

BERKELEY PUBLIC POLICY JOURNAL



IDENTITY AND BELONGING

Granting non-citizen voting rights

Empowering tribal communities

Highlighting the risks of genetic data

Protecting immigrants' mental and reproductive health

MARKETS AND PEOPLE

Working for Uber through the recession in Brazil

Standardizing American health insurance markets

... AND AN INTERVIEW WITH
ALUMNA NANI COLORETTI

EDITORS NOTE

We are thrilled to present the Spring 2019 edition of the Berkeley Public Policy Journal. This journal is the product of five months of work from a dedicated staff composed of more than 20 students at the Goldman School of Public Policy. Six student authors submitted pieces that explored what policy has been, is, and should be. They poured their expertise, experience, interest, and time into their articles throughout the Fall semester, and we are proud to publish the product of their work. The diverse range of authors include GSPP first- and second-year students with a variety of backgrounds and identities.

The articles in this journal reflect that diversity. Four of this edition's articles focus explicitly on the United States: its health insurance markets, the impact of its immigration policies on migrants' health, the voting rights of noncitizens, and the relationship between the federal government and American Indian tribes. One article integrates on-the-ground data collection from Brazil to report on the role of contract driving during in a recession economy; another identifies the risks of genetic data abuse in a global context. An interview with GSPP alumna Nani Coloretti, Senior Vice President for Finance and Business Strategy at the Urban Institute, adds perspective on policy practice based on her experience in the Obama administration and in her current role.

Although the articles cover a range of topics and are diverse in their scope and focus, the BPPJ staff did identify two central themes among the selected pieces: Identity and Belonging, and Markets and People. Four of the following articles address — explicitly or implicitly — the way societies define and understand their individual and collective identities. The other two articles offer two very different versions of an investigation of a specific market; each pays particular attention to the people participating in and impacted by the larger market.

This publication marks the second and final edition of the BPPJ which we will oversee as Editors in Chief before we pass the position on the next round of leaders, led by Maitreyi Sistla and Ben Menzies. It has been a distinct privilege to hold this position, and we have approached it as a considerable responsibility. A responsibility to reflect and empower the voices and perspectives of GSPP students; to advance the work begun by the editorial staff and writers of previous graduating classes; and to contribute to a wealth of intelligent, thoughtful, and nuanced policy writing that aims to spread knowledge, build consensus, and promote progress. We thank all the student Editors and contributors who made this such a rewarding experience, the GSPP staff and administration who support the BPPJ — especially Martha Chavez and Larry Rosenthal — and you, the readers.

**Joseph Monardo &
Henriette Ruhrmann**

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ABUSE OF OUR GENETIC DATA IS THE NEXT PRIVACY SCANDAL

by Andreas Sampson Geroski

ABUSE OF OUR GENETIC DATA IS THE NEXT PRIVACY SCANDAL

ANDREAS SAMPSON GEROSKI

Edited by: Bryce Liedtke, Nandita Sampath, Mai Sistla

Data privacy has become an increasingly important policy area as personal information becomes a major currency in developing goods and services. It is crucial for policymakers to consider limits on future uses of personal data while the heightened threat of cybersecurity breaches, abuses of targeted content delivery, and unintended consequences of machine learning applications loom over our increasingly information-based economy. The rapid increase in the use of at-home genetic testing and, more specifically, the potential misuses of genetic data raise concerns over privacy and lead to questions regarding the potential exploitation of personal information. In addition to discussing the potential misuse of genetic data by private companies and government agencies, this paper suggests potential policy recommendations to improve individual legal protections.

THE USE AND MISUSE OF GENETIC DATA

How concerned should we be about the data companies collect on us? This question was behind a *Guardian* and *New York Times* interview last year with whistle-blower Christopher Wylie, who helped expose the illegal collection of Facebook data and subsequent voter manipulation by political consulting firm Cambridge Analytica during the 2016 election cycle.¹ Cambridge Analytica was successfully able to harvest information on more than 50 million Facebook profiles by promoting online personality tests.² Using this data, Cambridge Analytica psychologically profiled users and targeted them with personalized advertisements to provide their clients with a powerful tool with which to influence voters.³ The firm grouped users displaying similar online behavior together and preyed on their concerns. As Wylie explained, “we

exploited Facebook to harvest millions of people’s profiles and built models to exploit what we knew about them and target their inner demons.”⁴

However, it is not just online where users are inadvertently supplying companies with huge amounts of personal data. Many people are interested in learning about their family ancestry and genetic profile. In response to this demand, companies like 23andMe have developed use-at-home genetic tests which claim to trace customers’ genetic ancestry and identify disease predispositions.⁵ To do so, customers submit a saliva sample which is tested and compared to variants from people around the world and with particular illnesses.⁶ Ancestry companies like 23andMe report these analyses to customers, detailing heritage and susceptibility to specified ailments.

Scientifically, however, genetic testing for

ethnicity is largely arbitrary. The technology has been referred to as “genetic astrology” by genetics expert Professor Mark Thomas.⁷ The results are often based on company databases, which are perennially updated and refined, demonstrating ongoing ambiguity in its precision.⁸ More broadly, nationalities do not change or define genetics. For example, being identified as 12.5 percent Senegalese is less concrete than such a figure suggests, implying only that one shares some genetic characteristics with current Senegalese residents and ignoring the fact that people have migrated from all over the world to Senegal in previous generations. It also ignores the results of the human genome project, which states that, as summarized by Bill Clinton, “in genetic terms, all human beings, regardless of race, are more than 99.9 percent the same.”⁹

However, this is not how ancestry companies make their money. The lucrative part of their business is selling the data they collect from genetic tests. As a 23andMe board member explained in 2013, “The long game here is not to make money selling kits. ... Once you have the data, [23andMe] does actually become the Google of personalized health care.”¹⁰ As of 2017, 23andMe had sold database access to 13 pharmaceutical firms.¹¹ Ancestry companies’ ability to collect and sell genetic data is at the heart of their business models — the fewer restrictions on user privacy, the more they can potentially profit. Using this data, pharmaceutical

Ancestry companies’ ability to collect and sell genetic data is at the heart of their business models — the fewer restrictions on user privacy, the more they can potentially profit.

companies are researching, amongst other things, how genetic differences can make drug treatments more effective, in addition to understanding what genetic codes predispose people to diseases like Parkinson’s. The breast cancer drug Herceptin provides an example of how this personalized medicine works. The drug works by controlling the growth of a protein (HER-2), but is only effective in women with specific genetic traits prevalent in 25–30 percent of breast cancer patients.¹² While this is undeniably a positive development, the current business model for

personalized medicine exists in an ethical grey area which some might view as exploitative. Companies are developing applications and profiting from genetic data for purposes that customers have often unwittingly submitted to after paying for a wholly different and unrelated service. Properly informing, if not compensating users for the genetic data unknowingly provided for pharmaceutical research and development raises questions about consent and confidentiality. Data privacy is not an abstract concept; in the example of personalized medicine, ownership of genetic data has profound implications, from what drugs are developed to who profits off them.

GENETIC DISCRIMINATION

Publicly-available genetic data has a variety of potential ramifications. In May 2018, California law enforcement announced they had tracked down the “Golden State

Killer” — a notorious serial killer in California accused of 13 homicides — using a publicly-available genetic database to identify the culprit.¹³ Police arrested suspect James DeAngelo after linking the DNA taken at the crime scene to the DNA of a relative who used the do-it-yourself genealogy website GEDmatch.¹⁴ The case shows how when family members make their genetic data public, it effectively makes their relatives’ DNA public as well. A network effect occurs, similar to how by logging into Facebook, information is given to companies about other users and even non-users.

While there can be clear benefits to publicly-available genetic databases, there can also be drawbacks. Predictive policing provides a case of genetic data’s potential for abuse. Police forces across the world are increasingly using predictive policing, where data collected on crimes and people who come into contact with the police are used to predict where and by whom future crimes may be committed.¹⁵ As with any model, this method is only as good as the data that goes in; its output will reflect any assumptions or biases used in its programming and data collection. In the case of predictive policing, excessive policing of minority communities results in statistically biased crime data, which means that these groups are identified as more likely to commit crimes.¹⁶ This creates a vicious cycle, in which minorities are even more targeted because of attributes such as the area in which they live and the school they attended, even if they haven’t

When family members make their genetic data public, it effectively makes their relatives’ DNA public as well.

committed a crime.¹⁷ *ProPublica* has extensively documented how people entering the criminal justice system are given “risk-based assessments,” where software predicts their likelihood of committing a future crime. This score is often used in sentencing or parole decisions.¹⁸ Minority groups have consistently higher risk assessment scores than their white peers, even when comparing whites who have been in prison to minorities who have no criminal records.¹⁹ These biases would become even more entrenched if these predictive programs were to start including genetic information collected through swabs taken by individuals going through the criminal justice system. Racial minorities are far more likely to be victims of a false positive test, as they are disproportionately represented in genetic databases due to their disproportionate interactions with the criminal justice system. Thus, they are more likely to be falsely accused when there is a mismatch in the genetic data. The use of genetic data in algorithms, like those used in predictive policing, could result in a greater number of false criminal accusations against minority groups.

In *Weapons of Math Destruction*, Cathy O’Neill

details how software now determines health scores, credit reports, and approvals for loans, often using suspect measurement and biased or prejudiced assumptions.²⁰ The key is not just the widespread use of unaccountable algorithms, but also how scientific legitimacy is not a precursor to this kind of data being incorporated into algorithms. In *Scientific Ameri-*

can, journalist Charles Seife explains that 23andMe is now “sifting through its genomic database, which is combined with information that volunteers submit about themselves, to find possible genetic links to people’s traits.”²¹ There is a clear link to this and the potential for the misuse of genetic data in algorithms. For instance, let’s say an ancestry company “finds” a genetic variant linked to a predisposition towards violent behavior. Ancestry companies could present this link between a certain gene and violence as “fact”, similar to how ancestry companies present identity as a “fact” by reducing it to arbitrary numbers and percentages. Whether someone has this gene could then be incorporated into algorithms used in predictive policing. This is genetic stereotyping; people who are born with certain genes would be treated more harshly in the criminal justice system, irrespective of their actions. Considerations of how society, law, and policing affect levels of violence could be ignored, and society is reduced to the level of the individual. This “genetic stereotyping” could be used to justify prejudice in determining credit scores, approval for mortgages, and any number of life-changing events.

In *Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor*, Virginia Eubanks explains how the use of automated systems, algorithms, and data analytics are being increasingly used in social services to designate “risk assessment” scores, which are then used to make decisions about eligibility for social

services. Often, this requires collecting information through invasive surveys. Sensitive information, such as social security numbers or an individual’s description of their experience suffering from sexual assault, can then be stored on databases that can be accessed by police, academic researchers and public agencies not linked to the services they are trying to access.

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While people are asked for their consent, they are sometimes unable to access social services if they don’t provide this information. As Eubanks argues, “if the old surveillance was an eye in the sky, the new surveillance is a spider in a digital web, testing each

connected strand for suspicious vibrations.”²² Seen in this context, genetic data could be used as another component of social service risk assessments, and could be used to automate decisions on the services and housing that people can access. Given that our genetic data is intrinsic to us and cannot be changed, this data has the potential to completely lock people out of services, regardless of their actions.

The misuse of genetic information by current algorithms is terrifying, but is currently occurring across the world. For example, the Chinese Government is piloting various versions of a Social Credit Score (SCS) to improve “citizen trustworthiness”, where citizens are assigned a score based on various “good” or “bad” actions.²³ Citizens can lose points for committing traffic violations, not paying taxes or bills on time (regardless of context), and for engaging in “undesired” social behav-

iors like playing video games for too long. On the other hand, citizens can earn more points by saying complimentary things about the government online, doing “heroic” acts, or buying diapers for your infant. In some variations, the actions of your friends also impact your score.²⁴ A high score can give you perks like discounts on energy bills, access to better insurance plans, and permission to travel abroad without supporting documents. A low score can restrict your access to fast internet speeds, forbid people from applying to jobs, and bar people from using public transportation. Since its inception, 1.65 million Chinese people have been barred from using trains because of their Social Credit Score.²⁵ If genetic data were included in the algorithms used by the SCS, then someone’s genetics could result in systematic discrimination and exclusion in daily life. Governments could associate certain genes with undesirable behaviors and tweak algorithms to ensure that certain groups of people always receive a lower score.

DISAPPEARING LEGAL PROTECTIONS

Existing concerns with the widespread use of genetic data go beyond discrimination. Peter Pitts of the Centre of Medicine for the Public Interest explains how:

“One MIT scientist was able to identify the people behind five supposedly anonymous genetic samples randomly selected from a public research database. It took him less than a day. Likewise, a Harvard Medical School professor dug up the identities of over 80% of the samples housed in his school’s genetic database. Pri-

vacy protections can be broken. Indeed, no less than Linda Avey, a co-founder of 23andMe, has explicitly admitted that ‘it’s a fallacy to think that genomic data can be fully anonymized.’”²⁶

In short, anonymity isn’t guaranteed when submitting your genetic data — it could still be used to identify you without your knowledge. It is unlikely that people would be as willing to use genetic tests if they knew the data could be used to identify them by a third party.

With companies such as Adidas, Sears, and Delta having had customer information stolen as a result of hacking,²⁷ there is also a real concern that genetic information stored on companies’ databases could be hacked and members of the public subsequently identified from the stolen data. Moreover, as the Cambridge Analytica scandal has shown, companies like Facebook, either carelessly or deliberately, can break their own privacy terms and conditions. The Federal Trade Commission has already warned consumers to consider the privacy implications of home genetic tests, saying “although most tests require just a swab of the cheek, that tiny sample can disclose the biological building blocks of what makes you.”²⁸ This is not like having credit card details stolen, where you can be issued with a new card and claim stolen money on insurance. Once your genetic information is public, it stays that way.

To an extent, there are legal protections in place to protect genetic data. In the U.S., the Health Insurance Portability and Accountability Act (HIPAA) allows medical

companies to share genetic data as long as it has been anonymized.²⁹ Current privacy protections also require companies to separate customers' names and samples before the samples are sent for testing, to receive consent for sharing information with companies, and to include an option for consumers to request that their data be discarded after the test.

However, this legislation was passed in 1996, before the widespread use of at-home genetic testing.³⁰ Comparing the privacy policies of different ancestry companies, journalist Lydia Ramsey has shown how vulnerable genetic data can be. Results are often sent to laboratories run by different companies to be tested, all of which may have varying privacy standards and policies. Test results can oftentimes be kept for up to 10 years and data can be transferred between companies.³¹ For instance, Family Tree DNA's privacy statement states that if the company were acquired, "personal information, including test results, will, as a matter of course, be one of the transferred assets." In other words, customers are not in control of who owns their data.³²

These concerns are even more important when you consider that in the United States, legal protections to stop genetic discrimination are incomplete. In 2008, President Bush signed the Genetic Information Nondiscrimination Act (GINA), which gave federal protections against genetic discrimination. It prohibited health insurers or employers from asking for genetic information, and made it illegal to force people to take a genetic test or exclude people from services based on their

genetic information.³³ The law, however, does not cover schools, life insurance, or housing, leading to situations where, for example, "a 36-year-old woman's life insurance application was denied because her medical records noted she had tested positive for the BRCA1 breast cancer gene."³⁴ There is a concern that rental or

In other words, customers are not in control of who owns their data.

mortgage applications will start asking for genetic information, with the aim of identifying and rejecting people who may have genetic predispositions to diseases

like Alzheimer's that could affect their healthcare costs and therefore ability to pay. It is not currently clear whether this type of discrimination is illegal.³⁵ Most worryingly though, "there are virtually no prohibitions on the subsequent uses and disclosures of the [genetic] information," meaning that not only are people vulnerable to discrimination, but their privacy is at risk.³⁶

In 2012 California passed a stronger law, CalGINA, to prohibit genetic discrimination on a wider range of issues including housing. CalGINA also removes the financial cap on penalties for violations of the law, increasing the incentive for adherence to the law.³⁷ CalGINA works by amending a host of other codes, such as Educations and Elections, to include genetic non-discrimination in all areas where existing anti-discrimination laws exist.³⁸ Despite this, there are ongoing proposals that critics argue would weaken GINA at the federal level. A House Committee has approved a bill, H.R. 313, that lets companies genetically test employees as a part of the Affordable Care Act's work wellness

programs. Work wellness programs are voluntary health schemes that employees can sign up for which are meant to help promote a healthy workforce; employees that participate are often offered lower health insurance premiums.³⁹ While supporters of the bill argue that the schemes are voluntary and that people are still protected under GINA,⁴⁰ it potentially puts employees in a catch-22 of having to disclose genetic information to lower their healthcare costs. While employers argue that knowing someone's predisposition to diseases like Alzheimer's means that they can tailor wellness programs to help prevent the development of these diseases, it still leaves employees in a vulnerable position. Employers can potentially fabricate a reason for dismissal if they know an employee is likely to develop a condition or disease that is expensive to treat.

Those with minimal or no legal protections are the most vulnerable to the misuse of genetic information. The U.S. government is already using DNA testing for visa applications, where testing is used to verify biological relationships to determine whether family members can join their families in the States.⁴¹ As already detailed, this genetic information is not always secure and there are not provisions in place to protect people from discrimination if these data were to be used nefariously in the future. Additionally, this testing creates further violations of their privacy. Rachel Swarns details how these tests have led to family members being denied visas because members were found to not be biologically related, sometimes because of affairs or sexual assaults that the woman had never disclosed.⁴² The pain and harm these situations cause for fam-

ilies who have lived together their whole lives is egregious. Resorting to genetic tests to prove family bonds is a blunt and often meaningless tool. Ancestry companies have also recently offered to use genetic testing to help reunite families separated at the U.S.-Mexico border. Given the limited legal protections these families already face, however, the use of DNA tests here might make a horrible situation even worse.⁴³

CONCLUSIONS AND POLICY RECOMMENDATIONS

The sensitivities around the use of DNA testing for visa applications show the challenges in creating policies to protect our genetic data; these issues are nuanced and analyzing the costs and benefits of using genetic data is not always clear-cut. Protecting our genetic privacy will require policy recommendations that cover legal and political concerns in both the private and public sector. However, while further debate is needed about the general use of genetic data, there are a few policy recommendations that would provide immediate protections for very little cost.

First, GINA should be expanded to cover all forms of genetic discrimination. The many potential abuses of genetic information may outweigh any benefits it may bring. From its potential use in predictive policing and other algorithms determining life insurance claims or mortgages, the use of genetic information is currently not sensitive nor accurate enough to be used fairly. By expanding GINA to cover all forms of genetic discrimination at a federal-level, it allows the U.S. government and our broader society to fully under-

stand and debate the uses of genetic data before making any decisions using this information.

Given the myriad of ways in which algorithms perpetuate discrimination, another policy recommendation is that the use of genetic information in algorithms should be both regulated and transparent. While the Social Credit System is unlikely to be instituted in a democratic country, transparency in the use of algorithms is still a concern around the world. The discussion around how to make algorithms and technology more transparent must include an awareness of the potential future use of genetic data. On issues like predictive policing, public debate about the use of algorithms has lagged behind policy implementation. The potential abuses from using genetic data in algorithms are too grave for this continuing lag in policy; future debates and subsequent laws need to legislate to mitigate abuses of algorithms.

The root cause of these potential exploitations is the business model that sells our genetic data. A final policy recommendation is that ancestry companies should be barred from sharing genetic information, and companies should not be able to sell genetic data or have it transferred if they are bought out. The current protections to safeguard people's genetic data, and by extension their anonymity, are inadequate. Even if companies do have adequate cybersecurity measures, the data are still vulnerable to abuse when being transferred

between companies with different privacy regulations. The best way to ensure consumer privacy is to stop data from being turned into a commodity.

Expanding GINA to cover all forms of discrimination, enforcing greater transparency on algorithms, and prohibiting the sale of genetic information are a start, but broader policy debates are needed to comprehensively look at how all types of personal (including genetic) data is collected, used, and stored. How much of our personal data we make available is no longer a personal issue, but a decision with consequences for everyone.⁴⁴ It is incoherent to have a right to privacy and an ability for others to share one's genetic data, given there is nothing truly anonymous about our genetic information. Future conversations on trade-offs between medical advances and privacy are necessary, but we also urgently need more transparency around what data is collected on us and how it is used in algorithms that increasingly dictate our lives. The Cambridge Analytica scandal serves as a strong reminder of the price we pay for not safeguarding our privacy, and the next abuse of our private data could have even bigger consequences.

