Protest in Congress

1. Introduction, Hypotheses, and Research Questions

There is a rich yet understudied tradition of legislators protesting within Congress. Consider, for instance, Representative Bobby Rush, who wore a hoodie on the House floor, defying congressional norms to protest Trayvon Martin's murder (Helderman 2012). Or Representative John Lewis, who led 170 of his colleagues in a day-long sit-in over the lack of gun control legislation (Walsh et al. 2016). In 2019, over two dozen Republicans stormed a closed-door deposition hearing in opposition to President Donald Trump's impeachment inquiry (McDonald 2019). More recently, legislators slept outside the Capitol to protest the end of the eviction moratorium (Cohen 2021). Despite the prevalence of this behavior, no theory or comprehensive dataset considers legislators' protest. We will fill this gap by building on existing legislative behavior and protest theories, compiling new data that we plan to make publicly available, and conducting empirical analyses. We will answer: Which legislators protest? Why do they protest? And what are the political consequences of this understudied phenomenon?

Traditional theories of legislative behavior provide few answers to these questions. Instead, they suggest that legislators are motivated by their desire to win reelection, individual priorities, and institutional position (e.g., Fiorina 1977; Mayhew 1974). Extant theories concede that advancing policy through legislation is difficult for members of Congress who find themselves on the policymaking margins because they are members of the minority party (e.g., Meyer 1980; Moore & Thomas 1991; Cox & McCubbins 1993), have ideologically extreme issue preferences (Moore & Thomas 1991; Hasecke & Mycoff 2007), are newly elected party members (e.g., Miquel & Snyder 2006; Volden & Wiseman 2018), or because of their racial, ethnic, or gender identity (e.g., Hawkesworth 2003; Hall 1996; Volden & Wiseman 2018). These theories explain many legislative behaviors but do little to explain legislators' protest.

Protesting requires resources, including time, money, and political capital. Those who protest risk the favor of their constituents, party leaders, and other colleagues. Moreover, protest is unlikely to produce immediate substantive change. And while protest has been prevalent throughout congressional history, it is still the exception. Only some legislators protest. Only on select issues. And only at particular moments. Given extant literature and these considerations, we offer five hypotheses regarding which legislators protest, why they do so, and how constituents and fellow legislators respond. To begin, when policy outcomes are unlikely, perhaps due to power inequalities, protesting could (1) signal to constituents that their legislator is acting on their behalf. Next, protest scholars note that citizens' protest improves political representation, particularly for marginalized groups (Gause 2022b; Gillion 2013). Similarly, theories suggest legislators may protest as a form of conflict expansion (Kollman 1998; Schattschneider 1960). Protesting could then (2) influence public opinion and signal to other legislators that a protesting legislator is willing to invest the resources necessary to produce a policy outcome. Even if legislators are not losing a conflict and can pass legislation, they may protest to (3) communicate that they are actively working on a policy to secure credit (e.g., Grimmer et al. 2012; Gerber et al. 2022). They may also protest to (4) improve their popularity in hopes of receiving a leadership position within Congress (Born 1990; Larson 1990). Alternatively, legislators could (5) protest for personal reasons. They may enjoy the spotlight or flair that comes with protesting (Gause 2022b, p. 68; Wood et al. 2016). Relatedly, legislators from a protest tradition, like Representative Lewis, may integrate protest tactics to advance their legislative goals. While these are plausible expectations, understandings of legislators' protest would benefit from rigorous, systematic theoretical, and empirical study of legislators' protest.

