

MAJ FIIL: MIDWEST ACADEMY ORGANISING STRATEGY CHART

Goals	Organizational Considerations	Constituents, Allies, and Opponents	Targets	Tactics
<p>1. List the long-term objectives of your campaign.</p> <p>2. State the intermediate goals for this issue campaign. What constitutes victory?</p> <p><i>How will the campaign:</i></p> <ul style="list-style-type: none"> • Win concrete improvements in people's lives? • Give people a sense of their own power? • Alter the relations of power? <p>3. What short-term or partial victories can you win as steps toward your long-term goal?</p>	<p>1. List the resources that your organization brings to the campaign. Include: money, number of staff, facilities, reputation, canvass, etc.</p> <p>What is the budget, including in-kind contributions, for this campaign?</p> <p>2. List the specific ways in which you want your organization to be strengthened by this campaign. Fill in numbers for each:</p> <ul style="list-style-type: none"> • Expand leadership group. • Increase experience of existing leadership. • Build membership base. • Expand into new constituencies. • Raise more money. <p>3. List internal problems that have to be considered if the campaign is to succeed.</p>	<p>1. Who cares about this issue enough to join in or help the organization?</p> <ul style="list-style-type: none"> • Whose problem is it? • What do they gain if they win? • What risks are they taking? • What power do they have over the target? • Into what groups are they organized? <p>2. Who are your opponents?</p> <ul style="list-style-type: none"> • What will your victory cost them? • What will they do/pend to oppose you? • How strong are they? 	<p>1. Primary Targets</p> <p>A target is always a person. It is never an institution or elected body.</p> <ul style="list-style-type: none"> • Who has the power to give you what you want? • What power do you have over them? <p>2. Secondary Targets</p> <ul style="list-style-type: none"> • Who has power over the people with the power to give you what you want? • What power do you have over them? 	<p>1. For each target, list the tactics that each constituent group can best use to make its power felt.</p> <p>Tactics must be:</p> <ul style="list-style-type: none"> • In context • Flexible and creative • Directed at a specific target • Make sense to the membership • Be backed up by a specific form of power. <p>Tactics include:</p> <ul style="list-style-type: none"> • Media events • Actions for information and demands • Public hearings • Strikes • Voter registration and voter education • Law suits • Accountability sessions • Elections • Negotiations

Midwest Academy

SEAN FLYNN: USEFUL QUOTATIONS

Bond and Brutis:

(T)he SCA's judgment . . . is not atypical of rights judgments (the worst of which may have been Grootboom): highly conditional and reinforcing of status quo power relations, failing to compel a change in the state's executive branch policies and practices when even egregious harms are obvious, based on thinking that is consistent with the essential process of commodification-of-everything demanded by capitalism.

Robert Hale, Bargaining, Duress and Economic Liberty, 625 (1943)

The market value of a property or of a service is merely a measure of the strength of the bargaining power of the person who owns the one or renders the other, under

the particular legal rights with which the law endows him, and the legal restrictions which it places on others.

INTERNAL CRITIQUE

Freedom **Coercion**

Market **State**

Contract **Regulation**

Duncan Kennedy, Stakes of Law: Hale or Foucault (1991)

(ON REALIST LAW AND ECON)

The state uses force to ensure obedience to the rules of the game of bargaining over a joint product. To the extent that these rules affect the outcome, forcing the parties to settle for X rather than Y percent of the joint product, the state is implicated in the outcome. It is an author of the distribution even though that distribution appears to be determined solely by the “voluntary” agreement of the parties.

...

Law is one of the things that constitute the bargaining power of people across the whole domain of private and public life. One of the things this power produces is a distribution of income, understood as a distribution of whatever people value that is scarce.

...

A basic reason for the invisibility of the distributional consequences of law is that we don't think of ground rules of permission as ground rules at all, by contrast with ground rules of prohibition. This is Wesley Hohfeld's insight: the legal order permits as well as prohibits, in the simple-minded sense that it could prohibit, but judges and legislators reject demands from those injured that the injurers be restrained

...