It is incoherent to have a right to privacy and an ability for others to share one's genetic data, given there is nothing truly anonymous about our genetic information.


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THE IMPACT OF IMMIGRATION POLICY ON MENTAL AND REPRODUCTIVE HEALTH

by Iris Wong

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United States immigration policies have a profound impact on the individuals they seek to regulate, particularly on the mental and reproductive health of immigrants. This article explores this relationship, focusing on the interactions between the U.S. immigration system and those involved in it, as well as the consequences of these interactions on the mental and reproductive health of the immigrants. These individuals range from children and adolescents to adults and LGBT individuals, whose mental and reproductive health are affected in distinct, yet similar ways by their interactions with the U.S. immigration system. This paper analyzes the failures of America's immigration system to adequately address the mental and reproductive health needs of immigrants and identifies the ways in which the U.S. immigration system actively harms immigrants' mental and reproductive health. Finally, this article will provide concrete policy recommendations in order to remedy the deficiencies in an immigration system that is detrimental to the mental and reproductive health of immigrants.

INTRODUCTION

Debates around immigration policies in the United States often center on national security, separating those who are “from” the U.S. and those who are not. This “us vs. them” rhetoric is myopic and hypocritical. Immigrants constitute a sizable proportion of the U.S. population. Between 1820 to 2017, 83 million immigrants obtained lawful immigrant permanent resident status,¹ and about three million refugees have claimed asylum in the U.S. as of 2016.² Today, immigrants make up 13.5 percent of the U.S. population, compared to 4.7 percent in 1970.³ As a fundamental and integral part of the United States, immigrants deserve better treatment by the government. Many migrants travel to the U.S. seeking safety and freedom. Yet

current U.S. immigration policies commit state violence by putting migrants at risk of physical harm and psychological strain, then denying them access to resources when they are in government custody or after they cross the border. Worse, regardless of how young a migrant is and how briefly they interact with immigration officials, the experience has lifelong effects that permeate every part of their daily life.

One important — though inconspicuous — effect of immigration policies is the impact on an immigrant's reproductive and mental health. Moreover, compromising one jeopardizes the other: the World Health Organization defines reproductive health as “a state of complete physical, mental and social well-being”⁴ and that “reproductive health can only be achieved

when mental health is fully addressed.”⁵ For undocumented immigrants in the United States, the process of migrating and encounters with U.S. government officials have significant impacts on both aspects of health. These health risks are particularly acute for asylum seekers — especially women, children, and lesbian, gay, bisexual, and transgender (LGBT) people who are fleeing from violence in their home country.⁶ Refugees from the Northern Triangle of Central America, which includes Guatemala, Honduras, and El Salvador, made up 42 percent of migrants apprehended at the border in 2016.⁷ These migrants are fleeing a region where an average of nine women and/or girls were victims of gender-motivated homicides every week in 2017.⁸ In Honduras alone, 264 LGBT people have been killed since 2009.⁹

Those who successfully cross the border continue to face health risks due to acculturative stress, defined as a psychosocial strain experienced by immigrants in response to stressors they encounter from adapting to life in a new country.¹⁰ Learning a new language, searching for a job, and reestablishing social support networks in a new community all contribute to acculturative stress. In turn, acculturative stress is associated with anxiety, depression, and suicidal thoughts.¹¹ Immigrants face further health risks when the U.S. government makes the barriers to accessing health insurance or preventive reproductive healthcare services impossible to cross. For communities of color and LGBT people, the racism and stigmas they face during and after their journey make them especially vulnerable to reproductive and mental health risks. To fully compre-

hend how immigration policies affect immigrants' mental and reproductive health, this paper examines three policies and how they affect children, adolescents, and adults, respectively.

A note on terminology: Reproductive health does not only apply to cisgender women, but also important to cisgender men as well as transgender, intersex, nonbinary, and other gender non-conforming people. As such, inclusive terminology such as gender-neutral terms and pronouns like “they,” “them,” and “theirs” will be used as often as possible.

FAMILY SEPARATION POLICIES CREATE ADVERSE CHILDHOOD EXPERIENCES FOR YOUNG CHILDREN THAT IMPACT THEIR REPRODUCTIVE HEALTH LATER IN LIFE

Children who are migrating with their families in pursuit of safety and stability are instead at risk of lifelong traumatization at the hands of U.S. government officials. In April 2018, the Trump Administration announced a “zero tolerance” policy that prosecuted everyone who illegally crossed the United States border, even if they claimed refugee asylum. As a result, approximately 3,000 children who traveled with their families to the southern U.S. border between April and June were separated from their parents and turned over to shelters operated by the U.S. Health and Human Services Department’s Office of Refugee Resettlement (ORR).¹³ Of those, about 2,400 are “tender age” detainees who are under 12 years old.¹⁴ Data from the Department of Homeland Security (DHS) showed that as of October 15, 2018, 2,363 children were discharged from ORR custody.¹⁵ Additionally, 125

children whose parents were deported made the difficult decision to not seek reunification with their parents in order to pursue asylum, and 120 children who have not decided to waive reunification remain in ORR custody.¹⁵ However, these government-issued data may be underestimated, as a report from the DHS inspector general stated that “DHS struggled to provide accurate, complete, reliable data on family separations.”¹⁶ For the children who are waiting for reunification, the median length of detention as of October 15 is 154 days — over five months — and some have been in detention for as long as a year.¹⁷ Experts from the American Academy of Pediatrics have cited studies showing that separating immigrant children from their families and detaining them in shelters, however brief, causes psychological trauma and post-traumatic stress disorder (PTSD).¹⁸ Health professionals further classify traumatic experiences like these as “adverse childhood experiences” (ACEs), which cause lasting mental development and health impacts.¹⁹ Other types of ACEs include being a victim of violence or witnessing any violence in one’s neighborhood,²⁰ and deportation or migration²¹ — upsetting events that many of these children have already experienced prior to arriving at the border. Moreover, after a child is moved into the custody of ORR, they may experience physical or verbal abuse from federal staff,²² which further degrades their likelihood of growing up as a healthy adult.

For the children who are waiting for reunification, the median length of detention as of October 15 is 154 days — over five months — and some have been in detention for as long as a year.

As a child experiences an increasing number of ACEs, their reproductive health deteriorates. Without adequate care and resources to process their childhood traumas, these children are more likely to engage in high-risk sexual behaviors later in life,²³ contract sexually transmitted infections (STIs),²⁴ become pregnant during their teenage years,²⁵ and experience unintended pregnancies as an adult.²⁶ Further, in a study examining the relationship between ACEs and STIs, researchers found that a child who was physically abused was 60 percent more likely to contract STIs as an adult and a child who had incarcerated family members was 100 percent more likely to contract STIs as an adult.²⁷

Although current measures of ACEs do not fully capture the negative impacts of parent separation due to migration,²⁸ chil-

children’s brains cannot distinguish between different sources of toxic stress. For example, the stress of parent separation has the same impact on a child’s brain development as living with an alcoholic parent or being bullied.²⁹ Therefore, these stark statistics on brain development could realistically apply to immigrant children exposed to various sources of toxic stress. In fact, given the distress children may experience from migration, traditional measures of ACEs may underestimate the negative impact on immigrant children.

Regardless, Trump’s policy of separating families, prosecuting the adults, and detaining the children in a hostile envi-

ronment is wreaking havoc to the future mental and reproductive health of children who have already endured so many stressful events in their young lives. The U.S. government has an opportunity to provide safety and mental health services to help children process their traumas and grow up into healthy adults. Instead, the government creates additional ACEs and increases migrant children's suffering.

ADOLESCENT UNDOCUMENTED IMMIGRANTS FACE MENTAL HEALTH STRESSORS THAT CAN BE ALLEVIATED BY DACA, BUT NOT BY MUCH

For undocumented immigrants who successfully enter the U.S., their mental health and, by extension, reproductive health are still at risk. These health risks are especially true for adolescents who must face these challenges during a critical developmental period. While discussions of undocumented immigrants frequently focus on Latinx communities, Asian Pacific Islanders (API) are also critical members of this population. With 1.7 million API undocumented immigrants³⁰ and over 33 API languages spoken in the United States,³¹ an in-depth understanding of how immigration policies affect API adolescents' health is also needed.

Both API and Latinx adolescent immigrants experience stress from their undocumented status. Among young adults in the API community, the acculturative stress from feelings of shame and stigma of

being undocumented, compounded with the model minority myth that APIs are successful due to their self-sufficiency,³² leads to reluctance to seek community resources and a negative attitude towards mental health services.³³ Similar stressors are experienced by Latinx immigrants whose undocumented status causes them to "struggle even more for basic necessities, experience perpetual fear of deportation, and ... often [be] confined to the lowest-wage jobs."³⁴

The psychological concerns that an undocumented adolescents endure directly impact their reproductive health. When one's mental health deteriorates, one's judgment and decision making skills are compromised and is associated with risky sexual behavior and "heightened vulnerability to unintended pregnancy, STIs including HIV, and gender-based violence."³⁵ As these adolescents delay getting primary care or ignore their health issues due to their immigration status,³⁶ they

Among young adults in the API community, the acculturative stress from feelings of shame and stigma of being undocumented ... leads to reluctance to seek community resources and a negative attitude towards mental health services.

are also less likely to seek contraception and other family planning services, which leads to increased risk of STIs and unintended pregnancies. At a time when a young person undergoes fundamental

socio-emotional development, anxiety about their immigration status prevents them from seeking resources that protect their health.

The Deferred Action for Childhood Arrivals (DACA) program initiated by the

Obama Administration in 2012 may have alleviated some of these stressors, but it still has shortcomings. An undocumented immigrant who is approved for DACA is protected from deportation for two years and can apply for a work permit.³⁷ Data from September 2017 shows that of the 690,000 DACA recipients, women make up the majority at 53 percent, and two thirds are under 25 years old.³⁸ Studies show that DACA recipients experience a sense of “emotional and psychological peace” that improved the mental health of API DACA recipients³⁹ and reduced the shame Latinx immigrants feel about being undocumented.⁴⁰ Unfortunately, while Latinx DACA recipients report increased social support, social integration, and positive sense of self, the API undocumented community remains divided as the model minority myth perpetuates stigma, shame, and silence against undocumented immigrants.⁴¹ Notably, 70,000 former DACA recipients did not renew their benefits or had their renewal applications denied after the Trump Administration announced plans to phase out the program.⁴² While that only constitutes about 9 percent of all DACA recipients, it is still unconscionable that these young adults can no longer benefit from the program.

However, as discussed in the previous section, the ACEs of migration and growing up undocumented are not easily forgotten and leave lasting health impacts.⁴³ While a few DACA recipients can access employer-based health benefits, the majority were not offered coverage.⁴⁴ And since DACA recipients are disqualified from obtaining healthcare through the Affordable Care Act and Medicaid,⁴⁵ most remain uninsured.⁴⁶ This means that even if DACA re-

cipients wish to seek care to address these ACEs, they still face barriers of healthcare access. Furthermore, lack of insurance and the high barriers to care mean people who are pregnant are unable to receive prenatal and postpartum care, and those with uteruses are less likely to receive cervical and breast cancer screening, HIV/AIDS testing and treatment, and family planning services.⁴⁷

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) POLICIES ENDANGER PREGNANT AND LGBT PEOPLE

Adult undocumented immigrants face dangerous conditions that put their mental and reproductive health at risk when they arrive at the U.S. border. In December 2017, the Trump Administration implemented a new policy that superseded the Obama Administration’s directive that “pregnant women will generally not be detained by ICE” except in “extraordinary circumstances.”⁴⁸ Under the new Trump directive, ICE no longer has explicit policy guidance to avoid detaining pregnant women. Instead, the new directive merely states that ICE staff should ensure pregnant detainees are receiving appropriate medical care, and should be transferred to another detention facility when it is determined that the current facility cannot provide that care.⁴⁹ However, reports have emerged of pregnant detainees suffering miscarriages and being shackled while in custody,⁵⁰ a practice in direct contradiction to recommendations from the American College of Obstetricians and Gynecologists.⁵¹

But concerns about the treatment of pregnant people in ICE detention centers have

existed prior to Trump's directive. Detainees described experiencing symptoms of depression and stress from confinement⁵² and suffering miscarriages without adequate medical attention.⁵³ Many of these detainees had children with them, and some became pregnant as a result of rape prior to or during their migration to the U.S.⁵⁴ Survivors of rape are at a higher risk of mental and behavioral disorders such as depression, anxiety, PTSD, dissociative disorders, and suicide.⁵⁵ Additionally, researchers found that stereotypes exaggerating Latinas' sexuality combined with the societal traumas from the "systemic emotional, verbal, and physical assaults by those with power and privilege against members of marginalized group"⁵⁶ mean that these pregnant detainees, most of whom are from Central America, are less likely to seek help addressing the mental effects of rape.

It is horrendous that these detainees suffer additional atrocities while they are enduring the multiple health impacts from surviving rape and being pregnant. The mistreatment of those in federal custody is tantamount to state violence against their reproductive and mental health. Without adequate medical care, nutritious meals, or pregnancy-related accommodations (such as a first floor dormitory to avoid climbing stairs⁵⁷), pregnant detainees are at a higher risk of perinatal depression, feelings of loss and guilt after a miscarriage, and anxiety over unintended pregnancies.⁵⁸ For those who have already suffered greatly prior to reaching the U.S. border, it is unconscionable that they are further attacked by the U.S. government in this way.

LGBT people are no safer in the hands

of the U.S. government. A recent report found that, based on data provided by ICE for Fiscal Year 2017, LGBT people detained in ICE custody are 97 times more likely to be sexually assaulted than those who do not identify as LGBT.⁵⁹ The prevalence of sexual assault is especially concerning because many of these immigrants are seeking asylum from sexual violence or state persecution due to their sexual orientation in their home countries.⁶⁰ And like many asylum seekers, LGBT immigrants who experience traumas from gender-based violence before and during their migration are at high risk of chronic mental and behavioral disorders like depression, anxiety, and PTSD.⁶¹

Data on sexual violence experienced by LGBT detainees, including whether they are housed with men or women in ICE facilities, is extremely limited, as ICE has not released its required annual sexual assault data for the past four years.⁶² In a congressional letter from Rep. Kathleen Rice's (D-NY) office to the DHS Secretary Kirstjen Nielsen, Rep. Rice stated that "ICE reported ... that, as of December 2017, 4 of the 17 facilities in which transgender women were detained were all-male and the rest were a mix of male and female populations. ICE did not provide information about whether transgender women were housed with men or women in those facilities."⁶³ Further, data on sexual victimization of LGBT people in U.S. federal and state prisons as well as local jails demonstrate a grim pattern for those in ICE facilities. The latest available report from the Bureau of Justice Statistics stated that between 2011-2012, "12.2 percent of prisoners and 8.5 percent of jail inmates reported being sexually victimized by an-

other inmate; 5.4 percent of prisoners and 4.3 percent of jail inmates reported being victimized by staff.⁶⁴ Because power dynamics may prevent victims from reporting incidents, especially where the perpetrator is the staff, these statistics are likely an underestimate.

ICE further traumatizes transgender detainees by denying adequate treatment, detaining transgender women with men, or placing them in solitary confinement,⁶⁵ despite ICE's own rules to "consider on a case-by-case basis whether a placement would ensure the detainee's health and safety."⁶⁶ Solitary confinement is not an adequate solution for LGBT people, as studies have shown that even a short period of solitary confinement can exacerbate mental health problems, and irreversible psychological damage can occur after 15 days.⁶⁷ Of the 298 transgender people detained by ICE in FY 2017, 14 were placed in involuntary solitary confinement, while 25 requested it for protection because their placement in the general population was unsafe.⁶⁸ Additionally, transgender people were detained for an average of 99 days in FY 2017, more than double the average 43.7 days all immigrants spent in ICE custody.⁶⁹ Reports of transgender detainees being denied medical services like HIV medication or hormone replacement therapy and subjected to abusive strip searches further deteriorate their human right to physical, mental and social wellness.⁷⁰ That a transgender person is forced to risk their mental health for physical protection is inhumane. That they are detained for a significantly longer time without basic care than others is cruel. That they suffer these atrocities in U.S. government facilities is nothing less than state violence.

CONCLUSION

U.S. immigration policies have long-lasting repercussions on a person's reproductive and mental health. The need for policies based on the human rights of immigrants is ever more crucial because of the traumas they have already endured prior to interacting with the U.S. government. Immigrants and refugees fleeing from violence do not deserve further abuse of their mental and reproductive health, least of all from the very institution in which they seek asylum. To that end, below are some policy recommendations to improve the reproductive and mental health of immigrants:

THE U.S. GOVERNMENT SHOULD SEEK ALTERNATIVES TO DETAINING MIGRANTS

Not only should the U.S. government immediately stop separating families at the border and reunite children with their parents, but the government should also go a step further by seeking alternative methods to govern migration. A report by the International Detention Council (IDC) identified and researched the efficacy of more than 250 alternatives to immigration detention in over 60 countries, including those with high numbers of asylum seekers, refugees, and migrants, as well as those with fewer resources.⁷¹ Defined as any law, policy, or practice where people are not detained on the basis of their migration status,⁷² alternative methods promote the health and wellbeing of migrants without exacerbating existing trauma. These alternative methods also reduce wrongful detention and litigation, improve compliance with immigration and case resolution processes, and

increase voluntary or independent departure rates.⁷³ In particular, research shows that migrants are more likely to accept and comply with decisions that are not in their favor in the immigration processes if they trust that they have been through an informative, fair, and efficient process.⁷⁴ Due to these benefits and lower operation costs, alternatives also cost 80 percent less than detention.⁷⁵

Based on their research, the IDC developed the Community Assessment and Placement (CAP) model. It includes elements such as: using screening and assessment to tailor management and placement decisions; providing holistic case management focused on case resolution; ensuring fundamental rights are respected and basic needs are met; and ensuring people are well-informed and trust they have been through a fair and timely process.⁷⁶ While IDC recognizes that complete control over all cases is unrealistic and migration cannot always be prevented, the CAP model can help identify and address the motivating factors of migration without putting migrants' human rights at risk.⁷⁷ What's more, this model reminds policymakers that migrants are not criminals and do not deserve to be detained or treated as such.

LOCAL JURISDICTIONS CAN EXPAND HEALTHCARE TO ALL ITS RESIDENTS, REGARDLESS OF IMMIGRATION STATUS

Cities like San Francisco and Washington, DC, are paving the way to ensure residents' health are not jeopardized based on their immigration status. The Healthy San Francisco program provides access to affordable, basic, and ongoing health

care services by connecting enrollees with a medical home, which then assigns enrollees to a physician to coordinate the care they need.⁷⁸ Quarterly enrollment fees are designed not to exceed five percent of family income for people with income below 500 percent of the federal poverty level (FPL). Those who earn below that threshold are not charged a fee.⁷⁹ In Washington, DC, the locally-funded DC Healthcare Alliance Program provides health insurance for anyone who is a DC resident, has a household income of up to 200 percent FPL, and is ineligible for Medicaid or Medicare.⁸⁰ While the Alliance does not cover mental/behavioral health services, it does cover preventative care (checkups, diet and nutrition) as well as prenatal care.⁸¹ Expanding access to healthcare for all residents may demand high upfront costs from municipalities. However, when the federal government has caused irrevocable harm to immigrants and made it impossible for those people to access basic healthcare services, local authorities have the opportunity to mitigate these damages for their community.

