



Linfield College  
DigitalCommons@Linfield

---

Faculty Publications

Faculty Scholarship & Creative Works


---

2003

## “Legal or Illegal? Documented or Undocumented?” The Struggle over Brookhaven’s *Neighborhood Preservation Act*

Jackson B. Miller  
*Linfield College*

Follow this and additional works at: [https://digitalcommons.linfield.edu/commfac\\_pubs](https://digitalcommons.linfield.edu/commfac_pubs)

 Part of the [Gender, Race, Sexuality, and Ethnicity in Communication Commons](#), [Performance Studies Commons](#), [Social Influence and Political Communication Commons](#), and the [Speech and Rhetorical Studies Commons](#)

---

### DigitalCommons@Linfield Citation

Miller, Jackson B., ““Legal or Illegal? Documented or Undocumented?” The Struggle over Brookhaven’s *Neighborhood Preservation Act*” (2003). *Faculty Publications*. Accepted Version. Submission 6. [https://digitalcommons.linfield.edu/commfac\\_pubs/6](https://digitalcommons.linfield.edu/commfac_pubs/6)

This Accepted Version is protected by copyright and/or related rights. It is brought to you for free via open access, courtesy of DigitalCommons@Linfield, with permission from the rights-holder(s). Your use of this Accepted Version must comply with the [Terms of Use](#) for material posted in DigitalCommons@Linfield, or with other stated terms (such as a Creative Commons license) indicated in the record and/or on the work itself. For more information, or if you have questions about permitted uses, please contact [digitalcommons@linfield.edu](mailto:digitalcommons@linfield.edu).

“Legal or Illegal? Documented or Undocumented?”  
The Struggle over Brookhaven’s *Neighborhood Preservation Act*

Jackson B. Miller  
Department of Theatre and Communication Arts  
Linfield College  
900 S.E. Baker St.  
McMinnville, OR 97128  
E-mail: [jmiller@linfield.edu](mailto:jmiller@linfield.edu)

Jackson B. Miller (Ph.D., Southern Illinois University at Carbondale, 1998) is an Assistant Professor of Theatre and Communication Arts at Linfield College. An earlier draft of this essay was presented at the 2001 NCA convention in Atlanta. This project was made possible in part by a grant from the Hofstra University School of Communication. The author also wishes to thank Kathleen Spring for her helpful comments on earlier drafts of this essay.

“Legal or Illegal? Documented or Undocumented?”

The Struggle over Brookhaven’s *Neighborhood Preservation Act*

#### Abstract

This critical essay applies the concept of “presence” as a theoretical lens for explaining the rhetorical efficacy of protest events surrounding a contemporary debate about immigrants’ rights in a suburban New York township. Specifically, the protests surrounding the town board meetings regarding Brookhaven’s “Neighborhood Preservation Act,” a piece of legislation geared toward making rental laws more stringent, are examined. A group comprised largely of white, upper middle-class citizens voiced their support for the proposed legislation, while a group of day laborers and those sympathetic with their cause characterized the proposed legislation as a form of racial discrimination disguised as a rental law. This analysis focuses on the specific tactics used by protesters on both sides of this issue in their attempts to persuade members of the town board, the news media, and the citizens of Brookhaven township.

Key Concepts: presence, protest and reform rhetoric, day laborers, cultural identity, performance.

Just before the conclusion of a town board meeting in Brookhaven, New York, a suburban Long Island township, a group of citizens gathers at the back of the room. With their eyes fixed on the town board members at the front of the room, one woman shouts, "Ready?" Then, in unison and with great fervor, the group starts to speak.

"I pledge allegiance, to the flag."

One hour earlier, at the beginning of the town board meeting, these same citizens recited this same pledge. But this time around, their recitation takes on a new meaning, as their words and actions are geared toward a very different purpose.

"Of the United States of America."

The volume and intensity of their voices builds continuously, like a crescendo that never quite reaches its peak. Their passions are ignited not by patriotic sentiment, but by a desire to mute the voice of another.

"And to the republic, for which it stands."

At the front of the room, two men sit side by side at a table, attempting to testify before the town board. One of these men is Jose Luis Alvarez, a day laborer who lives and works in Brookhaven township. Mr. Alvarez does not speak English, and the man sitting next to him at the table is his translator. Even with the amplification provided by the microphone sitting in front of them, the voices of Mr. Alvarez and his translator are completely drowned out by the crowd of angry citizens.

"One nation, under God, indivisible."

Mr. Alvarez is attempting to voice his opinion on a proposed piece of legislation called the "Neighborhood Preservation Act," an ordinance which is geared toward making rental laws in Brookhaven township more stringent. The people gathered at the back of the room favor the law because it will keep property values up and the day laborers out.

"With liberty and justice for all."

At the conclusion of the pledge, the chairperson of the town board attempts to call the meeting back to order. In this environment of hostility, Mr. Alvarez quickly finishes his

comments to the town board. If having the freedom to express one's views is the meaning of "liberty and justice for all," then it is not to be had on this night. Mr. Alvarez is the first and only individual to speak out against the Neighborhood Preservation Act at tonight's meeting.

While the narrative outlined above sounds almost too dramatic to be based on truth, it is an accurate description of events which occurred at the Brookhaven town board meeting in Medford, New York on October 19, 1999. The narrative reflects the reality of life in many communities in eastern Long Island. Long Island is a 20 mile by 70 mile strip of land due east of New York City, and it is a place where feelings of territoriality can run high. In stark contrast to the migration patterns of the country as a whole, Long Island is characterized by a great West to East migration. People generally move further and further east on the island in an attempt to get away from the "urban" environment of the city. The two counties that make up Long Island have a combined population of close to three million people. Competition over space, whether it is on the highways, standing in line at the supermarket, or purchasing real estate, is a theme which, in many respects, dominates Long Island culture. Given the migration patterns, population, and geography of the island, the reaction of the citizens at the Brookhaven town board meeting to Mr. Alvarez is perhaps a bit more understandable. After all, those who chanted the pledge of allegiance with such passion feel a very real need to "preserve" their neighborhoods. Most of the residents of Brookhaven township are white, upper middle-class individuals. In their thinking, too large a Hispanic population represents an "urbanization" of their idyllic suburban way of life.

