coalitions that are really true and can actually work

based on *love* and making society *better* rather than making somebody else suffer because you've suffered for 500 years. There're a lot of people that would rather do that. There's so much *anger.* That's why I think it's so hard to do organizing. Because somebody who's organizing around *hate* and somebody who's organizing around *love* are not going to connect (Xiomara Silva, Social Concerns).

In this quote, Xiomara Silva expresses her critique of the rhetoric of "us against them," to which she refers as "organizing around hate." In her view, this type of rhetoric is futile for bringing about meaningful social change because it increases hatred between people and therefore cannot be "for the good of humanity." The alternative, according to the above quote, is to go through the process of "healing," "forgiving," and "gaining one's strength." In other words, in the cultural schema activists often turn the attention inward, suggesting that a process of change should start from within. Here is another quote that illustrates this point:

I think this gets into the issue of healing. Before you can even get to the point of connecting with anybody, you have to connect with yourself. And so many of us don't do that. And it goes back to, you know, feeling less than what you are because of what society has already dictated. So you really have to move beyond that. It's like people in bad relationships. If you can't deal with yourself, why you going to deal with somebody else and try to cause more problems? I mean, it's the same thing, you have to feel empowered (Ruby Garcia, Social Concerns).

Ruby Garcia uses the analogy of a relationship between two individuals, suggesting that before dealing with others one needs to learn to deal with oneself. Similarly, she argues, in the context of social justice activism, a first step for minorities is to connect with themselves.

Motivation: Recognizing the Subtleties of Racism

When activists invoke the cultural schema, they usually tie their motivation to their personal experience, which has revealed to them the subtle existence of racial prejudice and how such prejudice often pervades their own way of thinking. Minority activists, for example, describe the moments in which they have realized their shame of their own culture and their ignorance of its content. Consider the following quote by a Latina activist.

When I got into college, I had no idea who I was. Like you don't have an understanding of your history at all. And my family never talked about it, because they felt really ashamed of being immigrants and being here. So I think you carry all that pain with you. And so I really feel like a big process that needs to

happen is you need to learn about your history, and you have to be able to learn about your family and figure out what you're going to do with all that pain, and let go of it (Xiomara Silva, Social Concerns).

White activists who invoke the cultural schema talk about experiences that made them realize the subtle nature of racism. Beth Handler, a white activist for educational justice, suggests that her personal experience as a mental health worker in schools taught her an important lesson about the subtle existence of racism in schools and motivated her to further improve her understanding, which eventually led to her becoming an activist for racial justice in education.

I had a general interest in social justice issues, and I was starting to learn a lot about racism. How racism works in our society. I was actually a mental health person in the school. The kids who were cutting school or getting in trouble in school and stuff like that would come talk to me, and they really educated me in this immense way about how racism actually plays out in schools. What are all the mechanisms by which it has an impact and shapes things. And so I started to develop a really solid *understanding*, so that really helped me start to be able to take action (Beth Handler, Social Concerns).

Strategies: Training and Education

Changing people's unconscious assumptions seems almost an impossible task. Activists who invoke the cultural schema acknowledge the ambitious nature of their goals. Contrary to those who use the instrumental schema, they do not expect short-term results, and they recognize that the results of their activism are often not measurable. They view their project as a long-term process that is accomplished through education and training. The idea of starting from changing oneself is reflected in the creation of training programs in which potential activists learn about themselves and their history. In the following quote, Xiomara Silva describes such a program that she directs. She explains that over the years the goal of the program shifted from teaching activists the techniques of political organizing to helping them "reach their full potential as people who are striving for social justice." Such a process, she suggests, requires that activists know themselves and "figure out what their past is."

The training initially started as very similar to a lot of leadership programs where it was strictly around political organizing, the tactics and the strategies that you use when you're doing a campaign. It was very campaign-based. And as the years progressed with the program, I really think the training became

a lot more holistic in terms of looking at what are the important things that are needed in order for a person to be able to *reach their full potential as an organizer or as a person who is striving for social justice*. So what are the different things that that person needs in order for them to figure out *what their past is* (Xiomara Silva, Social Concerns).

In the context of educational justice, activists describe the need to educate minority students and to make them proud of their own culture. In the following quote, Beth Handler describes how before joining Social Concerns she worked in an organization that focused on cultural work at schools. The idea was to put the cultures of minority students at the center of school activities in order to increase their knowledge of and their pride in who they were. As she explains,

We did a lot of cultural work. There was an African American cultural alliance that African American staff facilitated, and a Latino cultural alliance, and we were really creating spaces for students in the school where they could feel that their culture was at the center.

The need to transform people's assumptions about themselves and others is applicable to teachers no less than to students. In the cultural schema, activists believe that educational injustice is primarily a result of teachers' prejudices and biases toward minority students. They maintain that public school teachers, who are disproportionately white, share—consciously or not—stereotypical and biased ways of thinking about minority students, which in turn affect the way they treat those students. Therefore, while invoking the cultural schema, activists often mention the need to *train teachers* to make them aware of their biases, which in turn would lead them to change those biases. Consider the following quote:

My strategy is how do you train teachers—how do you make them aware of issues of institutional racism and help them actually change their practices. And my current project is to start a Web site to focus more toward educators on issues of racial prejudice and education (Beth Handler, Social Concerns).

