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Berkeley Public Policy Journal



Passing Tenant Right to Counsel in Oakland

India's Faltering Health System and Lack of Universal Health Coverage

Federal Policy Solutions for Undocumented Immigrants in the U.S.

Mitigating Energy Poverty in Rural and Urban Poor Settlements in Kenya

An Interview with Margareta Lin



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A Note from the Editors

It is our pleasure to present the Fall 2022 issue of the Berkeley Public Policy Journal. This publication is the culmination of writing and research by authors, revisions by editors, and insights shared by guest editors. This process, replicated each semester for every edition published, brings together dozens of students from across the UC Berkeley community to showcase the work of our peers. In doing so, this joint effort creates a valuable platform for sharing ideas, analyses, and guidance related to the public policies that are of current interest to Goldman School students.

In a reflection of the present moment, the articles included in this issue directly address how the political, social, and economic systems currently in place fail to meet many people's most basic needs. The COVID-19 pandemic only heightened the challenges that individuals already faced in obtaining food, stable housing, healthcare, energy, and basic human rights. As policy analysts, we aim to envision a better future and identify the policies and programs that could meet the basic needs of all. Collective activism, on-the-ground movements, and persistent advocacy are the tools that lead us to success.

We often see the impacts of such movements at the polls, and this midterm election was no different. Tireless and innovative political campaigns sought to inform the public and educate voters on key ballot measures, candidate positions, and voter registration requirements. These efforts led to the election of many new, progressive leaders across the country. Further, following the repeal of Roe v. Wade in June 2022, reproductive autonomy was one of the top issues on the minds of voters. As a result of mobilization and campaigns, voters in five states passed measures to protect or codify abortion rights.

We are also witnessing a new and growing labor movement in the U.S. Workplaces across the country are voting to unionize as workers fight for higher wages and stronger employee protections. Here at UC Berkeley, thousands of graduate student workers, academic researchers, and post-docs participated in a UC-wide strike starting in November 2022 to protest unfair labor practices and advocate for higher wages that meet the rising cost of living. As a result of the pressure generated by the work stoppage and large worker demonstrations, the bargaining units representing 48,000 workers across 10 UC campuses and the Lawrence Berkeley National Laboratory have been successful in achieving some concessions from the UC and winning better benefits for workers, though the strike continues.

Throughout this issue of BPPJ, our authors chronicle the most critical shortcomings of current policy surrounding basic needs, and in doing so, advocate for changes that would improve people's quality of life. First, Agnes Cho describes why the City of Oakland should adopt a Right to Counsel ordinance which would provide legal counsel to individuals facing eviction, thus lowering their chances of losing their homes. Then, Ananya Vajpeyi assesses India's progress toward achieving universal health coverage and the inequities



Photo Credit: Ian Castro

that exist in India's current healthcare system. Next, Luisa Tembo highlights critical pathways for immigrants to become permanent residents in the U.S., ensuring security and stability for immigrant communities. Turning to basic energy needs, Mathew Omogo recommends tax subsidies and diversified revenue sources for investments that increase access to clean energy sources in Kenya. This edition ends with an inspiring interview with Margaretta Lin—the co-founder of Just Cities and a faculty member at the Goldman School of Public Policy and College of Environmental Design at UC Berkeley—who has dedicated her career to serving the public and advocating on behalf of marginalized communities. At GSPP, Margaretta shares her approach to equitable, anti-racist policymaking with students.

At a time when many people around the world are constantly fighting for their most fundamental rights, our authors have demonstrated that better solutions do exist. They have responded to injustices with an actionable, tangible, and feasible blueprint, and this allows us to envision a world worth fighting for. We hope that this edition of BPPJ not only informs you of the most critical issues facing individuals, but also inspires you to join the movements that uplift them.

—Emily Jacobson & Jamie Matos

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Passing Tenant Right to Counsel in Oakland

— Agnes Cho

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Abstract

Right to Counsel is a policy that guarantees the right to full-scope legal representation for all residential tenants facing eviction. Eviction court proceedings are complicated to navigate, and whether a tenant receives legal counsel is one of the key determinants in the outcome of their eviction proceeding. However, the representational disparity between tenants and landlords is staggering. Nationwide studies have found that less than 10 percent of tenants are represented by an attorney in eviction proceedings, while more than 90 percent of landlords are represented.¹ This article establishes the need for Right to Counsel in Oakland and provides a pathway to enact this policy. A citywide Right to Counsel policy would establish eviction defense as a legal entitlement for all Oakland residents and provide funding for legal service providers to support all tenants experiencing the threat of eviction. Jurisdictions that have passed Right to Counsel laws see fewer eviction filings and increased housing stability, which are critical to reduce displacement and prevent homelessness.

Introduction

Evictions can have devastating consequences for individuals and families, but the process is complicated for many people to navigate on their own. Without legal representation, most tenants lose their cases and are ultimately evicted from their homes. Right to Counsel (RTC) is a law that provides the right to full-scope legal representation for all residential tenants facing eviction. This representation includes, but is not limited to, filing response pleadings, appearing on behalf of a tenant in court proceedings, and providing legal advice.

RTC is proven to reduce displacement from evictions, increase housing stability, and reduce inflows into homelessness. These goals align with existing efforts by the City of Oakland's Department of Housing and Community Development to provide outreach, education, and legal assistance when tenants are facing evictions. However, the City's measures stop short of ensuring all tenants receive full-scope legal representation. Meanwhile, many renters, in particular low-income renters of color, face the threat of losing their homes due to COVID-19-related income loss and the resulting inability to pay their rent. Expanded legal defense is critical now more than ever to help people navigate the complicated patchwork of tenant protections and respond to the threat of eviction.

Oakland needs a tenant Right to Counsel program that provides a legal entitlement for all renters as well as funding for attorneys and social services workers to support tenants facing evictions. Based on the data from San Francisco's RTC program, I estimate that a fully staffed RTC program in Oakland would provide an estimated 1,560 renters annually with legal services (ranging from legal advice, limited-scope representation, and full-scope representation) and cost approximately \$6.8 million annually to fully fund.

This article suggests a pathway for how the City of Oakland can establish the program based on best practices from RTC programs

in other cities, including San Francisco and New York City. This article is based on research in jurisdictions that implemented RTC, meetings with key stakeholders who helped establish and administer the RTC program in San Francisco, and conversations with organizations providing legal services to tenants experiencing evictions in Oakland.

A fully staffed RTC program in Oakland would provide an estimated 1,560 renters with legal services and cost approximately \$6.8 million annually

The Problem: Evictions as a Tool for Displacement and a Cause of Homelessness in Oakland

Oakland's eviction crisis most acutely affects residents of color and those living in low-income and gentrifying neighborhoods. Sixty percent of Oakland households rent their homes, and people of color in Oakland are more likely to be renters, have lower incomes, and face higher housing burdens. A disproportionate number of renter households are Black. Compared to other Oakland households, Black households also have the lowest annual median household income and the highest rent and housing burdens.² Sixty-one percent of Black renters are rent burdened, meaning that they pay more than 30 percent of their monthly household income on rent.

