

“What Was Black Power?: James Boggs and the Materialist Theory of Rights”

The question of Black power referred to in the title of this paper is: what *was* Black power? From the end of the Civil Rights Movement to the beginning of the 1980s James Boggs set about the task of investigating Black power as a *scientific* concept rather than a metaphor or emotive slogan. For a political concept to be scientific it had to be self-consciously rooted in extant social forces and dynamics as well as composed of clear strategies a social group could appeal to in their struggle for self-emancipation. Boggs insisted that Black power attained salience in the aftermath of the successes of the Civil Rights Movement because it was only with formal integration into the circuits of American democracy and capitalism would the limitations of social recognition become apparent. Boggs's thesis was that civil rights and social power were analytically distinct and the group that confuses the latter for the former was liable to lose both. My contention is that we currently live in a moment where we can no longer ask what black power *is* because, at least as Boggs understood the concept, it no longer exists, and social theory should ask why.

My short reflections here are a part of my larger book project so I do not have the space to go into how and why projects for social transformation from a Black perspective have been increasingly hampered and diffuse. Instead my more limited goal here is to outline what it would mean to say that Black power no longer exists. I think James Boggs provides fruitful resources that challenge some of the main lines of political analysis that take the measure of Black power to be the extent to which (certain) Blacks can influence cultural representation or influence others in power to produce policies that supposedly favor Black people. For Boggs neither of these options is an indicator of power and it is worth specifying why. To do so, I will define Boggs's idiosyncratic understanding of what it means to have a right, then I will outline his two definitions of how rights can be mobilized, and conclude by showing that for Boggs a right presupposes power rather than vice versa.

Rights and the Curious Question of Power

What have Black people been struggling for when they have struggled for their rights? Naturally, the answers will vary in any given time period or organization, but I think we can say that the struggle for rights entails two distinct yet connected claims. First, there is the assertion of a moral claim or framework. The enslaved or the racially dominated are saying, "I ought not be treated in such and such a manner and *you* ought to recognize that." So, to assert a right is to make a particular type of moral demand on another person or institution. When Blacks made the claim that they had a right to their bodily autonomy, to the security of their families, to the right to vote they were drawing a border between themselves and what others may do to them. But a moral claim for recognition does not suffice for guaranteeing a truly effective right.

And so, second, Blacks who have struggled for their rights have also fought for a set of social relations that would institutionalize their moral claims. The struggle for rights has often been attended by a struggle to bring into existence a set of institutions or legal frameworks that would standardize the moral claims. Fighting for the end of slavery in the United States was substantially more than a fight to get Whites to agree that Blacks were human beings. It was a fight to constrain what Whites could do to Black people by transforming their humanity into legally recognized personhood. I will leave to the side for the moment whether the normative source of rights is *pre-social*. I think we can agree that rights are only effective insofar as they are grounded upon a definite set of social relations.

In liberal democracies rights are articulated as the contractual relationship between persons and the state. Many, but by no means all, Black struggles have focused on the social relations that define the state and its legal frameworks. They have often appealed to the moral and legal frameworks of the state in order to expand the sphere of personhood to include Black human

beings. Now this strategy does make sense. If persons cannot be held in bondage because of the rights a state is obligated to recognize then the recognition of Blacks as person would logically entail the abolition of slavery.

If only logical entailment were needed for freedom, then I imagine that we'd be living in a much different world at the moment. Those of us who are minimally familiar with the history of Black struggles in the US or anticolonial struggles around the world know that state can abide by logical contradictions for long periods of time. There is a yawning gap between legal freedom and *real* freedom. What is of course missing is some account of the powers that ensure that the state lives up to its obligations. Neither states nor social systems have consciences since they are nothing more than bundles of bureaucracies and institutions staffed by innumerable individuals so the power that we are looking for cannot be moral suasion.