Success: Transformation of Thoughts

Out of the three schemas presented in this study, the cultural schema creates the biggest challenge in terms of measuring success. Activists cannot simply point to a concrete resource that is granted to individuals due to their efforts or to an increase in the number of people who join the movement. To know that they are successful, activists need to show that people's taken-for-granted assumptions have been transformed. This, of course, is not a very measurable

goal. However, activists who invoke the cultural schema do find ways to describe the success of their activism. They point to a process of self-transformation that specific individuals go through. This process begins with recognizing unconscious biases, continues with changing those biases, and ends with changing actual practices. In the following quote, Beth Handler talks about a story she is writing about an imaginative white teacher who transforms her assumptions about her minority students. While this story is imaginary, it demonstrates how activists, under the cultural schema, view the success of activism.

> I'm writing a series of articles about an imaginary white teacher who has a very diverse group of students. And she really wants to teach these students well, and she goes through a process. First realizing how limited she is in her ability to reach her students, and how much she *doesn't know* about them, and the assumptions she's making about them, and their parents, and how it's getting in the way. So she says, "Alright, I *really want to learn* about my students." And then she goes through a process. And we sort of document this process: How does she learn? What kind of information does she look for? What people help her? What are the statements she makes when she tries to learn? What does she learn? . . . We're working on helping educators learn—what are all the components involved in terms of how you treat people, the assumptions you have about people.

However, not only whites need to change their assumptions. Activism, under the cultural schema, is considered successful when minorities themselves recognize their prejudice toward their own culture, and when they reclaim pride in their culture. Ruby Garcia, a Latina activist for Social Concerns, describes such a process of self-transformation that her grandmother went through.

> My grandmother . . . her whole life suffered from very strong racism about her being Mexican and it's just really interesting to see her transformation. Because she grew up with these really serious issues going on in her head about what it means for her to walk into a place. What it means for somebody to say the word Mexican. I mean, she would say that she didn't want to call herself that. She didn't really pass on the Spanish language to her kids, because she was hit in school for speaking it . . . . And seeing the transformation . . . because now she takes such pride in being what she is, and it's only through her *reading* and *studying* her history, and almost reclaiming it. So it's kind of like having to reclaim it in order to feel like you can now go into the public and be a strong force.

The goal of activism under the cultural schema is to transform cultural assumptions that are shared by all members in society. Attainment of this goal requires a long-term process that is being

Table 2. Characteristics of the Schemas

	Instrumental Schema	Political Schema	Cultural Schema
Unit of Activism	Individual needs	Groups' power	Cultural assumptions
Motivation for Activism	Service	Anger	Recognizing the subtle existence of racism
Main Strategy	Policy advocacy, direct service	Empowerment, organizing	Training, education
Success of Activism	Specific and measurable results	Creation of mass movements	Transformation of thoughts
Main Theme	Resources	Power	Culture

taken in small steps and that is manifested in the transformation of specific individuals. Every time an individual transforms his or her way of thinking, activists who invoke the cultural schema view such transformation as part of the process of cultural transformation. Accumulation of these small steps, they believe, will eventually bring about a larger cultural and social change.

An Intermediate Summary

Each of the three schemas represents a different understanding of social change. Under the instrumental schema, change involves the relocation of concrete resources. Under the political schema, change involves the empowerment of communities. Under the cultural schema, change involves the transformation of taken-for-granted assumptions. Table 2 summarizes the characteristics of the three schemas.

The Role of Law in Social Change

Since each of the schemas presented above involves a different understanding of social change, each also provides activists with a particular grammar of evaluation that enables them to assess the role of law in social change. In this part of the article, I demonstrate how activists evaluate the role of law in social change in each schema.[8]

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[8] While discussing the role of law, I avoid presupposing a specific theoretical definition of law, but rather present the ways in which activists themselves talk about law. In another place I systematically analyze the various understandings of "law" as they are brought up by my respondents and demonstrate how these different understandings of law interact with the three schemas of social change. Those understanding include law as principles, law as rules, law as force, law as process, and law as profession (see Kostiner 2003). This exploration, however, is beyond the scope of this article.

The Role of Law in the Instrumental Schema: Law and Resources

Under the instrumental schema, law is assessed based on its ability to promote a more equal allocation of resources. Law is seen as operating outside the realm of social power or the realm of social thought. Its main sphere of operation is a tangible sphere of concrete benefits. The instrumental connection between law and social change is articulated by different activists at different points in their narratives. In these moments, activists assess the value of law based on its capacity to provide specific, immediate, and measurable services to the people whom they represent.

Laurie Johns is a San Francisco middle school teacher who is also an activist for educational justice. She describes her participation in a campaign to regulate police involvement in schools. She explains that the existence of police officers in schools creates serious problems for students of color. She believes that in order to solve these problems, police attendance in schools should be legally regulated.

> I got involved with that because I had an African American student who I felt had an unfair and pretty terrible interaction with the cops at school, and ended up jailed and in Youth Guidance Center for like three weeks for an offense in the classroom that was really not warranted that she be in YGC [Youth Guidance Center] for as long as she was . . . . So I got involved with that just because it was a pretty compelling story about why *there needed to be some regulation* on the role that the police were playing in the schools. And so I spoke at a couple of school board meetings about it and wrote something about it.

Thus, activists understand the law to be an important aspect of the struggle for social justice because it has the power to solve people's concrete problems. The following quote provides a good illustration of this point:

> I think the laws change real situations for real people. Specifically, I don't think that if I could bring Prop[osition] 187 [a California state ballot initiative limiting immigrants' rights to public services] to [the] Supreme Court, anybody in the state is going to change their mind about Prop[osition] 187, but that woman who lives *next door* is going to be able to take her kid to school the *next week* (Carla Ferrera, Social Concerns).