Between January 2018 and November 2021, there were 16,015 eviction notices issued in Oakland.³ Though not all notices result in eviction, these figures are only the "tip of the iceberg," as they account for only the formal eviction notices that were filed through official channels. Informal evictions—attempts to intimidate or pressure a tenant into vacating the unit—occur frequently and are not captured in official counts. Existing re-

EVICTION PROCESS IN CALIFORNIA

1

3 DAY NOTICE

If the tenant is at-fault, meaning the eviction is due to something the tenant did, the landlord must give the tenant a written 3-day notice to address the issue before terminating the tenancy. Most notices in Oakland regard:

- A—Failure to pay rent*
- B—Minor lease violations that tenants can address
- C—Serious lease violations

If tenants do not address the reason for the notice, the landlord can move forward with an eviction lawsuit.

2

30 OR 60 DAY NOTICE

If the tenant is not at-fault (for example, if the unit is being taken off the rental market), a landlord must provide a written eviction notice - 30 days if a tenant has lived in the rental unit for under one year or 60 days if they lived in the rental unit for over one year. In Oakland, landlords must have a "just cause" or one of 11 enumerated reasons, for pursuing an eviction.

3

EVICTION LAWSUIT (UNLAWFUL DETAINER)

If the tenant does not comply with the landlord's previous notice, a landlord can begin a court-ordered eviction process and file an Unlawful Detainer (eviction) lawsuit. The tenant must file a response to the unlawful detainer suit within 5 business days to avoid a default judgement.

4

PHYSICAL EVICTION

If the tenant does not file a response to the unlawful detainer or if they lose the eviction lawsuit, the landlord can start the eviction process that includes requesting a sheriff to lock out the tenant. Only the sheriff can physically remove the tenant. Landlords may not personally remove the tenant from the rental unit.

search suggests that approximately half of all evictions may be informal, occurring outside of the court system.⁴ A San Francisco-based renters' rights organization estimates that there were approximately 3,000 attempted evictions in 2016 while data from the City of San Francisco shows that there were approximately 1,900 recorded evictions.⁵

Evictions in Oakland are primarily concentrated in low-income and highly gentrifying neighborhoods of color. Majority African American census tracts had the highest rates of eviction notices—141.6 per 1,000 renter-occupied housing units, or nearly double the citywide rate (72.7 eviction notices filed per 1,000 renter-occupied housing units in 2016).⁶

Since 2018, 51 percent of evictions in Oakland occurred in five zip codes—all areas with high rates of Black and Latino populations

or neighborhoods with rapidly gentrifying demographics. The top evicting zip codes are in Chinatown (94606), West Oakland (94607), East Oakland (94605), Fruitvale (94601), and Grand Lake/Lakeshore (94610).⁷ The pattern of evictions in low-income, majority-Black, and rapidly gentrifying neighborhoods indicate that evictions are a tool for displacement. According to the U.S. Census, Oakland's Black population fell from 36 percent in 2000 to 23 percent in 2020.⁸ At the same time, the share of high socioeconomic status residents increased dramatically, and nearly all of Oakland's previously lower-income neighborhoods showed some signs of gentrification.⁹

Meanwhile, evictions increase the likelihood of homelessness. Researchers studying the impacts of eviction in New York City have found that evictions increase the likelihood of applying to homeless shelters by 12 percentage points.¹⁰ In the 2022 Point-in-Time Homeless

Count in Alameda County (where Oakland is located), 25 percent of unhoused residents cited eviction as the primary cause of their homelessness.¹¹ Additionally, evictions negatively impact a household's long-term economic stability and make it more difficult to find new housing upon being evicted.¹² The court record of an eviction - often referred to as the "Scarlet E" - shuts down future housing prospects because landlords can deny housing if tenants have an eviction record. One of the most effective ways to prevent homelessness is to keep individuals and families in their current housing and prevent them from losing their homes in the first place. A comprehensive Right to Counsel program would deter evictions and support homelessness prevention efforts, an important step to addressing the overall homelessness crisis in Oakland.

Benefits of Right to Counsel

Eviction cases are heard in civil court, where, unlike in criminal court, public defenders are not provided. As a result, almost all renters are unable to afford a private attorney and do not have legal representation to help navigate the eviction process or to represent them in the courtroom. Because of the adversarial nature of the legal system, even tenants with strong defenses are likely to lose their cases unless they have knowledge of the law and the skills to articulate their defenses. Furthermore, eviction cases (also called unlawful detainer cases) are complicated, move fast, and are highly technical; it is very difficult to respond to an eviction notice and defend an eviction case without a lawyer.

The benefits of Right to Counsel are vast and extend beyond the housing court. At a minimum, these benefits include:

ESTABLISHING EQUITABLE REPRESENTATION IN HOUSING COURT

Access to legal counsel is one of the key determinants of the outcome of an eviction proceeding. However, national studies find

that 90 percent of tenants are unrepresented in eviction court, while 90 percent of landlords have attorneys.¹³ In Los Angeles, where 64 percent of residents are renters (compared to 60 percent in Oakland), approximately 88 percent of landlords had legal representation in eviction court cases compared to just three percent of tenants.¹⁴

SUPPORTING MORE FAVORABLE OUTCOMES FOR TENANTS

In San Francisco's RTC program, two-thirds (67 percent) of tenants facing eviction who received full-scope legal representation were able to stay in their homes. The success rate was even higher for African American tenants, of whom 80 percent were able to stay in their homes.¹⁵ A 2019 annual report of the Oakland Housing Secure program found that 45 percent of tenants who received full representation were able to keep their current housing and 10 percent of tenants were able to prevent or end unfair or illegal behavior related to housing.¹⁶

HELPING RENTERS AVOID DISRUPTIVE DISPLACEMENT AND DESTABILIZED HOUSING SITUATIONS

Though the main outcome of RTC is to help residents stay in their homes, the goal of legal representation is not always to stave off eviction. It can help tenants buy more time or negotiate more favorable move-out conditions so that they are better able to find a new place to live. In the first year of the Oakland Housing Secure program, 37 percent of tenants receiving full-scope representation negotiated move-out agreements that provided the tenant with additional time or money to help them move.¹⁷ Legal services organizations can also put tenants in touch with services that will help them find and keep stable housing, even if that means moving.

IMPACTING TENANTS' ABILITY TO RE-RENT

One of the many benefits of representation in unlawful detainer cases in California is that attorneys can ensure their client's case is sealed. To seal a case means that information regarding a tenant's eviction filing is not publicly available. Otherwise, a past eviction could be used by a future landlord to deny

housing. Unrepresented tenants are unlikely to know their cases can be sealed nor how to seal them. As a result, unrepresented tenants with an eviction case brought against them may have the case on their record whether they are ultimately evicted or not, jeopardizing their future housing stability.

