Congress and Civil Rights:  
A Political-Economic History, 1863-2012  

Jeffery A. Jenkins  
Department of Politics  
University of Virginia  
jajenkins@virginia.edu  

Book Proposal  

I propose a book that examines how the issue of civil rights for black Americans has been dealt with in the U.S. Congress from the Emancipation Proclamation in 1863 through the present day. Congress will serve as the focus of analysis for the following reason: while the president and the courts played an important role in the hastening of civil rights for black Americans, especially in the mid-20th Century, the most-lasting victories of the Civil Rights Movement were *statutory*. That is, the Civil Rights Act of 1964 and the Voting Rights Act of 1965 swept Jim Crow-style discrimination away once and for all. As such, charting the course to these victories (and beyond) is crucial for a full understanding of how the civil rights issue has developed over time.  

The book will take a historical approach and detail how the U.S. Congress has struggled with civil rights issues across different eras in the Nation’s history: from Reconstruction through Redemption, when blacks were first empowered and then reduced to second-class citizens; across the bleak period of the late-19th and early-20th centuries, when Congress was almost wholly unreceptive to black Americans’ plight and civil rights policy reached a post-1863 low point; through different phases of the post-World War I era, when blacks made slow and steady progress in generating a civil rights agenda in Congress, culminating in the landmark Acts of 1964 and 1965 (and their subsequent Extensions and Amendments).
In laying out the political-economic history of civil rights, I will make two distinct contributions to the political science literature. First, I will examine how the course of civil rights policy in Congress has depended on the “electoral connection.” Second, I will examine how the congressional parties have lined up over time (and switched places) on civil rights. I will briefly describe each of these contributions in turn.

The book’s first political science contribution will be to show that the civil rights agenda in Congress has waxed and waned depending on the degree to which black Americans have been pivotal in congressional elections. During Reconstruction, blacks in the South were critical to the creation and maintenance of a southern wing of the Republican Party. Such a southern wing melted away as Democrats returned to power in the region, and Republicans increasingly turned a blind eye to the plight of black Americans. Between 1891 and 1918, there were almost no members of Congress who cared about civil rights issues, as blacks were not electorally pivotal anywhere in the country. With the First Great Migration after World War I, the number of black voters in the North increased substantially, and blacks became pivotal in many district and state elections. As a result, northern politicians, first in the Republican Party in the 1920s and then in the Democratic Party in the 1930s, had to be responsive to black voters and thus became receptive to reviving a civil rights agenda. Blacks would use their pivotal electoral status in the North to great effect through the middle part of the 20th century, as northern Democrats in Congress sought to promote black voting rights and end segregation.

The book’s second political science contribution will be to reveal the partisan realignment on race that occurred in the 20th century. The common understanding in the literature is that a partisan realignment on race occurred in Congress in the mid-1960s, as

---

1 The standard work on the electoral connection in Congress is David R. Mayhew, Congress: The Electoral Connection (New Haven: Yale University Press, 1974). Since Mayhew’s landmark study, a number of works have examined how variation in the electoral connection may affect how members of Congress behave.
Democrats came to represent black interests while Republicans (the old “Party of Lincoln”) turned their back on black voters. This view that a racial realignment did not occur until the height of the Civil Rights Movement is inaccurate. In fact, the racial realignment was gradual and began decades earlier. Republicans continued to be the advocates of a civil rights agenda through the 1920s, when the first anti-lynching campaign in Congress was waged; however, a majority of *Northern* Democrats supported black interests (by voting for the anti-lynching bill) as early as 1921. By the late-1930s, the Northern Democrats had become the chief advocates in Congress for black civil rights, with Southern Democrats virulently opposed. Republicans, as the swing coalition, continued to be supportive of black civil rights through much of the 1930s, but beginning in 1938 they began acting strategically—supporting or opposing civil rights initiatives depending on the electoral payoff involved. This strategic behavior continued through the mid-1960s; a majority of Republicans, in fact, supported the Civil Rights Act of 1964 and Voting Rights Act of 1965. Only in the late-1960s, beginning with the Civil Rights Act of 1968 (i.e., the “Fair Housing Act”), did the Republicans start taking more decidedly conservative positions on civil rights. This culminated in a clear “right turn” in the early-1970, on the issues of equal employment and forced busing.