Under the instrumental schema, activists value law because it has the power to help them achieve concrete and short-term results. As Carla Ferrera puts it, it enables activists to ensure that the woman who lives next door takes her child to school next week.

However, law does not always fulfill its promise of guaranteeing concrete resources to individuals. While employing the instru-

mental schema, some activists criticize the law for its imperfections and for its many limitations. For example, they refer to the high costs of litigation that often prevent disadvantaged people from using it, as the following quote suggests:

> It's very expensive to do litigation. Very expensive and very intensive. And it takes years, and you know, really hundreds of thousands if not millions of dollars to properly litigate a major case. So who has the capacity to do that? It's very limited to a few of the people (Glen Stevens, Social Concerns).

Another type of "instrumental critique" of law refers to the difficulty of enforcing many laws. Activists argue that a large bureaucratic gap exists between the laws on the books and their actual implementation. This bureaucratic gap often leads to partial compliance or even to lack of compliance with the laws, as the following quote demonstrates:

> If you look at desegregation laws, so schools are now desegregated, but then you have magnet programs that track all the students and this is exactly what I went to . . . . So I would say it's almost still separate but equal. It didn't really change. Because we were getting more money, more resources, more everything. And the kids from the neighborhood weren't getting any of it. So essentially there were laws, but they were always circumvented by everybody. And that's what we still find (Ruby Garcia, Social Concerns).

To sum up, when activists invoke the instrumental schema they assess the law based on its capacity to satisfy individuals' needs. They see it as an important tool for the attainment of this goal. Yet they also criticize it for its imperfection and for its failure to fulfill its promise due to various "instrumental" constraints such as time, cost, and lack of enforcement.

The Role of Law in the Political Schema: Law and Political Mobilization

Activists who employ the political schema evaluate the law based on its role in empowering or disempowering social movements. The goal of activism under this schema is to ensure that minority groups gain power and control over their lives. The crucial question with respect to the use of law is to what extent such use contributes to movements' empowerment and to what extent such use is harmful to social movements' struggle. An evaluation of the law through this lens is often highly critical. Some activists present a Marxist argument, accusing the law of reflecting the interests of the majority, reproducing social inequality, and co-

opting social movements' struggle. The following quotes exemplify this critical approach to law:

> I hate to be a cynic, but in a way I feel like this [the enactment of civil rights laws] has stolen the thunder from any kind of movement. Like I can't point at that sign and say because of that sign I'm going to go organize, and all the people of color, or all the community. I feel like they [civil rights laws] are a safety valve, where some people of color can do well in society but most people of color cannot get ahead or succeed. And now there's a way that people can say, "Oh look, it's not because of race, you're just not trying hard enough, because look, that's a black man and he's on the Supreme Court or that's a black woman and she's doing this and she's doing that." So for me, those laws are a safety valve. And it's really taken the anger and power behind any kind of movement to really change things (Carla Ferrera, Social Concerns).

> The problem is that a lot of liberals don't believe in local action. They wanted to use the power of the state. When they tried to use the power of the state, they ultimately lost. My notion is—in order to get some change, what you want to do is you really need to organize the local level. And trying to use the state to make things more multicultural is really—what can I say?—a faulty and false hope . . . . I'm talking about the way you needed marches, you needed people, you needed boycotts. People actually showing there's some people's power (Bernard Roseman, Activist Academics United).

As the second quote suggests, some activists view legal strategies with suspicion because they are associated with the power of the state. The alternative, according to the above quote, is to act locally and to mobilize people from the ground by organizing marches, rallies, and boycotts.

In addition, activists who employ the political schema tend to mistrust lawyers and their involvement in struggles for social change. Since they see society as a power struggle between groups, they often view lawyers as part of "them" and not of "us." Seen as belonging to the middle and upper class, lawyers are often treated with suspicion. While invoking the political schema, activists often express concerns that lawyers try to take control over social movements' campaigns. Consider the following quote:

> The problem tends to come when legal advocates don't under-stand the importance of grassroots mobilization or they try to take leadership in political strategies that are part of mobilization. Because this is not really their area of expertise. Power and politics and organizing—the expertise is with the organizers. That's what they do. It tends to not work so well when legal advocates try to be organizers as opposed to working collabora-

tively with organizers, with mutual respect for each strategic institution (Elli Smith, Youth for Change).

Another political type of justification that activists employ against the use of legal strategies is that such strategies weaken minorities by victimizing them and by placing them in a position of people who ask for help. This positioning contradicts the philosophy of organizers who focus on empowerment, as the following quote suggests:

> Because of racism we have to justify investing resources in students of color. Every penny that we give them we have to justify. We have to make people feel sorry for them or, you know, somehow humanize them. But sometimes when we try to humanize them we end up just reinforcing the idea that they are not human . . . . If I'm hungry and you have all the apples and I want an apple, unless I have the power to reach across the table and take it, I have to find a way to ask you, "Can you please give me an apple?" You know, beg for it or try to convince you that I deserve to have an apple because I'm hungry and you have ten and I have none. And it didn't occur to you that you should share on your own (Elli Smith, Youth for Change).

This quote provides a very good illustration of all three schemas. The instrumental schema suggests that one should try to get the apple by convincing policymakers that people who are disadvantaged are hungry or that they deserve the apple. The political schema suggests that it is problematic to put disadvantaged people in a position where they need to beg for an apple or to convince anyone that they deserve it. It tries to empower disadvantaged people so they have the power to reach across the table and grab the apple. The cultural schema aims at changing the culture of all members of society so that those who have the apples share them out of their own free will. Since Elli Smith is invoking here the political schema, he is critical about legal tactics that involve attempts to humanize disadvantaged people or to convince policymakers that they deserve resources.