INCREASING EMPLOYMENT STABILITY

If the evicted tenant is employed, the instability created by eviction may affect work performance and lead to absenteeism, causing job loss.¹⁸ Not having a job can then make it more difficult to find housing, further burdening an already struggling family. A recent Harvard University study suggests the likelihood of being laid off is 11 to 22 percentage points higher for workers who experienced an eviction or other involuntary move compared to workers who did not.¹⁹

ADDRESSING THE EXTREME IMBALANCE OF POWER IN LANDLORD-TENANT RELATIONSHIPS AND HELPING TENANTS ASSERT THEIR RIGHTS

Research on Bay Area tenants has found that tenants do not report uninhabitable living conditions, harassment, or illegal rent increases because they fear the consequences of being seen as a "bad tenant."²⁰ Studies show that when tenants are represented by counsel, they are better able to protect their homes and effectively assert their rights around housing conditions, rent, and discrimination.²¹ Right to Counsel may also be an important service for immigrant residents, who are more vulnerable to illegal eviction attempts and face additional barriers to receiving federal rental assistance that might help prevent an eviction.²²

REDUCING THE NUMBER OF EVICTION CASES FILED

Providing tenants with legal counsel disincentives landlords from pursuing frivolous evictions and may lead to fewer evictions being filed. In the first year of San Francisco's RTC program, there was a 10 percent decrease in the filing rate of unlawful detainer lawsuits.²³

PRESERVING AFFORDABLE RENT UNITS

The Costa Hawkins Rental Housing Act is a California state law enacted in 1995 that

limits local municipalities from passing certain kinds of rent control and imposes state-level vacancy decontrol, which ensures that landlords can set any initial rent when a new tenancy is established. As a result, when tenants are evicted from rent-controlled rental units, landlords can increase the rent to a higher amount. In other words, landlords have a financial incentive to evict below-market-rate tenancies. RTC can disincentivize this behavior by ensuring landlords have justified reasons for evictions and, in the long-term, can help preserve affordable and rent-controlled rental units.

DIVERTING PUBLIC SPENDING ON HOMELESSNESS

A recent study conducted on San Francisco's RTC program noted, "there is strong evidence that increasing access to legal aid is one of the most successful and cost-effective interventions to reducing homelessness."²⁴ Cost-benefit analyses conducted by a third-party research firm find significant costs savings associated with public investments in RTC. These savings are largely a result of diverting entry into homeless shelters and lower utilization of city- and county-funded resources. It is estimated that investing in an RTC program would yield savings of \$320 million for New York City, \$370 million for the county and city of Los Angeles (combined), \$45 million for Philadelphia, and \$17 million for Baltimore.²⁵ In Alameda County, the cost of sheltering an unhoused individual for one night ranges from \$50 to \$260—a cost that could be avoided by keeping people in their homes.²⁶

Pathway to Passing Right to Counsel in Oakland

Status Quo of Eviction Defense in Oakland

Ensuring housing stability for low-income renters is a stated priority for the City of Oakland. The City currently administers and funds programs to support tenants and

provide eviction defense. They largely do so by providing grants to an active network of organizations that advocate for tenant rights and provide education, supportive services, financial assistance, and legal service to tenants. However, organizations providing legal services are unable to provide full-scope legal representation to all tenants at risk of and experiencing evictions due to lack of capacity.

At the time of print, Oakland's eviction moratorium was still in effect. The moratorium was adopted by the City Council in March 2020 in response to the economic and health impacts of the COVID-19 pandemic and prohibits landlords from evicting tenants even if they have not paid rent. Even with an eviction moratorium, advocates and legal service providers report that property owners continue to pursue informal evictions by making verbal threats or withholding repairs and services.²⁷

Estimating the Size of RTC in Oakland

I estimate the size and cost of an RTC program in Oakland based on the rollout of the RTC program in San Francisco. If Oakland were to see similar rates of program participation as San Francisco, I estimate that approximately 1,560 Oakland residents will seek out Right to Counsel services per year.

Approximately 1,560 Oakland residents will seek out Right to Counsel services per year

This estimate is calculated using San Francisco's RTC program data and 2019 eviction data provided by the Oakland Rent Adjustment program. Though data for more recent years are available, Oakland eviction rates in 2020 and 2021 were impacted by the city-wide eviction moratorium, and advocates expect eviction filings to return to pre-pandemic rates when the eviction moratorium is lifted.

In the first six months of San Francisco's RTC program (July - December 2019), 1,634 people sought out RTC services while approximately 625 eviction notices were filed (excluding three-day notices).^{28,29} Approximately 2.6 times more people sought RTC services than the number of evictions filed during that time. This indicates that tenants seek out RTC services for a broader range of housing needs than solely legal eviction defense.

In Oakland in 2019, there were 6,033 total eviction notices, but 90 percent of these were three-day notices.³⁰ In other words, approximately 600 non-three-day notices were filed in Oakland. Assuming San Francisco's experience of providing 2.6 times more RTC services than the number of filed eviction notices, I estimate that approximately 1,560 residents (600 multiplied by 2.6) will seek out RTC services annually in Oakland.

Estimating the Cost of RTC in Oakland

I estimate the program cost based on the RTC program budget put forward by the San Francisco Mayor's Office of Housing & Community Development (SF MOHCD).³¹ SF MOHCD budgets \$220,000 for a "fully loaded" RTC attorney with an average annual case workload of fifty. This cost includes the labor of staff attorneys, supervision attorneys, paralegals, intake specialists, and social workers and a \$300 litigation fee per client. To serve 1,560 tenants, Oakland would require the following roles for a fully staffed RTC program: thirty-one tenant attorneys, ten paralegals, ten social workers, six supervising attorneys, and five intake staff. Using SF's program costs as a baseline, I estimate that a fully staffed RTC program in Oakland will cost approximately \$6.8 million per year (thirty-one "fully loaded" attorneys times \$220,000).

A fully staffed RTC program in Oakland will cost approximately \$6.8 million per year

Establishing Right to Counsel in Oakland

A Right to Counsel program can be created through a City Council vote or a citizens' initiative ballot measure. The City Council can establish a program that expands access to legal counsel for Oakland tenants by allocating funding and expanding provider capacity. Though this is an important first step, it is distinct from establishing a guaranteed right to counsel that enshrines RTC as a legal entitlement. Making eviction defense a legal entitlement will require a change to the City Charter through a simple majority vote by Oakland residents. This vote can come through a ballot initiative, which provides a pathway for residents to put new laws and charter amendments on the ballot for a direct vote. San Francisco serves as a successful example of passing RTC through a citizens' ballot initiative in 2018.

According to tenant advocates interviewed for this article, one benefit of creating an RTC program through a City Council vote is that it is a more straightforward way to establish the program and fund the functions. It also appears to be politically feasible. Most current City Council members have supported past tenant protection measures, including one of the country's strongest pandemic eviction moratoria, and they would likely support RTC if the policy is put up for a vote. Though the Council can vote to establish an RTC program, a vote by Oakland residents will still be required to establish RTC as a guaranteed legal right.

Though a citizens' ballot initiative requires more coordination and funding, the organizers of San Francisco's Prop F campaign, which established RTC in 2018, say there are distinct advantages to pursuing a ballot measure. First, tenant advocates have full control over writing the legislation, and the protections cannot be amended during the negotiation process with elected officials and staff. An RTC ballot measure will also bring more publicity to the issue. Election press coverage can help to raise awareness of the

policy so that more community members are aware of their rights under RTC. Additionally, elected officials would be held accountable to follow through with funding the program, as funding is not necessarily guaranteed once RTC is established, as described in the following section. Finally, advocates say that an RTC ballot initiative has a high likelihood of passing in Oakland because it would appeal to the 60-percent majority of Oakland residents who rent their home.

Ensuring a Dedicated Source of Funding for RTC

The work to guarantee RTC does not end when the program is established and a vote for the right is passed. Continued advocacy is needed to ensure that the city allocates sufficient funding to fully staff the program. For example, after advocates passed RTC in New York City, organizations were unable to secure funding for a full rollout to the entire city. Their interim approach was a phased rollout, which prioritized high-eviction, high-poverty neighborhoods in the first years of the programs with the goal to cover the entire city within five years.