In detailing the political-economic history of civil rights in Congress, and making contributions to key literatures in political science, I will use a variety of data and evidentiary sources including bill introductions, congressional roll-call votes, congressional proceedings, legislative hearings, and media (newspaper) coverage. Special attention will be given to those

---

issues that elicited roll calls on the floor, as they possessed the ability to effect meaningful change. When analyzing votes, I will use standard descriptive techniques (like reporting the partisan marginals) as well as statistical techniques, like regression analysis, to discern more specific patterns based on factors like member ideology and district/state characteristics.3

A chronological outline of the book follows this general overview. The current plan is that there will be twelve chapters. Portions have already been written as stand-alone journal articles. The article “Between Reconstructions: Congressional Action on Civil Rights, 1891-1940,” published in Studies in American Political Development, will form the basis for parts of Chapters 5 and 6.4 Another article, “Building toward Major Policy Reform: Congressional Action on Civil Rights, 1941-1950,” forthcoming in Law and History Review, will form the bulk of Chapter 7.5 And this summer, I will write a solo-authored paper on the partisan struggles over civil rights policy in Congress during the 1970s, for the 11th Annual Congress and History Conference; that paper will become Chapter 10.

**Chronological Outline:**

**Chapter 1: Introduction**

I will cover most of the basic themes detailed above, by providing a historical overview of how Congress has dealt with the civil rights issue and discussing how a study of the political-economic history of civil rights can contribute to important theoretical debates in the literatures on race, congressional behavior, and political parties. I will also discuss briefly the pre-1863 era,  

---

3 In analyzing roll calls, one covariate of interest will be the NOMINATE score, a measure of member ideology that is now ubiquitous in the literature. See Keith T. Poole and Howard Rosenthal, *Congress: A Political-Economic History of Roll Call Voting* (New York: Oxford University Press, 1997).
and how the civil rights issue was the successor to the slavery issue, which divided the country for decades and eventually led to the Civil War.

(2) Civil War Era (1863-65)

I will describe the politics surrounding the Emancipation Proclamation, most notably its consequences; that is, with slaves now free, the question of how they should be treated (and what civil rights they possessed) demanded attention. I will then discuss the creation of the Freedmen’s Bureau, which was intended to assist millions of former slaves in their transition to freedom and independence. Finally, I will cover the introduction and passage of legislation that would become the 13th Amendment, which abolished slavery for good.

(3) Reconstruction (1865-77)

I will describe the politics surrounding Reconstruction and the pursuit by the Radical Republicans – over the objections (and vetoes) of President Andrew Johnson and the Democrats – in establishing civil equality for black Americans. Citizenship for black Americans, and civil rights protections, were first provided in the Civil Rights Act of 1866; Republicans later solidified these protections (against arguments about constitutionality) in the 14th Amendment. Voting rights for black Americans were guaranteed in the 15th Amendment. Various enforcement acts were also passed to ensure the guarantees in the 14th and 15th Amendments. While these civil rights gains were truly historic, seeds of their demise were also planted in the latter part of Reconstruction, as the Freedmen’s Bureau was discontinued, former Confederates were re-enfranchised (through the Amnesty Act), and a law to provide equal access to public accommodations (the Civil Rights Act of 1875) was shorn of any means of enforcement.

---

6 The Emancipation Proclamation followed on the two Confiscation Acts, passed by Congress early in the War, which freed slaves in a piecemeal way after Union military victories and occupation of parts of the South.
(4) Redemption (1877-91)

By late-1877, the entire South had fallen into Democratic hands, and a period of “Redemption” had begun, wherein black citizenship and voting rights would slowly be wiped away. Southern Democrats, now in firm control of Congress, tried to repeal the various Enforcement Acts, but could not overcome President Hayes’s veto. While one segment of the Republican Party – the “Half Breeds” – sought to cut ties with the Radical’s southern experiment and more closely align with northern business interests, another segment of the party – the “Stalwarts” – sought to maintain a southern presence and protect the rights of the Freedmen. Stalwart efforts would include a series of election contests (disputes) in Southern states and districts, based on charges of fraud and violence; an attempt to desegregate public transportation, after the Supreme Court in the Civil Rights Cases ruled the Civil Rights Act of 1875 to be unconstitutional; and, most important, a push to enact a new Enforcement Act sponsored by Henry Cabot Lodge (Mass.). The Lodge Bill passed in the House in 1890 but stalled in the Senate, when a number of western (“silver”) Republicans joined the Democrats to prevent it passage.