Although the culture of Long Island is certainly unique, the issues of territoriality and culture which are at the center of the debate surrounding the Neighborhood Preservation Act are becoming the reality of life in many parts of the globe. As world population increases at a frenetic rate, people of different racial, ethnic, cultural, and religious backgrounds are being forced into closer and closer contact. As Schmelzkopf (1995) notes in her analysis of a conflict over urban community gardens in New York City, "in any diverse neighborhood, there will be frictions of interests and goals among various groups" (p. 378). Increasingly, scholarship in communication is going to have to grapple with these "frictions of interests."

A public protest is one manifestation of the friction that arises from such close contact, and this particular form of communication is the focus of this essay. Instead of examining the formal arguments and evidence that were presented to the Brookhaven's town board, this critique will consider the impact of the protest activities that occurred before, during, and after the town board meetings. Certainly one could look exclusively at the persuasive appeals derived from the textual evidence, available in the form of transcripts of the town board meetings, as such an approach is more in keeping with the pattern of a traditional rhetorical analysis. However, in a conflict which centers on issues of territory and culture, protest activities, which themselves emphasize spatial and bodily cues, offer a more revealing focus for scholarly inquiry. As DeLuca (1999) argues, "in attempting to understand the dynamics of social change and the role of rhetoric in constituting identities, ideologies, communities, and cultures, critics must analyze bodies as a rich source of argumentative force" (p. 20). In keeping with such a focus on the use of space and the body, this essay will begin with a discussion of protests as performances, followed by a description of presence as a method for rhetorical analysis, and concluding with an application of this method to the protests at two different Brookhaven town board meetings.

#### Protest, Performance, and Cultural Identity

Historically there is a clear connection between protests and performances. Both figuratively and literally, protests are theatrical events. As embodied representations of the political and/or moral convictions of a group, protests are also certainly strongly tied to cultural identity. One of the common characteristics of definitions of culture is the sharing of a set of beliefs or values among the members of the group. In protests, group members not only share beliefs and values, they also enact them. Through the wide variety of visceral tactics used by protesters, the group explicitly states and purposefully displays their beliefs for some audience. While a group of individuals assembled for a protest might not come from the same culture or coculture, it is fair to say that while engaged in the protests they form allegiances with the group that are not unlike the bonds shared by members of a culture.

Clear connections between protests, performance, and identity are evident in scholarship focusing on issues of protest and reform. Fuoss (1993) describes how in 1936 a group of protesters representing the Workers' Alliance of America used performance as a means to display their displeasure with the New Jersey State Assembly. These protesters literally took over the state house chamber and assumed the roles of their various state representatives in order to illustrate, through performance, their displeasure their state politicians' actions. A more contemporary example of the trend toward blurring the distinctions between performance and protests is seen in the work of groups like the Guerilla Girls. As Halpern (2000) explains, the Guerilla Girls, a left-wing group which is concerned with issues of women's rights, quite literally "stage" their protests using carefully rehearsed lines, choreographed movements, and elaborate costumes. The Guerilla Girls also illustrate the strong connections between protests and identity. By using protests as a vehicle for increasing awareness about issues related to women, the Guerilla Girls demonstrate how gendered identities can play a significant role in the construction and dissemination of information through protests.

Research on protest and reform rhetoric also points to the connection between music (a specific type of performance act) and protests. The importance of music to the anti-war protests of the 1960s and early 1970s is so well established and documented that a review of the scholarship related to this particular protest music goes beyond the scope of this project. Clearly, though, the protest songs of the anti-war movement illustrate the relationship between protests, song, and culture. This music not only inspired protests, but also acted as an agent of cultural change by helping to spark, among other things, the sexual revolution. Discussions about music as a protest tactic, most notably folk songs and work songs, have also focused on other historical contexts. Conrad (1988), Knupp (1980), Kosokoff and Carmichel (1969), and Stewart (1991) have all explored the rhetorical functions of songs in the context of protests. In addition, Hoy (1994) discusses songs as a performative activity that are employed to create a sense of the "carnavalesque" among fans at British soccer games. In all of these uses of song as a vehicle for protest, music becomes a significant medium for constructing and maintaining group identity.

Whether the group is comprised of anti-war protesters, oppressed workers, or rowdy soccer fans, the performance of song serves as an effective means for improving group cohesion and reinforcing dedication to the cause.

Finally, if we look at performance in the broader sense of the term--that is, as aesthetic human activity--then additional connections between performance, protest, and culture are evident. Choral chants, a common protest tactic, have been a part of theatrical practice since the appearance of the "chorus" in plays written and performed by the Ancient Greeks. While the formation of picket lines and the use of signs and banners do not have the clear historical connection to the theatre that the choral chants do, these activities can certainly be described as forms of aesthetic communication. Protesters marching in picket lines holding their signs aloft rather resemble a band of roving performance artists. Combine such movements with choral chants and/or protest songs, and the artistic and cultural qualities of the protest behaviors become apparent. Both in political protests and in the formation of cultural identity, an individual demonstrates that s/he understands and accepts a shared set of group practices and values by embodying and hence performing these beliefs.

#### Presence as a Method for Rhetorical Analysis

The connection between protests, performance, and cultural identity is present both in scholarly critiques of protests and in the common tactics used in protests. How, then, does this interplay affect the way a researcher should attempt to analyze protest events? One result of looking at protests as performances is that such an approach forces the critic to look beyond the textual evidence. The message written on a protester's sign is important, but when considering protests as performances, the researcher's critical eye is turned more toward elements such as how the sign is used, what movements the protester engages in while attempting to make his/her sign more visible, and even the way the colors of the text and the shape of the letters and/or graphics on the sign are designed to evoke certain emotional responses.

In order to grapple with these and other related issues in this analysis, a method for critiquing protest events which centers around the concept of presence is proposed. As noted



earlier, previous research has looked at protest events as performances, but this analysis aims to take the research on protest and reform rhetoric in a different direction by applying the concept of presence as a critical tool. Presence itself is certainly not a novel concept, and as a result this discussion will begin with a look at how the concept of presence has been used in several different contexts. Next, some implications of using presence as an approach to studying protest events are noted. Finally, the process of applying presence as a tool for critical analysis is explained.