COMMUNITY ORGANIZATIONS CAN BOLSTER HEALTH IN IMMIGRANT COMMUNITIES BY BUILDING TRUST BETWEEN THEM AND PROVIDERS

Where bureaucracy fails to remediate its harmful policies in a timely manner, community-based organizations can play a unique role in filling in those gaps, especially in healthcare. However, trust is a fundamental element in providing healthcare services. The uncertainty of DACA, as well as discriminatory practices sanctioned by the government (such as ICE raids), prevent immigrants from seeking routine prevention or primary

care appointments. In a 2017 Kaiser Family Foundation survey of 100 immigrant families in five cities, families reported that fear of deportation caused them to cut back on well-child visits and prenatal care.⁸² However, families who trust their provider or feel the doctor's office is a safe space report that they continued seeking care.⁸³ As such, health clinics need to make extra effort to establish trust and safety with their immigrant patients. Best practices include: posting signs in multiple languages that welcome immigrants and list immigrant rights in clinic offices; training clinic staff on the legal rights of immigrant patients; establishing a relationship with an immigration lawyer who can be available if an enforcement officer enters the clinic; and educating patients that their health care information is protected by federal and state law.⁸⁴ While these practices do not address the larger societal causes of discrimination and racism against immigrants, they can prevent rumors and misinformation from increasing fear and panic within the immigrant community.⁸⁵

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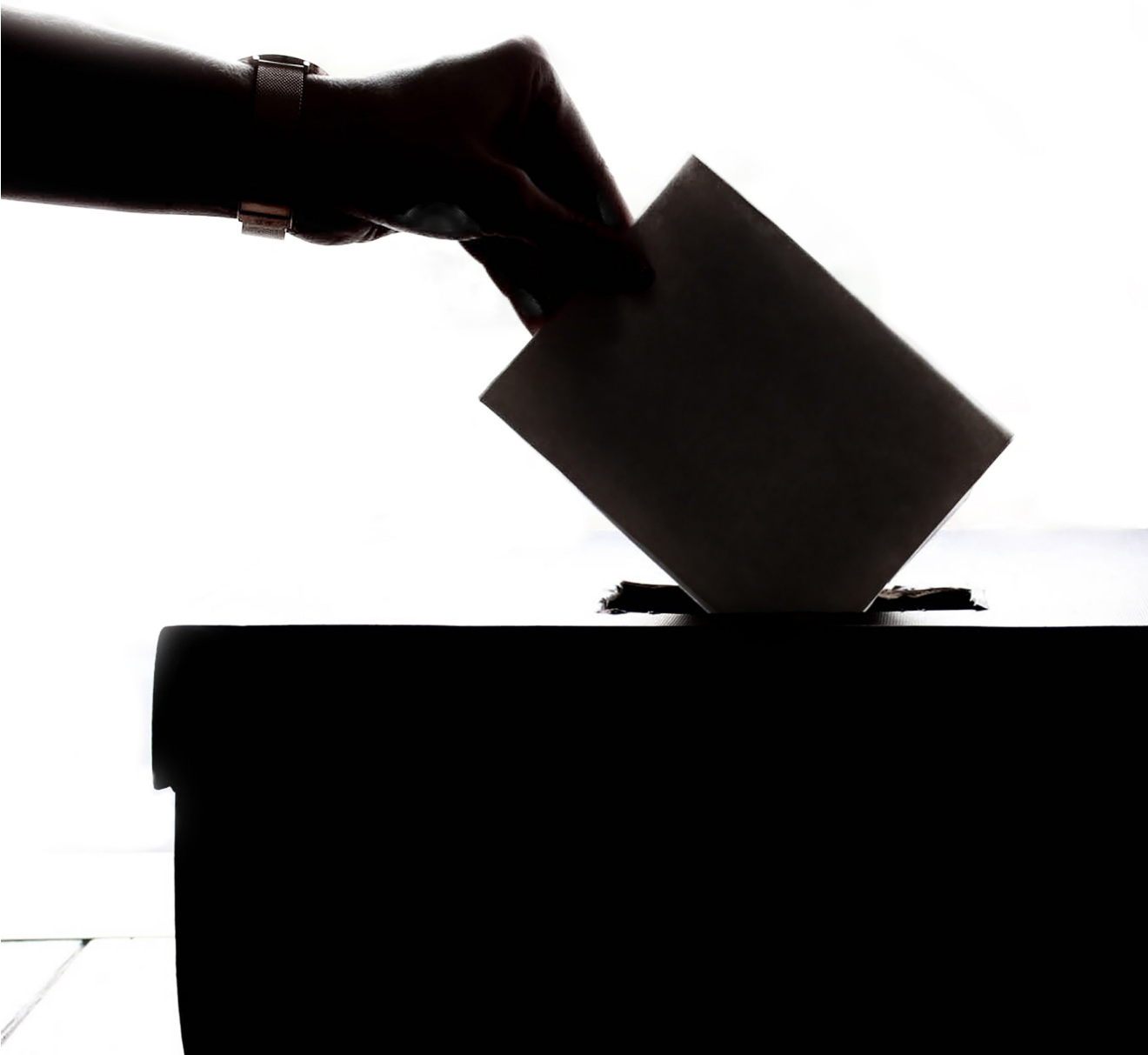
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NONCITIZEN VOTING RIGHTS IN THE UNITED STATES

by Kimia Pakdaman



NONCITIZEN VOTING RIGHTS IN THE UNITED STATES

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After the 2016 Presidential election, movements to empower local and state governments to affect change have become increasingly popular. Despite claims of voter fraud and anti-immigrant sentiment in national rhetoric, some local governments have taken the initiative to grant their residents, regardless of citizenship status, the right to vote in local elections. Cities in California, Illinois, and Maryland have opened voting for various local offices to noncitizens, and cities in Connecticut, Maine, and Massachusetts, along with Washington, DC, have attempted to pass similar legislation. These policies have largely been implemented without garnering nationwide attention. The recent passage and implementation of San Francisco's Proposition N, which opens voting in San Francisco School Board elections to noncitizens with children under the age of 19, brought this conversation to the forefront, and creates a case study for other US cities to follow suit.

INTRODUCTION

The United States, a nation of immigrants, has based its success and identity on the people who have made this country their new home. Documented and undocumented immigration has changed the demographic landscape of the U.S. Particularly in California, Latinx populations now make up a large proportion of California residents, business owners, laborers, and school-age children. While many of these immigrants have lived in the U.S. for several decades, they do not have the political power to change their communities and schools to better reflect their needs.

This article will provide background information and recommendations to cities that wish to expand voting rights to noncitizens, which will lead to more transparent and relevant governance, better outcomes for noncitizen families, increased

interest and stake in noncitizens' communities, and greater incentives for pursuing citizenship.

LEGAL BACKGROUND – CAN NONCITIZENS VOTE?

According to U.S. Code Title 18, section 611: Voting by Aliens, noncitizens are authorized to vote in local elections if allowed by state law.¹ However, noncitizens are barred from voting in elections for the following offices: President, Vice President, Presidential elector, U.S. Senate, U.S. House of Representatives, D.C. Delegate, and Resident Commissioner.

The Fourteenth Amendment of the U.S. Constitution requires “equal protection under the law” (Fourteenth Amendment, Section 1), and the U.S. Supreme Court ruled that this right extended to noncitizens and their children in *Plyler v Doe* (1982). In this case, the Supreme Court

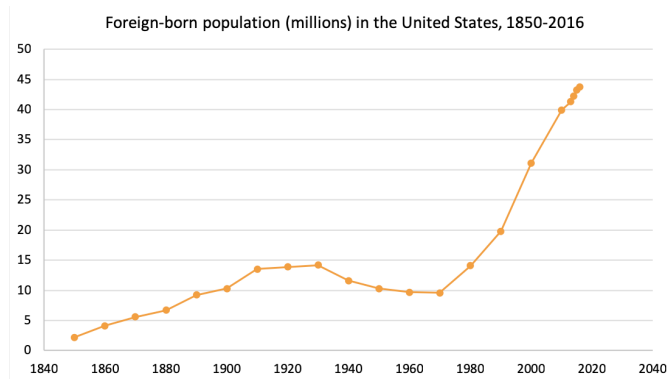


Figure 1: Number of immigrants, in millions, residing in the United States from 1850 - 2016

Source: Pew Research Center. US Census Bureau population estimates and Pew Research Center tabulations of 2010, 2013-2016 American Community Surveys (IPUMS)

concluded that undocumented immigrant children were entitled to the same public education (K-12) as citizens.² While children, regardless of their citizenship status, are able to receive a free public education per this court decision, noncitizen parents have still not been given a voice in their children's schooling.

On September 26, 2018, the U.S. House of Representatives passed House Resolution 1071, "recognizing that allowing illegal immigrants the right to vote devalues the franchise and diminishes the voting power of United States citizens." The resolution passed by a wide margin, with 279 voting for and 72 voting against H.Res. 1071. Forty-nine House Democrats voted for the resolution.³ H.Res. 1071 represents the growing visibility of noncitizen voting and the strong opposition to expanding voting rights to noncitizens.

HISTORY OF NONCITIZEN VOTING IN THE U.S. AND INTERNATIONALLY
From the founding of the U.S. till the ear-

ly 1920's, 22 states and federal territories allowed noncitizens the right to vote in statewide elections. The 1920s saw an increase in anti-immigrant sentiment, leading to the elimination of these state voting rights.⁴

Despite this exclusion of immigrants from voting in state elections, immigration has increased since that time. According to Pew Research Center, "the number of immigrants living in the U.S. has more than quadrupled [since 1965]. Immigrants today account for 13.5 percent of the U.S. population, nearly triple the share in 1970 (4.7 percent)."⁵

In more recent history, many right-wing and conservative thinkers have misrepresented the conversation around noncitizen voting, suggesting that this practice in local elections is illegal. The negative, and often baseless, rhetoric has made expanding noncitizen voting rights a partisan issue that is less politically feasible. Most notably, after the 2016 elections, Presi-

dent Donald Trump claimed that there were millions of illegal voters. While some jurisdictions allowed noncitizens to vote in local elections, there was not large-scale federal voter fraud in 2016, as the President purported.⁶ These claims were later dismissed as inaccurate.

Outside of the U.S., there is a precedent for noncitizen voting: 22 democracies around the world grant some form of noncitizen voting, and

Bolivia and Colombia's constitutions explicitly permit noncitizen voting in local elections.⁷ The European Union's Maastricht Treaty of 1993 created voting rights for noncitizens in EU member states by

stating, "Every citizen of the Union residing in a Member state of which he is not a national shall have the right to vote and stand as a candidate at municipal elections in the Member State of which he resides, under the same conditions as nationals of that State."⁸

CURRENT U.S. JURISDICTIONS WITH NONCITIZEN VOTING

Several U.S. cities and towns have passed laws that allow noncitizens to vote in local elections. While no states have passed statewide noncitizen voting rights legislation, jurisdictions in California, Illinois, and Maryland provide some form of noncitizen voting.

Chicago and San Francisco allow noncitizens to vote in school board elections. The City of Chicago has allowed noncitizen legal residents, such as green card and visa

holders, to vote in Local School Council elections since 1988, and San Francisco allows all noncitizens, irrespective of status, who have children under the age of 19, to vote in San Francisco Unified School District Board of Education elections. Chicago and San Francisco are both large cities that the country looks to for innovative policies, so their inclusion in the small group of places that do allow noncitizen voting is notable. Even more notably,

Maryland has 10 towns that have allowed noncitizens to vote as early as the 1980s. Barnesville, Chevy Chase Sections Five and Three, Glen Echo, Hyattsville, Martin's Additions, Mount Rainier, Riverdale Park, Somerset, and Takoma Park allow noncitizens

to vote in local elections. Those eligible to vote must be residents of the city, at least 18 years old, not registered to vote elsewhere, and not in prison for a felony.⁹

Despite the majority of jurisdictions that allow this type of voting being located in Maryland, voter turnout has still been low. In Hyattsville, while there are approximately 4,263 foreign-born residents,¹⁹ only 33 city-only voters registered and just 12 voted in May 2017.²⁰ In Mount Rainier, 20 noncitizens registered²¹ out of 2,079 foreign-born residents.²² Low voter turnout may be attributed to fear of deportation, language barriers, and lack of community organizing and knowledge of voting rights.

While noncitizen voting in Maryland elections remains low, this phenomenon mirrors national trends in local election

Outside of the US, there is a precedent for noncitizen voting: 22 democracies around the world grant some form of noncitizen voting.

Table 1: Cities with Noncitizen Voting Rights as of November 2018

<i>City</i>	<i>Total Foreign-Born Residents¹⁰</i>	<i>Registered</i>	<i>Voted</i>
Illinois			
Chicago	322,601		
Maryland			
Barnesville	4		
Chevy Chase Section Five	53		
Chevy Chase Section Three	34	0	0 ¹¹
Glen Echo	14	unavailable	unavailable ¹²
Hyattsville	4,263	33	12 ¹³
Martin's Additions	53	N/A	N/A ¹⁴
Mount Rainier	2,079	unavailable	25 ¹⁵
Riverdale Park	2,436	N/A	N/A ¹⁶
Somerset	191		
Takoma Park	2,901	360	72 ¹⁷
California			
San Francisco	115,412	81	30 ¹⁸

Note: Cities that allow noncitizen to vote in local elections, which can include either city council, school board, or both type of elections. In Chicago, noncitizen legal residents, such as green card and visa holders, are permitted to vote. In Maryland's ten towns and San Francisco, all noncitizen, irrespective of status, are permitted to vote. The U.S. Census Bureau's Foreign-Born Residents estimates include citizens, documented immigrants (e.g. visa holders), and undocumented immigrants.

voter turnout. One example is Takoma Park, which has the second largest non-citizen population out of these ten Maryland towns. Despite approximately 2,900 noncitizens residing in Takoma Park, an average of only 39 noncitizens have voted per city election since 1993.²³ While non-citizen voter turnout in 2017 was undeniably low at 20.7 percent, voter turnout among all registered voters was 22 percent, illustrating the broader challenge of achieving high voter turnout during local elections.²⁴ Takoma Park's low numbers are not an anomaly: in the 30 most populous U.S. cities, an average of 23 percent

of the eligible voting population voted in the most recent mayoral election, and voter turnouts in ten of those cities was below 15 percent. Las Vegas, Fort Worth, and Dallas experienced single digit voter turnout rates.²⁵

New York, Washington, DC, Connecticut, Maine, and Massachusetts have submitted proposals to expand voting rights, but these efforts have been blocked or delayed for various reasons. New York City formerly permitted noncitizens, regardless of status, to vote in the Community School Board elections from 1969 to

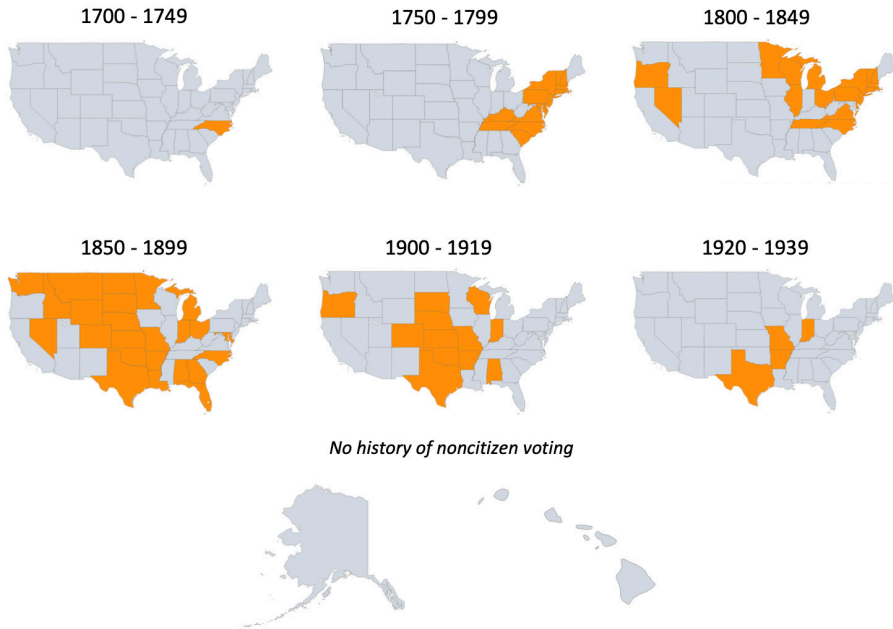


Figure 2: History of Noncitizen Voting Rights: Expansion and Contraction from 1700 to Present

Note: Alaska and Hawaii do not have a history of noncitizen voting.
 Source: Ron Hayduk, Professor of Political Science, San Francisco State University, <http://ronhayduk.com/>

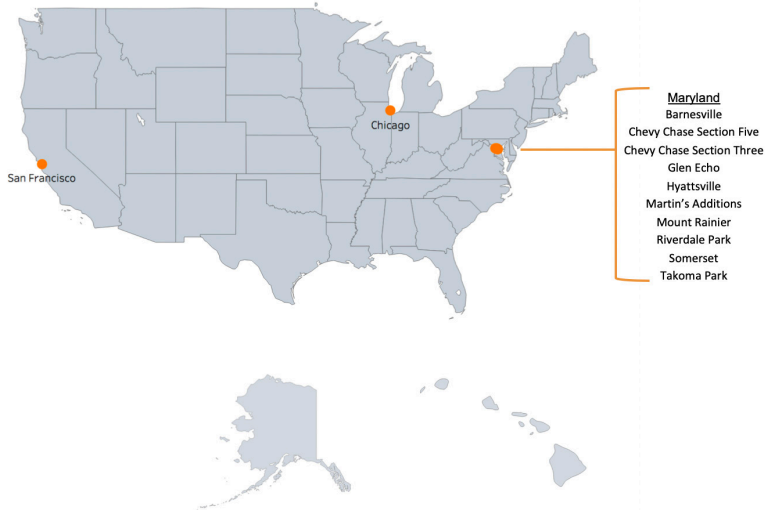


Figure 3: Cities and Towns that Currently Allow Noncitizens to Vote in Municipal Elections

Note: No states allow noncitizens to vote for statewide offices.
 Source: Ron Hayduk & Kathleen Coll (2018): Urban Citizenship: Campaigns to Restore Immigrant Voting Rights in the US, *New Political Science*, pp. 4. immigrant-voting-around-the-us/state-histories/.

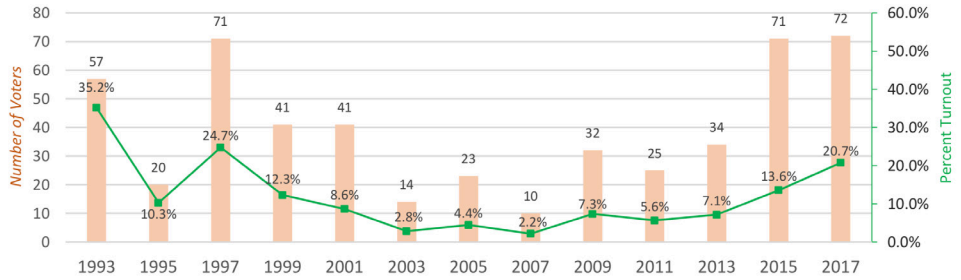


Figure 4: Noncitizen Voter Turnout, 1993-2017
Takoma Park City Elections, Maryland

Note: Noncitizen voter turnout has varied over the years due to increased or decreased voter education, increased publicity around particular candidates and issues, and increased fear of deportations, as reported by Jessie Carpenter, City Clerk.

Source: Ron Hayduk, Professor of Political Science, San Francisco State University, <http://ronhayduk.com/immigrant-voting/around-the-us/state-histories/>.

2002, at which time the elected Board was disbanded and replaced with an appointment system. Since 2002, community groups have attempted several times to reinstate noncitizen voting, but these efforts have been struck down. The Council of the District of Columbia has attempted to expand voting rights to noncitizens in 1992, 2004, and 2015, but all attempts have failed to receive the required majority Council vote to become law.²⁶ In August 2018, City Councilors in Portland, Maine discussed expanding voting rights to noncitizens, though this initiative was referred to a committee for additional review. If the bill leaves the committee, Portland voters will vote on whether to amend the City Charter. In 2009, Maine attempted to pass a state level expansion of voting rights, but it was voted down by the Maine State Legislature.²⁷ In Connecticut and Massachusetts, a change to local voter laws requires a change to the state's constitution, creating an additional hurdle for passage. The cities of Amherst, Boston, Brookline, Cambridge, Newton,

and Wayland have passed petitions to allow noncitizens to vote in local elections, but state law requires that the Massachusetts General Court pass legislation to allow the petitions to take effect.²⁸

CASE STUDY: SAN FRANCISCO

San Francisco is currently the only city in California that has opened voting to noncitizens. In 2016, 10 out of 11 members of the San Francisco Board of Supervisors voted to place Proposition N on the ballot. The proposition, which allows noncitizens with children under the age of 19 to vote in San Francisco Unified School District Board of Education elections, was subsequently passed by San Francisco residents in the 2016 general election. The new law allows immigrant parents to vote in school board elections regardless of legal status, starting with the November 2018 election and lasting until the 2022 election, at which point the Board of Supervisors will need to vote on continuing the policy.