(5) “The Wilderness” (1891-1918)

After the failed Lodge Bill in 1890, and their subsequent national electoral success in the 1894-96 elections, the Republicans gave up their pursuit of a southern wing of the party. Election contests were no longer pushed in the newly-Jim Crow South, and a civil rights agenda in Congress was dropped. Democrats were successful in repealing the Enforcement Acts in 1894, and eliminating the prohibition on former-Confederate officers from holding similar positions in the U.S. army or navy. The Populists made a brief attempt in 1900 to reduce the ratio of representation enjoyed by Southern states, because they argued that Jim Crow prevented a “republican form of government.” But the attempt went nowhere. Finally, the Democrats made
a push to pass an anti-miscegenation law in the District of Columbia; such a bill passed in the House in 1915, but died in the Senate. In sum, during these two decades, black Americans had no electoral voice, and thus had almost no champions in Washington.

(6) An Inkling of Hope (1918-1940)

As thousands of black Americans move North after World War I, as part of the First Great Migration, the electoral dynamics of the previous two decades changed. Blacks were now pivotal in a number of Northern House districts and states, thanks to the close margins between white voters aligned with the Republicans and Democrats. As a result, many Republicans in Congress were now receptive to civil rights initiatives, and an anti-lynching bill passed the House in 1921 (but was filibustered in the Senate). By the late-1930s, Northern Democrats, following FDR’s lead, started reaching out successfully to black voters, and Democratically-sponsored anti-lynching bills passed in the House in 1937 and 1940 (before once again hitting a brick wall in the Senate). Apart from detailing this “electoral connection” story, I describe the parties’ reorientation on racial issues, which happened both earlier and differently than the received wisdom implies. For example, a majority of Northern Democrats began voting against the party’s dominant southern wing as early as 1921 (earlier than is argued in the literature) and black voters operated in a largely independent fashion during much of the 1920s and 1930s (rarely discussed, and typically ignored, in the literature). In addition, Republicans, while beginning to behave strategically during the 1930s, were not willing to cede the black vote to the Democrats just yet.
(7) **Building toward Major Policy Change** (1941-1950)

I then examine the decade of the 1940s, which was an important bridge period between the relatively quiet 1891-1940 period and the critical years of the Civil Rights Movement during the 1950s and 1960s. I uncover four sets of civil rights initiatives that emerged in the 1940s and elicited roll-call votes on the floor: (1) efforts to eliminate the poll tax in southern elections; (2) attempts to federalize soldier voting during World War II, thereby threatening state-level electoral institutions; (3) attempts to institute fair employment practices among private sector employers, labor unions, and federal agencies; and (4) efforts to eliminate discrimination in public education, through conditional federal assistance for state-level school lunch programs. Only one, the elimination of discrimination in school lunch programs, was a clear victory for civil rights advocates. By looking more closely at the defeats, however, I discover a continuing process of partisan realignment driven by debates over civil rights. As the position of Southern Democrats was weakening across the decade, Northern Democrats actively sought to represent black voters. Republicans, as the swing coalition, often hedged on civil rights and tended to support more symbolic or procedural measures over strong substantive initiatives; by the end of the decade, however, they largely gave up on winning black votes and began forming a more stable alliance with Southern Democrats.