Presence has been discussed by some rhetorical scholars as a means of calling the reader's attention to particular terms in a text. Of all the rhetorical theorists to discuss the concept, Chaim Perelman and Lucie Olbrechts-Tyteca are arguably the most comprehensive. In their book, The New Rhetoric: A Treatise on Argumentation, Perelman and Olbrechts-Tyteca begin their discussion of presence by generally stating that “[t]hings present, things near to us in space and time, act directly on our sensibility” (p. 289). They further explain that “all kinds of literary techniques and a number of rhetorical figures have been developed” so that value can be set “on some aspects of reality rather than others” (p. 289). In a piece which employs presence as a tool for rhetorical analysis, Murphy (1994) alludes to a more performative or embodied understanding of presence when he explains that “presence possesses a kind of magical quality, one difficult to describe in discursive academic language and one that is, perhaps, best represented by the implicit metaphor in its name. An author ‘feels’ the argument; it almost seems to be in the room” (p. 5).

Using literary devices to create a sense of presence in writing is a well-known rhetorical tactic, but because the focus of this study is an examination of protests as performances, the type of presence created through embodied practices, like theatrical performances and public speeches, must also be considered. The term “presence” in these contexts generally refers to the way an actor or a speaker carries himself or herself. Presence is created in part by the mere fact that live performance is the medium. An actor's or speaker's voice creates sound waves which hit the audience, and the dress or appearance of a performer creates visual stimuli which affect

the audience. As States (1983) notes, an actor's "presence and way of appearing constitute the act of direct speech within the indirect speech in the enacted event" (p. 360). The mere fact that live performance is the medium is one aspect of presence, but presence has also been discussed in more specific terms as something which involves the aura or charisma that a performer brings to the stage. Auslander (1992) explains that presence results from "the actor's psychophysical attractiveness to the audience" (p. 37). The relationship with the audience is equally important to the presence of any successful public speaker. Typically, a speaker creates presence through self-assurance and confidence in front of the audience. Presence seems to result from a very specific aspect of ethos that is often difficult to pinpoint, a speaker's dynamism.

While presence is an ambiguous and contested concept, in the context of political protests and for the purposes of this study, it can be broadly defined as the capacity to establish control of some space and maintain the attention of some audience. The actual protest sites can most aptly be described as what Martin and Nakayama (1997) call "postmodern cultural spaces" because they "are tenuous and dynamic [and] are created within existing places, without following any particular guide: there is no marking off of the territory, no sense of permanence or official recognition" (p. 161). The space occupied by protesters is cultural because, as previously mentioned, protests are a means for sharing and promoting the group's beliefs and values. The protest space is also accurately described as postmodern since protests are communicative activities that create competing voices and by their very nature call into question established power centers. Political protests normally occur in or outside some site of conflict, so no official territory can be claimed by the protesters because their occupation of the space is usually temporary at best. In the confines of this temporary home, protesters need to employ a variety of tactics to create presence, for without constant "use" by the protesters, the postmodern cultural space ceases to exist.

The selection of presence as a tool for scholarly critique has two important implications. First, a focus on presence means that one of the primary concerns of the critic is on isolating those elements of a persuasive message which are ephemeral. The types of cues that combine to

create presence are normally not recorded in written transcripts; as a result, using presence as a tool for critical analysis demands that the critic be “present” during the protest event. Schofield and Anderton (2000) point to the ephemeral nature of political protests when they note, in their discussion about the decade long campsite protests by the “Greenham Women” in Berkshire, England, that for the most part the “symbolic actions” of the protesters “have left no physical trace at the site” (p. 244). Second, while an analysis of presence necessarily involves discussion of nonverbal cues, presence should not be confused with an exclusive focus on the rhetorical canon of *pronuntiatio*. The use of presence as an approach to the rhetorical analysis of protests involves all five canons of rhetoric. This study operates on the assumption that the choice to endow a message with presence is a purposeful choice, a choice that, with the exception of the spontaneous event, is usually made with some degree of planning.

There are four types of presence which can be used to critically analyze protest events. The first type is *corporeal*, which refers to presence that is derived from physical proximity to a persuasive event and from specific bodily cues used to add presence to a message. Political protest is an activity which invites and in many ways demands the engagement of one’s body. Corporeal presence consists of those elements in the protest which place a strong emphasis on the body and its sensations and experiences. The second type of presence is *vocalic*, or that which is derived from paralinguistic cues used to arouse audience emotions or maintain audience interests. Although some protests are of the silent variety, when vocal cues do enter into a protest the volume, rate, pitch, intensity, and vocal variety of the speaker or speakers are all factors which contribute to the success or failure of the protest. The third type of presence is *emblematic*, which refers to presence derived from the use of symbolic markers in a persuasive event. Signs, banners, flags, and the like have been standard fare at protests for some time now, and they continue to be an important part of protests because their impact on the audience is significant. The final type of presence is *tribalistic*, or presence derived from the use of a group. Although protests are sometimes conducted by a lone individual, the more people who participate in a protest, the more attention the protest is likely to draw. Corporeal, vocalic, and emblematic

presence are all amplified significantly with larger numbers of protesters. A protest conducted by a group includes more bodies in the space, multiple voices contributing to the effort, and a greater ability to manipulate large numbers of emblematic elements. Group behaviors (like chants, marches, etc.) are also a very powerful means for illustrating the cohesiveness and conviction of the assembled protesters.

The four types of presence outlined above are certainly not mutually exclusive. Most protest events combine all of the elements in some way or another. For instance, imagine a protest which consists of a group of people sitting together (tribalistic), locked arm in arm in front of a gas station (corporeal), chanting “stop pollution now” (vocalic), with a large banner on the ground in front of them reading “BOYCOTT BILL’S GAS STATION” (emblematic). When these elements are combined effectively, the protest has more presence and the persuasive message is therefore enhanced.