2. Relationship to RSF's Core Interests

Legislators' protest occurs in a time of growing polarization and persistent racism, sexism, classism, and other dimensions of inequality, which challenge legislators' capacities to represent their constituents, particularly those who remain politically marginalized. This innovative project relates well to the Russell Sage Foundation's Social, Political, and Economic Inequality funding priority, which seeks to understand the causes and consequences of inequality within democratic institutions. After all, the extent and success of general protest activity are often regarded as a democratic thermometer, revealing the issues about which people are passionate and demonstrating the lengths to which people will go to communicate them (Gause 2022a; Gause 2022b; Gillion 2013). In overlooking legislators' protests, scholars fail to fully

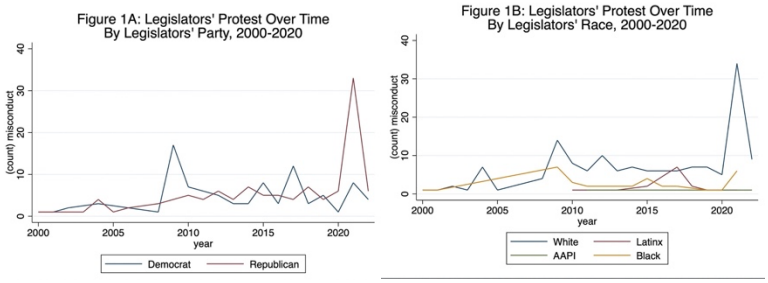
understand the issues about which policymakers are concerned and the norms and rules they are willing to violate to express those concerns. Moreover, failing to capture the characteristics, motivations, and consequences of legislators' protest leaves an incomplete picture of how legislators challenge inequalities within political institutions due to their own marginalization (i.e., based on their race, ethnicity, gender, ideology, seniority) or their constituents' marginalization along similar dimensions.

3. Preliminary Analyses

The first contribution of this project is to provide a concrete definition of legislator's protest. Based on literature related to legislative behavior and norms, as well as social movement theory, we define legislator's protest as any activity that is (1) publicly observable and (2) disrupts regular day-to-day institutional functioning or violates institutional norms to (3) communicate or achieve a political goal, as opposed to a strictly personal one. Examples of behaviors that align with our definition include legislator walkouts and sit-ins, quorum breaking, dramatic voting abstentions, excessive filibusters, and violations of Congressional decorum and norms (e.g., speaking disrespectfully or wearing inappropriate attire).

We have identified and conducted preliminary analyses on two existing data sources that capture dimensions of legislators' protest. The *Legislator Misconduct Database*, compiled by GovTrack, scrapes information about legislators' misconduct behavior from letters of reproval, censures, expulsions from Congress, and Committee on Ethics investigations, resulting in a dataset of over 482 instances of alleged and actual legislator misconduct from 1790 to present. A team of RAs examined each case of misconduct in the dataset and collected those meeting our definition of legislator protest. Figure 1 details some preliminary results from this analysis. Figure 1A displays the distribution of protest events by party and across time. It demonstrates that legislator protest, as captured in this dataset, is not dominated by one party – although Democrats participate at slightly higher levels. We have also merged this *Legislator Misconduct Database* with demographic data on members of Congress collected by Dr. Garcia for the 106th through 116th Congresses (2000-2020). Figure 1B plots trends in legislator protest by race. While white legislators engaged in more protest throughout this time in absolute terms, Black and Latino representatives protest at relatively higher rates. For instance, in the 111th Congress (January 2009 – January 2011), there were 39 Black representatives and 378 white representatives. Thus, according to Figure 1B, about 31% of Black representatives participated in protest, while only about 7% of white representatives engaged in protest over this period. Likewise, in the 115th Congress (January 2017 - January 2019), over 26% of Latino representatives protested, while only about 6% of white representatives did. These preliminary results suggest that Black and Latino representatives may protest at higher rates than white representatives in certain periods.