(8) **A New Hope** (1951-1960)

With the *Brown v. Board of Education* decision in 1954, which ended state-sponsored segregation based on the “separate but equal” doctrine, civil rights advocates stepped up their pressure on Congress. In 1956, Rep. Adam Clayton Powell (D-N.Y.) was successful in getting an amendment passed that withheld federal funds for school construction to states that refused to
obey the Supreme Court’s *Brown* decision. Later that year, the first civil rights bill since Reconstruction passed in the House, but was killed in the Senate. A year later, the Senate blockade was broken and the Civil Rights Act of 1957, a voting rights law with little enforcement power, was passed into law. Three years later, the Civil Rights Act of 1960 was passed, which provided additional, modest legal remedies to assist in fostering voting rights. Northern Democrats during this time continued to grow stronger relative to their Southern brethren, while Republicans largely supported civil rights initiatives, but did so for strategic reasons – principally to divide and embarrass the majority Democrats and attempt to break apart the New Deal coalition.

(9) **Major Breakthroughs** (1961-1970)

Northern Democrats continued to build on their civil rights successes by passing legislation in 1962 that would eliminate the poll tax; this would later become the 24th Amendment. They quickly followed by enacting the Civil Rights Act of 1964, which eliminated unequal application of voter registration requirements and unequal access to public accommodations and facilities. And, in the Voting Rights Act of 1965, all remaining Jim Crow institutions (like literacy tests and voter qualification devices) that could restrict voting rights were prohibited. (The initial VRA lasted for 5 years, before being extended in 1970.) Finally, the Civil Rights Act of 1968 (otherwise known as the Fair Housing Act) eliminated discrimination in housing. The pattern of these victories was consistent across the decade as Northern Democrats joined with Republicans to roll the Southern Democrats. Republicans often acted strategically, joining with the Northern Democrats but requiring that bills be weakened or extracting concessions on other legislative
policy dimensions.\textsuperscript{7} By the late-1960s, however, the ideological struggle within the Republican Party had been largely won by the conservative wing, and significant defections were observed on the Fair Housing votes. This provided the first hint that an accommodating strategy on civil rights might not be long for the Republican Party.


The 1970s saw a gradual polarization between Northern Democrats and Republicans on civil rights – as Republicans more often joined with Southern Democrats on ideological grounds. For example, while the Republicans joined with Northern Democrats to pass the Equal Employment Opportunity Act of 1972, which strengthened the enforcement of provisions of the Civil Rights Act of 1964, they did so only after joining with the Southern Democrats to amend the bill and refocus key aspects (by providing court enforcement powers in lieu of “cease and desist” authority). The Republicans also successfully fought Northern Democrats’ attempts at integration, by forcefully opposing mandatory busing. And while the Republicans supported the Voting Rights Amendments of 1975, they began to voice opposition to the federal government intruding upon the independent domains of the states, an argument that would become increasingly common going forward.

(11) The Present (1981-present)

From 1981 through the present, Republicans and Democrats have often taken opposing sides on civil rights initiatives, and increasingly so as the parties in Congress have continued to polarize ideologically. Over a decade and a half after its passage, the Voting Rights Act (and infusion of black voters into the southern electorate) had the effect of eliminating conservative Democrats in

the South – replacing them with liberal-to-moderate Democrats and conservative Republicans. As a result, the Democrats have become a clear liberal party and the Republicans a clear conservative party. Thus, when civil rights initiatives are considered, they no longer act as cross-cutting issues; rather, they map into the natural left-right ideological distribution of the congressional parties. And when basic civil rights initiatives have been considered, like the proposed Civil Rights Act of 1990, they have often elicited strongly partisan debates and starkly divided votes. The proposed 1990 Act also was an indication of how much partisan tension had ratcheted up on civil rights, as the bill elicited a veto from President George H. W. Bush that the Senate could not override; moreover, the override attempt broke down almost perfectly along partisan lines. Civil rights is thus contested terrain in the modern era.

(12) Conclusion

I will summarize my historical findings and recapitulate my political science contributions regarding the electoral connection and partisan sorting in Congress on civil rights. I will also discuss whether my results, which provide a new understanding of civil rights and congressional policy making, can help shed light on broader questions in the American politics literatures, like representative-constituency relations, party politics and dynamics, and American political development.

---

9 A new Civil Rights Act was eventually passed the following year, in 1991, which offered additional protections in the area of employment discrimination.