The demand and support for immigrant parent voting rights came from a coalition of local immigrant rights organizations: Asian Law Caucus, Chinese for Affirmative Action, Mission Economic Development Agency, and Mujeres Unidas Y Activas. San Francisco public school students are 35 percent Asian, 27 percent Latinx, and 29 percent English Language Learners, demonstrating the need to bring immigrant voices into the School Board decision-making processes.²⁹

After the initial passage of the proposition, an amendment was attached requiring all voter outreach to include a warning that the information registrants provide during voter registration, including one’s name and address, may be obtained by other federal agencies such as Immigration and Customs Enforcement (ICE).³⁰ San Francisco’s Department of Elections Director John Arntz stated that the Office of Civic Engagement and Immigration Affairs worked “with a set of local immigration support groups to provide advice and information for noncitizens, including those seeking to find out if their status might be potentially harmed by registering to vote.”³¹ Additionally, the Department of Elections conducted registration trainings with community organizations and schools, given students 35,000 informational packets to take home, put up educational posters, and tabled at events. The department also granted \$150,000 to the advocacy organization Chinese for Affir-

mative Action in order to conduct outreach via newspapers and mailers.³²

Despite these efforts, there was low voter turnout during the November 2018 elections. The Department of Elections received 81 noncitizen registration forms, and out of these individuals, only two voted at a polling place and 12 voted by mail. Additionally, 16 noncitizens registered and voted on Election Day in City Hall.³³ San Francisco is experiencing the same low voter turnout as cities in Maryland, which can be attributed to the fears surrounding the federal government’s anti-immigrant policies and the difficulty of getting voters to the polls for local elections. As Jonathan Stein, a Goldman School of Public Policy alumnus and staff attorney for Asian Americans Advancing Justice, states, “In a deeply anti-immigrant moment in our national politics, with a federal administration targeting immigrants and refugees, I’m not surprised that our non-citizen community members are afraid of stepping forward.”³⁴

“In a deeply anti-immigrant moment in our national politics, with a federal administration targeting immigrants and refugees, I’m not surprised that our non-citizen community members are afraid of stepping forward.”

With the November 2018 election completed, it is unclear what immigrant parents’ level of engagement will be in the San Francisco Unified School District (SFUSD) School Board elections going forward. The school board is made up of seven elected members who are responsible for electing a superintendent, creating school policies, developing curriculum,

and creating budgets. School boards have the ability to put proposition measures on local ballots, to negotiate teacher pay, and to appropriate funds to schools. For example, SFUSD's 2018–2019 operating budget is \$889.6 million, demonstrating the considerable power the Board wields and the potential influence that noncitizens can exercise.³⁵ In the November 2018 election, there were three open seats and 19 candidates, and the campaign conversations focused on language barriers, addressing minority issues, and gender rights. In the end, Alison Collins, Gabriela Lopez, and Faauuga Moliga won the seats. All three winners are people of color and they have campaigned on policies of cultural sensitivity, creating awareness of bias, and bilingual education.

THE CASE FOR EXTENDING VOTING RIGHTS

A city's ability to introduce noncitizen voting, whether in school board or local elections, depends on the specific situation in each jurisdiction. Demand from immigrant parents and guardians, local demographics, and buy-in from community organizations must be taken into account. In order to create more responsive and relevant policies, the expansion of non-citizen voting rights should be considered but weighed with the potential risks.

In jurisdictions where noncitizens make up a large portion of the residents, noncitizen voters should be reflected in governance.

For example, in San Francisco County, approximately 35 percent of San Francisco County residents are foreign born and 13 percent are noncitizens,³⁶ and though

the U.S. Census Bureau does not collect information about legal status, this number represents a large portion of residents who may be disenfranchised from the key decision-making processes that affect them. As mentioned before, San Francisco Unified School District students are 35 percent Asian, 27 percent Latinx, and 29 percent English language learners.³⁷ The tables below show that some of the largest U.S. cities and metro areas have significant foreign-born and unauthorized immigrant populations. These areas should consider the benefits of granting voting rights to these voiceless residents.

Table 2:
Top 10 U.S. Metros with the Largest Foreign-Born Populations

Metro	Foreign-Born Population as % of Total Population
Miami	38.50%
San Jose	36.80%
Los Angeles	33.80%
San Francisco	29.80%
New York	28.50%
San Diego	23.40%
Houston	22.30%
Washington DC	21.90%
Las Vegas	21.90%
Riverside	21.40%

Source: CityLab analyzed 2011–2013 American Community Survey Data; <https://www.citylab.com/equity/2015/09/americas-leading-immigrant-cities/406438/>

Whether it be municipal or school board elections, jurisdictions that have large noncitizen populations cannot be responsive to the specific needs of this group. Politicians will not have to solicit non-citizen support for input in policies that

directly affect noncitizens, and these noncitizens will not be able to hold politicians accountable. In the context of decision-making powers in school, many school boards have the ultimate authority over curriculum development, budget allocation, and hiring decisions. Noncitizen parents with children in a school district such as San Francisco should have the power to influence curriculum, extra-curricular funding, and staffing to reflect their unique needs.

Noncitizen parent involvement in school matters, through school board elections, will increase students' academic performance.

The involvement of parents in their children's schools is correlated with the academic performance of children. Bringing immigrant parents into conversations about curriculum, staff, and language used in class will lead to better academic outcomes for students. The Supreme Court of Vermont recognized this, ruling in *Woodcock v. Bolster* (1863) that naturalized foreign-born individuals should be permitted to serve as local school committee members. The court wrote,

While awaiting the time when [non-citizens] are to become entitled to the full rights of citizenship ... it is of the greatest importance that the children of such persons should be educated ... and that the parents should be induced to send their children to school, and it seems to us that they would be much more likely to do so, and to take interest in their attendance and improvement, if allowed to participate in their regulation and management.³⁸

Several studies have found that parent involvement is an important factor in a student's performance, and it is in the school board, district, and community's interest that all students perform to the best of their abilities.³⁹

Voting creates a vested interest, stake, and sense of belonging in the school system and community.

Allowing all stakeholders to vote in school board elections will create a sense of belonging and self-interest for noncitizen residents. Those that vote are more engaged and invested in the success of the school district and city. More inclusive voting "focuses on what we all have in common — our collective visions for better cities, better local government, sustainable local institutions, and community life," says Associate Professor Kathleen Coll, a political anthropologist at University of San Francisco.⁴⁰

Voter registration and voting provides practice and assimilation into citizenship activities.

Noncitizens who engage in citizenship activities, such as voting, will have a taste of some of the benefits of citizenship. Some critics state that providing this right before naturalization will take away a key incentive of becoming a citizen, but Coll states that inclusive resident voting, "encourages civic participation [and] speeds the path to citizenship."⁴¹ California State Assemblymember David Chiu, who represents San Francisco, stated, "We need to ensure that all our parents are engaged in the governance and future of our schools. The premise was that we wanted immigrants to be assimilated as quickly as

Table 3:
Top 10 U.S. Metros with Largest Unauthorized Immigrant Populations

<i>Metro Area</i>	<i>Unauthorized immigrants as % of foreign-born population</i>	<i>Unauthorized immigrants as % of total population</i>
Phoenix-Mesa-Scottsdale, AZ	37%	5.50%
Dallas-Fort Worth-Arlington, TX	37%	6.90%
Houston-The Woodlands-Sugar Land, TX	37%	8.70%
Atlanta-Sandy Springs-Roswell, GA	33%	4.50%
Washington-Arlington-Alexandria, DC-VA-MD-WV	29%	6.80%
Chicago-Naperville-Elgin, IL-IN-WI	25%	4.50%
Riverside-San Bernardino-Ontario, CA	25%	5.60%
Los Angeles-Long Beach-Anaheim, CA	22%	7.50%
New York-Newark-Jersey City, NY-NJ-PA	19%	5.70%
Miami-Fort Lauderdale-West Palm Beach, FL	18%	7.30%

Note: Metro areas defined using the 2013 definitions for metropolitan statistical areas (MSAs) from the U.S. Office of Management and Budget; <http://www.pewhispanic.org/interactives/unauthorized-trends/>
Source: Pew Research Center estimates based on augmented 2014 American Community Survey (IPUMS)

possible into our democratic institutions, including voting.”⁴² Allowing noncitizen residents to vote could create an interest in accessing the full benefits that come with citizenship and encourage naturalization among this population.

Noncitizen voting was the norm until the 1920s in the U.S. and it is currently being successfully implemented in many cities and countries.

Allowing noncitizens to vote is not a new endeavor in the United States. As mentioned above, up until the 1920s, voting rights in numerous states were based on residential status rather than citizenship. Currently, several cities in Maryland allow for noncitizen voting in city-wide elections, and Chicago has permitted noncitizens to vote in school board elections since 1988. These U.S. efforts have

proceeded without major problems, as have many on the international stage. Voting rights based on one’s residential status, as opposed to citizenship, are common in the international context and the U.S.’s own history.

ADDRESSING CONCERNS

While the expansion of voting rights will create a more representative and responsive government, there are substantial risks in this endeavor. Below are some of the most concerning risks that policy-makers must consider.

Personal information, such as names and addresses, can be shared with other government agencies, including Immigration and Customs Enforcement (ICE).

Granting the right to vote to noncitizens means that their names and addresses will

be included in the voter rolls, which is available for other government agencies upon request. This is of particular concern with agencies such as the Department of Homeland Security (DHS) and its enforcement arm, Immigration and Customs Enforcement (ICE). While other U.S. jurisdictions' voter rolls include public information about non-citizens, these jurisdictions have not been targeted by DHS and ICE as of yet. There has been particular concern regarding this risk in California, which has been a key adversary of the federal government in several policy areas. If ICE is able to access this information, voter registration information may be used to conduct raids and deportations. The threat of this outcome could very easily lead noncitizens to distrust local government, resulting in low voter turnout. As mentioned before, San Francisco's Department of Elections has attached a warning to its voter registration forms that notify voters of this risk. The warning may have led to the low voter registration and turnout in November 2018 elections.

Jessica Barnes, Town Clerk of Riverdale Park, Maryland, stated that the Riverdale Park City Council is aware of this potential pitfall and feels it is their responsibility to disclose all the risks involved in voting. While Barnes was not able to comment on how the city will achieve this, she made it clear that it was a main point of discussion as Riverdale Park finalizes its voter registration requirements before noncitizen voting commences in May 2019.⁴³

It is not the role of government to deny rights in a paternalistic manner, but instead to educate its electorate to make informed decisions for itself.

While the threat of making personal information available to ICE should be considered, it should not reduce or diminish the rights of noncitizens. It is important that noncitizens are fully aware of the possible consequences of voter registration, but local governments should continue to provide residents the choice of exercising their voting rights. It is not the role of government to deny rights in a paternalistic manner, but instead to educate its electorate to make informed decisions for itself.

High costs of implementation are possible (e.g. printing, distribution, and training).

As with all initiatives that introduce new processes, there are associated implementation costs. The county or city must pay for printing and distribution of special ballots, training election staff, and educating newly eligible residents. This type of spending is not unprecedented; in the mid-2000s, San Francisco earmarked funds to educate residents about a new citywide voting system.⁴⁴ San Francisco Supervisor and former School Board Member Sandra Lee Fewer has asked the city to “spend hundreds of thousands of dollars this year to educate noncitizen parents about the voting process.”⁴⁵ While this may seem like a large price-tag, municipalities should ensure noncitizens are educated about their rights, just as they would for citizens.

*Voting may create barriers
to naturalization for noncitizens.*

The naturalization process requires applicants to state whether they have registered to vote or have voted in a U.S. election. Under the U.S. Department of Justice's policy, Immigration and Naturalization Service officers must determine if noncitizens have illegally registered to vote or have voted. While the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 states that there is a criminal penalty for noncitizens who vote, this is only applicable if the noncitizen voted in federal elections. Exceptions include noncitizen voting that is permissible under a state constitution or statute, a local ordinance, or if the noncitizen voted for only a local office.⁴⁶ In a memorandum from the Office of the Executive Associate Commissioner in May 2002, the Deputy Executive Associate Commissioner William Yates wrote, "officers must determine in what type of election the applicant voted – federal, state, or local – and then review the appropriate jurisdiction's election laws... Officers should review all code provisions that define who is eligible and/or qualified to vote in such elections."⁴⁷ While officers may more extensively scrutinize a noncitizen's naturalization application because the noncitizen has voted, it is not a reason for denial of citizenship.

In Riverdale Park, Maryland, the City Council is in the drafting stages of its implementation plan for noncitizen voting. One aspect that they wish to include in voter registration and education materials is the risk of being denied citizenship due to voting in a U.S. election. To combat this, noncitizens can contact the Town

Clerk's office to receive a letter that explains Riverdale Park's noncitizen voting rights.⁴⁸

Expansion of voting rights may allow noncitizens to accidentally or unintentionally commit voter fraud.

If there's lack of adequate education, noncitizens could end up voting in Federal elections without knowing the legal distinction between local and federal voting, or merely by accident. Norma P. Garcia, Director of Policy and Advocacy at Mission Economic Development Agency, states that a noncitizen may accidentally fill out the incorrect form, which "prompts users to check a box verifying they are U.S. citizens, and if a noncitizen parent does so, they would inadvertently be committing a crime—a deportable offense."⁴⁹ While this poses a threat, education and training can help prevent this mistake.

CONCLUSION

A city's ability to introduce noncitizen voting, whether in school board or local elections, depends on the specific situation in that jurisdiction, including demand from immigrants, demographics, and buy-in from community organizations.

While all those factors weigh into the feasibility of getting such a policy passed, one must step back to examine the reason for pushing for greater voting rights. In *Shelby v. Holder (2013)*, the Supreme Court severely diminished the power of the Voting Rights Act of 1965. In that decision, the U.S. Supreme Court rolled back key voting protections that have historically

allowed greater access to polls, especially for marginalized populations. In the wake of this decision, several states have limited citizens' abilities to vote through voter roll purges, strict identification requirements, limited voting rights for former felons, and failure to recognize P.O. box addresses as valid, among others.

As U.S. citizens are stripped of their civil rights, governments become less representative of their people and more responsive to special interests. By broadening the definition of an "eligible voter," a city also broadens its reach, responsiveness, and relevancy among its residents. It is signaling to all its residents that their voices are important and necessary to keep the city thriving and moving forward. A responsive government does not paternalistically deny rights in the name of safety and protection, but instead empowers its residents with the full disclosure of the benefits and risks and trusts them to make the decision that is right for them. Legal and undocumented immigrants can make this decision for themselves after weighing their own needs. Despite the risks involved in non-citizen voting, local governments should consider the many potential benefits.

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DRIVING THROUGH CRISIS: GIG WORK DURING RECESSION IN BRAZIL

by Heather Regen



DRIVING THROUGH CRISIS: GIG WORK DURING RECESSION IN BRAZIL

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Debates around the “gig economy” are sometimes thought to be new in the United States, but this kind of informal employment has long felt normal in many Latin American countries. Brazil provides an illustrative case of gig work’s important function during an economic recession. While not perfect, the driving jobs that Uber created there have helped many unemployed people get back to work quickly and easily. This article reports finding from 16 interviews with Uber drives in São Paulo conducted in August 2018. Drivers benefitted when they could make more choices with regards to their work, and public policies that encourage healthy market competition between rideshare companies can support driver choice.

For 13 years, Tiago* built a successful career in sales, working with clients from furniture manufacturers to software companies. Then Brazil’s economic crisis hit, and he lost his job. “I adore Uber,” Tiago said. “Especially because in Brazil we have so many people out of work, so much unemployment. If you have the opportunity to buy a car, start working for Uber — you can’t miss that opportunity.” After renting a car to start driving with Uber, Tiago eventually saved enough money to buy his own vehicle.

Over two weeks in August 2018, I interviewed 16 Uber drivers in South America’s largest city. Due to its scale and Uber’s presence, São Paulo provides a dynamic view into how the San Francisco-based rideshare company operates in Brazilian urban centers. Twelve million people call the meg-

acity home and more than 150,000 Uber drivers make their living on its streets.¹ In terms of rides hailed, São Paulo ranks as Uber’s largest urban market in the world.² Brazil itself is the company’s most lucrative market outside of the United States, and Uber holds an 80 percent market share in Brazil’s rideshare sector.³

Twelve million people call the megacity home and more than 150,000 Uber drivers make their living on its streets.

To get a (quite literal) street-level view of drivers’ experiences, I interviewed them as we rode across São Paulo — and as we stalled in the city’s notorious traffic. To find a diverse selection of people to interview, I hailed

drivers directly through Uber’s app at different times of the day, on different days of the week, and in different neighborhoods of São Paulo. I spoke with drivers for about 20 minutes each and approached the conversations as semi-structured in-

interviews. Drivers spoke freely about their experience working with Uber in between answering questions about their employment history, driving schedules, and earnings. Though I never directly asked about the country's recession, every single driver brought up Brazil's ongoing economic crisis.

Again and again, drivers expressed relief at having the opportunity to work and the ability to pay their bills thanks to Uber. Though I did not set out to study ride-sharing in conjunction with Brazil's economic crisis, the interviews made clear that the nature of gig jobs cannot be separated from the context of where the work is carried out. Given the backdrop of recession, Uber created flexible jobs with decent wages for people who could not find work elsewhere. Many drivers expressed an overwhelmingly positive view of the rideshare company; however, some also reported stress about work hours and concerns for their safety. Drivers benefited when they could make more choices with regards to their work. This article will explore how policies that encourage healthy market competition between rideshare companies can support driver choice.

THE BRAZILIAN CRISIS IN CONTEXT

Uber launched its Brazilian operations in 2014 — the same year that Brazil began slipping into its worst-ever recession.^{4,5} Just five years before the recession, however, the world viewed Brazil as a model for emerging economies. In 2009, *The Economist* ran a cover story on the rapidly rising country, titled “Brazil takes off.”⁶ Oil discovery, a commodities boom, and

access to cheaper credit meant that the 2008 global financial crisis barely affected the world's fifth largest country. In 2010, then-president Luiz Inácio Lula da Silva (best known simply as “Lula”) left office with an 83 percent approval rating.⁷ Under his tenure, Brazil became a net creditor and substantially grew its middle class.

When Lula's protégé, Dilma Rousseff, took office in 2011, global prices for raw materials plunged. With an economy still dependent on exporting commodities such as soy, corn, and iron ore, Brazil suffered. The sweeping Lava Jato (or “Car-wash”) investigation into the state-run oil company compounded existing political conflict. Although Rousseff won a second term in 2014, widespread corruption, a faltering economy, and political maneuvering by opponents led to her controversial impeachment in 2016. By then, unemployment had risen to 12 percent, with 12.3 million people out of work.⁸ The Brazilian real, once exchanged at about 2:1 with the U.S. dollar, sank to a 4:1 exchange rate in 2016.⁹

Though the government declared an end to the recession in 2017, Brazil's unemployment rate continued to rise, reaching 13.7 percent that March with 14.2 million people actively searching for work.¹⁰ For young adults and those with less training and education, the numbers proved worse: one in four were unemployed in 2017.¹¹ Even today, Brazil has not fully recovered. The country's economic struggles manifest most visibly in many Brazilians' continued search for work.

“WHEN PEOPLE LOSE THEIR JOBS, THEY TURN TO UBER”

In one interview, a driver named Marcos praised God for having work. “I am really content. I thank God, and I’m glad,” he said. The young driver had worked with Uber for a year after losing several jobs as a motorcycle delivery person for small companies. During the crisis, Marcos found the job market particularly difficult given his lack of higher education. “Uber opened a door for me, and I’ve taken advantage of it to the fullest. I didn’t go to college,” Marcos explained. His and other drivers’ appreciation ultimately reflects relief at having any work at all.