Finally, it should be noted that it is certainly possible to overload an audience by bombarding them with too much presence. Too many elements or too much emphasis on one particular tactic can have a negative effect on the rhetorical efficacy of a protest. For instance, Miller (1999) notes that during the 1995 World Series a group of Native American protesters gathered outside of Atlanta’s Fulton County Stadium in an attempt to “heighten fan awareness of the inappropriateness of dressing up as Indians to support their teams” (p. 194). Some of these protesters donned costumes like entertainer Al Jolson in black face, a Ku Klux Klansman, a Jewish man carrying money, and even the Pope. These costumes (corporeal & emblematic), coupled with the fact that the protesters were gathered outside the stadium in a group (tribalistic), may have backfired as a result of too much presence. Passing fans and members of the media were drawn in by the costumes, and while they were eye-catching they also had a negative impact on the rhetorical efficacy of the protest. Not only did these costumes detract from the seriousness of the issue at hand, but they may have also left witnesses with the impression that dressing up as a cultural other at a sporting event is acceptable behavior.

### Presence at the Brookhaven Protests

Several protests, both spontaneous and planned, occurred at the Brookhaven town board meetings where the Neighborhood Preservation Act was discussed and debated. The protests were carried out by two opposing groups. Largely white, upper middle-class citizens of the township who viewed the law as a means to protect their communities from being overtaken by the day laborers comprised one side. The other side included those who viewed the act as a form of racial discrimination disguised as a rental law, a group comprised of the day laborers and those sympathetic with their cause. In the analysis that follows, a general description of the Neighborhood Preservation Act and the context surrounding these protests is offered, followed by an analysis of the types of presence-enhancing techniques used in protests at two separate meetings.

A closer examination of the Neighborhood Preservation Act itself is an appropriate starting point for this analysis. This rental law, which was ultimately passed by the Brookhaven town board, mandated in part the following:

1. All rental dwelling units that are non-owner occupied must be registered, and landlords must obtain rental dwelling permits from the Building Division of the Town of Brookhaven.
2. One of the requirements for obtaining a permit is an inspection of the dwelling to ensure that it meets all building and fire codes.
3. There is a biannual permit application and an application fee.
4. All rentals shall have at least 150 square feet of habitable space for each individual (not including kitchens, bathrooms, and garages).
5. A maximum of four individuals are permitted per bedroom.
6. There must be a living room and dining area in each rental.
7. Yards must be kept clean and free of physical hazards and debris.
8. Steps, driveways, walks, and parking areas must be maintained in good repair.
9. Shingles, siding, and mortar must be kept in good repair.

10. All rentals must include adequate sanitary facilities.

11. If a citation is made regarding the poor conditions of the property, landlords are subject to fines up to \$1,000 and jail time. (NY State, 1999b, pp. 374-375)

While many of the provisions listed above sound like reasonable safety precautions, it is important to note that they also have the effect of driving day laborers out of the township by putting the cost of rental properties out of reach. The fees assessed on rental properties by the township, as well as the strict limits placed on the number of occupants, make it all but impossible for most day laborers to afford to live in Brookhaven.

In attempting to understand why passions ran so high on both sides of the debate over this law, some of the specific contextual factors affecting the feelings of people on both sides of this debate must be outlined. One such factor is a group called the “Sachem Quality of Life Organization,” which is a group of local citizens who organized a campaign to collect pictures and videotapes of day laborers in and around Brookhaven township with the expressed intent of making reports to the INS. Another contextual factor which is important to consider is a fire which killed several people and injured others in the nearby township of Huntington. This fire occurred in a multi-family dwelling occupied by more than 20 day laborers, and many people in favor of the Neighborhood Preservation Act cited the concern over fire safety as an important reason why the legislation should be passed (Koeppel, 1999). A third and final contextual factor that deserves mention is the severity of hate crimes perpetrated against the day laborers, including one particularly brutal incident (Baker, 2000). The racially motivated attacks occurred on eastern Long Island, and opponents of the law cited these attacks as evidence that the law itself was racially motivated.

#### *October 19, 1999 Town Board Meeting*

The October 19, 1999 meeting included the first public discussion of the proposed Neighborhood Preservation Act (NPA). As mentioned at the outset of this essay, the meeting itself was rather one-sided in terms of the discussion and debate on this issue because there was only one person who attempted to speak out against the rental law at this particular meeting. I

was not present at this meeting, so my account is based on a videotape of the meeting, published newspaper reports, and official transcripts. At the meeting, citizens went up to the table one after another to voice their support for the NPA. Some of them spoke to the issue of safety concerns, but the majority of the speakers voiced concerns about declining property values and even the failure of local law enforcement to report illegal aliens to the INS. Still others simply expressed their disdain for the immigrant day laborers. What follows is a statement by one woman who is fairly direct in her description of the underlying feelings of many of Brookhaven's citizens:

This is now a fight against the occupation of our communities by illegal aliens, dysfunctional families, prostitutes, drug dealers, sex offenders and criminals. We, the legal taxpaying citizens will not allow the character of our community to be overrun and overwhelmed by any invading imposing force, nor will we be intimidated by those who call us racists or put off by those who call us alarmists. An insidious and terrible thing in fact is happening and those who choose not to act or to perceive the matter, let down a fight against invasion, are closing their eyes to the hard reality. (NY State, 1999a, pp. 188-189)

Many of the citizens who supported the NPA, like the individual quoted above, felt that the day laborers "threatened" their communities by living in rental properties in the township and gathering each morning in various locations throughout the township to be picked up for work.

Since the focus of this study is on the protest activities, specific statements by individual citizens will not be discussed in detail. Still, it is important to note that tempers flared at the meeting as the concerned citizens demanded action on the part of the town board. At one point, after the town board members declined to reveal how they intended to vote on the NPA (the vote was not scheduled for this particular meeting), one woman in the audience shouted, "Sure, you are going to wait until after elections" (NY State, 1999a, p. 186). Later in the meeting, another audience member shouted, "We want to know who to vote for" (NY State, 1999a, p. 186).

As was revealed earlier, one of the day laborers, Jose Luis Alvarez, got up to make a statement to the town board through a translator. While the shouts and the jeers toward the town

board could certainly be considered precipitating factors in the protest, it was in the moment just before Mr. Alvarez started to speak that the protest started in earnest. As soon as Mr. Alvarez and his translator started walking toward the table, one woman in the audience remarked, "This is the opposition." There was an immediate corporeal response by the majority of the audience, as they abandoned their seats and started to move toward the exit at the back of the room. However, many of them stopped short of actually exiting the meeting room, choosing instead to wait in the back and observe Mr. Alvarez's statement.