However, despite its criticism of law, the political schema also involves positive assessments of the use of legal tactics. Because activists view law as a powerful social institution, they find it difficult to ignore the law while attempting to promote social change. The following quote demonstrates this point:

> I feel like you have to fight on every front. You have to fight *their* way and you have to fight *your* way. And you know, being in the legal system is fighting their way, you know? So you gotta hit it from every angle (Carla Ferrera, Social Concerns).

Several activists argue that law can be used as a supplementary strategy to organizing. They emphasize that legal strategies alone

cannot produce much change, but in collaboration with organizing efforts, they can provide an important contribution. As the following quotes suggest:

> I think they [legal strategies] are an important compliment to the organizing work . . . but the notion of a lawsuit on its own, the way kind of *Brown v. Board of Ed.* worked, or a number of these other, you know, desegregation suits, I think in many ways, those strategies can be empty because the enforcing mechanisms are limited, they don't involve people in their development or oversight. So alone, I'm very very skeptical of legal strategies. In conjunction with other types of efforts . . . organizing efforts, I think they're still obviously effective (Edward Chung, Third World Alliance).

> Our strategy is thinking about base-building. I mean, that's kind of the movement-building that we do. We are trying to think what are the things that will get more people involved, and if a lawsuit would be that tool, then I can imagine doing it (Susan Bergman, Oakland Youth Alliance).

To sum up, through the lens of social power, activists view law in a rather critical way. They often perceive it as preventing social change and as sustaining the power structure. However, based on this association between law and power, activists also use the political schema to justify the use of law as a counterhegemonic strategy, especially when it is used as supplementary to other organizing strategies.

The Role of Law in the Cultural Schema: Law and Cultural Assumptions

> The element of sentiment and faith inheres in the mores. Laws and institutions have a rational and practical character, and are more mechanical and utilitarian. The great difference is that institutions and laws have a positive character, while mores are unformulated and undefined . . . . Acts under the laws and institutions are conscious and voluntary; under the folkways they are always unconscious and involuntary.
>
> (William Sumner, ''Folkways and Mores'')

The instrumental and political schemas described above represent two opposing understandings of the role of law in activism for social change. In the instrumental schema, activists see law as an important tool for social change, though they also criticize it for its limitations in achieving the goal. In the political schema, activists see law as preventing social change and sustaining power hierarchies, but they also acknowledge the potential of using law strategically as a counterhegemonic strategy. While these two understandings seem to oppose one another, they share in common

the idea that the relationship between law and social change is a relationship of a means to an end. In other words, in both the instrumental and the political schemas, activists see law as a tool for change and thus as a relevant strategy for activism.

Contrary to these two opposing and yet similar understandings, the cultural schema provides an alternative view of the relationships between law and activism for social change. In this schema, activists mostly see the law as being marginal to activism. They do not view law as an important tool for social justice, nor do they see it as the "enemy" of social justice. Rather, social justice in the cultural schema seems to be beyond the reach of law, as operating in a different realm of existence. When activists invoke the cultural schema, they usually do not bring up independently the use of legal strategies, and when I asked them about legal strategies they were often perplexed, as the following quote demonstrates:

> You mean in terms of the laws themselves? Um. I don't know if I understand that. Legal strategies? Are you talking about actually introducing legislation? (Gabriela Sanchez, Social Concerns)

Other activists were puzzled when I asked if there was a legal basis for the demands that they were making:

> I think it's hard. I haven't thought about it before. I'd have to really think about it. My answer is yes, but justification I would have to think about . . . . It's really hard to think legally and what it means (Beth Handler, Social Concerns).

When activists attempt to justify their understanding that the law is mostly irrelevant to cultural work, they explain that cultural acceptance is something that cannot be legally mandated but rather has to emerge out of free will. Consider the following quotes:

> Well, there's no per se law that makes everyone be culturally accepting. I think it's really sad if the society actually needs something like that. I don't think it's something that can be remedied through the law. I mean, what are you going to do? . . . But one would hope that people with more education and more acceptance can truly on their *own*, on their *free will* begin to respect one another. I mean, that's the ideal. That's what we would hope to strive for (Jennifer Huang, Asians for Diversity). I feel like you can actually have laws to pressure people, but ultimately you have to have people working in the grassroots level that are helping people change in terms of their *thoughts* in terms of how [they view] race, how they view education. People have to *believe* that there is inequality, and *agree* to that. Otherwise, I think people will not change (Xiomara Silva, Social Concerns).

Activists who employ the cultural schema use various other arguments to justify their understanding of law as mostly irrelevant

to cultural work. They talk about the fundamental differences between the nature of legal rules and the nature of culture. They point to the fact that legal rules tend to be specific, rational, and instrumental, while culture is often vague and undefined. They believe that social justice in general and educational justice in particular are matters too complex to be defined by legal rules, as the following quote suggests:

> I think that education issues are a lot more abstract than sometimes the law can enforce. It's so complex. It's not black and white as saying, "Desegregate those schools," "Create [a] busing program." There are so many elements that are unseen (David Watanabe, Youth for Change).

This type of justification is common especially when activists talk about activism for multicultural education. They refer to the subjective nature of this issue, which makes it a poor candidate for legal strategies. The following quote illustrates this point with respect to the legalization of multicultural curricula in schools:

> I suspect that curriculum issues are not as easy to pin down in the legal sense as, you know, desegregation, where you have *hard data*. You can count people . . . you have pretty concrete stuff to work with. Same thing with funding, you know, dollars. Curriculum, to some extent, is subjective . . . and that makes it harder to litigate . . . than, you know, a case where at least it's a little more *cut and dried* (Kirsten Rosenberg, Activist Academics United).