Amidst Brazil’s crisis, Uber happened to arrive at exactly the right moment. The ride-hailing service offers an opportunity for many unemployed Brazilians to get back to work quickly. In São Paulo, the main requirements for beginning as a driver with a transport network company include a 16-hour in-app training course and a car inspection.¹² This policy facilitates easy entry into driving as opposed to working as a traditional taxi driver, which requires 46 hours of in-person training and can cost upwards of \$35,000 USD due to medallion costs and fees.¹³

In the larger scheme of labor, the difference between driving for Uber and working a traditional job comes down to worker classification. Brazil’s Labor Code of 1943 first laid out protections for work-

ers; then, during Brazil’s re-democratization process, the country’s 1988 Constitution ensured labor rights for all formal employees. Because of these frameworks, formally employed workers enjoy substantial benefits. Once an employee officially registers their contract and receives a labor card from their employer, they are entitled to a range of strong protections and benefits.¹⁴ These include a maximum working week of 44 hours, overtime pay for additional hours, 30 days of paid vacation, maternity leave, and severance compensation if employees are let go for any reason other than the quality of their work.

Though generous, Brazil’s labor code also creates hiring disincentives for formal-sector employers. Work done off the books or by temporary contract effectively avoids restrictions, and this type of informal labor has thrived for the last 30 years in Brazil and elsewhere in Latin America. A substantial share of Brazilian workers — 40 to 60 percent, depending on metrics — falls into the informal sector.¹⁵ While debates around the “gig economy” appear new in the United States, this kind of employment has long felt normal in many Latin American countries, for better or for worse.¹⁶

During economic crisis, the informal sector — including newer, tech-driven gig jobs — provides a way for many Brazilians to find work. In fact, the country’s current 11.9 percent unemployment rate signals workers’ move into informal jobs, rather

While debates around the “gig economy” appear new in the United States, this kind of employment has long felt normal in many Latin American countries, for better or for worse.

than a true recovery of Brazil's formal-sector industries.¹⁷ The substantial drawback to informal work, gig jobs, and temporary contracts is their lack of codified benefits or protections compared to formal work. However, for many Brazilians, these jobs provide an easier and faster way to pay the bills, especially during recession.

Interestingly, some Uber drivers in São Paulo had lost their previous jobs for the same reason that more economically developed countries sometimes despise rideshare companies: the drivers' former employers began contracting out labor. Antonio, an older man who had been readying for retirement, lost work more gradually than other drivers with less education and training. "I used to work in insurance," he explained. "I covered damages for buildings. If there was a fire, flooding, something like that, these places would file insurance claims." Given his decades of experience and credentials, Antonio did not think of himself as vulnerable to layoffs.

Then Antonio's company looked to contracting as a low-cost way to stay in business during the recession. They fired Antonio and other insurance claims controllers as formal employees, then offered up independent consulting work for the claims they still needed processed. Antonio explained how his work life changed:

Because of the crisis, damn, the amount of work available kept shrinking. There's less work to pick up when you contract out. When I started Uber, it was a second job for me. Which is, I think, the idea behind the app — to allow you to make

money on the side. But now this is my main source of income.

While Antonio could continue to take consulting contracts with his former company, he has decided to work exclusively as an Uber driver. His previous work simply did not pay enough once he was no longer classified as a formal employee.

Antonio prided himself on keeping track of all his earnings and expenditures to the cent, ensuring that driving with the app actually turned a profit. He showed me all of his gas and maintenance receipts, which he kept filed in expandable folders inside his car's glove compartment. The front seat, in a sense, was a small office. While he found himself able to make a good living, Antonio lamented Brazil's recent decline. "Here, Uber is turning into an actual profession because of our crisis," he said. "There's no money. There are people with advanced degrees who can't get jobs — I have a degree in business administration."

"A DECENT INCOME"

Antonio was not the only person to carefully track his net earnings. Each Uber driver I spoke with in São Paulo knew exactly what their time was worth. The drivers, who had worked with the app from two months to two and a half years, worked on average 11.3 hours a day for five or six days a week. Even with a small sample of 16 drivers, the uniformity of interviewees' responses about working hours, expenses, and income suggests some broader consistency. Many drivers set daily or weekly monetary goals for themselves, and those goals resulted in

similar work habits.

On average, drivers reported netting \$897–\$1,154 USD a month,¹⁸ depending on whether they drove five or six days a week and how many hours a day they spent driving. Because of Brazil’s high income inequality, stratified data helps put those earnings into context. In São Paulo, average monthly wages range \$330–\$2,584 by neighborhood,¹⁹ and some Uber drivers net similar earnings to incomes in the city’s fifth wealthiest neighborhood (out of 96 districts). Even re-adjusting earnings to meet the labor code’s 44-hour workweek, most drivers would still net about \$640 a month, which exceeds Brazil’s average salary of \$570. While researchers in the United States have raised concern about Uber and Lyft drivers’ relatively low incomes,²⁰ it appears that rideshare drivers currently make decent earnings in Brazil.

Despite good pay, some drivers experienced stress because of their long hours on the road. Several interviewees who had previously worked in transportation specifically called attention to their increase in work. “I drive 12 hours a day,” Eduardo told me. “It’s a lot. It’s more than I used to work before.” The older man had formerly worked as an executive driver for a traditional transport company, giving rides to São Paulo’s top businesspeople. Bruno, who had previously driven a refrigerated truck for meat delivery, now worked close to 60 hours a week with Uber. “I used to make more money,” he explained. “I make less now. But if I keep up an average of 12

hours a day, pay is good.” Bruno’s refrigerated truck had been stolen at the height of the recession, and driving a car with Uber seemed a smarter financial choice than making the capital investment to buy a new specialized truck.

The economic crisis likely causes many São Paulo drivers like Eduardo and Bruno to work full-time. This contrasts with the popular view of gig work as a second job or “side hustle,” and may be true elsewhere. Economists at Berkeley’s Institute for Research on Labor and Employment (IRLE) found a similar trend in New York City. Sixty percent of app drivers, who provide 80 percent of rides, work full-time.²¹ The IRLE study also suggests that the majority of rideshare drivers in NYC are workers who cannot secure better-paying jobs. This finding is important beyond New York: in healthy economies, it means that many drivers are not choosing between formal and informal work but rather between “new” tech-supported gig work and “old” low-pay contract work in industries such as retail, construction, and food preparation.

The economic crisis likely causes many São Paulo drivers like Eduardo and Bruno to work full-time.

“IT GETS DANGEROUS”

Brazilian drivers face a risk of assault, especially since Uber began accepting cash for payment. This danger arises in part from the country’s already staggering rates of violence. Brazil’s homicide rate is 30.8 per every 100,000 people; in comparison, Mexico’s rate is 25 per 100,000, and the U.S. rate is 5 per 100,000.²² While organized crime and drug trafficking drives

much of Brazil's violence, it may have worsened as municipalities have substantially cut budgets for public security due to the economic crisis. At the same time, frustrated and underpaid police have increased their brutality against poor, black men in Brazil's favelas, with relative impunity.²³ Amidst rising quotidian violence, Brazilians living in urban centers take regular measures to protect themselves when the state cannot guarantee security.

Several of the Uber drivers I spoke with had been assaulted while on the job. Wagner, a middle-aged man, explained how he feels after getting robbed at gunpoint in his car. "I don't like to work at night," he said. "It's very dangerous. São Paulo is a very dangerous city. There are some areas we call 'the periphery,' and the periphery is dangerous." The so-called periphery that Wagner tries to avoid is made up of neighborhoods farther beyond São Paulo's center, including favelas and other low-income areas where urban crime concentrates.

Traditional taxis have always avoided the periphery, which brings up questions of racial and socioeconomic equity around access to transportation. Those who live in São Paulo's periphery tend to be people of color who lack access to credit. When introducing cash payment for rides in Brazil in 2017, Uber promoted the idea that the change would expand transportation access to underserved areas and people — and it has.²⁴

Traditional taxis have always avoided the periphery, which brings up questions of racial and socioeconomic equity around access to transportation.

Yet many Brazilian drivers still do not feel comfortable taking cash payments. Compared to an Uber account linked to a credit card, cash-paying riders have less accountability. "Cash doesn't tell you anything," Magdiel explained. People looking to commit robbery often use the app's cash option to more easily create fake accounts. Out of fear of assault, Magdiel actively works to avoid cash-paying customers:

I try only to take credit card, because there's less risk. But with Uber now you have to take both, and you never know what the destination is going to be, only when you accept the ride. This is terrible. You could end up in a dangerous area. I picked up a guy in the center of the city, but we went all the way out. Super dangerous, lots of drugs, violence, there could be people with guns there ... If I knew where he was going, I wouldn't have picked him up. But you can't stop the ride once it starts.

Magdiel noted that his fear of assault does not stop him from working with Uber, but he would like more control over where he drives and what payment he accepts. "I just wish there were a choice to take cash or not, especially at night," he said.

But not all drivers have an issue with taking cash or providing transportation in São Paulo's periphery. Revertton, a younger man, countered the narrative of

drivers who felt worried. “Sometimes I’ve gone into favelas, and I’ve never had any problem,” he said. “People living in favelas give you the cash they have, all crinkled up, but they pay you. For me, it’s great.”

Uber first introduced cash payment in Brazil at the end of July 2017. In São Paulo, attacks and robberies against Uber drivers spiked from an average of 13 per month before the change to an average of 141 per month for the rest of 2017.²⁵ While all robberies in the city rose by about 6 percent that year, violence against traditional taxi drivers — who have more control over where they drive and what payment they accept — rose by one-third during the same period.²⁶ Uber regional manager Andrew Macdonald initially dismissed drivers’ concerns: “If they’re worried, it’s a bit emotional.”²⁷ After quick backlash, the company walked back Macdonald’s statement, and Uber began tackling the issue of driver assaults in Brazil. Since 2017, Uber has introduced new features within the app to vet cash-paying customers, including requiring them to provide Brazil’s version of a social security number when creating a rider account. Dara Khosrowshahi, who succeeded founder Travis Kalanick as CEO in August 2017, has stated that safety is now one of Uber’s top priorities.²⁸

“WITH COMPETITION, UBER WILL GET BETTER”

One month before I interviewed drivers in São Paulo, Uber changed the way it takes ride commissions in Brazil. Before July 2018, the app had taken a flat 25 percent from the earnings of each ride a driver completed. Uber’s new model uses

a dynamic formula to calculate the company’s cut, taking into account distance, time driven, and other factors.²⁹ While Uber pitches this new commission model as a better way for drivers to be compensated for longer trips and on routes with heavy traffic, many drivers reported other effects. Interviewees told me they had started to make less money on short trips, as Uber’s effective commission rose above 30 percent.

Bruno, the former refrigerated truck driver, felt the change in his earnings. “Uber is taking more from us. It used to be 25 percent, but now it fluctuates. All based on time, distance ... that’s how they pay us now. So now there are rides where they take 30 or 40 percent. It’s horrible.” Bruno and other drivers, having just experienced the switch in commission calculation, felt a lack of control over their earnings. Tiago, the former salesman who told me he adores Uber, also felt frustration with the company. He explained:

Sometimes it’s 40, almost 50 percent commission depending on the trip now. Uber says that’s not true, but they’re taking it. For example, if you take a trip that’s \$3, Uber is making the majority of that money, not us. And we’re the ones working. They give us the help with the app, so I understand it. The software is great. So I agree with commission, but tell us. Tell us what you’re taking. Twenty-five goes to 30, 30 goes to 40 — just let us know. Right now everything is unclear ... Some trips, I’ve counted, Uber took almost 70 percent ... They should respect their people. I respect my passengers.

As Tiago expressed, this frustration seems to stem less from the amount of commission Uber is taking than from the switch to a less straightforward, more variable commission scheme. In responding to the company's change, many drivers mentioned that they had begun working with the 99 ridesharing app. The Uber competitor currently takes a roughly 13 percent flat fee for each ride, and it allows drivers to choose whether or not they accept cash customers. Originally called 99Taxi, the Brazilian app shifted strategy when Chinese company Didi Chuxing bought control in early 2018.³⁰ Uber is no stranger to Didi: the competitor bought out Uber China in 2016.³¹ Didi's latest launch into Mexico signals that Uber will face steeper competition throughout its Latin American market. A key part of that competition is winning over drivers.

Uber may worry about Didi's growth, but many Brazilian drivers welcome it. "99 is trying to win the market right now," Michel said. "We'll see what happens. We need competition. With competition, Uber will get better. They'll lose drivers if 99 continues getting better." Michel himself had recently begun driving with 99, and although he preferred Uber's interface and payment system, 99's competitive commission kept him driving with both apps. As in the United States, many drivers work with multiple rideshare companies, changing in response to customer demand and earnings potential.

Healthy competition between apps pushes companies to continue improving their drivers' experience.

The ability to vary work between rideshare companies — even by switching apps over the course of a day — gives drivers more control. Some Brazilian drivers, for example, switch exclusively to 99 after dark; this allows them to continue working at night, but only with riders paying by credit card. Competition also encourages rideshare companies to vie for drivers by offering different perks and resources, such as bonuses and new in-app features. On August 31, just after I left São Paulo, Uber launched a feature that allows drivers to see form of payment after accepting a ride but before picking up the passenger.³² While not the same as a direct choice of payment type, this new feature allows drivers to more easily cancel a ride if they feel unsafe taking cash.

Healthy competition between apps pushes companies to continue improving their drivers' experience — if only to make sure they have a workforce to draw upon. If Uber or another ridesharing app pushed out all competitors, then drivers would face monopsony, or a single buyer of their labor. To support greater choice and better outcomes for drivers, public policies around rideshare apps must work to discourage monopsony conditions.³³ Municipalities like São Paulo can take two key steps to promote competition as they regulate and interact with rideshare companies:

1. CRAFT REGULATIONS TO PROTECT SMALLER COMPANIES.

In São Paulo, cars used for ridesharing must meet several requirements before they are authorized to drive. Right now, these requirements — such as driving a car that is no more than five years old — are not unreasonably strict. However, further calls to improve safety and ensure equity in ridesharing could have unintended effects. Proposals to require companies to provide wheelchair-accessible vehicles,³⁴ for example, could push smaller and more specialized companies out of business if not crafted thoughtfully.

Smaller, specialized companies — such as Lady Driver, FemiTaxi, and Ubra — provide driving and transit opportunities to broader, more diverse populations. Likely due to safety concerns, it appears that relatively few women drive for Uber in Brazil.³⁵ However, Lady Driver and FemiTaxi, two Brazilian apps that provide rides exclusively by and for women, allow female drivers to work without fearing sexual assault from male passengers. In São Paulo, Lady Driver has over 100,000 users and 8,000 drivers. In response to the clear demand met by these apps, 99 recently piloted an option to request female drivers.³⁶ Competition from small, specialized apps pushes larger, more-established rideshare companies to consider how they can reach diverse and marginalized drivers and riders.

Ubra, which operates in São Paulo's periphery, competes with larger apps by uniquely understanding the needs of — and by acknowledging the humanity of — low-income Brazilians. Founder Alvimar da Silva realized that the

dearth of rides in his community presented a business opportunity. “There’s a myth about the periphery being dangerous,” Da Silva told reporters.³⁷ His company specializes by hiring local drivers, who he says “are not prejudiced against [the periphery] and are not afraid to work here.” Understanding that its users may not have smartphones or good internet service, Ubra allows riders to hail cars with a call or WhatsApp message. Most strikingly, it allows for creative and more informal ride payments, based on community trust; for example, riders can pay their way in gasoline if a driver stops at a station.³⁸

Policies promoting transportation safety and equity are socially desirable, but municipalities should keep smaller and specialized businesses like Lady Driver and Ubra in mind as they shape regulations. Stricter and more expensive-to-meet requirements must only apply after certain fleet-size thresholds. If policymakers do not keep small companies in mind, stricter regulation may favor larger, more-established rideshare companies and push others out of the market. This would limit choice and access for both drivers and riders.

2. AVOID EXCLUSIVITY IN PUBLIC-PRIVATE PARTNERSHIPS.

Rideshare companies introduce the possibility of advantageous public-private partnerships where mass public transit does not serve all people or meet all transit needs. For São Paulo, the need to provide affordable and reliable transport to people living in the city's periphery is especially strong. If the city moves to partner with rideshare companies to tackle last-mile problems and expand transport options,

then it must negotiate with multiple providers.

While Uber and 99 have more lobbying power and expertise than smaller companies like Ubra and Lady Driver, that should not guarantee exclusivity as the sole provider of rideshare services that work in conjunction with public services. Exclusive partnerships with established providers could push out existing small and specialized companies, which arguably serve marginalized communities better than the more-established rideshare apps.

Public paratransit systems, which serve people with disabilities, may also benefit from working with rideshare companies. In Chicago, for example, Uber offers a service that pairs riders with wheelchair-accessible vehicles on demand. Chicago's Pace paratransit system, in contrast, currently requires rides to be planned a full day in advance. Pace recognized the benefit that on-demand rides provide to people with disabilities, and Chicago has begun talks with both Uber and Lyft about partnering on paratransit.³⁹

Whether to tackle last-mile challenges, offer expanded paratransit services, or for other reasons, municipalities that partner with rideshare companies should avoid exclusivity in their contracts and collaborations. This leaves the door open for new and different businesses to compete to offer better solutions to public transportation problems.

BRAZIL'S DIFFICULT ROAD AHEAD

Jair Bolsonaro, a former army captain who publicly praises Brazil's 1964–1985

military dictatorship, recently won the presidency and took office in January 2019. Bolsonaro campaigned on fiscal austerity programs, and global markets responded favorably to his election.⁴⁰ After 13 consecutive years of governance by the Workers' Party (called "PT", or Partido dos Trabalhadores), many Brazilians signaled hunger for change, no matter its type or outcome.

Given Brazil's difficult economic and political climate, public policies that promote healthy market competition currently offer the most feasible way to support gig workers. Bolsonaro's new administration is highly unlikely to support labor laws that favor workers, let alone promote the interests of low-income communities and marginalized populations. The right-wing populist cares most about fighting crime — which is often code for targeting poor, black Brazilians. "I will give the police carte blanche to kill," the president-elect recently promised.⁴¹ Given Bolsonaro's extreme ideology and distaste for government regulation, municipalities like São Paulo will likely find most success by implementing labor policies that employ free market rhetoric.

Though this article focuses on policies to uphold market competition in the rideshare sector, it touches on many other areas to explore. Future policy research about the gig economy should examine issues like data-sharing with municipalities, how contract workers use and contribute to social safety nets, and the ways that companies pay into social programs that benefit their contractors.

Brazil provides an illustrative case of gig

work's important function during an economic recession. While not perfect, the driving jobs that Uber created have helped many unemployed people get back to work quickly and easily. Eduardo, who had driven for the majority of his career — first as an executive chauffeur, now with Uber — reflected on his situation with humility. “It’s complicated,” he said. “It’s not easy in Brazil, we’re all artists here. We make life happen, and you have to have happiness.”

**All driver names in this article have been changed to protect privacy. Interviews were conducted in Portuguese, and all quotes have been translated by the author.*

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A CONVERSATION WITH NANI COLORETTI

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Edited by: Chitra Balasubramanian, Adam Buchholz, and Tsuyoshi Onda

Nani A. Coloretti holds a Master of Public Policy degree from the Goldman School of Public Policy and is currently the Senior Vice President for Finance and Business Strategy at the Urban Institute. Prior to joining the Urban Institute, Coloretti served as the Deputy Secretary of the U.S. Department of Housing and Urban Development (HUD) and as Deputy Assistant Secretary at the U.S. Department of the Treasury under the Obama administration. Previously, she had been the Policy Director and Budget Director for San Francisco mayor Gavin Newsom.

The below transcript has been lightly edited for clarity.

BPPJ: What do you think are some of the benefits and drawbacks of moving away from the public sector, and some things that you're excited about at the Urban Institute?