When Mr. Alvarez started to speak, he was greeted with numerous jeers from the audience. Throughout Mr. Alvarez's statement, the crowd was talking amongst themselves. This chatter was rather quiet at first, but as Mr. Alvarez continued to speak the crowd increased in volume, to the point where some of his statements are almost inaudible on the videotape. When he explained that he lived in Farmingville (part of Brookhaven township) and worked as a day laborer, audience members shouted out questions like, "Legal or illegal?" and "Documented or undocumented?" Mr. Alvarez went on to describe "a climate of discrimination which is growing every day," to which one audience member shouted, "Oh, what a shame," and another woman from the audience stated, "Go back to Mexico and get your papers, then you can participate." At one point, several audience members, both men and women, shouted, "Go home," one after another (NY State, 1999a, p. 294). Finally, Mr. Alvarez made the following statement which nearly sent the audience over the edge: "Although we only want to live and work in peace we know that there are groups that don't want us here; they have showed their hate in many ways" (NY State, 1999a, p. 294). Immediately following this statement, one woman from the audience shouted, "Oh, stop it right now, stop it right now."

Despite the crowd's clamoring, Mr. Alvarez persisted in his effort to share his point of view with the town board. A group of individuals gathered in the back of the room had apparently heard enough from Mr. Alvarez. On a verbal cue of "ready" from one woman, the people gathered at the back of the room started reciting the pledge of allegiance. The group's choral recitation immediately drowned out Mr. Alvarez and his translator. While this protest was



a spontaneous performance act, it nonetheless served as a powerful marker of cultural identity. The assembled protesters chanted the pledge not only to protest the words of Mr. Alvarez, but also to make a strong public proclamation of their “in-group” status as American citizens. When the group got to the line “One nation under God,” the town board supervisor tried to restore some order by saying, “Come on, folks, allow this man to finish his statement and then we can conclude this meeting” (NY State, 1999a, p. 295). The crowd ignored him and completed their recitation of the pledge. Overall, the town board supervisor did not make much of an effort to control the situation. There were also police present in the room, but they did not make any effort to interfere with this protest. At the conclusion of the pledge, the supervisor made a plea to the crowd: “I’m asking you, please to allow him to finish his statement as all of you were allowed to make your statements” (NY State, 1999a, p. 295). Several members of the crowd responded to this request by shouting, “We’re citizens!” After that, the crowd dispersed and most of the protesters exited the meeting room. Mr. Alvarez was permitted to finish his statement, although he was certainly under duress as the supervisor said to him, “I would encourage you to move quickly” (NY State, 1999a, p. 295).

Some elements of this protest that are not a part of the above description deserve mention before turning to a discussion of the specific types of presence that contributed to this particular protest. For one, it should be obvious from the description that this protest was a spontaneous act. While it did sound like some planning was going on in the background (with all of the chatter during Mr. Alvarez’s statement), it can be safely assumed that the protesters did not plan this recitation of the pledge of allegiance prior to the meeting. While these protest activities are not premeditated, they are still conducted in such a way that, like a carefully planned protest, they have the effect of drawing presence away from Mr. Alvarez and his translator. One impact of the fact that this protest was spontaneous is that emblematic presence was not employed by the protesters at this particular meeting. The manipulation of emblematic elements necessitates some degree of advance planning, so emblematic presence did not play a significant role in this protest. Second, it should be noted that were it not for a videotape of this protest, as well as

coverage by the local news media, the protest would have gone unrecorded. The official transcripts of the town board meeting simply note that the audience was “unruly” in a few spots, and there is no mention whatsoever of the group recitation of the pledge of allegiance. As noted previously, an audience member harassed Mr. Alvarez with the question “Documented or undocumented?” Interestingly, that same question can be posed regarding the complete absence of this protest from the official minutes of the meeting.

Corporeal presence is a significant factor in this particular protest. At the outset, almost everyone supporting the NPA got up out of their chairs and started to exit. This is a clear bodily cue which has the effect of taking presence away from Mr. Alvarez and his translator. The fact that some audience members decided to stand at the back of the room and observe Mr. Alvarez is also an attempt to take presence from the speaker. By standing, as opposed to sitting and listening, the protesters give the impression that they have a certain measure of control over Mr. Alvarez, his translator, and even to some extent the members of the town board. Sitting places the protesters in a passive position, but standing, and standing close to the exit no less, indicates that the protesters are attempting to take charge of the situation. By standing near the door and observing the situation from afar, the protesters indicate that they are choosing how they will witness the situation instead of letting the social norms of the situation dictate their audience behaviors.

Vocalic presence is also manipulated by the protesters in their attempts to silence Mr. Alvarez. While Mr. Alvarez and his translator were using a microphone, the aforementioned shouts and jeers from the crowd were done at such a volume as to match or exceed the amplification provided by the microphone. The protesters also effectively used vocal cues as a medium for expressing the intensity of their emotions about day laborers and the need to preserve their communities. Several of the aforementioned statements from individuals in the audience, most notably, “Stop it right now,” and “Oh, what a shame,” are presented with such vocal and emotional intensity that the protesters definitely take presence from Mr. Alvarez’s statement. Finally, vocalic presence is also an important part of the choral recitation of the

pledge of allegiance. The volume and intensity of the protesters' voices increased steadily as the pledge progressed, and they displayed a significant increase in volume when the town board supervisor attempted to interject and interrupt their pledge. By speaking, the supervisor was trying to reclaim some of his presence at the meeting, but the crowd of protesters very quickly let him know, through their vocal intensity, that they were determined to hold the floor until the conclusion of their pledge.

Tribalistic presence is also a significant part of this protest. In the words of one reporter for Newsday, the choral recitation of the pledge of allegiance "was a chilling thing" (Vitello, 1999, p. A48). One individual reciting the pledge would certainly not have had the same impact as the group. The choral recitation allowed the protesters to show their unity both physically (in terms of their proximity to one another at the back of the room) and vocally. While the pledge is the most obvious instance of tribalistic presence in this protest, certainly the constant chatter and the chorus of jeers that preceded the recitation of the pledge are also examples of the members of a group using their combined efforts to take presence. As mentioned previously, some of the jeers were started by one person and quickly echoed by others in the group. For instance, the statements "We're citizens," and "Go home," were repeated in quick succession by several of the protesters. The impact of this protest was without a doubt enhanced by the combined efforts of the assembled protesters.