For activists in the cultural schema, the act of defining their demands is not only difficult but sometimes even undesirable. They find the vague and undefined nature of culture as necessary, and they reject attempts to confine it or to standardize it, as the following quote indicates:

> Once you try to control things through the law, the implication is that there's only one solution, there's only one definition of culture and that is exactly the opposite of what a multicultural society is all about (Bernard Roseman, Activist Academics United).

Another concern that activists raise is that legalizing issues of culture simplifies the issues and takes away their rich nature. Activists are worried that such legalization leads people to abandon their efforts of going through intense training in order to produce a meaningful cultural change. The following quote represents this argument:

> Before we go and institutionalize it, there needs to be people thinking about how it will work when it becomes institutionalized. Because the way it's working right now is—people go through

training and stuff. But if you institutionalize it, people might not
go through the same rigorous training. And when you actually
see it, you'll be like—"Wait a minute, that's not what I meant"
(Mason Chong, Youth for Change).

What seems to be unique about the way in which activists in the
cultural schema approach the law is their distance from it. While the
instrumental and political schemas both involve the support and
critique of law, the cultural schema is characterized by the little
attention that it pays to law, and especially to law as a *tool* for social
change. Since injustice, according to the cultural schema, originates
in people's taken-for-granted assumptions, significant social change
can take place only if people out of their own free will recognize their
biased assumptions and transform them. For activists in the cultural
schema, law has little to do with such a process.[9]

Academics' and Laymen's Evaluations of the Role of Law in Social Change

Three blind people touched the different parts of an elephant.
One touched the foot, and said: "The elephant is like a pillar."
Another touched the ear, and said: "The elephant is like a fan." A
third touched the belly, and said: "The elephant is like a pot."
(Swami Sivananda, *Bliss Divine*)

The literature on law and social change tells us different stories
about how law matters for social change. Judicial impact studies
suggest that law is mostly futile for social change, as it fails to
provide the resources that it promises to provide (Rosenberg
1991). The legal mobilization model tells us that law, broadly
defined, may be useful for social change, as it helps in mobilizing
social movements (McCann 1994). Each of these models touches
another part of the elephant and provides a partial description of
the elephant. Through a cultural analysis of activists' evaluations of
law, this project attempts to present the elephant as it is. It tells a
complex story about law and social change, arguing that there are
different ways of understanding *social change* and therefore
different lenses from which the role of *law* in social change can
be assessed. Considered in this light, the various scholarly accounts
of the role of law in social change are all correct to some extent.
They coexist in the general repertoire of justifications that
constitute the culture of law and activism. Each of them tends to

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[9] Activists in the cultural schema make few positive statements about the law. Those
statements are primarily related to law's symbolic aspect, which, according to activists in the
cultural schema, may inspire people. Yet those statements are relatively rare and usually do
not involve justifications for using the law as a tool for promoting social change.

emphasize one schema of change more than the others and, therefore, each account reaches different conclusions on the role of law in social change.

My analysis suggests that the different scholarly evaluations of law can be found in the narratives of ordinary people—in my case, in the narratives of social justice activists.[10] However, as opposed to scholarly accounts that are usually based on logical and coherent justifications to support their arguments, ordinary people, who use culture in their everyday life, usually do so in a contradictory and highly incoherent way. They often move from one schema to another as they explain their actions, justify their views, and critique the actions of others. In describing the way in which ordinary Americans talk about love, Swidler (2001) suggests that:

> [T]hey draw from a multiform repertoire of meanings to frame and reframe experience in an open-ended way. In debate, they may be unselective, taking up any argument that seems handy. In other situations, they take up one cultural frame . . . until they run up against an unsolved problem. Undaunted, they usually simply escape the conundrum by jumping outside its boundaries, invoking another situation, another metaphor, another symbolic frame. This frequent shifting among multiple cultural realities is not some anomalous sleight of hand but the normal way in which ordinary mortals (as distinguished perhaps, from trained philosophers) operate. (2001:40)

My analysis of activists' understandings of the role of law in social change reveals a similar pattern. The following part of the article discusses this pattern.

Contradictions: Reproduction and Change in the Culture of Law and Activism

> Interview responses seem incomplete or incoherent only because we are still too wedded to the view that what we are seeing when we observe culture is an internalized complex of meanings and practices, rather than people's knowledge of how a set of publicly available codes and situations operates.
> (Ann Swidler, *Love Talk: How Culture Matters*)

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[10] A recent development in French sociological theory, associated with Boltanski and Thévenot (1987, 1991, 1999), suggests that there are a limited number of "orders of justifications that people deploy to assess whether an action benefits the common good" (Lamont & Thévenot 2000:5). Each of these orders of justifications derives from a major philosophical tradition and is deployed by people in their everyday life as well as by social scientists who study human behavior. My observation of the use of the rhetoric of law and social change seems to be consistent with this theory.