Figure 1: Legislators' Misconduct Over Time (Source: GovTrack.US)

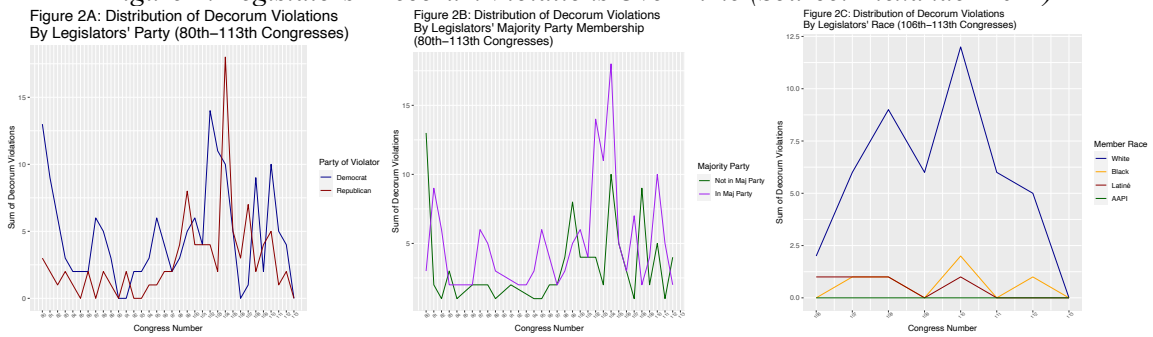


The second data source is a collection of Rule XVII clause 4 violations (also known as the "Words Taken Down" clause) from the Congressional Record (Alexander 2021). This data tracks decorum violations in the House of Representatives from the 80th through 113th Congresses (1947-2015). Decorum violations under the "Words Taken Down" clause occur when a member uses offensive language, utters words deemed to be "unparliamentary" (Davis & Green 2018), or impugns the motives of another legislator or the President during a congressional hearing. Other members object to these violations by demanding that the offending members' words be taken down in the Congressional Record. If the chair agrees that the violation has occurred and rules the words out of order, then the offending member is not allowed to speak

again on that day. Our conception of legislator protest understands these decorum violations as an instance of protest. Because members are aware of the institution's rules and norms, a violation is understood as a conscious choice by legislators to disrupt business-as-usual for political purposes.

Figure 2 plots descriptive statistics regarding the distribution of decorum violations. Figure 2A shows that Republicans and Democrats violate Rule XVII, although Democrats do so slightly more often. Figure 2B suggests that winners and losers of a conflict may find this form of protest useful, as legislators in the majority and minority parties violate the decorum rule. Figure 2C plots decorum violations by an offending member's race. While white members violate this rule more in total, Black and Latino members similarly break this norm, mainly when accounting for the number of members in each racial group. For instance, in the 110th Congress, about 5% of Black representatives, about 4% of Latino representatives, and about 4% of white representatives violated the decorum rule. In the 112th Congress, about 2% of Black representatives and about 1% of white representatives violated this rule. Thus, while protesting via decorum violations is rare, it occurs among relatively underrepresented members at rates comparable to or higher than white members.

Figure 2: Legislators' Decorum Violations Over Time (Source: Alexander 2021)



3. Project Design

This existing data can provide insights into which legislators protest across time; however, there are crucial disadvantages to these data sources that hamper our ability to study legislator protest. For instance, both the *Legislator Misconduct Database* and Alexander's (2021) Rule XVII dataset only capture protest activities that rise to the level of formal recognition or sanction. Protest behaviors like that of Representative Bobby Rush in 2016 are not captured (Walsh et al. 2016). Accordingly, we aim to compile the first comprehensive dataset of legislators' protest by combining the above datasets with novel data from two sources: Newspaper coverage of legislator protest and Congressional speeches. The data will collect the following variables: who protests [gender, race, ethnicity, tenure, party, committee membership, leadership status], how they protest [type of protest activity, place of protest activity], why they protest [policy, issue, concern], and how fellow legislators react to such protest. We will then use survey data to understand how constituents respond to legislators' protest activities.

Newspaper articles: Legislators' protest is publicly observable behavior often captured by media reports that communicate to the public. To collect all media coverage of legislators' protest, we have developed a protocol on Factiva and Nexis Uni to search for instances of protest systematically. This protocol includes 1) using Boolean searches to identify the universe of newspaper articles on legislator protest, and 2) using undergraduate assistants to hand-code the articles according to our coding scheme (e.g., who protested and when, why they protested, how did they protest, how did colleagues respond to protest). We have already employed RAs to 1) check the efficiency of the Boolean search protocol and 2) preliminarily apply the coding scheme to ensure it captures all relevant concepts.