#### *November 16, 1999 Town Board Meeting*

While the October 19 meeting involved one protest, the subsequent meeting on November 16 included protests before, after, and during the proceedings. I was present at this meeting, so this account is based on my direct observations of the protests. At this meeting, there were many indications that the word had gotten out about the events at the October meeting. This time around, protesters on both sides of the issue mobilized and voiced their opinions to the members of the town board and the media. The town board members were not scheduled to vote on the NPA at this particular meeting; instead, this meeting was considered a time for a public forum on the proposed law. Consequently, the formal statements before the town board were

limited to three minutes per speaker, and the town board supervisor warned that he would cut off speeches when they became too repetitive. The atmosphere inside the meeting room was charged, as several hundred people had gathered, nearly all with a strong opinion on the proposed rental law.

The first protest activity I witnessed occurred outside of the meeting room as I was walking toward the entrance to the building. On a grassy area next to one of the parking lots, a small group of day laborers and their supporters stood silently holding a large banner that read, “Stop the Hate. We Want Peace.” This sign had a large “anti-hate” symbol on it (the word “hate” with a circle around it and a slash through it), and the protesters were angled in such a way as to direct their sign toward the people walking across the parking lot to the meeting room. In terms of corporeal presence, the placement of this protest near the entrance to the town board meeting was a strong choice. While some people entering the meeting made efforts to ignore the protesters, because of the positioning of the protesters it was nearly impossible to enter the meeting without seeing the sign. The sign itself was also an attempt to establish some emblematic presence. The text contained on the sign was clear enough, but the way the protesters held the sign further enhanced their presence. The sign almost completely covered their bodies, so for most of the protesters all that was visible were their hands, arms, feet, and faces. The juxtaposition of the text with the faces of the protesters, faces of individuals who appeared to be of Hispanic origin, made for a powerful combination of emblematic and corporeal presence. The “we” on the sign resonated with the faces and bodies of the protesters, and it is a clear instance where the overall presence of the protest was enhanced by a combination of elements.

Upon entering the building, the first thing I noticed was the presence of law enforcement. A group of four or five police officers was at the entrance, and they seemed to be “inspecting” all of the people who were entering the meeting room. Perhaps the officers were there in such numbers because of the events of the October meeting, but I couldn’t help feeling that the police were somehow trying to intimidate (or at the very least discourage) any “illegal aliens” who might be attempting to enter the meeting room. If intimidation was their intent, it just might have

worked. A group of 20 to 30 Hispanic men and women were gathered outside near the previously mentioned protesters, and to my knowledge they remained outside throughout the meeting. After maneuvering past the police and entering the meeting room, I noticed that members of the news media were everywhere. In addition to several camera crews for local news stations and reporters from local newspapers, there were at least a dozen amateur camcorders running throughout the meeting. Apparently, after the way the events unfolded at the October meeting, people were expecting something big to happen at this meeting.

Inside the town board meeting room, police were positioned at strategic locations throughout the area, and there were also several small protests taking place. For instance, a group of people in the back of the room held up a large banner reading, “Respect Civil Rights and Human Dignity.” Another man who stood alone in the back of the room held a sign overhead which read, “Rental Law Now.” While these protesters were attempting to establish emblematic presence, their attempts were somewhat unsuccessful because of a poor (but perhaps unavoidable) choice they made relative to corporeal presence. Their placement at the back of the room made them visible upon entering the meeting, but these protesters were not visible to most audience members because all of the chairs in the meeting room were facing toward the front of the room. However, if part of their intent was to capture the attention of the town board, then their placement at the back of the room seems like a better strategic choice. It is also certainly possible that the police would not allow the protesters to set up in any other part of the meeting room, although I did not witness any such police intervention.

Several people at this second meeting also literally turned their bodies into vehicles for protest by combining corporeal and emblematic elements. Some of the day laborers and their supporters had yellow anti-hate signs taped to their chests with the word “HATE” in red lettering and a black circle around the word with a thick slash going across the text. As with the protest outside the meeting room, this juxtaposition of corporeal and emblematic elements had a strong persuasive effect. The day laborers are the object of hate for so many of the citizens who favor the passage of the NPA. By wearing the anti-hate signs, the day laborers reinforced the notion

that the negative feelings which many people in the community have toward them are inappropriate. It is relatively easy to direct hate at the abstract words “illegal aliens,” but the direct attachment of the signs to the bodies of the protesters served to help negate this abstraction by illustrating the fact that the feelings of hate are directed toward living human beings. This simple protest tactic not only helped to establish solidarity and a common sense of cultural identity among those opposed to the NPA, but it also forced those in favor of the NPA to question the validity of some of their own culturally determined values and beliefs.

Before the meeting began, I also noted some other ways in which those in favor of the proposed law and those against the proposed law used identity markers to show their allegiance to a particular side. While not an intentional part of their protest rhetoric, some of the day laborers and those sympathetic with their cause were marked as “other” through their use of headphones and receivers. A woman sitting a few rows in front of me was translating the meeting into Spanish, and all of the people with headphones were receiving her translation. People in the audience also seemed to sit in different areas based on their allegiance to one side or another. A majority of the people sitting on one side of the room seemed to be opponents of the NPA, and those sitting on the other side of the room were in favor of it. This became clearer as the meeting progressed, when members of the audience had the opportunity to applaud for the individual speakers.

The meeting began with the town board inviting everyone to join them in reciting the pledge of allegiance, followed by a moment of silent prayer. After some comments from the members of the town board, the debate and discussion started. With all of the comments and antics from the crowd, in an atmosphere that was already charged to say the least, the debate over the NPA turned into a sort of organized chaos that included frequent attempts to protest the comments of different speakers using vocalic presence.