I find this gap between legal recognition and real freedom curious because if we consider what rights are (at least in much of the liberal tradition) we find that the contractual relationship that defines rights has less to do with *empowering* individuals than *disempowering* what others may do to the individual. For instance, you have a right not to be barred from entering into a wage contract of your choosing with an employer and there are actions an employer may not take against you; you are not empowered to have a wage contract of no one is hiring. I hope to convince you that this distinction between “empowerment to” and “disempowerment from” is crucial for James Boggs. The issue is that the enforcement mechanism that ensures that others are sufficiently disempowered in what they can do to is often assumed: the courts. Failing that we can look to either periodic elections or civil disobedience. All routes seem to run through the state. But what use is a right if the state won't—or *can't*—uphold their end of the contract?

If we recall that an effective right is not only a moral framework, but a set of institutionalized social relations then we have to acknowledge that we cannot only focus on the state

in order to understand rights. We have to grasp the institutionalized social relations that comprise markets or what we innocently call “the economy.” We are not addressing ourselves to a state that exists outside time, but a definite form of the state that is constrained by the demands of free markets and the free flow of capital. So, a right is not abstract, but takes a particular shape given the complex relationships between the state and the economy. Presently, states are called to establish a delicate balance between the political freedoms of citizens and the economic freedom of capitalist markets to invest and accumulate how they see fit. These two imperatives can, and often do, come into conflict when individuals claim a right to not be simply cut off from the means to life and capital claims the right to be able to move and reinvest.

All of this is a long way of saying that the rights of political freedom are not necessarily commensurate with the rights of economic freedom. Many Black struggles in the 19th and 20th century saw this problem and understood that political freedom was worth very little if they were left vulnerable to the impersonal dynamics of the economy. However, efforts to exert control over markets and capital were often met with vicious and deadly resistance as detailed by W.E.B Du Bois in *Black Reconstruction*. Newly freed Blacks in the south, elected to government, attempted to reorganize and redistribute the property relations that has been institutionalized and were met with violence and abandonment from northern capitalists who wanted to insure their own freedom. Blacks in the south discovered they lacked the requisite power to effectively claim what they took to be theirs by right.

Now this brings us back to my question of what powers can obligate the state to live up to its obligations. Steven Lukes in his book *Power: A Radical View* describes three dimensions to a sociological account of power. First, we can say that power is defined by who can exercise the required force in decision making contexts. In other words, whose preferences win out? In the historical example of reconstruction, we can say that the preferences of the northern capitalists won

out when presented with the choice between Black redistribution and white accumulation. Second, we can say that power is defined by who shapes what choices are taken to be salient in a given context. In the US, the fact that major political decisions are often broken down into a choice between two political parties is not a natural occurrence, but an effect of powerful constraints. And third, power is defined by one party being able to extract the consent of another party. What is key for Lukes here is that we are able to evaluate whether the dominated party would have chosen differently if they knew there were other options.

The question of rights often obscures this third dimension of power since their enforcement mechanism is often taken for granted. Boggs's radical revision of rights is premised on his understanding that (liberal) rights are a form of *integration* into a set of social relations that artificially separate the state and the economy. Rights from within the social relations of the capitalist state will not empower Blacks against the macro forces of deindustrialization and capital flight that lock them out of labor markets. If one can be ejected from the set of social relations (i.e., locked out of labor markets) then one does not have rights, but may still make moral claims—be an object of pity or charity. Boggs believes capitalist markets necessarily and systematically bar racialized populations from participating and thus disempower them even as they retain *de jure* political rights. He argues that Black power should constitute a refusal to consent to this form of right. I am reminded of James Baldwin, near the end of *The Fire Next Time*, describing the civil rights movements as a struggle for desegregation rather than integration. After all, who would want to integrate into a burning house?

So, rights require a social theoretical critique that can analyze whether the existing sets of social relations do in fact cohere with their moral putative moral framework. For Boggs, capitalist social relations systematically undermine the contractual relationship between persons and the state by creating populations who are thoroughly dependent on and absolutely abandoned by the freedom

of markets. This is nothing less than a situation where one lacks no effective rights whatsoever. Boggs concern is that without Black power rights will be reduced to a set of moral claims that have no anchor in the existing social relations. For my purposes, a critical theory of utopia would demonstrate the systematic gap between a moral framework and a set of social relations if it is structurally necessary that the persons created by rights will find themselves effectively without rights. But for now I was describe what I take to be Boggs' theory of right.