(ON REALIST V. MARXIST/ LIBERAL ACCOUNTS)

In conventional Marxist accounts, law plays a minor role because distribution is determined by the “relations of production.” There are a capitalist class and a proletariat, defined by their ownership or non-ownership of the means of production. Although these relationships to capital and land have a legal form, that form is merely reflective of an underlying set of material conditions. . . . In this model, the kinds of variations in the rules about bargaining that I discussed above have no significance whatsoever.

In the liberal model, law plays a major role in the form of “the rule of law,” a defining element in the liberal conception of a good society. But the content of the background of legal rules is seen to flow either as a matter of logic from regime-defining first principles (rights of bodily security, private property, freedom of contract) or from the will of the people, or from both together in some complex combination. The distributive issue is present, but understood as a matter of legislative intervention (e.g., progressive taxation, labor legislation) to achieve distributive objectives by superimposition on an essentially apolitical private law background.

. . .

(I)t seems obvious that having “capitalism” or “private property” just plain “means” that a worker can’t compel anyone to give him any money, because he doesn’t “own” that money. So he has to “bribe” someone to release money to him by offering to work for him in exchange. It also seems an obvious consequence of the initial regime choice for capitalism or private property that if he can’t occupy free land or get free access to capital to go into business on his own, the worker will starve. But as we have seen already, the mere choice of a regime doesn’t settle the thousands of questions that will arise about the ground rules in particular situations.

. . .

I think it would be possible to make “revolutionary” changes in the **distribution of income, wealth, power, and knowledge between social groups by changing only ground rules (without using, say, the tax system), and only ground rules governing areas in which there is normative conflict rather than deeply internalized consensus.**

Second, the legal system creates as well as reflects consensus (this is true both of legislation and of adjudication). Its institutional mechanism “legitimizes,” in the sense of exercising normative force on the citizenry. Even when we are dealing with very deep-seated norms, like that against intentional killing of another person, the legal system can be an important vehicle of change, as is shown by the example of the evolution of the battered woman’s right to kill in self-defense.

. . .

(ON FOUCAULT)

Foucault's goal is to refute a liberal legalist mystification, along the lines that because the worker-employer relation is contractual it is "free." Fair enough. But the value of Hale is to show that we can recognize the coercive element without ending the analysis there. Every contractual situation involves a different set of legal parameters, there is coercion from both sides, and the possible outcomes are various. . . . (T)here is worker and feminine agency in modern societies, and conflict and bargaining, and many kinds of distributions. But then he would have had to produce something that seems unnecessary in a discussion of prisons, barracks, schools, and asylums: an analysis of the intersection of disciplinary with market power.

. . . But another product of the deployment of power in unequal relations is knowledge, meaning particular understandings of the world and how it works.

Knowledge conditions the valuation process, indeed creates valuing subjects, as well as the particular values of the valuing subjects. The knowledges produced by those empowered in earlier processes of private bargaining and lawmaking alter future bargaining, future lawmaking, and future knowledge production. Thus individuals and groups organized along crosscutting lines of cleavage are themselves reconstituted through exercises of power that seem merely instrumental to existing goals. Then they bargain again from the new starting point.

. . .

The complex of legal institutions, including legal education, law firms, courts, and administrative agencies, is less universally experienced than marriage, but it may well be important in the constitution of the modern subject in an analogous way. The themes of this institutional complex are "rightness" and coercion. People in these institutions have to, in order to act within them, learn to "be" right, in the sense of offering transpersonal justifications of their actions.

Having the ability to produce an argument from legal necessity to justify coercion is a prototypical way of being a person in our society. By this I mean that it is one of the models for all the other kinds of rightness, in the "human" but also in the natural sciences, in the professions, in bureaucracies, and in informal peer networks. To the extent Foucault helps us understand legal necessity as an effect of disciplinary power, we are better able to deploy Hale's analysis of the effects of this effect, the mystified background rules for cooperative/ competitive struggle.

Rule choice in water rights litigation

Sufficient water = 50 litres (free)

No cut offs without a hearing (because Water Rights Act)

No cut off without hearing (because PAJA)

No cut off without hearing (Because right to water)

Wrongful cut offs are delict

“Wrongful” includes violation of rights (equality, admin justice, soc and econ rights)