The Contradictory Nature of the Culture of Law and Activism

In the previous pages, I have presented the three schemas of law and social change as three distinct cultural codes. I have done so for analytical purposes. In reality, however, the three schemas are usually interrelated and interconnected, dynamic and fluid. More important, the three schemas are *not reducible to individual actors*. The *same* actor may invoke all three of them at different parts of the interview. While earlier cultural sociology tended to view such contradictions as flaws in participants' cognition or in the research design, contemporary cultural sociology suggests that culture is contradictory in nature, as Ewick and Silbey put it:

> It turns out that people express different understandings, values, and expectations, depending on the situation in which they are speaking and what they imagine accomplishing through their talk, whether it is to amuse, persuade, claim a right, demonstrate camaraderie or avoid censure. Such discursive variability and rhetorical maneuvering are accomplished by invoking alternative interpretations from among the culturally available repertoires or ideologies. (1998:51)

Moreover, as we shall soon see, contradictions in popular consciousness often sustain social structures and ideologies and therefore need to become the focus of sociological inquiry instead of being seen as abnormalities in social inquiry (Ewick & Silbey 1998).

Much like Swidler's respondents, who shift from one schema to another while talking about love, so do my activists, who talk about law and activism and shift between schemas and within schemas while describing their experiences, actions, and ideas. While my data include numerous examples of such shifts, I present only two of them in order to demonstrate this pattern.

We saw earlier that Carla Ferrera, a Latina activist working for Social Concerns, expresses a radically critical view of law, blaming it for preventing social change by obscuring social injustices. The following quotes exemplify her critical view of law:

> I hate to be a cynic, but in a way I feel like this [the enactment of civil rights laws] has stolen the thunder from any kind of movement. Like I can't point at that sign and say because of that sign I'm going to go organize, and all the people of color, or all the community . . . . So for me, those laws are a safety valve. And it's really taken the anger and power behind any kind of movement to really change things.

> Okay. Now we have these laws, but it didn't change—laws cannot change people's attitudes. And so for me, it seems like it's almost more dangerous to be able to go out into the world and say the U.S. is a peace-loving country and we treat everyone equally, look

at all these laws, because that covers up what's really happening
(Carla Ferrera, Social Concerns).

Nevertheless, toward the end of the interview Carla Ferrera
reveals her intentions to go to law school. Realizing the contra-
diction between this intended action and the views she has
expressed about the law, she makes a shift in her grammar of
evaluations. She abandons the political rhetoric and moves to an
instrumental rhetoric to justify her action:

> What really made me go to law school was when I was in high
> school, and all the anti-immigrant propositions were being
> passed, and you know, I felt like in very real terms, those things
> were affecting people in their everyday lives. Like, we're no
> longer talking about an abstract law where it's, you know, "People
> will have equal rights in this and this society." It was specific: "I'm
> not going to have health care tomorrow, because they voted yes
> on this law." Or "My kids can't go to school next week." So in
> those terms I definitely feel that those laws are very important. In
> very specific tangible ways. So one of the reasons [that made me
> go to law school] is to combat. You know, take those things to the
> Supreme Court, and get them struck down, and then we can
> work.

In this quote, Carla Ferrera suggests that she would like to use
the power of the law—of the U.S. Supreme Court—to strike down
laws that were passed in California and that seem unfair and unjust
to immigrants. This idea, that the law can be used to promote
fairness and justice, is exactly what Scheingold calls the "myth of
rights" (1974). Why is it that a highly sophisticated activist, who
speaks so articulately about the role of law in preempting social
struggles and obscuring social injustices, suddenly invokes the
"myth of rights"? I suggest that the multiplicity of schemas of social
change enables her to make this shift. As an organizer and a social
justice activist, she views change from a political perspective. Based
on this perspective, she is cynical and rather critical about law.
However, being an immigrant and feeling the pressing need for
concrete resources such as health care and education, she seems to
value social change that is concrete, tangible, or "instrumental."
This instrumental understanding of change enables her to justify
the use of law and, moreover, to account for her decision to go to
law school.

Another example of such a shift is Laurie Johns, the San
Francisco middle school teacher who is also an activist for
educational justice. While discussing the role that law plays in
educational justice, she expresses a rather critical view. She
suggests that because so much bureaucracy separates laws on the
books from their actual implementation in schools, those laws

cannot accomplish much. They are hardly enforced, and they hardly have any significant impact.

> Those things actually don't matter at the level of the school. I mean, there is so much bureaucracy between the board and the classroom. That really, I don't know. The reading list, for example, they recommended that things be changed, but it did not end up happening . . . . They recommended that there be these books. Now, as a language arts teacher, did I ever get a letter from the school board telling me that they really strongly encourage me to do these books? No. Did I hear about the controversy in the newspaper if I was just a regular average classroom teacher? Yeah, probably. But you know, there's so much space between those two things. And then when I think about this police thing [school board resolution to regulate police involvement in schools], I wonder if the principals and vice principals got retrained about how they're supposed to now interact with the police. I mean we still have cops at school all the time. And you know, I'm still not confident that their interactions with kids would be much improved.

As a teacher who cares about actual changes in the lives of children in schools, Laurie Johns evaluates law from an instrumental perspective. Based on this evaluation, she expresses a critical view of law's ability to promote change. However, Laurie Johns is also a community organizer who participates in different campaigns, including school board campaigns that are designed to introduce changes in local legislation. How can she justify her participation in such legal campaigns? Interestingly enough, when describing her participation in those campaigns, Laurie Johns invokes the political schema. She explains that organizing such campaigns is useful for the empowerment of people in communities of color, for uniting them and for making them more involved in decisions that affect their own lives.

> All of these organizing attempts around these campaigns bring parents to school board meetings and show the board that it's not just white parents who are going to come and advocate for their issues. That people can mobilize parents of color to come and kids of color to come. You know, I think that's important, and so whether it's immediately affecting the schools, long-term I think it's going to have an effect.

Thus, while "instrumentally" Laurie Johns views law as ineffective for social change, she is able to justify her participation in the school board campaign by invoking the political schema.