Boggs and “Rights Externalism”

Boggs's view has important similarities with the view of “rights externalism” as defended by Derrick Darby in *Rights, Race, and Recognition*. The broad outline of Darby is that rights should not be understood as pre-social or indexed to some inherent characteristic that all humans share. Darby argues that rights only obtain when certain social practices obtain. He writes, that “Were these social practices not to obtain subjects who merely had morally valid claims to act or be treated in a certain way would not possess moral rights, though they would indeed possess morally valid claims. The point is that more than moral validity is required to convert a claim into a right” (20). I think this is exactly the right starting point for considering rights. Boggs wants to interrogate how and why it is that power is required to convert a claim into a right. Part of why Darby is suspicious of pre-social rights is that he thinks it is unlikely that there will be an overlapping consensus about what right-endowing property we should choose in order to avoid overexpanding the realm of rights beyond human subjects to animals or nature for example (48).

Nevertheless, I think Boggs still goes beyond Darby's project even though Darby acknowledges that the point of many historical social struggles has not been to demand recognition of pre-existing natural rights, but “the establishment of social conditions in which these ways of acting and being treated are socially recognized, maintained, and enforced” (80). Boggs would agree

that rights are established ways of acting and being treated, but he thinks there is considerably more to it than this. Rights are not only about how others intend to act and treat me; they are about what I am able to do with these rights within a given environment. Darby remains focused on the moral justification for rights because he does not want to lose the normative authority of rights to distinguish between just and unjust conditions (89). As I will show, Boggs does not consider rights to be stipulative of what norms we ought to hold. I think this is because Boggs does give as much force to the role of social recognition when it comes to understanding what makes rights effective as Darby does. To understand the differences between the two it is necessary to elaborate Boggs's idiosyncratic and materialist concept of rights.

There are two key distinguishing features of Boggs's account of rights that differ from broadly liberal paradigms. First, a right names a social capacity from within a field of forces. For instance, Boggs interprets the development of the American Constitution as homologous with the existing forces of production. This does not mean that those who developed the Constitution took themselves to be developing a suite of rights that was contingent upon the economic situation in which they found themselves. Many believed they were simply enunciating a set of pre-social rights that belonged to any human being. Boggs point is that these rights were effective because they were supported by a specific mode of production, and they were a response to a specific set of problems that the mode of production set before social life. Rights facilitated the free activity of a certain class of agents as well as guaranteeing commensurate duties from others.

To those who understand rights to be justified by an appeal to some generally shared (e.g., human nature or citizenship) characteristic it might seem a contradiction in terms for rights to facilitate the freedom of only a certain class of agents. On the one hand, Boggs could be interpreted as saying that these rights were *in principle* universal, but in practice were delimited by social categories of race, gender, and property. On the other hand, we might be tempted to say that Boggs

misidentifies as rights what are actually illicit *privileges*. Neither interpretation touches what I take to be the originality of Boggs's thinking. Rights are an outcome of political struggles within a given environment of social forces. They are not *a priori* sources of normativity or moral evaluation that authorize forms of political practice; it is the organizational political capacity of agents that authorize rights. I think this is what Boggs means when he writes in the aftermath of *Brown v. The Board of Education* that "in the period since 1954, Negroes have found that every institution in the country, from the Constitution on down, cannot guarantee or give them the rights they are entitled to. The Supreme Court decision, instead of guaranteeing them rights, has only set them free to *fight* for these rights." Rights are not only *constitutional*, but also simultaneously conflictual. More on this distinction shortly.