RTC advocates who helped start the program in New York and San Francisco express confidence that after funding RTC for several years, the program costs will become part of the annual budget with a dedicated source of funding.³² However, housing advocates across the nation assert that the challenge of securing a dedicated source of funding is one of the primary barriers to passing RTC. For example, Los Angeles housing advocates say that though Los Angeles City Councilmembers are sympathetic to the need for RTC, they are reluctant to advance RTC without knowing how it will be funded.³³

Current tenant protection services in Oakland are funded through a combination of state, local, and philanthropic funding sources. The following funding sources could be expanded or leveraged for Oakland's RTC program:

PHILANTHROPIC FUNDING

Keep Oakland Housed (KOH), a joint public and philanthropic effort to prevent homelessness and displacement among households with extremely low incomes, was launched in 2018 with a \$9 million grant investment by Kaiser Permanente and the San Francisco Foundation.³⁴ The philanthropic funding supplements the \$36.9 million that was allocated to Oakland through the CARES Act. In the first two years of the program, KOH spent \$2.5 million on legal services, but legal representation was limited to residents making under 50 percent of area median income. Philanthropic funding has helped lay the groundwork for providing eviction defense services to Oakland residents. The passage of RTC would expand the legal services already provided through KOH and make these eviction defense services available to all Oakland residents, not just who qualify for the KOH program based on income. Future sources of philanthropic funding can go toward building the administrative and operational infrastructure of an RTC program, which may look like a scaled up KOH program.

STATE FUNDING

The 2022-23 California state budget includes \$30 million for legal aid for eviction prevention, though it is not yet clear how much of this funding will be designated to Oakland.³⁵

FEDERAL FUNDING

Much of Oakland's funding for tenant support services in the 2020-21 fiscal year is from federal pandemic relief. The following funding sources can be used to launch an RTC program as the City seeks permanent funding from other revenue sources for future years:

FEDERAL CARES ACT COMMUNITY DEVELOPMENT BLOCK GRANT CORONAVIRUS (CDBG-CV) FUNDS

Up to approximately \$2.5 million of CDBG-CV funds can be used for housing stability and homelessness prevention in connection with the provision of rental assistance.³⁶

FEDERAL EMERGENCY RENTAL ASSISTANCE PROGRAM (ERAP)

Oakland received two rounds of the ERAP (totaling \$32.4 million), of which 10 to 15 percent can be used on "administrative costs" for project delivery, including legal services for eviction cases.³⁷

PROGRAM FEES

Oakland can consider imposing a fee for each rental unit, similar to how Oakland's Rent Adjustment Program (RAP) is funded. RAP's funding primarily comes from a \$101 fee that property owners must pay for each rental unit, which brings in approximately \$8 million each year.³⁸

Ensuring Just and Effective Implementation of RTC

Advocates from San Francisco and New York's RTC programs offer the following suggestions to ensure effective implementation of an RTC program:

BUILD PUBLIC AWARENESS ABOUT RTC AND PROVIDE EFFECTIVE PREVENTION AND PRE-LITIGATION SERVICES

One of the goals of RTC is to prevent disruptive displacements. It is critical to assist tenants in situations of landlord harassment, threats, illegal lockouts, or other tactics used by landlords to intimidate tenants. Tenants are vulnerable to illegal eviction attempts and may leave their apartments without just cause or having an official complaint filed in court against them. Comprehensive tenant education and outreach efforts, as well as counseling, legal advice, and limited scope representation, will help tenants before they either leave their apartments or receive a formal eviction complaint.

BUILD UP LEGAL CAPACITY TO ENSURE A HEALTHY PIPELINE OF TENANT ATTORNEYS

Oakland has a strong network of existing tenant advocacy groups that are already in place and can serve as a jumping off point to implement RTC. Specifically, East Bay Community Law Center (EBCLC) has a partnership with the UC Berkeley School of

Law, which can serve as a pipeline for tenant attorneys. EBCLC currently runs one housing clinic with law students and attorney supervisors, which could be expanded with sufficient funding.

COORDINATE AND WORK WITH THE COURTS TO CHANGE PRACTICES AND CULTURES

Many housing advocates lament that courts are often hostile to tenant needs and experiences. However, building an effective relationship with the courts, including with judges, clerks, and staff, is a critical component of successful RTC implementation. Shifts that New York and San Francisco practitioners have pushed for include updating eviction documents to include information on RTC, including contacts for RTC legal services; making space in the courts for RTC practitioners to meet with tenants; and educating clerks, help centers, and court navigators to ensure they know about RTC services.

Recommendation

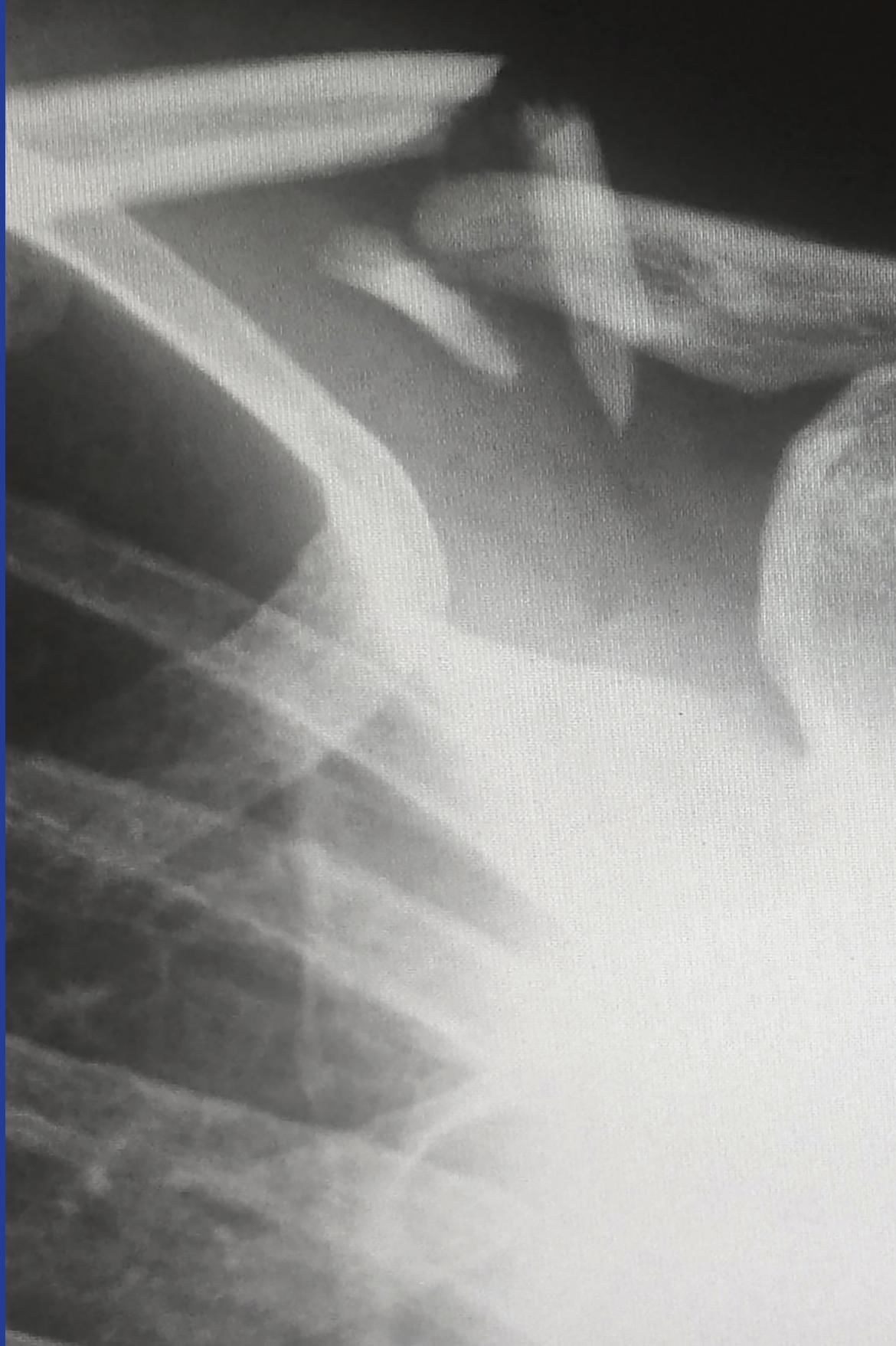
Right to Counsel (RTC) must be included as an essential element of Oakland's approach to quell the displacement of low-income and Black residents and to combat the growing homelessness crisis. The Oakland City Council should create a citywide RTC program that provides all tenants experiencing evictions with full-scope legal counsel. The RTC program would build on the city's existing Keep Oakland Housed and Oakland Housing Secure initiatives and would coordinate with the Rent Adjustment Board to ensure all tenants have a low-barrier way to access legal services when they are facing eviction. The program should include proactive outreach, education, and preventative services in vulnerable neighborhoods, and feature the message that all tenants who are at risk of eviction have access to a free attorney. Although the goal of the program is to reach all Oakland renters, in the first years of the program, the city can consider focusing its outreach resources in priority zip codes and toward residents earning below 80 percent of the area median income.