Sociologists of culture suggest that cultural codes are often used to account for action (Swidler 1986, 2001). In other words, people are equipped with a "tool kit" of cultural repertoires. They

invoke different repertoires out of this "tool kit" when they need to justify their actions. The examples presented above illustrate this idea. Carla Ferrera needs to provide an explanation for her decision to go to law school. To do this, she pulls the instrumental schema out of her cultural "tool kit." Similarly, Laurie Johns uses the political schema to justify her participation in school board campaigns.

Reproduction, Change, and Cultural Contradictions

In their study of the legal consciousness of ordinary Americans, Ewick and Silbey (1998) emphasize the contradictory nature of this consciousness. Similar to my activists who invoke the instrumental, political, and cultural schemas in contradictory ways, so do ordinary Americans in Ewick and Silbey's study employ schemas of law in everyday life in a contradictory manner. They see themselves as standing "before the law," respecting its power, but at the same time they are "with the law," using it as a game. At the same time still, they position themselves as "against the law" while recognizing the illegitimate power that the law holds over them.

In Ewick and Silbey's analysis, this contradictory nature of legal consciousness is crucial for understanding how legality sustains its power. They explain that the combination of the first two schemas—"before" and "with the law"—sustains the hegemonic and mythic view of law:

> The forms of consciousness we call "before" and "with the law" are the warp and woof of modern American legal ideology. While ostensibly expressing vastly different and contradictory images of legality, together they constitute a hegemonic conception of law. At any moment the law is both a reified transcendent realm, and yet a game . . . . Challenges to legality for being only a game, or a gimmick, can be repulsed by invoking legality's transcendent reified character. Similarly, dismissals of law for being irrelevant to daily life can be answered by invoking its gamelike purposes. Through these forms of consciousness (and the oppositions between them), legality can be an uncontested and unrecognized power that sustains everyday life. (1998:231)

Considered in this light, the contradictions between the instrumental and the political schemas in my study of law and activism sustain the understanding of law as a means for social change. Their coexistence in the consciousness of all activists enables activists to justify the use of law despite their own criticism of it. We have seen how in spite of her critical view of law as co-opting social movements, Carla Ferrera is able to justify the use of law by emphasizing its usefulness in providing concrete resources.

We have also seen how Laurie Johns, who finds the law futile in changing actual conditions in schools, is able to justify the use of law by invoking law's capacity to empower disadvantaged communities.

If activists' understanding of the role of law in social change were one-dimensional, then it would have been rejected in light of much evidence of law's failure to meet their expectations. For example, if the idea that law is a tool for social change were based on pure instrumental criteria, it would have been dismissed in the face of extensive evidence of law's futility to change allocations of resources. Similarly, if law's relevancy for social reform relied exclusively on political evaluations, it would have been rejected due to the many complaints about law's failure to empower social movements. However, because law is evaluated from an instrumental lens and from a political lens *simultaneously,* there is always a way to counteract evidence of law's futility and to justify its use.[11]

However, Ewick and Silbey's model of legal consciousness suggests that the complexity of schemas also provides spaces for resisting the durability of law. They argue that the existence of the third schema—"against the law"—"makes possible counterhegemonic readings and constructions" (1998:233). My study of activists' legal consciousness suggests similar possibilities for change.[12] Such possibilities rest in the third schema—the cultural schema. As I demonstrated earlier, when activists invoke the cultural schema, they view law as mostly marginal and distanced from their activism. In those moments, they neither praise nor criticize law. They see it primarily as operating in a different sphere of life, a sphere that does not touch the sphere of cultural work. For activists in the cultural schema, social change is a long-term rather than a short-term process; it is virtual rather than actual, internal

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[11] Academic debates on law and social change demonstrate this process. Critical Legal Studies (CLS) scholars suggest that legal rights are futile in attempts to change the power structure because they co-opt social struggles (Gabel 1982; Tushnet 1984). Minority legal scholars who react against the CLS critique of rights agree with this argument, but suggest that for some people legal rights provide basic needs that they never had before (Williams 1987; Minow 1987). Another example is the debate between Rosenberg (1991) and McCann (1994). Rosenberg argues that law is futile because it fails to change allocation of resources. McCann agrees with this argument but suggests that if we examine law's effects on political mobilization, we may find that it is potentially useful.

[12] I prefer to use the terms *reproduction* and *change* rather than *hegemony* and *counterhegemony.* The last two terms are closely related to theories of social power and especially to the writings of Antonio Gramsci (1971). These theories seem to correspond to the political schema in my model, which is centered on the rhetoric of social power. According to my analysis, though, the political schema together with the instrumental schema work to sustain the connection between law and social change rather than to undermine this connection. It is the cultural schema, I suggest, that allows for transcending the commonsense notion of law as a means for social change.

rather than external, and processual rather than results-oriented. Law, in their view, might reflect such change, but it can rarely be a strategy for change. In other words, while invoking the cultural schema, activists usually think that "lawways cannot change folkways" (Sumner 1940; see also von Savigny 1975 (1831); Malinowski 1926; Bohannon 1965). This distance between law and activism that is invoked under the cultural schema allows activists, in their everyday conversations, to transcend the commonsense notion of law as a means for social change.

Schemas, Contexts, and Institutions

I have argued that the coexistence of the instrumental and political schemas sustains the understanding of law as a means for social change. I have also suggested that the cultural schema provides spaces for transcending this association between law and social change. The real challenge now is to identify the conditions under which each schema is more likely to be invoked. Swidler (2001) suggests that because culture is used to guide *action*, specific cultural codes are often linked to specific contexts and to specific institutions. An exploration of the interactions between codes, contexts, and institutions is crucial for understanding the relationships between culture and action.