Granted, most agents do not understand rights in this manner. Often, we speak of rights as freedoms one is due simply by virtue of belonging to some species-being. It is to Darby's credit that rights externalism undermines this presupposition. Rights, on my reading of Boggs, are first-order descriptions of a state of affairs rather than moral evaluations of what ought to be the case. So when Chief Justice Roger B. Taney wrote in the infamous Dred Scott decision that blacks "had no rights which the white man was bound to respect" he was, strictly speaking, correct. There were not sufficient countervailing forces that could arrest this conduct of the dominant United States institutions. I want to be clear: there is no moral evaluation here. I am not saying that Blacks deserved the treatment they received in 19th century US society. My point is that moral judgment is distinct from the analysis of political capacities. Furthermore, moral judgments are not a sufficient guarantor of rights understood as capacities. For this reason, I think Boggs goes beyond rights externalism insofar as social recognition that is not subtended by the capacity to organize social forces will rarely make it possible for rights to be effective. So even if most agents do not

understand rights as a description of a political state of affairs my argument is that they ought to do so.

Conflictual and Constitutional Rights

What Boggs insists we understand about rights is that they do not tell us how society ought to be, but instead they are the effects of social dynamics (and this includes economic processes). Every social dynamic not only constitutes classes of agents (brings them together and organizes how they are), but sets them into conflict with others. The advantage of Boggs's account is that it situates rights within the social dynamics of politics rather than hypostasizing them as extra-political guardrails for what counts as legitimate politics. This means that rights can be sources of constitution *and* conflict. They can consolidate group formation as well as disable the capacities of those considered to be outside the dominant group. The Janus-faced nature of rights that we find in, say, the racist 19th century US society is *not* a distortion of rights, but an ineradicable facet of just what it means to have rights. Rights do not escape the immanent conflicts within a social order. It is for this reason that Boggs attests to the analytic usefulness of the concept of Black power:

What is particularly lacking in white analysis, what whites fail to recognize and what is at the heart of the concept of Black power, is that a social force has grown up in this society that is in fundamental antagonism to this society, thus making conflict and violence inevitable.

To recognize this antagonism would mean that these whites would have to recognize that no new set of laws or bills passed by this constitutional body will or can be the basis for a solution. For what is at stake is the Constitution itself. (102-103)

Rights are overdetermined by the social forces that constitute a given form of life and so merely appealing to them as sources of normative authority will tend to obscure the empirical dynamics that give rise to conflicts in the first place.

I imagine that one concern of how I have described rights is that it deflates their importance to an unacceptable degree. They lose the veneer of moral authority, and it appears to reduce society to the old vision of Thrasymachus that the powerful will decide when it comes to rights. It would appear that my interpretation of Boggs deprives us of any normative criteria from which we can evaluate society. I am in partial agreement with the first concern, but dispute the conclusion and I flatly reject the second concern.

I think it is true that the powerful constrain and enable what rights are effective and for which agents they are effective. The conclusion to draw from this is not that the powerful ought to decide, but that it is a political necessity to understand what gives the powerful this capacity in the first place so that one can develop more effective strategies to secure freedom. Remember that rights are both constitutional and conflictual. Therefore, they are always possible objects of political contestation and transformation. The powerful do not decide by fiat, but must continually contest and remain engaged to continue to retain a hold on the effectivity of rights. The more important conclusion to draw from this is the sober analysis that pleading to the moral consciousness of the powerful to “restore” rights is rarely a viable strategy since it puts out of question the exigencies of social power. Moral suasion and discourse will always have a place in the public sphere, but it is no substitute for political capacity. One of the central advantages to Boggs’s account is that rights become diagnostic: do you have them or not? I think this in an important bit of clarity for any politics that wants to appeal to “Black power.”

As for the second concern that worries that we lose all access to any normative criteria for judging social arrangements I can only gloss Boggs’s response in this short paper. Boggs does not go

to rights for a vision of how we ought to arrange ourselves. He grounds this vision in an appeal to the values of “mutual respect, responsibility, and cooperation” (“Liberation or Revolution?”, 304) that he believes characterize the successful functioning of humanity. Rights are instrumental for stabilization or destabilization of forms of life that exhibit these values, but they are not themselves the source of such values. For this reason, rights will always be necessary given that they can bring some measure of equilibrium to the dynamics of society by formalizing political capacities that express the values of mutual respect, responsibility, and cooperation. However, rights will always remain overdetermined by the variety forces that exist within a historical form of life.