The ultimate goal of an RTC program in Oakland is to establish a universal right with universal eligibility. A universal right for all people irrespective of income is different from expanding access or providing "universal access" to eviction counseling. Advocates explain that creating a universal right that is accessible to everyone strengthens the effectiveness of the policy. Because the policy will apply to everyone, it will limit the loopholes that landlords could use to keep tenants from seeking counsel. Universal eligibility can also strengthen the credibility of RTC; by making RTC available to everyone regardless of income, it counters the perception of it being a substandard program for poor people. Furthermore, providers share that the cost of eligibility screening will likely be higher than the cost of representing those tenants who are screened out if the program were to be means-tested. Finally, a guaranteed right will be more effective at holding city representatives accountable to allocate sufficient funding to fully resource eviction services. A guaranteed right can serve as a tool for advocates to compel cities to dedicate adequate funding and to ensure compliance so that tenants receive the eviction legal defense they have a right to.

To this end, after establishing a citywide RTC program, a coalition of advocates should put forward a ballot measure to establish RTC as a guaranteed right on the City Charter. This ballot language and campaign can be modeled after San Francisco's Prop F, which won by over 11 percentage points in the November 2018 election.

In light of the widespread and extreme risk of eviction, which will continue to grow without substantial interventions, the need for an expanded right to counsel to close the eviction "justice gap" is extraordinary. RTC is critical to the attainment of housing and racial justice in Oakland.

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India's Faltering Health System and Lack of Universal Health Coverage

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Abstract

While India has made considerable progress on several health indicators over the last decade, it continues to lag in providing universal health coverage to its citizens. Affordable, accessible, and high-quality healthcare remains a privilege, not a fundamental right, for a significant proportion of the Indian population. The lack of access to essential healthcare has further been exacerbated during the COVID-19 pandemic. There is a strong need for the government to invest in healthcare and work toward universal health coverage in the country. This policy analysis looks at three policy solutions to ensure universal health coverage in India: maintain the Government of India's flagship program Ayushman Bharat (the National Health Protection Scheme); recognize universal healthcare as a constitutional right for every citizen in the country; and undertake strategic purchasing for primary health service delivery. Based on an analysis of each alternative's effectiveness, equity, and political feasibility, it is recommended that the Government of India continue Ayushman Bharat, as well as establish a greater commitment toward strategic purchasing for primary healthcare service delivery.

Introduction

India made news headlines in early 2021 when it surpassed the highest recorded COVID-19 deaths in a single day globally (4,529 deaths as on May 18th, 2021).¹ High rates of COVID-19 transmission coupled with an already weak health infrastructure and inaccessible essential services resulted in an overburdened health system unable to meet the needs of the population. Behind India's COVID-19 story is an underlying problem: the lack of universal health coverage. A significant proportion of the Indian population is unable to access affordable, high-quality, and essential healthcare, leaving them vulnerable to catastrophic health and economic consequences.

While India has made considerable progress on several health indicators over the last decade, it continues to lag behind in providing universal healthcare coverage to its citizens. Affordable, accessible and high-quality healthcare remains a privilege, not a fundamental right. This article considers three policy solutions to ensure universal healthcare coverage in India.

Extent of Healthcare Inadequacy in India

According to the World Health Organization (WHO), "Universal health coverage means that all people have access to the health services they need, when and where they need them, without financial hardship."² Progress toward universal healthcare coverage can be measured by two key indicators: a) the percentage of the population having access to essential and quality health services and b) the percentage of the population spending a large proportion of their household income on health-related costs.³

Universal healthcare coverage is recognized among the targets of the UN's 2030 Sustainable Development Goals, which India has committed to, and is also integrated as a key vision under India's National Health Policy 2017.⁴

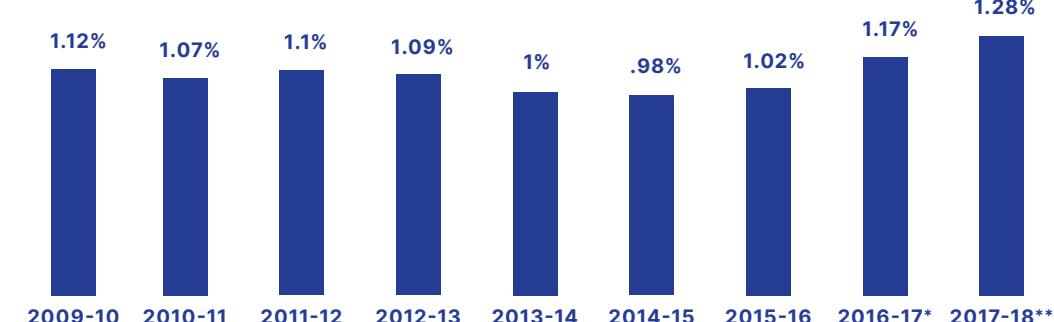
Despite adopting global commitments and policy frameworks toward achieving universal healthcare coverage, India performs poorly in many of its goals. As per the Global Burden of Diseases Study (2016), India ranks 145th out of 195 countries in the Health Quality and Access Index—far behind neighboring developing countries such as Myanmar, Bhutan, and Bangladesh.⁵ WHO's universal health coverage index data suggests that India's performance on essential health service coverage stood at 55 percent in 2017, indicating a high unmet need for essential healthcare.⁶

There are 16 essential services that the WHO uses as indicators to measure universal healthcare coverage.⁷ Significant disparities in access to these essential services exist between states and socioeconomic population groups. For instance, only 21 percent of pregnant women had access to full antenatal care between 2015 and 2016, with poor states such as Bihar and Nagaland reporting coverage of 3.3 percent and 2 percent respectively.⁸ These figures represent access to health services among the overall population in these states, but marginalized groups including Dalits, out of school adolescent girls, and tribal populations face an even higher risk of being excluded from the benefits of existing national health programs.⁹ A variety of social determinants, such as age at first marriage, literacy level, class, caste, and gender, perpetuate significant disparities in access to and quality of healthcare.