N. COLORETTI: I'm lucky in that the Urban Institute works a lot with the public sector in addition to other stakeholders and on some of the same issues that I worked on throughout my career. So that's the benefit of being in a think tank. There's harmony in the issue areas and also in a quest for informing policy with good information, with good facts, with good research, and good data. And so it's sort of the very best level of decision-making in a public policy environment here because it's a think tank. The difference is that you don't have a critical decision before you, but because we work with those decision makers we're able to try to inform and raise the level. The tagline for Urban is, "Elevate the Debate," and that's what Urban has been trying to do for almost 50 years now.

BPPJ: Are there any other things that you're excited about doing in your current role?

N. COLORETTI: I joined Urban with the explicit knowledge that it is going through its own celebration of its last 50 years. Next year we will celebrate Urban's 50th, there are a series of ways in which I'm helping Urban understand more about what it's doing and where it's growing and where it's shrinking. I'm also helping equip people here to grow where it makes sense, so that's a lot of what our focus here has been on the executive side of Urban: really trying to harmonize and bring together different research centers. We're also moving next year to a new building. We're both moving and launching a series of dialogues with key stakeholders for Urban's 50th, so it's just a cool time to be here.

BPPJ: Speaking from your experience at HUD, could you share a perspective on the policy-making process at the state and federal level? What was your experience?

N. COLORETTI: Yeah, it's super smooth! Just kidding. [Laughing] There are so many different ways to answer that question. I guess I'll talk about one of the policies that I spent some time on as the Deputy Secretary. The way Cabinet agencies are structured, there's a hierarchy but we're not the military — so HUD has a lot of disparate parts to it that need coordinated policy making. HUD has a part that's trying to back and securitize loans, a part that's trying to coordinate community planning and block grants, a part that aims to build more affordable housing, and a part that helps manage almost 4,000 grants to public housing agencies. And it also has a fair housing office.

And so one of the things we worked on across HUD and with the leadership of Secretary Shaun Donovan and then Secretary [Julian] Castro and with a directive from the Obama administration was to put regulations forward to affirmatively furthering fair housing. Now the Fair Housing Act passed in the 60s and they had never regulated this piece of it. But in my first year there I helped facilitate and umpire the internal policy-making process for that regulation with the general counsel and other legal experts. Everyone was more of a subject matter expert than me, but a reason why I could see that it hadn't been done for many years is that people have different interests in the programs they're trying to run, and affirmatively furthering housing goals using data may get in the way of the fastest way to

What was hard ... was people needing to make sure that their voices were heard, that their policy subject matter voice was heard, respected, understood and worked [with] in a real way.

get the money out into the community. If a community is saying, "The only place we can find for this affordable housing site is in this neighborhood, but that neighborhood site [would further concentrate people of color]," actually maybe you shouldn't site the building there. But that might be the only location available. So there are a lot of actual competing programmatic issues that I could see and I don't even know if I understood all of it, but the thing I was supposed to do as deputy secretary was to help the organization resolve those and put it into a regulation.

So I really only did the very tail end of that. And then later some pieces of the regulation then [became], I don't want to say reversed, but stalled in their implementation by the Trump administration.

But we still got the regulation out and it has not been redone yet so it still stands. But that process was really, really hard, and what was hard about it was not just the technical part. What was hard about it was people needing to make sure that their voices were heard, that their policy subject matter voice was heard, respected, understood and worked [with] in a real way. I feel good about the work that we did and it wasn't just me, it was a whole bunch of other people. If issues really couldn't be resolved they went to the secretary. Secretary Castro did make some calls and I made a lot of the calls to help staff move forward. And we got [the regulation] out. So it was really good but

it was super hard.

This was only one piece of policy making, and you guys know this already and whatever your work was before you got to GSPP, but you know, that's an administrative process and what happens in agencies. There are also processes in agencies that are legislative in nature. There are processes in agencies that are intergovernmental in nature. There were things that we would get pulled in on where a Mayor or a Governor of a state is having trouble with a HUD rule or a HUD requirement. And HUD is nationwide so it would go to the regional office and then it would get sent over to me and my team at the HUD Headquarters to finally resolve. The agency is wired together in a way that sort of makes sense but also it makes it hard to decide what you do first, second, and third. It's important to have a governing framework to do that kind of job.

BPPJ: So, on a slightly different note, there's the Consumer Financial Protection Bureau (CFPB) that you co-founded. What do you see as the future of the CFPB, given what's happening currently?

N. COLORETTI: Yeah, just to explain my role in the stand-up of the organization. So again, as it happens often in my career, I'm not a subject matter expert on consumer finance. That said, when Treasury was helping give technical assistance to the Hill to advise on many of the parts of the Dodd-Frank Act, including the consumer agency, the reason why I got involved was because they were trying to figure out — they being Dodd, Frank, and others — how to size an agency where you would be pulling together authorities from seven

different already-existing federal agencies and moving staff from six agencies, and not the entire staff but pieces of the staff. The consumer protection laws were being implemented by a panoply of agencies without coordination, which is hard on the financial system, but also means that lots of things fall through the cracks and standards could be hard to follow.

So just the fact that CFPB is now there is huge because before — I'll just I'll pick on the Federal Reserve — they regulate banks and they have a lot of requirements they have to regulate for safety and soundness of the financial system, one of which is consumer protection, but they have all these other things they have to check for, audit, and regulate, and so to have the consumer piece come into this new agency along with OCC's (Office of the Comptroller of the Currency) consumer piece and FDIC's (Federal Deposit Insurance Corporation) consumer piece is actually pretty powerful in and of itself. I helped size the agency to figure out how much money it would cost to do that. And there were new functions also, so it wasn't just moving existing staff, it was adding new staff and new functionality. So that kind of work works best when it is aligned with the policy goals of the agency, and it works best when you're in constant communication with your key stakeholders. I was there for seven months and helped stand up the agency, transfer the staff in, pull the implementation triggers, find space.

On the policy side, the way we originally set it up is that it would be data-driven. The CFPB has a lot of additional regulatory scope and scale beyond what existed before, not just because you combine ev-

everything but because they had new powers and new authorities, and those are vast. The way it is set up is to be data-driven, to seek enforcement or regulation in areas where the data is showing that consumers are being harmed.

Like with the Fair Housing work, there may now be things, and I'm not tracking them, but I imagine there could be enforcement areas that have been slowing down. But I am still seeing enforcement actions come out of CFPB, so they're levying fines and taking enforcement action on cases that they inherited and that means not everything stopped.

Right when the Dodd-Frank Act passed and CFPB was being birthed, there were a set of both advocates and legislators out there who would like to kill the CFPB. But they have not managed to do so, and so that's another bright sign. I guess I would say I'm not a good predictor of this and I'm not in the substance of it every day, but my suspicion is that it would be very hard to completely eliminate it.

BPPJ: That's good to hear!

N. COLORETTI: Yeah, I mean I'm an optimist too.

BPPJ: Now moving on to the personal side a little bit. What do you see as some of the roadblocks or challenges for women in policymaking? As a woman have you found any specific challenges while being part of the policy-making process?

N. COLORETTI: So I get asked this a lot. This is hard for me because of my framing: when I have had challenges getting

my voice heard or being effective, my framing is to find another way. And so I have felt sometimes maybe being one of the few women or the only woman in the room can be helpful because you stick out in a way that can help your voice be heard if you find a way to do that. I suppose there have been and there are and remain some challenges in both being effective and leading. But if I find them, I try to break them down.

BPPJ: Just as a follow-up, are there any specific instances that have manifested in your career that you could elaborate on?

N. COLORETTI: So just to give you my frame for a second, as I think over my career path what often happens, and this happened in the Obama administration, I'll come in and the Treasury Department did have some women in key places. But I got brought in by a guy who I had worked with at the Office of Management and Budget right out of grad school, and I had been away from DC for 12 years. It was someone I had worked with in the past that knew what I could do that invited me in to become what's called a Deputy Assistant Secretary (DAS) – that's sort of a senior-level appointment in an executive administration, which does not require Senate confirmation but it's the right below the level that would, so it's already high up there.

I was [Treasury's] DAS for Management and Budget, and the economy was falling apart if you remember back to 2009. I worked on a huge part of the Recovery Act, tracking and accountability for that, and I worked on this little CFPB project, just the legislative part of it. What end-

ed up happening in the Treasury Department, and when I got tapped to go over to HUD, was I was able to get people to understand what decisions needed to be made, what I needed from them, what they need from me, and what they could count on me for. And so, I just kept getting more and more responsibilities and more and [higher-level] different jobs.

So if you asked me, “Under the Obama administration was there a time when you didn’t feel heard or when you didn’t feel like people were respecting or listening to you because you were a woman?” I’m sure I had all the things happen, like when you go to a meeting and you say something and nobody says anything and when someone else does they’re like, “Oh yeah that’s right!” And you think, “I literally just said that!” All of those things have happened. But as I see over the course of it, did it hold me back? Absolutely not. Absolutely not. So I don’t know how to interpret that. Was I left out of a meeting because I didn’t fit into that group? I’m sure I was. But in the end was it okay? Yeah.

And so what happens in my career, this sort of has happened in all the jobs I’ve had in a way, is that if for some reason, and it could be gender, color, or just because you’re new and you seem young, if for whatever reason someone is underestimating what I could do or just cutting me out in some way, it’s actually okay

because it is a good thing to be underestimated. Because you will always surprise.

You will always surprise. And so that has happened to me too where people are like, “You did such a great thing on this, you are so wonderful!” You know? And you’re [thinking], “I know!”

What’s most important in your whole career pathing or even in the MPP program itself is to figure out what you like and what the conditions are for you to do your very best work.

I guess I would say I have found a way to navigate that does not seem to be holding me back, but are there moments when it was hard? All the time! Did I get some mansplaining? Sure! That’s okay, you know? The other thing is I say a lot, “Let’s assume good intent.” I think people don’t realize how they’re coming off. And it’s helpful to me to try to learn from that too.

BPPJ: I like the optimistic take!

N. COLORETTI: Yeah, it’s so optimistic.

BPPJ: At GSPP a lot of students are looking to embed themselves in working on social issues. So what’s some of the advice that you would give in terms of how they should go about an MPP program? What’s the best way to make the most of that, and look at things through a critical lens?

N. COLORETTI: I think one of the most valuable things at GSPP and programs like it is when you work with clients, and you get to really try things on like a shoe, both with your client work and your internship. Just do not be afraid to try a weird thing that you wouldn’t have otherwise done.

My internship between first and second year was with an advocacy organization for Children’s Environmental Health. It’s not something I ever would’ve thought I would have done, but it was interesting and different. I am more of a quantitative person. It was not a quantitative job. It was a writing job and a research job but it was good for me to do that. It was really good for me to do that because what’s most important in your whole career pathing or even in the MPP program itself is to figure out what you like and what the conditions are for you to do your very best work.

You know, these are simple things that could help even in non-public policy careers, but they’re super important. I think what’s challenging with the MPP program is that it is quite technical and it can lend itself to thinking more narrowly about what’s possible. So if you think about what you like – did you like working in the IPA [Introduction to Policy Analysis] group with four other people, or three other people? Or were you like, “Geez, I really wish I could’ve done this myself”? Was the APA [Advanced Policy Analysis] better for you, [because it was an individual project]? That’s important information. Note that information. It doesn’t mean you’re not going to change, but it is important in navigating your career to remember what you’re good at and what you need to be good.

I would argue that everyone needs to know when they’re taking a job what the chain of command is and whether that’s a supportive environment that will hear your voice. I might just be lucky in that every job I ever had, eventually my voice got heard because I picked the right orga-

nizations. And there would be ones that I could have entered that would have been a terrible match.

Everyone in GSPP is going to get a toolkit of very good tools. Very, very strong tools you can always lean on, but the harder thing is, how do you get information [about potential jobs] that’s not readily available? My answer to that is to have and to keep a strong network. It’s hard to advise people on that because networking can be so awkward if you’re not used to doing it, or if you aren’t sure if anyone would even ever want to talk to you. You know what I mean? But try to use the GSPP network as a starting point because it’s a very supportive network.

When I came out here the grad school had what they call a Presidential Management Fellowship. I met with all the GSPP people from prior years I could find at federal agencies because I didn’t know what else to do. The PMF program didn’t help me do that, I just did it. [The GSPP Career Center] and others helped me do it.

But [the alums] were very upfront with me and helpful, and candid, about what kinds of work they were doing. What they liked, and what they didn’t like. It was very, very helpful and I was able to get a quick map. I had thought I wanted to work on welfare reform, and I ended up working on Medicaid. It was still a support program for people that were low income and that was a good match for me because Medicaid’s a little more quantitative. I had thought I wanted to go into an agency but I ended up going into the Office of Management and Budget because I liked trade-offs, and I liked trying to

get more of a bird's eye view of what was coming through on that portfolio. But if I didn't know those things from doing all those conversations I might have picked a different place that didn't match as well. And so every time I'm on a job hunt I use my network a lot. Not because I think they're going to get me a job, but because I think they're going to help me create an understanding of what's possible, what's out there, and whether I like that or not.

[I've known] the Urban Institute for decades because they have very strong products and policy areas. But I also knew a little bit about [Urban's] president who's been here about five or six years, and that she was trying to do new things. And that's really why I came — for the place, but also the people. And that's what happened when I joined the Obama Administration, and this guy Dan Tangherlini, I knew what he had been doing since we'd all left OMB. I knew he was good, he's solid and directionally oriented and that he'd be supportive, and he was. So if it weren't for his backing I don't know that I would have done all the things [in the Obama Administration], you know? But I also knew that he wouldn't pick Treasury if it didn't have good leadership. So find out your clues, or just try to understand something that's hard to figure out. It's not like people are going to say to you first thing out the gate, "This is a terrible place to work!" Or, "This is a great place to work!" No one's ever going to tell you that.

The benefit of coming up through the budget examiner line of training is you have to learn how to get people to tell you things they wouldn't otherwise want

to tell you. So you have to learn how to ask the right questions, and that was a super great area of training for me. But other people who work here at Urban or who have worked [with me] at Housing and Urban Development or even Treasury came in Urban through a different pathway. A substantive pathway, where maybe they worked for many years in the financial sector and then came into Treasury. Or they worked for many years on affordable housing or on homelessness and then came into HUD. So those are equally legitimate pathways to do. It's just more about what's going to help you, as a person, be your best self and grow the most you can grow.



THE CASE FOR STANDARDIZATION IN AMERICAN HEALTH INSURANCE MARKETS

by Ben Kane

THE CASE FOR STANDARDIZATION IN AMERICAN HEALTH INSURANCE MARKETS

BEN KANE

Edited by: Emory Wolf, Nicholas Draper, Ben Menzies

In establishing government-facilitated health insurance exchanges, the Affordable Care Act fundamentally changed the individual market for health insurance in the United States with the intention of simplifying choices for consumers and ensuring minimal standards of coverage across consumers. However, many consumers shopping for insurance on the exchanges are still confronted with a daunting array of comparisons, even for plans at the same nominal tier. Standardized plans, which are required for the California marketplace and have been proposed for the Federally Facilitated Marketplace, can streamline the process of shopping for health insurance for consumers, allowing them to compare plans based on fewer, more salient factors and enabling consumers to more easily select plans with less cost-sharing.

THE AFFORDABLE CARE ACT AND HEALTH INSURANCE PLAN DESIGNS

Before the passage of the Affordable Care Act (ACA), the individual market for health insurance — where those not covered by public programs or through their employers went to shop — was a very different place. Consumers were frequently denied coverage based on a pre-existing condition and, even if they were able to obtain coverage, found that their insurance plan had coverage gaps for essential medical care such as hospitalization, prescription drugs, or maternity care.

The ACA completely overhauled this market through new requirements for insurers to cover a comprehensive array of 10 benefit categories dubbed “essential health benefits.” It also set maximum

out-of-pocket levels for what consumers would be expected to pay during a plan year — the mirror image of many pre-ACA plans which had caps on annual and lifetime coverage by the insurer.

Plans are now sold through health insurance exchanges, either set up by a state or run by the federal government. Plans are differentiated by metal tiers such as Bronze, Silver, Gold, and Platinum depending on how generous they are in their coverage. What the ACA did not do, however, was require insurers to follow specific plan designs and instead allowed plans to organize benefits and cost-sharing between consumers and the insurer so long as they comply with minimum federal standards.

These variations in benefit design can have significant consequences for con-

sumers in making optimal plan choices, spending out of pocket, and accessing care. Cost-sharing amounts and the applicability of the deductible to services have a large impact on a consumer’s bottom line, as well as access to care. The available evidence shows that consumers are adversely impacted when faced with choices that are too complex and too numerous. Instead of allowing insurers to offer a vast range of plans, plan standardization streamlines decision-making to the benefit of both the consumer and insurer. State-based and federal marketplaces can and should recognize the existing evidence supporting standardization and offer standardized plans that benefit the consumer by reducing the complexity of decision-making in buying insurance.

A TALE OF TWO CITIES ILLUSTRATES VARIATION IN BENEFITS AND COVERAGE

In 2018, a 27 year-old living in Sacramento could have logged on to the [website for Covered California](#), California’s state-based health insurance exchange, and purchase one of five silver plans from five different carriers. These plans vary in networks and premium, but they all have a \$2,500 medical deductible, \$130 pharmacy deductible, and a \$7,000 maximum out-of-pocket limit. Because qualified health plans in California’s individual market have standard benefit designs, there is a uniform approach to cost-sharing and the applicability of the deductible within a metal tier. This means that of the 20 outpatient care services covered as

Table 1:
Comparison of 2018 Silver Plans for a 27 Year-Old in Sacramento vs. Atlanta¹

	<i>Sacramento, CA</i>	<i>Atlanta, GA</i>
Number of Silver Plans	5	11
Number of Carriers	5	2
Monthly Net Premium* (after Advanced Premium Tax Credit)	\$244 - \$382	\$270 - \$332
Deductibles	\$2,500 Medical \$130 Drug	\$2,750 - \$7,050 Combined
Maximum Out-of-Pocket	\$7,000	\$6,000 - \$7,350
Factors Consumers Must Consider When Selecting a Plan	<ul style="list-style-type: none"> ✓ Premiums ✗ Deductibles ✗ Cost-sharing amounts ✗ Maximum Out-of-Pocket ✓ Provider Networks ✓ Quality 	<ul style="list-style-type: none"> ✓ Premiums ✓ Deductibles ✓ Cost-sharing amounts ✓ Maximum Out-of-Pocket ✓ Provider Networks ✓ Quality

an essential health benefit in California's individual market, all silver plans exempt 19 outpatient services from the deductible and have uniform copay or coinsurance levels for each respective service (e.g., all insurers exempted primary care and had a \$35 copay).

If that same 27 year-old were to move to Atlanta and browse their choices on the federal marketplace, Healthcare.gov, they would instead have faced a choice of 11 silver plans from just two carriers. As seen in Table 1, the combined deductibles on these plans range from \$2,750 to \$7,050 and benefits covered before the deductible also vary widely. For example, all California plans cover imaging services such as an MRI or CT scan before the deductible, while just one of 11 plans does in Atlanta. No Atlanta plans cover emergency services, durable medical equipment, or diagnostic tests before the deductible while plans in California cover all of these services.

A consumer in Atlanta must weigh dozens of factors that differ from plan to plan, such as premiums, deductibles, cost-sharing amounts, maximum out-of-pocket costs, and provider networks and quality. How much someone spends out-of-pocket on health care over the span of the year could be hugely impacted by plan choice in this scenario. In California, standard designs narrow the choices a consumer must make to premiums, provider networks, and quality.

As this "tale of two cities" illustrates, decisions about cost-sharing — whether to apply the deductible, a copayment, or a coinsurance — to benefit categories can

vary across plans, all while complying with the broad ACA regulations for plan actuarial value (AV), a measure of the share of financial expenses covered by the plan which also determines the metal tier. Consumers face a wide variety of possibilities for financial responsibility depending on which plan they choose, resulting in a system with disparate and inequitable outcomes.

A HISTORY OF COST-SHARING (COPAYS, COINSURANCE, AND DEDUCTIBLES)

Why do we have an insurance system with such complex benefit designs? American health care plans began experimenting with these new "innovations" in health insurance in the middle of the twentieth century. Deductibles were first introduced in 1949 and were intended to improve health insurance by lowering premiums, ensure that health insurance coverage focused on major financial costs, and combat the "moral hazard" problem.² Insurers believed that requiring consumers to meet a deductible would make them cost-conscious and avoid "moral hazard," a phenomenon whereby consumers use medical services more often because they are shielded from the full cost of services. All cost-sharing is thus intended to reduce utilization to a certain extent, by making the consumer liable for at least part of the costs.