And so Black power, for Boggs, was the specific crystallization of an historical moment where it appeared that the social dynamics that had governed US society were in the process of decomposing. Black power could step into this breach and initiate new forms of conflict while also constituting novel political capacities for Black agents. This situation was neither solely nor primarily due to the transformation of moral values in the citizenry. Instead, Boggs looks at transformation in technology, the economy, and global mode of production. It is this insight that I find most valuable in Boggs: whatever constitution of rights we would like to see we must remember that their effectivity will be overdetermined by the historical transformation of economic processes. Boggs writes that “the constitution by which the United States is finally governed will have to be a revolutionary constitution based upon the new social forces, just as the Constitution of 1787 was a constitution based upon the new social forces of that day. A revolution does not develop unless the government has been unable to resolve the basic issues under the existing framework” (103). What this means is that rights on their own can never ensure the incorporation of new subjects if the existing economic system must necessarily exclude them. Boggs’s focus on the development of new technologies and the deindustrialization in the 1960s and 1970s are not separate from his thinking

on rights, but ground his analysis of what rights ought to be. Boggs's most famous text *The American Revolution: Pages from a Negro Worker's Notebook* distills these ideas and so I turn to it now.

Towards a Materialist Theory of Rights

I think it would be helpful to isolate three distinct, yet interwoven trajectories of *The American Revolution*. First, Boggs provides a “historical diagnosis” whereby he seeks to explain how and why union organization such as the CIO rose and fell. Second, the historical diagnosis functions as stage setting for the second part of Boggs thinking that I call the “social theoretical diagnosis.” Here Boggs provides a contemporary explanation of the social forces within capitalist society. For Boggs, these forces are the increased domination of automation in work, the naturalization of unemployment, and the reproduction of what he calls “the outsiders”—masses of individuals locked out of the circuit of labor and capital. Finally, Boggs situates both diagnoses within a “normative framework” that takes as its point of departure rights and revolution. This normative framework is essential for understanding Boggs' philosophical contribution to these debates as he sought to unbind notions of right from national states under capitalism and instead make rights contiguous with changing economic forces. In other words, Boggs develops a novel notion of citizenship grounded in human wellbeing rather than national belonging.

There are two key points that demand attention in Boggs's historical diagnosis. First, readers may be surprised to find how hostile Boggs is to the union bureaucracy that develops under the CIO, but they should not read him as saying that union are passé or social struggle is no longer purely economic (à la some tendencies of the then contemporary “New Left”). Instead his point is that unions, having failed to substantially take power in the 1930s, were integrated in the social dynamics of capitalist society. What this means is that unions engaged in trade-offs with management. Most fatally, the trade-off for wage increases at the expense of control over

production was effectively a concession of rights on Boggs's view (91). For Boggs, a social group only has a right if they have the political control to enforce the corresponding duty of a right. By relinquishing control over production the CIO handed over the creation of rights to capitalist management and the state. Traditional political philosophers might scoff at the idea that rights can be transferred via the organization of power rather than, say, contract, but for Boggs a right entails the capacity for practical action and without that capacity there is no right. As he pithily states, "Rights are what you make and what you take" (85).

The second key point follows from the first. With the loss of control over production in favor of wage increases and benefits unions were forced to increasingly draw lines of demarcation between the employed and the unemployed. The ranks of the unemployed or the soon to be "outsiders" are locked out of engaging with the union and its employed workers. I think this is important because Boggs is giving his explanation for the fragmentation of the working class power base in the United States. What follows from this fragmentation is also a "materialist" explanation of the continuing salience of race/racism in 1960s US society given that disproportionately the unemployed who will become the "outsiders" are urban blacks (100). So racial discrimination in and outside the labor market is not *primarily* explanatory, but it is also not merely ideological or epiphenomenal. For Boggs it was the CIO movement that established "in the American mind for the first time the idea of democracy on the job...established a framework within which Negroes could fight for equality inside the plant. It has done the same for women workers" (96) and so the fragmentation of unions was also a fragmentation of genuine democracy.