Landlords, some of whom admitted living outside of Brookhaven township, got up to speak out against the proposed law. They were greeted with jeers that were certainly also intended for the day laborers. For instance, one audience member remarked, “Another one from

out of town.” In response to a different landlord, another audience member shouted, “We need to do a border check.” The landlords certainly weren’t the only people to speak out against the law, but the other people on the opposition side were also confronted with audience members who used vocalic presence to attempt to detract from their statements. A woman who was president of an organization called the “Workplace Project,” a group which gives assistance to day laborers, got up to speak, and after close to a minute several audience members started yelling, “Time.” Another instance of the use of vocalic presence by the crowd occurred when a day laborer got up to speak through a translator. When he complained of the financial strain that this law would put on immigrant workers, people in the crowd responded by yelling, “Pay taxes.” Another speaker who was opposed to the NPA argued that even if he didn’t like the way his neighbor keeps his property, his neighbor is entitled to it just the same, to which an audience member responded by yelling, “If he’s legal.”

In the middle of one of the statements before the town board, an interesting instance of emblematic presence occurred. A woman speaking in favor of the NPA held up a picture of a slave ship, which she displayed first to the town board and then to the audience. She went on to explain her visual aid by drawing an analogy between landlords and plantation owners. Although this example of emblematic presence did not occur in a formal protest per se, it is fair to say that her comments (as well as the comments of many other speakers) took on the sound and feel of a leader trying to rally a group of protesters (in this case, those supporters gathered in the audience). In this sense, several of the statements made before the town board were as much a part of the protests going on around the meeting as they were a part of the formal discourse of the meeting itself. These particular protest acts, with their ephemeral nature and their juxtaposition within the framework of the formal discourse before the town board, are also a clear illustration of the previously mentioned notion that protest sites are best described as postmodern cultural spaces.

At the conclusion of the discussion about the NPA, the town board moved on to the other items on the meeting agenda, and most of the people in the audience, including the majority of

the protesters who gathered, left the meeting. Outside, a group of between fifty and sixty day laborers and people sympathetic with their cause staged one final protest. They gathered near the parking lot, formed a circle, and started slowly walking counterclockwise while chanting, “We want peace.” Some of the protesters waved white towels as they walked around in the circular formation. This particular protest combined corporeal, vocalic, tribalistic, and emblematic elements. The positioning of the protest near the parking lot established corporeal presence, as one simply could not exit the meeting without being confronted by the bodies of the protesters. The protesters used vocalic elements effectively by chanting at a deliberate pace with what can only be described as a soothing tone of voice. There was no anger or desperation in the voices of the protesters, just a soft sound which coincided nicely with their message of peace. The marching group established tribalistic presence because, like the vocal cues, it was slow and deliberate and it was a clear display of the group’s unity of purpose. Finally, the towel waving was an effort to establish emblematic presence. Since waving a white flag is a well-known symbol for surrender, waving the white towels probably was not the best strategic choice for the protesters who were attempting to stress the need for peace.

### Conclusions and Implications

The critical examination of issues of space and cultural identity in protest events requires a focus on the event itself, and in keeping with such a focus the concept of presence has been offered as a methodology for analyzing protest events. As a critic, one could certainly make the decision to focus on the transcripts of the Brookhaven town board meetings. However, as noted at various points throughout this essay, a focus on these transcripts would have meant losing the undocumented protest acts that occurred during these meetings. This essay has argued that protests themselves, both from the standpoint of the presence that protesters attempt to establish and the implications that the protests have regarding issues of cultural identity, cannot be fully understood if the critic focuses *only* on written documents. To create presence, a protest must engage the senses, and this is accomplished largely through the way protesters use their bodies in



space. Protest events rely at least as much on how they make the audience feel as on what textual information they impart.

The critical framework for analyzing presence outlined in this study does provide a framework for discussing the rhetorical efficacy of various protest tactics, but one issue that needs to be addressed is the extent to which this theoretical lens of “presence” speaks to the issues of culture and power inherent in this particular series of protest events. The framework has its strengths and weaknesses in this respect, so an evaluation of the method as a tool for addressing issues of culture and power is necessary.

Certainly language, emblematic markers, and tribalistic behaviors became important markers of cultural identity in these protest events, and the critical framework does allow for a thick description of these types of communicative behaviors. However, one limitation of this approach is that it does not allow the critic to directly explore the cultural identities of individual protesters. Of course, the analysis of presence could be augmented with ethnographic interview data, but this is not something the approach for analyzing presence laid out in this essay requires of the critic. In addition, this approach, like many other tools for scholarly analysis, is certainly subject to the cultural biases of the critic. While impractical in some respects, a more complete picture might be achieved by using a team of critics to identify the various types of presence. Since nonverbal cues vary widely among different cultures and cocultures, this “group” approach to scholarly critique would increase the variety of cultural perspectives brought to bear on the analysis. However, the problem of “one critic/one perspective” is not a unique flaw of the method outlined in this study, as other methods for studying culture often suffer from this same limitation.

The framework for critiquing presence outlined in this study does lead to insights about power in the sense that it enhances our understanding of how groups exercise agency within certain spaces. However, it does not directly address issues of economic power. Freitas, Kaiser, and Hammidi (1996) contend that “cultural spaces need to be analyzed critically and creatively to acknowledge not only who exercises agency within the space(s), but also who profits or

benefits from the space(s)” (p. 85). In a capitalist society, the underlying economic structure is often an important factor in conflicts over space. While I discussed the fact that the NPA grew, in part, out of a concern with declining property values, the method for describing presence offered in this study does not demand a direct examination of the economic factors. Future research examining issues of presence in protests could combine the methodology outlined in this study with a neo-Marxist critical approach in order to offer a more comprehensive discussion of economic variables.

Another issue that surfaced in this study was the issue of reliability as it applies to the viewing of videotape evidence, as well as eyewitness accounts. At the beginning of this essay, I noted that to analyze presence in protests, a critic must be present. In describing the protest that occurred at the October 19 meeting, I relied on a videotape of the meeting. This brings up the question, does viewing a videotape or film clip capture enough of the elements to count as being present? It is certain that some cues which contribute to the presence of a protest are “lost in translation” if viewed on videotape. Yet, with advances in technology, the issue of presence and videotaping is becoming more and more complicated. After all, videoconferencing is supposed to allow distant colleagues to be “present” at a meeting. One important element which always seems to suffer as a result of videotape is context. Rarely, if ever, does a videotape capture a real sense for what it is like to be in a certain space. This problem was somewhat negated in this study, as the second meeting occurred in the same meeting room. While eyewitness or ethnographic accounts are probably richer in detail in most instances when compared to videotaped evidence, tapes do have the advantage of allowing the researcher to watch the protest over and over to look and listen for some of the finer details. An adequate analysis of vocalic presence in particular is certainly more readily achieved when a tape can be reviewed and a critic can listen to a passage several times.