More recently, health care costs have steadily risen over the last two decades, and insurers have responded by leaning more heavily on cost-sharing and shifting responsibility to the consumer. Between 2006 and 2016, cost-sharing for employ-

ees at large firms has increased 53.5 percent.³ The bulk of this growth has come from consumer spending on deductibles — while spending on copayments decreased over this period, the amount spent on deductibles increased 176.2 percent. Deductibles accounted for 28.8 percent of cost-sharing payments in 2006 but over half of payments in 2016.

COMPLEX DEDUCTIBLES AND COST-SHARING PRIMARILY BURDEN CONSUMERS

As cost-sharing has increased, the financial and health stakes for consumers have likewise grown. Research finds that deductibles, along with other cost-sharing mechanisms, do in fact reduce health care spending. However, these savings are achieved almost entirely by decreasing utilization without regard to value of care — consumers use both high-value and low-value services less as cost sharing increases.^{4, 5} Studies show that reducing cost sharing for high-value services increases utilization of services, in one case demonstrating better medication adherence and improvements in clinical outcomes and quality of care.⁶ Cost-sharing may also have disproportionate impacts on vulnerable populations, such as low-income and sicker people, whose utilization is impacted to a greater degree when cost-sharing is increased.⁷ For instance, the patient in Atlanta covered under a Healthcare.gov plan may think twice about scheduling a

routine outpatient surgery when he is responsible for the full cost before meeting his deductible, which can be as much as \$7,050. In many cases, cost-sharing is also regressive by forcing the poor and sick to pay for insurance coverage while simultaneously creating financial barriers to care.⁸

In the face of large consequences to economic and overall health, how can policymakers empower consumers to make more effective plan selections? Behavioral economics research finds that consumers make lower quality decisions when presented with too many choices.⁹ Research demonstrates that more choice in benefit design leads to poorer decisions, especially among the most financially vulnerable consumers. A study of employees at a large U.S. firm found that a majority

Experiments demonstrated that in the absence of decision-making tools, consumers are very likely to choose plans that are not the most cost-effective and also likely to not even realize it.

chose plans that were more expensive, with “lower-income employees, female employees, older employees, and employees with chronic health conditions ... all significantly more likely to select” more expensive plans.¹⁰ Experiments demonstrated that in the absence of decision-making tools, consumers are very likely to

choose plans that are not the most cost-effective and also likely to not even realize it.¹¹ For example, a consumer who relies on medication to treat a chronic condition could choose the plan that appears cheaper because it has a lower premium, but it may in fact cost her much more money over the course of the year due to the cost-sharing amounts she must pay to

obtain those drugs.

Standardized plans offer a solution to the problem of consumer choice, by simplifying the available options and allowing consumers to focus on network, price, and plan quality rather than complicated cost-sharing variations. With standardized plans, the same consumer can shop on the sticker price she sees — the premium — and other factors like plan network and quality without worrying that she will be face enormous cost-sharing differences to obtain her medication. The advent of the ACA and its marketplaces, which intended to streamline and simplify the health insurance shopping experience, provides states ample flexibility to shift toward standardized plans.

Opponents of standardized plans argue that these plans reduce choice and harm consumers by limiting competition and precluding specialization to consumer needs. In the first year of the exchanges' operation, however, researchers found that rating areas with more silver plans had higher differences in premiums and deductibles between the second-cheapest and average silver plans.¹² The Atlanta example demonstrates this point, where deductibles range all the way from \$2,750 to \$7,050 among available silver plans. More plan offerings might seemingly mean more plentiful choice for consumers. But those

choices include more expensive and higher deductible plans available in the states with more plans. Critics of standardization argue that more plan options theoretically allow the most consumers to access the most services depending on their level of expected use. However, as previously noted, the research^{1,2,3} in this field finds that more choice in benefit design in fact leads to poorer economic outcomes for consumers.

PUBLIC MARKETPLACES CAN PROMOTE EFFICIENCY IN BENEFIT DESIGN

Before the ACA, insurers in the individual market found success using “risk selection through benefit design and medical underwriting which allowed them to select consumers based on risk, charge higher premiums depending on applicants’ health status and deny coverage due to a pre-existing condition.”¹³ In human terms, cancer survivors and members of law enforcement were denied coverage and women were charged higher premiums than men.¹⁴ The state of the market led to glaring inequities and politically unpopular outcomes for consumers which in turn set the stage for reform efforts.

Massachusetts established the first health insurance exchange, which later served as a model for the federal law’s exchanges,

Unlike the pre-ACA individual market, the ACA’s health insurance exchanges exist to promote transparency and competition for the benefit of consumers. Exchanges can serve as market innovators,¹⁵ simplifying choices and minimizing out of pocket costs for consumers.

including the introduction of tiered metal levels benchmarked to AV that vary based on the share of financial expenses covered by the plan. Unlike the pre-ACA individual market, the ACA's health insurance exchanges exist to promote transparency and competition for the benefit of consumers. Exchanges can serve as market innovators,¹⁵ simplifying choices and minimizing out of pocket costs for consumers. Indeed, many state-based exchanges, such as those in Massachusetts, California, and even the federally-facilitated marketplace, have already taken steps in this direction.

FEDERAL AND STATE ACTIVITY TOWARD STANDARDIZATION

In 2010, the Massachusetts exchange moved to require that insurers begin selling standardized plans, as a result of feedback from consumers and a desire to simplify consumer choice. The exchange hoped to shift consumer choice to plan network and quality, rather than differences in benefit coverage and cost-sharing.

Subsequent research found that Massachusetts achieved its goals. Comparing the market before and after, researchers found that "standardization improves outcomes for consumers" and that insurers able to provide more generous plans can also benefit from the change. After standardization, consumers chose more comprehensive plans as a result of shifting toward a clearer choice set, and they benefited financially as a result.^{4, 5, 16}

After the passage of the ACA, based in large part on the Massachusetts model, states took varied approaches toward es-

tablishing exchanges. The majority chose to participate in the federally-facilitated marketplace (FFM) on HealthCare.gov while a smaller number created their own state-based marketplaces (SBMs). As of 2016, seven exchanges require insurers to offer standardized plans on their marketplace. Six of them — Connecticut, the District of Columbia, Massachusetts, New York, Oregon, and Vermont — also allow the sale of non-standardized plans alongside the standardized plans. The other, California, is the only state to require standardization of all plans. All seven of these marketplaces have commonly stated goals of providing consumers with "apples-to-apples" comparison shopping and plan designs that are "patient-centered" because they increase access to high-value care.¹⁷

The federal government followed suit by introducing standardized plan options in the FFM for benefit years 2017 and 2018. The U.S. Department of Health and Human Services (HHS) specified the cost-sharing structure for these plans, including fixed deductibles and fixed co-payment or coinsurance for key essential health benefits. Primary care visits, specialist visits, urgent care, and all categories of prescription drugs were exempted from the deductible in the standardized silver option. In 2016, most plans offered on the FFM had subjected the majority of these services to the deductible (e.g., 64 percent of plans subjected Specialist Visits to the deductible).¹⁸ These plans were a step in the right direction toward simplifying choice and benefiting the almost nine million consumers on Healthcare.gov. Unfortunately, under the Trump Administration, the federal government

has reversed course and eliminated these plans, returning to the status quo of wide variation that harms consumers.

Through legislation and administrative action, California chose to standardize all plans on its marketplace, Covered California, since its launch in 2014. Not only were insurers prohibited from selling non-standard products on the exchange, they were required to offer standard products at every metal level and sell “mirror products” off-exchange.¹⁹ Covered California worked with advocates to develop plans with the intent of simplifying consumer choice to improve decision making, limit out-of-pocket costs, and promote access to high-value care. Seeking to achieve these goals, Covered California exempted services from the deductible, emphasized copays over coinsurance, and lowered cost-sharing dollar amounts where possible. California to this day remains the sole state to require standardized plans to be sold on the exchange.

STANDARDIZATION BENEFITS CONSUMERS

Media coverage and public discussion of rising costs in exchange plans often focuses on the sticker price seen by consumers — premiums. But the complex benefit designs in health insurance can have enormous impacts on both a consumer’s out-of-pocket costs and their utilization of health care.

Recall that the 27 year-old moving from Sacramento to Atlanta faces a vastly different landscape for buying health insurance on the individual market in each city. In California, that 27 year-old can

be assured of a standard deductible, maximum out-of-pocket, and copay/coinsurance amounts for services he or she needs to access. In Atlanta, however, that same 27 year-old could choose a plan with a \$2,750 deductible or one with a \$7,050 deductible. He or she must also decide whether to have a plan that covers imaging services like CT scans and MRIs before the deductible. At the same time, he or she must accept meeting the deductible for any emergency services, durable medical equipment, or diagnostic tests.

The benefits of standardizing consumer choices on health insurance marketplaces are clear. The stakes for a consumer’s financial and general wellbeing are high: Cost-sharing greatly impacts total out-of-pocket costs and expected utilization of health services. By focusing on differences in premium, plan quality, and provider network, consumers are able to make better decisions when purchasing health insurance. Choosing a plan among seemingly endless iterations of cost-sharing combinations, as is currently the case on the federal exchange and many state-based marketplaces, is not helpful to consumers and may in fact actively harm the most at-risk populations.

Standardized plans lead to better outcomes for consumers and refocus choice and competition on factors that matter most to consumers. Federally-facilitated and other state-based marketplaces that do not currently offer standardized plans should recognize the existing evidence and standardize plan options to reduce the complexity of decisions for consumers.

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AN ANALYSIS OF GOVERNMENT DEPENDENCY AND TRIBAL ECONOMIC PERFORMANCE

by Mary Lindeblad-Fry

AN ANALYSIS OF GOVERNMENT DEPENDENCY AND TRIBAL ECONOMIC PERFORMANCE

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Edited by: Daniel Lao-Talens, Tim Tsai

With the advent of the Self-Determination Act of 1975, the objective of federal Indian policy changed from fostering dependency on the federal government to promoting tribal political and economic autonomy. Bureau of Indian Affairs policies in the era of 'self-determination' purportedly promote greater freedom and flexibility for tribes to enact and implement programs that escape the "one-size-fits-all" policies of the past. This paper examines whether these newer policies achieved their stated objective of improving economic prosperity among the tribes who chose to adopt them. Specifically, this study hypothesizes that American Indian Areas (AIAs) more dependent on the federal government experienced higher levels of unemployment and poverty. Using the proportion of tribe members employed by the federal government, the presence of a casino or on-reservation gaming, and whether the tribe manages their own healthcare systems, this analysis finds that government employment and gaming contracts are negatively correlated with reservation economic prosperity.

The limited availability of data and the focus on only several markers of dependency fundamentally constrains the depth of analysis that is available, and this paper provides a jumping-off point for a subject that necessitates further examination.

INTRODUCTION AND THE IMPACT OF SELF-DETERMINATION

While contemporary federal Indian policy has endured many different manifestations, the underlying basis of the relationship between tribes and the federal government is defined by the concept of 'trust responsibility,' when tribes were designated as "domestic dependent nations."¹ Despite the many changes and opportunities now granted to American Indian tribes, this relationship still influences the federal government's treatment of American Indian tribes today.

Scholars have varying opinions regarding how to characterize federal Indian

policy of the 20th century. According to some scholars, despite the outward appearance of furthering self-determination and strengthening tribal governments, the undercurrent running through the policy and case law of the twentieth century is still assimilation.² Under the present policy of self-determination, which resulted from the passage of the Indian Self-Determination and Education Assistance Act of 1975, tribes "are subject to federal law, but operate under their own constitutions, administer their own judicial systems, and implement self-managed tax and regulatory regimes ... tribes in the current era of self-determination expect and demand government-to-government relations."³

The 1960s through 1970s was a period of political mobilization and an era of self-determination during which federal policies served to encourage rather than impede tribal autonomy. Under the present policy of self-determination, which resulted from the passage of the Indian Self-Determination and Education Assistance Act of 1975, tribes “are subject to federal law, but operate under their own constitutions, administer their own judicial systems, and implement self-managed tax and regulatory regimes ... tribes in the current era of self-determination expect and demand government-to-government relations ... the jurisdictional powers of tribes are quite parallel with those of the 50 U.S. states.”⁴

Governmental policies had the goal of recognizing the Indian nations as self-governing and sovereign. Unfortunately, the policies conflicted with the federal government’s overriding policy goal of resource acquisition. Self-determination policies caused significant conflict for Indian tribes because the federal government acknowledged Indian Nations as sovereign entities while simultaneously attempting to acquire all available resources for “use and employment in the economy of the United States,” as is the doctrine of Manifest Destiny.⁵ Therefore, contemporary federal Indian policy has simultaneously reinforced the basis of tribal sovereignty while undermining tribal access to political and economic resources. As a result, these policies “produced results that fell well short of their aim.”⁶

Studies find that increased economic performance “is positively correlated with natural measures of lack of cultural assimilation, such as rates of Native language use.”

Despite their imperfections, there is evidence that self-determination policies are effective in improving economic conditions on many reservations. The per-capita income of American Indians on reservations has been growing approximately three times more rapidly than the United States as a whole since the early 1990s.⁷ Housing is improving, education attainment through high school is approaching parity with the U.S. average, health measures such as infant mortality, deaths due to accident, and infectious disease rates show noted improvement.⁸ However, it is

unlikely that the infusion of resources from the federal government is responsible, since federal spending on Indian affairs peaked in the mid-1970s.⁹ Evidence shows that self-determination policies drove this notable improvement. Furthermore, studies find that increased economic

performance “is positively correlated with natural measures of lack of cultural assimilation, such as rates of Native language use.”¹⁰

This paper examines the impact of this present era of self-determination — in which federal policies are purported to increase rather than impede tribal autonomy — on economic prosperity to determine whether the erosion of the federal stranglehold on tribal sovereignty has led to any improvement in the quality of life for American Indians living on reservations. This paper argues that present models of underdevelopment are inadequate for addressing the unique economic situation of

Indian reservations.

I wish to avoid the Western industrial bias of the assimilationist, modernization, and colonialist paradigms (as described in the subsequent section) because they have not been able to adequately explain the vast differences in economic success between these tribes. Instead, I focus on possible explanations other than those offered by classic neoliberal theory.¹¹

DEPENDENCY THEORY

This paper explores the puzzling question of why some tribes are economically prosperous while other tribes struggle by examining every federally recognized tribal entity in the United States on a number of various measures. The analysis defines ‘economically prosperous’ in terms of unemployment rate and rate of poverty for each federally-designated American Indian reservation and Alaskan Native village. These measures will serve as dependent variables. The analysis framework is based on dependency theory, defined by Theotônio Dos Santos:

“By dependency we mean a situation in which the economy of certain countries is conditioned by the development and expansion of another economy to which the former is subjected. The relation of interdependence between two or more economies, and between these and world trade, assume the form of dependence when some countries (the dominant ones) can expand and can be self-sustaining, while other countries (the dependent ones) can do this only as a reflection of that expansion, which can have either a positive or

a negative effect on their immediate development.”¹²

Dependency theory postulates that colonized groups with greater institutional and financial independence from federal and state governments are likely to be more economically prosperous.

This paper does not address modernization or assimilation theory in its analytical model, however due to its prevalence in the available literature it is important to understand. Modernization theory is based on the implicit assumption that “the newly emerging nations of Africa, Asia, and Latin American would follow a linear path towards modern development.”¹³ Development became prioritized as a national goal, due to the decolonization movement of the immediate post World War II period.¹⁴ “Development” is aimed at universalizing Western-based development around the world for the purpose of encouraging capitalistic growth.”¹⁵ Modernization relies on the distinction between two ideal-type societies — traditional and modern. Traditional societies are characterized by “subsistence economies; face-to-face social structures; cultural systems that emphasize heredity, devotion and mystery; and a highly personalized political system that is virtually an extension of the joint family.”¹⁶ Modern societies are the exact opposite ... they are characterized by “industrial economies; complex and impersonal social structures; a culture that emphasizes the values of science, knowledge and achievement; and a highly bureaucratized political system that is legitimized through rational processes, such as elections.”¹⁷ The main difference between the societies “lies in the greater

control which modern man has over his natural and social environment ... control that is based on the expansion of scientific and technological knowledge.”¹⁸

Modernization theory considers modernization a “homogenizing” and “irreversible” process.¹⁹ Until the mid-1960s, modernization theory represented the ‘grand theory’ of social science. Modernization theory predicted that tribal societies would inevitably undergo social and economic innovation by assimilating modern values.²⁰ The surrendering of traditional values and institutions to those of Western society serves as the key mechanism of modernization theory.²¹ However, it has been found that indigenous cultures and values are actually key for sustaining successful development.²²

While the colonialism paradigm can be useful for understanding some aspects of chronic underdevelopment, it is not entirely adequate. However, it is important to understand how colonialist theory is conceptualized in this context. Scholars generally attribute the condition of dependency as a result of colonial domination, or colonialism. Colonialism traditionally refers to “the establishment of domination over a geographically-external political unit most often inhabited by people of a different race and culture.”²³ Accordingly, “the essence of the colonized situation is that a people has been conquered, the functioning of their culture and social structure disrupted and suppressed in some degree,

and alien control imposed with such force that resistance is futile.”²⁴

According to a past assistant solicitor in the Department of the Interior in the 1930s, the Bureau of Indian Affairs (BIA) was responsible for perpetuating the colonial relationship. The relationship was understood to be the “white man’s burden” to take care of the Indians, since Indians were believed to be “inefficient, dishonest, wasteful, ignorant, selfish, impatient, and generally drunk ...”.²⁵ One of this paper’s central research questions concerns the differences in economic success between tribes who manage their own programs versus tribes who choose to have their programs managed through the BIA.

Colonialism is theorized and interpreted in numerous ways. The colonial experience of American Indians is often compared to that of other colonized peoples. However, scholars have distinguished Indians from colonized peoples in third world countries primarily because of the general lack of the labor relationship between the American Indians and the European colonizers. Canadian and American Indian land bases were not established to function as labor pools for Euro-American industry, mining or agriculture. Indian labor exploitation never represented a major facet of the internal-colonial structure.²⁶ Also, capitalism is often described as counter to ‘traditional’ American Indian values. Therefore, tribes “could not attain economic success because ‘capitalist devel-

The surrendering of traditional values and institutions to those of Western society serves as the key mechanism of modernization theory.

opment [of the United States] inevitably entails expropriation and exploitation.”²⁷

Therefore, colonial models, while useful for explaining the role of the principal colonial agent — in this case the BIA — are not useful for analyzing dynamics within reservation communities.²⁸ As a result, I prefer to focus on dependency models, which could be considered a more focused subset of the colonial models previously described.

Dependency theory, developed in reaction to modernization theory, proposes that the causes of underdevelopment are located within a country.²⁹ Dependency theorists argue that the actions of Western countries which “extracted raw materials, labor, and other inputs from colonial countries” effectively placed colonies in a state of dependency.³⁰ Theorists account for and measure the resultant condition of dependency in various ways. In order to better understand to dynamics of dependency on the reservation, it is useful to borrow from international development research. International development scholars have found that foreign investment stunts economic development in the long run.³¹ For third-world countries, investment dependence has negative effects on economic development.³² The formation of domestic capital for poor countries is hindered by debt dependence.³³ Similarly, tribes with health care programs administered by the federal government are more likely to default on

their loans with the BIA subsidized loan program, which further reinforces the connection between debt dependence and lack of development.³⁴

The dependency model has expanded to account for the poor economic conditions of American Indian tribes. The dependency model is so valuable because it combines both the external aspects of the

Resource dependency combines internal colonization theory with Weber’s “domination by authority,” thereby making ‘dependent’ populations more vulnerable to factors that affect resource levels and various shifts in the balance of power.

colonial relation and the more insidious internal dynamics of dependency.³⁵ Tribal fragmentation — resulting from the barrier between the elite tribal officials (who effectively control access to political and economic decision-making) and the non-elite members of the community — is cited as a significant reason for underdevelopment.