What is Driving the Problem?

While there are several barriers to universal, high-quality healthcare, optimum financing for services remains an area of particular concern in India's public health landscape. High out-of-pocket health expenditures can significantly alter the household budget, reduce consumption of non-health goods and services, and push many families into poverty. Additionally, the current government

PUBLIC EXPENDITURE ON HEALTH AS A % OF GDP



*Revised estimates: This includes the additional amount that may be required for different programs, which is requested during the course of the year.

** Budget Estimates: This is the budget allocated by the government for the next financial year and presented in the parliament.

Data Source: National Health Profile 2018

allocations toward healthcare are insufficient and inefficient to fulfill the goal of universal health coverage.

POOR GOVERNMENT INVESTMENT IN HEALTH

India has one of the lowest total expenditures on health at just 3.54 percent of its GDP and spends just \$72 USD per capita on health.¹⁰ Of the total health expenditure, a large proportion (about 63 percent) is paid out-of-pocket, while a mere 27 percent comes from the government.¹¹ Overall government spending in the health sector has seen only modest increases over recent years. Spending on the National Health Mission, a government-sponsored program that has been very effective in providing last-mile healthcare access to poor households, increased by just four percent in the 2021-2022 health budget over the previous fiscal year.¹²

India has the highest out-of-pocket expenditures toward health costs globally. About 17 percent of India's population spends more than 10 percent of their household expenditure or income on health. This is four points higher than the global average of 13 percent of the population.¹³ In 2011, 17.3 percent of India's total population faced financial

hardship because of out-of-pocket spending on healthcare. In the same year, catastrophic out-of-pocket health expenses pushed 3.2 percent of the Indian population (40 million people) below the poverty line.¹⁴ As per the National Health Profile 2018, only 34 percent of the population in India had health insurance coverage in 2016-17.¹⁵

India has the highest out-of-pocket expenditures toward health costs globally.

POOR UTILIZATION OF FUNDS AND LOW-PRIORITY STATUS ACCORDED TO HEALTH BY STATES

In India, healthcare is under the purview of the states, as opposed to the national government, and therefore program implementation and healthcare budgeting is dependent on state priorities and decision-making. Unfortunately, state governments accord different levels of priority to health relative to other state issues such as agriculture, education, or economic development. This is reflected in the minimal investment in health programs



Photo credit: Danish Siddiqui/Reuters

in some states and districts. For instance, nationally, only 32 percent of the overall National Health Mission budget for 2020-2021 was utilized by the end of the first two quarters.¹⁶ However, spending varied drastically across states. Kerala, Telangana, and Andhra Pradesh spent more than 50 percent of their allocated funds by the end of first two quarters, while states such as Bihar, Uttar Pradesh, and Rajasthan spent less than 25 percent during the same time period.¹⁷

INSUFFICIENT QUANTITY AND CAPACITY OF HEALTHCARE WORKERS

There are insufficient healthcare workers in India, and their density is heavily skewed toward urban areas. The geographic disparities create significant gaps in access for people on the margins of society. Further, the capacity of health workers to provide unbiased and quality care to patients is limited. Cases of provider bias in medical treatments and procedures, such as abortion, family planning, maternal health, and adolescent health, are common. These biases deprioritize the rights and comfort of people seeking care, affecting the overall health-seeking behavior of marginalized groups such as women, adolescent girls, and members of the LGBTQ community. Various indicators, including hospital bed density, healthcare worker density, and access to essential medicines, show significant access

issues and present a grim picture. According to World Bank data from 2017, India has only 0.53 hospital beds per 1,000 people, much lower than the global average of 2.89 per 1,000 people.¹⁸ Similarly, the ratio of physicians in the population stands at 0.86 per 1,000 people as of 2018.¹⁹

Data show that the public health system is the main source of healthcare for about 46 percent of households in rural India, suggesting high dependence on the government-enabled health system.²⁰ Most rural households are unable to afford the high costs of the private sector and, therefore, have to rely on the public health system even when the quality of care offered by the public sector is poor. Close to half of women living in rural areas reportedly have concerns that no provider will be available when they seek healthcare in a public facility.²¹ Fifty percent of rural women also highlight that they consider lack of drugs in the public health system to be a large barrier toward seeking proper treatment.²² The systemic exclusion of certain groups from the right to good health and wellbeing is an important issue for the Indian government to address.

Additionally, due to the absence of a competitive public healthcare system, the private sector does not have an incentive to improve its quality of care. The private sector is

therefore able to take advantage of information asymmetries and lack of financial protection by charging higher costs for tests and diagnostics. During health crises such as the COVID-19 pandemic, lack of access to essential services affects both the individual and society, making it an essential point for government intervention.

The systemic exclusion of certain groups from the right to good health and wellbeing is an important issue for the Indian government to address.

the insurance component of the program have increased from INR 33,140 million (roughly USD 435,375) in 2019-2020 to INR 64,290 million (USD 844,600) in 2020-2021.²⁶ According to the MoHFW, the program has helped 2.9 million people save INR 120,000 million (roughly USD 130,852,920) in out-of-pocket spending on health-related emergencies since its launch.²⁷

Ayushman Bharat is currently being implemented across 33 states and union territories in India. While most state governments have adopted the Ayushman Bharat program and have rolled it out, three states—namely Odisha, Delhi and West Bengal—chose to opt out of it citing political reasons and existing state level schemes.²⁸ The political feasibility of maintaining this program is high, given the existing financial investment and national promotion of and attention to this model.

While evidence on the success of the program is currently limited, early findings from the government's own research points toward disparities in the uptake of services under the program.²⁹ Contrary to the program's objectives, states such as Bihar, Uttar Pradesh and Madhya Pradesh, which have high poverty rates and disease burden, have the lowest number of insurance claims filed.³⁰ Reasons behind the low utilization of services and enrollment include lack of awareness about the program, supply-side issues such as lack of empaneled hospitals in rural areas, and the inability of the Socio-Economic Caste Census (SECC) as an eligibility criteria to capture all vulnerable population groups.³¹ Further, the successful rollout of the scheme has also depended hugely on the implementation capacity and governance mechanisms in states. States with a higher need for the program have failed to implement the scheme effectively, as is evident in their low utilization rates.³²

Several challenges also stand out in the design of the policy. Experts have argued that the reimbursement rates for medical services and procedures, which are provided free of cost by participating hospitals, are very low. This

can potentially disincentivize private providers from participating in the program and result in a decline in the quality of offered services.³³ Data suggests that the private healthcare infrastructure currently remains limited in its ability to expand coverage under the program. Only about three percent of all private hospitals are eligible under the program; this is far too little to cater to the target population.³⁴ Overall, the program faces several challenges both in terms of design and implementation, and limited evidence suggests that disparities persist in expansion of health protection in states with weaker health systems.