To briefly summarize his social theoretical diagnosis, we can see that the rise of automation for Boggs is a symptom of the helplessness of unions that are now dependent on capitalist management. Automation exacerbates internecine conflicts within the working class as the process of production produces workers with either no memory or no connection to movements aimed at

political control of production. Furthermore, the raised standard of living will sharpen the divide between those who work and those who don't as the "outsiders" no longer have any place to go under the expanding dominion of capital. Thus, automation is not free of the inherent social contradictions of capitalism, but exacerbates them.

The analytic importance of "the outsiders" for Boggs is a social question concerning what happens to a society with growing ranks of men and women made obsolete by production. However, the outsiders are an ambivalent social group for him. They are a symptom social disintegration and maladaptation as they often must resort to crime and antisocial behaviors since they cannot be integrated into society. But they are also the place of radical thinking since they "can only be absorbed into a totally new type of society" (112). There is an important parallel between Boggs and the Fanon of *The Wretched of the Earth* that due to space I cannot go into at the moment. The parallel is that for both Boggs and Fanon, the outsiders or lumpenproletariat respectively, are the critical source for the total reorganization of society because "they have to find a new concept of how to live and let live among human beings...the outsiders, the workless people, now have to turn their thoughts away from trying to outwit the machines and instead toward the organization and reorganization of society and of human relations inside society" (113). Neither thinks this happens automatically or that they will inevitably succeed, but it is from their vantage point that the production of new rights through revolution becomes salient.

In Boggs we find that rights are historically mediated by the social constraints of an era. While scarcity seemed to be permanent the right to one's very life was connected to the duty to produce. But what becomes of rights once scarcity is no longer a necessity? Boggs calls for "a new Declaration of Human Rights to fit the New Age of Abundance" (109). Once rights are disarticulated from the necessities of production, we will discover that new values will have to emerge in our society. And so, for Boggs rights, of necessity, must "fit" the existing forces of

economic production. I think Boggs fruitfully outlines the interdependence of economy, social life, and political rights such that one cannot reasonably say that socialist/Marxists do not care about rights. Instead, thinkers like Boggs understand that rights must hook into the everchanging objective forces of social life.

To return to the question: what *was* Black power? Black power names a specific conjuncture in the history of US society where rights became both ideologically and politically available spaces of conflict and constitution. Organizations were attempting to develop a novel set of rights that would stabilize new forms of social cooperation. For Boggs, Black power was not concerned with “reclaiming” a set of liberal rights that was contiguous with a social system that naturalized unemployment. To reclaim these rights would assume that the task was to attain the norm of equality in what he took to be a collapsing social order. The aim of Black power was to establish political capacities for freedom and cooperation that would not be run roughshod over by the prevailing economic forces. Accomplishing this requires much more than social recognition.

In our present moment, we find that Black power has been reduced to a nationalistic nostalgia for a bygone era or the province of NGOs or political institutions that insist on “buying black” or offering token recognition of “the” Black experience. There is not Black power in the sense that Boggs meant whereby organizations constitute new political capacities that conflict with the existing state of affairs. Indeed, the language of rights has been emaciated by calls for “restoring” voting rights or “protecting” these rights by pleading with existing political parties to obey their moral conscience. Much less rarely is there the question of whether those lost rights can be sustained by the existing social forces under which we live. I leave open the question of what form Black power ought to take at present. Instead, I think it is worth analyzing the distance between Boggs and us so that we can observe the internal relationship between rights and Black power as well as how the two came to be disarticulated. If Boggs is right, then they can and must be reunited in political

practice. This is what it would mean to follow his insight that “Rights are what you make and what you take.”