> Codes, contexts and institutions provide crucial links between culture and action. They do so by structuring the external environment of meanings that surround actors, giving those meanings coherence and direct implications for action that they often lack in the thoughts and feelings of individuals. (2001:161)

While examining the culture of law and activism, the challenge is to identify the specific contexts and institutions that are associated with each of the three schemas. In particular, it is important to identify those contexts and institutions that are associated with the cultural schema, which, according to my analysis, provides the possibility of change in the commonsense notion of law and social change. A thorough exploration of the contexts and institutions that are associated with each schema is beyond the scope of this article. My analysis at this point, however, provides several initial findings in this regard.

I find that the instrumental schema is more likely to be invoked when activists talk about issues such as immigration or police brutality. More generally, it seems that the instrumental schema is associated with contexts of beginnings, where people lack basic resources and when they view the law as responsible for providing such resources. They are motivated by personal experience that emphasizes the importance of having basic resources. The

institutions that are associated with this schema are *formal law* and *policy*. The political schema is associated with a context of forming group identity. It represents a stage in which groups and individuals move beyond their basic needs into defining their identity, gaining power, and struggling against groups that seem to threaten their power. It is usually associated with the institution of *organizing*.[13] The cultural schema represents a stage of disillusion with both concrete resources and social power. It is often associated with situations where concrete resources and social power have failed to produce meaningful change. Thus, it moves beyond resources and power into the realm of people's thoughts and assumptions. The central institution associated with this schema is *education*.[14]

My data indicate that the three schemas represent stages of evolution. Individuals and social movements seem to evolve from the instrumental schema to the political schema to the cultural schema. At the same time, all three schemas exist simultaneously in the lives of individuals and social movements. While they may appear in different proportions at different times, still at every moment in our lives all three schemas coexist.

Conclusions and Avenues for Future Research

When I ended the interview with Carla Ferrera I revealed, as I did in other interviews, that my study is actually about the relationships between law and social change. Carla Ferrera, whom as we recall plans to go to law school, was surprised, and quite amused. With a little laughter she said, "Really? Can I see your paper? Unless it turns out that law doesn't matter . . . "

I believe that I can show Carla Ferrera the article. It did not turn out that law does not matter. Or, that it does matter. Based on the data collected and analyzed in this study, I have found a

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[13] This association between schemas and institutions suggests that there might be a similar association between schemas and organizations. In other words, organizations that focus on policy advocacy might be associated with the instrumental schema, while organizations that focus on community organizing would tend toward the political schema, and those associated with training and education would lean toward the cultural schema. As the schemas in my analysis are not reducible to individuals, naturally they are also not reducible to organizations. Yet some tendencies can be found that confirm the above association between schemas and organizations. For example, activists who work for community organizations (such as Third World Alliance or Oakland Citizens Union) and who view themselves exclusively as community organizers tended to invoke the political schema more often. At the same time, activists who work for organizations that focus primarily on training and education (such as Social Concerns) invoked the cultural schema more frequently. Finally, activists who define their work primarily as service and advocacy had a natural tendency toward the instrumental schema.

[14] By *education* I do not refer to the narrow meaning of the concept (i.e., schools or the educational system). Rather, I refer to education as an idea, as a social institution.

complex net of justifications and counterjustifications with respect to the role of law in social change. I suggest that the relationship between law and social change is a social construct that is constantly produced by the conversations and actions of social activists, of academics, and of ordinary people. Because people's understanding is complex and contradictory, the understanding of law as a means for social change is sustained. At the same time, the complex nature of people's consciousness provides spaces for transcending this notion of law as a means for change.

Nevertheless, some questions are still to be answered. The first question is to what extent the model presented in this study is applicable to other social movements or to other forms of social activism. As I stated earlier, this study is mostly centered on activism for educational justice, though it also touches on other types of progressive social activism. Still, it is not clear whether this model can be applied to conservative and right-wing social movements. Activists in those movements may have a different way of understanding social change and the role of law in promoting such change. Thus, a further exploration of various social movements is required in order to test the applicability of the model proposed in this article.

More important, it is not clear to what extent this model can be applied to social activism in other countries. Unique features of American culture in general and of the American culture of activism in particular may lead us to question the applicability of this model to other cultures. First, American culture is often considered more legalistic than other cultures (de Toqueville 1956). This legalistic nature involves unique manifestations in the area of activism for progressive social reform. Moreover, the Civil Rights movement of the 1960s and the civil rights legislation and litigation that accompanied it had an important effect on Americans' legal consciousness with respect to the role of law in activism. It may have generated much hope but also much despair with regard to law's ability to promote social reform. Thus, law may be more *salient* (see Levine & Mellema 2001) in the narratives of American activists compared to those of activists in other societies. Finally, American society is often known as the "republic of choice" (Friedman 1990). As Americans tend to attach great value to free choice, this may also affect their use of cultural schemas in justifying their actions, as actions are often seen as a result of free choice (as opposed to faith, duty, and so on). Therefore, one needs a rich repertoire of cultural codes to provide rational justifications for various actions. We have seen this use of repertoire when activists justify decisions to go to law school, to participate in school board campaigns, and so on. This may not be the case with respect to individuals in other cultures. These unique features of American

culture confirm the need for a cross-cultural analysis of the role of law in social justice activism. Such an analysis may enable us to understand better the subtle nuances of the culture of law and activism for social reform.

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