Constitutional Right to Health

The Constitution of India guarantees its citizens six basic human rights and civil liberties to lead a life of dignity in the country; health is not among these six fundamental rights. While health and wellbeing have been referred to in various provisions of the Indian Constitution, such as in the Directive Principles of State Policy and, more broadly, in the interpretation of Article 21 (Right to Life), health could be explicitly recognized in the Constitution as a fundamental right of every citizen.

Integrating access to health as a fundamental right in the Constitution of India would require the passage of an act in both the lower and upper houses of the parliament. The act would amend Part III of the Indian Constitution which details the fundamental rights. A rights-based approach would hold both national and state governments constitutionally accountable for ensuring universal health coverage and would give healthcare issues priority in the national and state development agendas.

The passage of a special legislation to that effect has the potential to empower healthcare providers, necessitate political action, and result in greater resource allocation toward public health at different levels of government. Research suggests that reductions in neonatal and infant mortality rates are as-

A rights-based approach would hold both national and state governments constitutionally accountable for ensuring universal health coverage and would give healthcare issues priority in the national and state development agendas.

sociated with strong democratic governance mechanisms and a constitutionally mandated right to healthcare.³⁵ Brazil, which has recognized universal health coverage as a right in its constitution, makes for a successful case study for this policy alternative.³⁶

Enshrining universal healthcare as a fundamental right of every citizen regardless of their socio-economic status would have major equity implications. It would guarantee a better standard of living and greater dignity, health, and wellbeing for marginalized population groups, such as Dalits, Scheduled Tribes, women, members of LGBTQ community, and people with disabilities. A constitutional right to health would frame public health as a priority in the political agenda. More importantly, state governments with poor performance on public health indicators would have a constitutional obligation to expand coverage to all sectors of society.

The demand for constitutional right to health has primarily come from civil society organizations, public health experts, and community-based organizations in India. Few politicians have called for such a provision in the constitution. In 2017, a private member bill was tabled by the Member of Parliament V Vijayasai Reddy, calling for an amendment to the constitution to insert Article 21 B that would recognize health as a fundamental right of every citizen in India.³⁷ The bill did not receive parliamentary approval. Since the beginning of the pandemic, however, more experts have come out in support of health being a constitutional mandate.

Importantly, a constitutional mandate would have to be supported by strong governance and implementation capacity on ground. Without proper planning, budgeting and management of new and existing programs, a constitutional provision may not translate to improved outcomes.

Strategic Purchasing for Primary Health

Currently, several public health programs aim to ensure equity and last-mile outreach to remote areas where most marginalized communities reside. However, the capacity of the public system to deliver high-quality and affordable healthcare to every person is limited due to budget constraints and lack of human resources. As such, the private sector can bridge critical gaps in health infrastructure, health service delivery, and human resource challenges. Strategic purchasing of services from the private sector can help the Indian healthcare system reduce costs, improve efficiency and equity, and close the critical gaps in health service delivery, specifically at the primary healthcare level.³⁸

Strategic purchasing of services from the private sector can help the Indian healthcare system reduce costs, improve efficiency and equity, and close the critical gaps in health service delivery, specifically at the primary healthcare level.

WHO defines strategic purchasing as "a continuous search for the best ways to maximize health system performance by deciding which interventions should be purchased, how and from whom."³⁹ Strategic purchasing involves identifying: a) the services to be purchased based on demographic indicators and population needs; b) providers who are able to ensure efficient, quality service delivery; and c) purchasing mechanisms and agreements.⁴⁰

Given the low density of the healthcare workforce, India should adopt a strategic purchasing framework. This would mandate the establishment of a purchasing agency responsible for receipt, pooling, and distribution of funds to public and private providers on the basis of performance indicators, similar to the purchaser-provider split model in Thailand and United Kingdom.⁴¹

Purchasing services from private health providers can improve effectiveness, quality of service delivery, and efficiency of resource allocation. Strategic purchasing helps ensure that scarce resources are distributed and utilized efficiently to enable wider coverage and provide protection from financial risk. A centralized authority, such as the existing National Health Authority within the Ministry of Health and Family Welfare, can function as a purchasing agency with the responsibility of managing and distributing funds on the basis of demographic and health system needs of different states. Since this approach integrates regular performance monitoring and quality assessment, it would help ensure greater accountability for health. The performance of private providers can also be measured on equity indicators which will incentivize provision of good quality care to all sections of the society.

Private healthcare providers can intervene in the health system at different levels especially where infrastructure, equipment, and health workforce capacity are poor. Strategic health purchasing can effectively solve the problem of low health worker capacity in rural areas through public-private partnerships and can be adopted at different scales (from managing an entire health facility to just recruiting specialized medical staff. This intervention could result in provision of higher quality services for a significant proportion of the rural, poor, and marginalized population.

The Government of India currently partners with the private sector for health service delivery in several ways, including service provision, management of supply chains, social marketing, and more. Private health pro-

viders are reimbursed for their services under various different programs. The Ayushman Bharat program utilizes private providers to offer a package of services free of cost, and providers are reimbursed as per package rates set by the government. India's premier government think tank Niti Ayog has also recommended strategic purchasing to expand health coverage in the country.⁴² However, strategic health purchasing will be more politically feasible if carried out in strategic stages to build trust and alleviate tensions and public opposition.

Recommendation

Considering the effectiveness, feasibility, and equitableness of each of the three alternatives described above, I conclude that India's best course of action would be to maintain and improve the existing Ayushman Bharat program while also implementing strategic purchasing for primary healthcare provision. Given the Government of India's commitment to the Ayushman Bharat scheme, it has the potential to alleviate financial risk posed by health emergencies.⁴³ However, the program should be strengthened by addressing the implementation and design issues that are evident. Strategic health purchasing has been widely acknowledged as a critical process for equitable distribution of resources toward achievement of universal health coverage and should be adopted.⁴⁴

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Federal Policy Solutions for Undocumented Immigrants in the U.S.

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Abstract

The United States has a broken immigration system that has failed to protect the millions of undocumented immigrants in the country. Undocumented immigrants have made tremendous contributions to our culture and society, and the COVID-19 pandemic has shown that we rely on immigrant communities to sustain our economy. Immigration relief is urgently needed, as Congress has not passed comprehensive immigration reform in nearly forty years. Congress must act to pass legislation that works to increase justice, remove barriers, and create more opportunities for undocumented immigrant communities to live their lives with dignity and without fear of deportation.

Executive Failures

The United States runs a broken immigration system that has historically failed to support, uplift, and protect undocumented immigrants in this country. Due to Congressional inability to pass comprehensive immigration reform, past U.S. Presidents have been forced to step in and alleviate hardships faced by this community. Measures such as the Deferred Action for Childhood Arrivals (DACA) program, created by the Obama Administration via executive action on June 15, 2012, highlight the shortcomings of temporary deportation relief programs.¹ The program has faced several legal challenges since its creation, such as Texas et al. v. United States et al in 2018, leaving DACA recipients in constant limbo. Additionally, hundreds of thousands of undocumented immigrants are left behind in temporary deportation relief programs that aim to protect only a small subset of immigrants in the U.S. that meet certain criteria. These temporary relief programs are not sustainable solutions because they are subject to change or termination depending on the administration in office, leaving undocumented immigrants in distress.