Finally, it should be noted that the framework for analyzing presence that is outlined in this study also has potential applications for the analysis of other types of communicative behaviors. If the critic accepts the notion that culture is a performative process, that culture only

exists to the extent that it manifests itself in the embodied practices of a group of people, then this framework is appropriate for the examination of other types of intercultural conflicts. Protests constitute a very specific form of interaction, but the focus on bodily cues that the analysis of presence necessitates could also be applied to other types of cultural performances. While a critique of presence is particularly well suited to interactions which center around issues of prejudice, intolerance, and conflict, this method could also be used to produce insights about communication behaviors in other sites of cultural construction and expression like social rituals, customs, and ceremonies.

To the extent that persuasion is power in the United States, it is important to understand how persuasive tactics are used to silence marginalized groups. Presence, as it has been described as a performative activity in this essay, has too often been overlooked as a site of rhetorical inquiry. In the language-ridden world of the academy, the study of spatial and bodily cues can be a difficult undertaking, but I have argued that it is a necessary scholarly focus for critics interested in the rhetoric of protest and reform. As Self (2001) contends, “For space to make useful theoretical sense, it must mark more than the mere location of a study or a study's subjects. It must become a subject itself, imbued with a capacity to act on and through other subjects, a physical, social, and discursive formation (or formations) in constant interaction with other human constructions” (p. 238-239). A thorough understanding of conflicts which focus on issues of cultural identity and competition over space requires a comprehensive analysis of contextual cues. Everything we are as cultural beings is a product of the way we use our bodies to communicate, the way we establish presence, the way we perform.

At a 10 a.m. meeting on December 7, 1999, the Brookhaven town board passed the Neighborhood Preservation Act (NY State, 1999c, p. 27). The vote drew applause from a small group of citizens who were in attendance. While the impact on the day laborers who live and work in Brookhaven township may be most obvious in economic terms, there is no doubt that the debate, discussion, and protests over this law have left another scar on the community in the form of the division that has been created. Examining presence certainly does not resolve the

conflicts created by closer contact between cultures, but a greater understanding of the tactics for enhancing presence might help to level the playing field. While the critique of the protests at Brookhaven outlined in this essay will not give Mr. Alvarez another chance to express his concerns in front of the town board, the analysis of presence does help us to understand *how* he was denied his right to speak. Hopefully, an enhanced understanding of the means by which presence is established can lead to a more genuine dialogue on issues of cultural difference.

## References

- Auslander, P. (1992). *Presence and resistance: Postmodernism and cultural politics in contemporary American performance*. Ann Arbor: University of Michigan Press.
- Baker, A. (2000, October 24). Suspect in racial attack tells of life of rage. *New York Times*, p. B6.
- Conrad, C. (1988). Work songs, hegemony, and illusions of self. *Critical Studies in Mass Communication*, 5, 179-201.
- DeLuca, K. M. (1999). Unruly arguments: The body rhetoric of Earth First!, Act Up and Queer Nation. *Argumentation and Advocacy*, 36, 9-21.
- Freitas, A., Kaiser, S., & Hammidi, T. (1996). Communities, commodities, cultural space, and style. *Journal of Homosexuality*, 31, 83-107.
- Fuoss, K. (1993). Performance as contestation: An agonistic perspective on the insurgent assembly. *Text and Performance Quarterly*, 13, 331-349.
- Halpern, S. (2000, September/October). Broadway's masked avengers [Electronic version]. *Mother Jones*. Retrieved October 13, 2001, from [http://www.motherjones.com/mother\\_jones/SO00/commons.html](http://www.motherjones.com/mother_jones/SO00/commons.html)
- Hoy, M. (1994). Joyful mayhem: Bakhtin, football songs, and the carnivalesque. *Text and Performance Quarterly*, 14, 289-304.
- Knupp, R. E. (1980). A time for every purpose under heaven: Rhetorical dimensions of protest music. *Southern Speech Communication Journal*, 46, 377-389.
- Koeppel, D. (1999, May 9). Out of the ashes, good-neighborliness rises. *New York Times*, p. L12.
- Kosokoff, S., & Carmichael, C. W. (1969). The rhetoric of protest: Song, speech, and attitude change. *Southern Speech Journal*, 35, 295-302.
- Martin, J. N., & Nakayama, T. K. (1997). *Intercultural communication in contexts*. Mountain View, CA: Mayfield Publishing Company.

- Miller, J. (1999). "Indians," "Braves," and "Redskins": A performative struggle for control of an image. *Quarterly Journal of Speech*, 85, 188-202.
- Murphy, J. M. (1994). Presence, analogy, and *Earth in the Balance*. *Argumentation and Advocacy*, 31, 1-16.
- NY State, Town of Brookhaven. (1999a, October 19). *Minutes*. Brookhaven, NY: Author.
- NY State, Town of Brookhaven. (1999b, November 16). *Minutes*. Brookhaven, NY: Author.
- NY State, Town of Brookhaven. (1999c, December 7). *Minutes*. Brookhaven, NY: Author.
- Perelman, C., & Olbrechts-Tyteca, L. (1970). The new rhetoric: A theory of practical reasoning. *The Great Ideas Today, 1970*, 272-312.
- Schmelzkopf, K. (1995). Urban community gardens as a contested space. *Geographical Review*, 85, 364-381.
- Schofield J., & Anderton, M. (2000). The queer archaeology of Green Gate: Interpreting contested space at Greenham Common Airbase. *World Archaeology*, 32.2, 236-251.
- Self, R. (2001). Writing landscapes of class, power, and racial division: The problem of (sub)urban space and place in postwar America. *Journal of Urban History*, 27, 237-251.
- States, B. O. (1983). The actor's presence: Three phenomenal modes. *Theatre Journal*, 35, 359-375.
- Stewart, C. J. (1991). The ego function of protest songs: An application of Gregg's theory of protest rhetoric. *Communication Studies*, 42, 240-253.
- Vitello, P. (1999, October 24). Melting pot at boiling point. *Newsday*, pp. A4, A48.