We have used similar methods to collect protest data for previous research on the representation of constituents' protest behavior (Gause 2022a; Gause 2022b; Gause, Garcia, and Stout n.d.) and media coverage of protests (Gause, Moore, and Ostfeld n.d.). However, there are two foreseeable limitations to this data collection effort: First, newspapers may underreport the extent of legislator protest. They only

report events they are aware of and of journalistic interest. Secondly, biases in media representation may exist based on legislators' ideology, race, and gender. We turn to a final data collection effort to compensate for these shortcomings.

Congressional speeches*:* We expect that speeches made by legislators may be 1) protest in themselves or 2) a forum in which legislators comment on the protest of other legislators; this nuanced form of protest and commentary likely go undetected in the existent data sources. Co-PI Jennifer Garcia has access to all floor speeches from 1948 to 2016, which we will use to capture both instances of protest-via-speeches and commentary on other protest events. First, we will identify the former by developing a dictionary of keywords, which we will use to search the universe of speeches for instances of protest-via-speech automatically. Next, we will engage a second keyword dictionary indicating whether the legislator is speaking positively or negatively about a colleague's protest effort. Undergraduate RAs will then code the protest-related speeches for our variables of interest. Finally, we will cross-reference each speech with the *Legislator Misconduct Database* and newspaper articles data to eliminate duplicate events. And we will match each dataset with the roster for each Congressional year, allowing us to identify the characteristics of each legislator who has engaged in protest activity (e.g., tenure, race, gender, committees on which they served, etc.). This data will help us answer which legislators protest and why.

Consequences: To understand the consequences of legislators' protest activities vis-à-vis their constituents, we evaluate both constituents' perceptions of legislators' protest and protests' effects on legislators' policymaking. Evaluation of constituents' responses to legislator protest is achieved through three data collection efforts. We have already (1) fielded questions on the 2020 Collaborative Multiracial Post-Election Survey (CMPS) to discern how constituents perceive legislators who protest. Next, we will (2) field a survey experiment, varying legislators' demographics, and protest activities to identify the mechanisms through which evaluations of legislators' protest operate. We will also (3) analyze campaign contributions data to discern how constituents react to legislators' protests. Finally, we will assess whether protest improves or impedes legislators' ability to progress bills through the legislative process using legislative effectiveness scores (Volden and Wiseman 2014).

4. PI Qualifications

LaGina Gause is an assistant professor of political science at the University of California, San Diego. Her research interests lie in legislative behavior, race and ethnic politics, inequality, protests, and political behavior. She has a book published by *Cambridge University Press*. Other work appears in *the British Journal of Political Science, Political Behavior, PS: Political Science & Politics,* and *the Legislative Scholar.* **Jennifer Garcia** is an assistant professor of Politics at Oberlin College whose research focuses on legislative behavior, race and ethnic politics, and political representation. She has published in journals such as *Political Research Quarterly and Legislative Studies Quarterly*. She and her co-author received the 2017 Best Paper in Blacks and Politics from the Western Political Science Association.

5. Budget and Scholarly Product

This project will take two years and will produce several scholarly products. In the first year, we will construct a publicly available, comprehensive dataset on legislators' protest, from which we expect to produce two academic articles describing and evaluating legislators' protests. We seek funds to convene a team of undergraduate research assistants who will assist in collecting and coding the legislator protest database ($[redacted]) and funding for a graduate student in her advising of the undergraduate team and participation in the collection effort ($[redacted]). In the second year, we will field the survey experiment on constituents' perception of legislator protest, resulting in the ultimate production of a book manuscript addressing our three research questions. To that end, we also request summer salary for our assistant professors ($[redacted] total, including 15% indirect costs on salary since one Co-PI is at a separate institution). All three PIs are responsible for data collection and management, theory development, team management, study design, analysis, and manuscript preparation. In total, we request $[redacted].

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