However, this theory is partially negated by the existence of highly effective tribal elites who have led their own tribes in successful economic pursuits.³⁶

Resource dependency combines internal colonization theory with Weber’s “domination by authority,” thereby making ‘dependent’ populations more vulnerable to factors that affect resource levels and various shifts in the balance of power.³⁷ Tribes are desperate to escape dependency. This desperation serves as the catalyst for engaging within the dominant political structure in order to allow for the creation of “economic environments that will allow them to provide for their citizens’ well-being without depending on reg-

ulatory advantages that are vulnerable to attacks in Congress and state legislatures or on resource extraction.”³⁸

THE IMPACT OF GAMING ON DEPENDENCY

There are over 310 gaming operations run by more than 200 tribes in the U.S. Of these operations, about 220 are “Las Vegas” style casinos with class III gaming activities.³⁹ Millions of non-Native Americans, who presumably know little about economic development on Indian reservations, visit Indian casinos every year and thereby contribute to an enormously important American Indian economic enterprise. With the passage of the Indian Gaming Regulatory Act (IGRA) in 1988, many American Indian tribes introduced gaming on their respective reservations, gaining an enormous influx of revenue and effectively strengthening their economic authority and power as a sovereign nation. The increase in revenue that accompanied the introduction of gaming on reservations served as a way for tribes to reduce their dependence on federal and state governments for financial support. In this section, I explore the impact of gaming on tribal economic prosperity.

The manner in which tribes choose to spend their gaming revenue has significant economic and social consequences. Some tribal leaders fear the unintended negative consequences of dispensing per capita payments to individual tribal members. Specifically, they believe that

There is a danger that tribes will simply transfer dependency from the government onto gaming.

per capita payments have the potential to encourage citizen dependence on tribal governments, thereby indirectly discouraging educational attainment.⁴⁰ Dependency on gaming revenues, while superior to dependency on the federal government, is also a precarious basis for revenue not only for individual tribal members but also for the tribe as a whole. There is a danger that tribes will simply transfer dependency from the government onto gaming. This fear has encouraged a number of tribes to invest gaming revenue in diversifying their economies.⁴¹ But what is most surprising is that during the first decade after the passage of IGRA, household incomes actually grew more rapidly in Indian areas without gaming (33 percent) than in areas with gaming (24 percent).⁴² While gaming may be enormously profitable for some fortunate and well-organized tribes, the current trend underlying the economic development in Indian country is one of tribes working to create economic environments that will allow them to provide for their citizens’ well-being without depending on natural resources or gaming, which is subject to the volatile external political atmosphere.⁴³

DEPENDENCY HYPOTHESES

I hypothesize that tribes with greater institutional and financial independence from federal and state governments are likelier to have a higher unemployment rate and rate of poverty. I assessed the level of dependence on the federal government using a number of measures. I

include the absence of a gaming compact, and therefore the inability to have gaming as a source of reservation revenue. I hypothesize that tribes without gaming compacts will have overall higher rates of unemployment and poverty, due to the absence of gaming as an independent revenue source. I also used the percentage of the population employed by the state, local, or federal government relative to other sectors of the economy. Within the dependency framework, one would expect that as the percentage of the civilian labor force employed by the government increases relative to the other industries, there would be a higher overall rate of poverty and unemployment. That negative relationship between government employment and overall economic prosperity is because the presence of the government as a large employer is reflective of dependence on the state, and a higher percentage of the labor force employed by the government means that there is less individual incentive and ability for tribal members to cultivate financial and institutional independence from the government. According to the dependency hypothesis, a large federal government presence is likely to contribute to suppression of any attempt at strengthening the governmental status of tribes.

I have included the level of tribal health care autonomy as another indicator of dependence. Tribes can be grouped into three levels of health care autonomy, with ‘compacting’ tribes participating in the self-governance compact with the United States and therefore maintaining the greatest degree of autonomy over their health care system.⁴⁴ Contracting tribes maintain a moderate degree of indigenous control,

and operate at least one outpatient clinic through a Title I contract under Public Law 93-638. Tribes with direct service have the lowest level of control. With the ‘direct service’ model, BIA employees or other federal administrators manage the programs.

Compacting shifts the responsibility for managing health care to the tribe and allows the tribe to develop its own health plan.⁴⁵ The National Indian Health Board finds that measures of patient satisfaction improve markedly under contracting and compacting relative to federal Indian Health Service management, which is the ‘direct service’ form of health care. According to the most current research conducted on the impacts of these policies, under self-governance compacting, 86 percent of programs report that waiting times improved upon tribal assumption of management responsibility.⁴⁶ I predict that tribes with the compacting form of health care will experience a lower rate of poverty and unemployment than tribes with contracting or direct service.

DATA AND METHODS

I have used information from the U.S. Census Bureau’s American Community Survey (ACS) 2012–2016 5-year estimates. I also used the National Indian Gaming Commission list of tribal gaming compacts for the construction of my gaming variable. I used information obtained from the Indian Health Services Agency staff to construct the health care autonomy variable. I only included tribes who either had obtained a Self-Governance compact with the Office of Tribal Self-Governance through their own tribe, or were part of a

consortium of small tribes who applied to be funded under one agreement.

METHOD OF ANALYSIS

I imposed a selection criterion of a total population of at least 100 in order to avoid the possibility that cases representing very low-density areas will disproportionately influence the regression results. Additionally, due to the complex and unique relationship of Alaskan Native villages to the federal government, I removed them from the analysis. Although Alaskan Native groups endured a similar historical treatment as American Indians, they are not provided with the same sovereign status as federally-recognized tribes in the lower contiguous 48 states.⁴⁷ These actions brought the total sample from 350 to 269 cases. I used OLS (ordinary least squares) regression techniques to measure the rate of poverty and rate of unemployment against the chosen factors.⁴⁸

VARIABLES

Dependent Variables

The dependent variables are from the U.S. Census Bureau’s ACS 2012–2016 5-Year Estimates. My first dependent variable for measuring economic prosperity is poverty rate, which is the percentage of the population for whom poverty status is determined.

Table 1: Descriptive Statistics for Poverty Rate and Unemployment Rate⁴⁹

	<i>Unemployment</i>	<i>Poverty rate</i>
Mean	15.66%	28.54%
SD	9.02%	12.40%

Min	0	0
Max	46.40%	66.70%
N	269	

Source: United States Census Bureau (2017)

My second dependent variable is the unemployment rate, which is the percent of the civilian labor force that is unemployed. Table 1 shows descriptive statistics for the dependent variables.

Table 1 shows that on average, most cases deviate within 9.02% of the mean unemployment rate, which is 15.66%. Most tribes are within 12.4% of the mean poverty rate, which is 28.54%. Both are considerably higher than the average rates of poverty and unemployment in the United States, which were 12.3% and 4.7% in 2016, respectively.⁵⁰

Independent Variables

The independent variables in my analysis were chosen in consideration of the issues described in the literature as central components of economic development.

CONTROL MODEL

The goal of the control model is to identify the most obvious factors that might contribute to poverty and unemployment rates. Controlling for these factors holds these variables constant and allows for the isolation of the effects of the explanatory variables.

I measured human capital using educational attainment, defined as the percentage of the population over the age of 25 that graduated from high school. I in-

Table 2: Means, Standard Deviations and Predicted Impact of Independent Variables

<i>Control Model</i>	<i>Mean</i>	<i>SD</i>	<i>Min</i>	<i>Max</i>	<i>Predicted impact on unemployment and poverty</i>
Total population	13,330	64,491	101	782,000	-
Percent age 60+	17.78	8	3.6	66.1	+
Percent high school graduation	81.53	9.69	23	96.5	-
Dependency Model					
Percent employed by Govt	38.08	17.64	0	92.2	+
Percent of Tribes with Gaming	70%				-
Percent of Tribes with Compacting	39%				-

Source: Author’s model using ACS (2017) data

cluded this measure due to the enormous disparity between the American Indian/Alaskan Native population and the general population: according to the 2016 ACS Estimates, 79 percent of American Indians and Alaskan Natives 25 and older had at least a high school education, and 14.5 percent of American Indians and Alaska Natives had at least a bachelor’s degree.⁵¹ I controlled for the percentage of the population over the age of 60 in order to account for the potentially negative impact of the elderly population on economic autonomy.

DEPENDENCY MODEL

This theoretical model is designed to test the hypothesis that tribes with greater institutional and financial independence from federal and state governments are likelier to have lower rates of both poverty and unemployment. The first measure of dependency in my analysis is the percentage of the population employed by the local, state, or federal government. This

variable is the only continuous variable in this model.

While data regarding most indicators of financial independence on reservations is hard to come by, information regarding tribal gaming compacts is readily available. From this information, provided by the National Indian Gaming Commission, I constructed a dichotomous categorical variable, made into a dummy variable that specifies the presence or absence of the given measure. In this case, the variable indicates the absence of tribal Class II or Class III gaming compacts. The possession of gaming compacts allows for the construction of commercial gambling operations on federal trust land. Class II gaming means “chance” games, such as bingo. The Class III category signifies “Vegas-style” gaming, which includes slot machines and various card games. I constructed the variable as dichotomous to indicate the possession of a gaming compact.

The measure for the ‘compacting’ form of health care was obtained directly from the Indian Health Services Office of Tribal Self-Governance. For these measures, I constructed a dichotomous dummy variable for participation in the Tribal Self-Governance Program, which means the presence of a Title V Compact. Recent data to indicate a ‘moderate’ level of control (Title I Contracting) was not available. Therefore, the excluded category in the dummy variable includes both Contracting and Direct Service tribal healthcare systems. Since the passage of the the Indian Self-Determination and Education Assistance Act, which authorized Title V Compacting, over 150 tribes have taken advantage of this program. In order to maintain temporal alignment of the different sources of data, I filtered out all compacts authorized subsequent to 2016. I constructed the variable as dichotomous, to reflect the presence of a Title V Compact.

RESULTS AND DISCUSSION

In this section, I will present the results of the multiple regression analysis for both of the dependent variables. The table below presents the unstandardized coefficients and standard errors for each variable. The unstandardized coefficient signifies the change in the dependent variable for every one-unit change in the independent variable. Statistical significance is indicated with an asterisk next to the coefficient. The statistically significant results are described below each table.

POVERTY RATE REGRESSION RESULTS AND DISCUSSION

First, I test the strength of my control

model for explaining the rate of poverty. Most of the variables in the control model are statistically significant at the 95 percent level ($p < 0.05$). Total population size is the only measure that does not have a significant effect on poverty rate in each model.

In the control model, two out of three variables are statistically significant with $p < .001$. The coefficient for educational attainment is -0.441 in the control model. As the percentage of the population (age 25+) with high school diplomas increases

Table 3: Poverty Rate Regression Results

<i>Control Variables</i>	<i>Control Model Only</i>	<i>Dependency Model + Control Model</i>
Total population	0	0
	0	0
Percent age 60+	-0.510***	-0.407***
	0.078	0.08
Percent high school graduates	-0.441***	-0.458***
	0.067	0.065
Dependency Model		
Employed by government %		0.148***
		0.037
Gaming		-3.362*
		1.339
Compacting		-0.23
		1.287

*** $p < 0.001$, ** $p < 0.01$, * $p < 0.05$

Source: Author’s model using ACS (2017) data

by 1 percentage point, the rate of poverty decreases by .558 percentage points. This relationship remains statistically significant in each model. Additionally, as the percentage of the population aged over 60 increases, the rate of poverty decreases by .5 percentage points. This relationship is statistically significant with $p < .001$ and is contrary to expectations.

Overall, the findings for the control model are mixed. The importance of human capital is reflected by the high degree of statistical significance in the effect of education with the inclusion of both models.

Table 4:
Unemployment Rate Regression Results

Control Variables	Control Model Only	Dependency Model + Control Model
	Total population	-0.000*
	0	0
Percent age 60+	-0.274***	-0.159*
	0.064	0.063
Percent high school graduates	-0.146**	-0.160**
	0.055	0.051
Dependency Model		
Employed by government %		0.177***
		0.029
Gaming		-3.557***
		1.053
Compacting		1.235
		1.011

*** $p < 0.001$, ** $p < 0.01$, * $p < 0.05$

Note: OLS regression with unstandardized coefficients and standard errors for population size 100+ (restricted to cases without missing data)
Source: Author's model using ACS (2017) data

The coefficient for the percentage of the population aged over 60 does slightly increase with the inclusion of the dependency model variables, however it remains statistically significant in the opposite direction of the expected findings.

Two out of four variables in the dependency model are statistically significant. The coefficient for the percentage employed in the government sector is 0.148, meaning a one-percentage-point increase in the total percent of the labor force employed by the government is associated with an increase in poverty by 0.148 percentage points. The relationship is highly statistically significant, with $p < .001$. This finding is consistent with expectations regarding the dependency hypotheses. Additionally, the presence of one or more gaming operations is associated with a 3.362 percentage point decrease in the rate of poverty. This relationship is significant at $p < 0.05$, and is consistent with the expectations of the model. The coefficient for the compacting health care option is -0.23, but the relationship is not statistically significant.

The positive relationship between the percentage of the population employed by the state, federal, or local government and the rate of poverty demonstrates the salience of dependency theory in this analysis. This is because government employment is almost entirely dependent on the overall political context and is not a function of intra-tribal development.

UNEMPLOYMENT RATE REGRESSION RESULTS AND DISCUSSION

In the model specifying unemployment rate as the outcome variable, three explanatory factors in the control model are statistically significant. Education attainment is associated with a .146 percentage point decrease in unemployment, and is statistically significant at $p < .001$. As the percentage of the population aged over 60 increases, the rate of unemployment decreases by approximately .3 percentage points. This relationship is statistically significant with $p < .01$ and is contrary to expectations, although the exclusion of those aged over 64 from the working-age population might explain the relationship.

The importance of gaming, in combination with the demonstrated detrimental effects of having a higher percentage of government employees (relative to other sectors) further reinforces the importance of economic diversification for reservation settings.

Two out of three variables in the dependency model are statistically significant ($p < .001$). The coefficient for the percentage employed in the government sector is .177 and the presence of gaming is associated with a 3.557 percentage point decrease in unemployment. This relationship is highly significant at $p < .001$, and is consistent with expectations.

The significant effect of the percentage of the population employed by the state, local, or federal government and rate of unemployment further reinforces how this particular form of dependency is detrimental to economic development on reservations. The fact that the percentage of employment in one sector is related

to an increase in overall unemployment seems surprising, yet this particular form of employment is likely related to other indicators of dependency. For instance, it is possible that a tribe with a higher per-

centage of government employment is less likely to engage in opportunities to expand tribal autonomy. President John Yellow Bird Steele of the Oglala Sioux Tribe mentions the problems with relying on government employment due to scarcity of other opportunities: “people are interested in federal service jobs and not the goals, services, and roles of those jobs.”⁵² A high

proportion of governmental sector employment seems likely to hinder autonomous economic growth.

CONCLUSION

The lack of significant results for the presence of compacting health care is surprising. The decision made by tribal leaders to directly negotiate with the federal government in order to manage their own health care is reflective of a tribe that is effective in managing all of its programs. These programs and services are often-times directly and indirectly created for the purpose of decreasing or ameliorating the effects of poverty; education programs, housing, etc. It is important to note that the number of tribes participating in self-governance compacting has grown from 14 to more than 200 since the program’s inception in 1994. However, over

50 percent of tribal organizations taking part in the compacting process are part of a consortium with other tribes who are gathered under the same funding agreement. Therefore it could be worth further exploring potential differences between tribes who apply to take part in the IHS Tribal Self-Governance Program as individual entities, versus tribes who apply as part of a consortium. While contradictory and surprising findings can certainly be theorized, there is clearly a need for further research on how the different measures relate to economic development.

The importance of gaming, in combination with the demonstrated detrimental effects of having a higher percentage of government employees (relative to other sectors) further reinforces the importance of economic diversification for reservation settings. Additionally, with the help of self-determination policies, many tribes already have successful economic strategies that extend beyond the development of a gaming enterprise, and many of these successes in the realm of development are linked to greater autonomy over tribal programs. For instance, tribes that assume control over forestry from the BIA experience a productivity increase of 38,000 board feet of timber output, and the price received in the marketplace for that output increases by 4.5 percent.⁵³ The importance of fostering tribally-owned small businesses also has a demonstrated impact. The Ho-Chunk Nation's total businesses yield more than \$100 million a year in revenues and reduced the unemployment rate on the reservation from 70 percent to single digits.⁵⁴

It is clear that education remains an important predictor for successful economic outcomes. Tribes should focus on subsidizing education costs for tribal members and should incentivize specialization in industries that will be most beneficial for the tribe to gain human capital. This will vary according to tribe. Tribes must identify the industries and services most likely to be profitable. The tribal government must have an understanding of the available and potential resources. Also, the tribe must know the kinds of skills that tribal members possess. An inventory of the skills of the existing population is useful because a survey will show what skills are in high supply or demand. For example, if a survey shows individuals with child care skills are unemployed due to lack of demand, and individuals skilled in basketry are discouraged to practice their craft due to child care responsibilities, then the tribe might form a cooperative enterprise for tribal members skilled in basketry. Meanwhile, tribal members skilled in child care can open a child care service.⁵⁵ It is entirely feasible that a lack of awareness of the skills that are available pose a significant obstacle to development. A tribe with an awareness its resources has gained a significant strategic advantage in planning out its economy and internal structure.

Additionally, the tribe must aid and encourage tribal members in their individual entrepreneurial pursuits. This may include streamlining the inevitable red tape or providing assistance. As individual incomes rise, tribal governments will pay less attention to the day-to-day issues of jobs, housing, and poverty, allowing them to address important issues such as constitutional reform. The goal of eco-

conomic development is “not aimed simply at tribal resources with the mainstream economy” but instead is to increase cultural integrity and improve the day to day lives of tribal members.⁵⁶ The recent upturn in economic conditions for American Indians and Alaskan Natives today can be attributed to the present policies of self-determination and an increase in educational attainment. After more than a hundred years of failed efforts to improve the lives of the U.S. indigenous people, it is clear that the only strategy that has ever really worked is allowing tribes to make their own decisions.

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45. The process of applying for a Title V Compact is extensive and involves establishing eligibility (through completion of a planning phase, submit an official resolution to request participation in the program, and demonstrate three years of financial management capability), negotiation with the regional IHS Agency Lead Negotiator, and drafting of an agreement that complies with program stipulations. "Tribal Self-Governance: Partnering for Health Care in the 21st Century." Indian Health Service, Office of Tribal Self Governance. Obtained from IHS federal office.
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47. The Alaska Native Claims Settlement Act of 1971 eliminated Alaskan Natives' claims to land, so that the federal government could sell rights to the land for the purpose of mineral and coal-mining. This was in exchange for a percentage of revenue from oil-sharing and a multimillion dollar settlement that was provided to Alaskan Native villages and regional corporations. This means that Alaskan Natives are tied to local villages, rather than reservations, and the land itself is not provided with the same sovereign status.
48. To address the possibility of multicollinearity in the data, I evaluated the variance inflation factor. High collinearity has the potential to artificially decrease statistically significant effects. The variance inflation factors shows us how much the variance of the coefficient estimate is being inflated by

multicollinearity. The variable with the highest VIF is the native language variable, which is 3.74. A commonly agreed-upon cutoff value is 10 (Kutner et. al. 2004). The rest of the variables had variance inflation factors all under 3. Therefore, multicollinearity was not a significant problem in this analysis.

49. "Income and Poverty in the United States: 2016." United States Census Bureau. <https://www.census.gov/library/publications/2017/demo/p60-259.html>
50. Ibid.
51. "SELECTED POPULATION PROFILE IN THE UNITED STATES 2016." American Indian/Alaska Native. United States Census Bureau. <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk#>
52. Dean Howard Smith, *Modern Tribal Development: Paths to Self-Sufficiency and Cultural Integrity in Indian Country* (Walnut Creek, CA: Alta Mira Press, 2000)
53. Cornell, S. a. K., Joseph. (2010). *American Indian Self-Determination: The Political Economy of a Policy that Works*. Harvard Kennedy School Faculty Research Working Paper Series.
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55. Smith
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