When the Trump Administration came into office in 2016, many immigrants were in distress due to President Trump's xenophobic attacks on immigrant communities. From the Muslim ban to public charge, to imposing restrictions on asylum seekers, to slashing refugee admissions to the U.S. in half, the administration threatened to dismantle the legal immigration system in this country.² On September 5, 2017, the administration terminated the DACA program. This decision led to immigration advocates, including several states, corporations, organizations, and universities, filing litigation challenging the Trump Administration. The host of challenges resulted in a Supreme Court ruling that the termination of DACA was unlawful on June 18, 2020 in the Department of Homeland Security v. Regents of the University of California ruling.³ The Supreme Court ruling reinstated DACA to its original

form. Consequently, a federal judge prompted the Department of Homeland Security to begin accepting first time applications again on December 4, 2020.⁴ This decision was monumental as it was the first time that first time applicants could apply for DACA since September 2017.

However, the fate of DACA recipients is once again uncertain. On July 16, 2021, the DACA program was deemed unlawful by Judge Andrew S. Hanen of the U.S. District Court for the Southern District of Texas.⁵ There are many implications of the ruling by the U.S. District Court for the Southern District of Texas that deems DACA unlawful. While the ruling allows the program to continue for the 650,000 current DACA recipients, the federal government cannot approve any first-time applications filed after July 16, 2021. Around 300,000 immigrant youth who are now eligible to apply to DACA for the first time will experience major delays on decisions for their applications.⁶ Consequently, the perpetual legal challenges to the DACA program cause an immense amount of stress, anxiety, and insecurity to recipients and their families.

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One of the many benefits of the DACA program is the opportunity to gain employment authorization and work legally in the U.S. Ending the DACA program would have grave economic and societal repercussions as immigrant families rely on DACA to work legally, maintain financial stability, and feed their families. There are around 250,000 children born in the U.S. who have at least one parent that is a DACA recipient, and 1.5 million people live with a DACA recipient as well.⁷ Without DACA, immigrants face the threat of deportation, being separated from

their families, and losing their jobs; completely upending their lives.

Congressional Failures/Shortcomings

Congress is the only lawmaking body that has the constitutional power to create a pathway to citizenship for the 10.2 million undocumented immigrants in the United States.⁸ Unfortunately, it has been almost forty years since Congress has passed comprehensive immigration reform. Policy change is urgently needed in order to create a more just and equitable immigration system. Moreover, the U.S. has always been a beacon of hope and opportunity for individuals around the world seeking protection, refuge, and a better life. Immigrant and refugee communities have made massive cultural and economic contributions to this country.

Creating a pathway to citizenship for undocumented immigrants is not only the right thing to do but would greatly benefit the U.S. economy and lead to economic growth. The Center for American Progress states that creating a pathway to citizenship for undocumented immigrants would increase GDP by \$1.7 trillion over the next ten years, create 438,800 new jobs, and increase an American worker's annual wages by \$700.⁹ Failing to create a pathway to citizenship for undocumented immigrants will be a missed opportunity for generating more jobs and boosting the U.S. economy. Nonetheless, this benefit is contested by strong anti-immigrant sentiments among conservatives who believe that immigrants threaten the job prospects of American citizens.

Our legal immigration system has always been a highly contentious policy issue in U.S. politics. Unfortunately, there is a lack of bipartisanship in Congress as it relates to passing comprehensive immigration reform, despite polling data that shows that the majority of American citizens are in favor of a pathway to citizenship for undocumented

immigrants.¹⁰ Republicans lack the political will to vote for favorable immigration policies because legislators represent the interests of their constituents and seek to win re-election. The Party uses immigrants as a scapegoat for their bases' economic hardships and tribulations. Consequently, this narrative has caused a gridlock in Congress on immigration reform for decades.

There is a lack of bipartisanship in Congress as it relates to passing comprehensive immigration reform, despite polling data that shows that the majority of American citizens are in favor of a pathway to citizenship for undocumented immigrants.

The recent rhetoric and fearmongering used by the Trump Administration about immigrants indicate that xenophobia remains an underlying issue in the Republican base. Nonetheless, the political environment is promising for Democrats and moderate Republicans to come together to pass a bipartisan immigration bill in order to create a more humane immigration system. I present two viable policy options that could create a pathway to permanent residency, and ultimately citizenship for undocumented immigrants. These options are to include immigration protections in the budget reconciliation package and to advance the immigration registry date.

The Current Immigration System

Currently, many undocumented immigrants and immigrants with temporary status lack a pathway to citizenship. However, one of the primary ways that undocumented immigrants can gain legal status is through family-based

visas, via a petition from a U.S. citizen or lawful permanent resident parent, spouse, child, or sibling. Currently, DACA recipients, Temporary Protected Status (TPS) recipients, and Deferred Enforced Departure (DED) recipients have no pathway to citizenship. They must have a U.S. citizen or lawful permanent resident parent, spouse, child, or sibling to adjust status to that of a permanent resident, and then apply for naturalization after some time, depending on the relationship with a qualifying family member. Under the status quo, many undocumented immigrants without legal or lawful status are left behind by immigration programs that target specific subsets of the undocumented immigrant population who fit the narrow criteria for those programs.

The current system does not meet the pressing needs of immigrant communities because of the numerical limits on visas, long processing times, and eligibility requirements. For those who do have a qualifying family member here in the United States and meet the eligibility requirements (including income requirements), under immigration law there are numerical limits on how many green cards can be issued per year (there is an exception for immediate relatives of U.S. citizens, for whom visas are always available). Additionally, there are limits by country, as no more than 7 percent of all immigrant visas can be given to a single country in a year.¹¹ Visa limits have long-since created extremely long waiting periods for family-based immigration. Waiting periods were exacerbated by the Covid-19 pandemic as processing times for millions of immigration applications were delayed and interviews were postponed, worsening the backlog in our immigration system.¹²

For many immigrants, it can take decades for visas to become available for them to adjust their status to that of a permanent resident, and eventually, to citizenship. During that time, you must maintain good moral character (i.e. have no criminal issues, and oftentimes, maintain physical presence in the United States) unless you are granted ad-

vanced parole. Given these factors, the status quo does not serve undocumented individuals as it does not create more security and stability in their lives, nor does it protect them from deportation.

Immigration Protections in the Budget Reconciliation Package

Democratic leaders in Congress have proposed including funding for immigration reform in the budget reconciliation package. The immigration provisions would be included in H.R. 5376, the Build Back Better Act, which Democrats hope to pass through the budget reconciliation process.¹³ The Build Back Better Act is a social policy bill that would increase funding for social safety nets, including childcare and Medicare, housing, education, and fight climate change.¹⁴ One of the stipulations of the budget reconciliation process is that the provisions must have a real impact on the federal budget, meaning that it must either raise revenue or add to the deficit.¹⁵

In the current House version of the bill, this proposed policy alternative would include \$100 billion dollars to reform our immigration system. It would also give undocumented immigrants protection from deportation and work permits on a case-by-case basis.¹⁶ The House bill includes visa recaptures, which would allow immigrants to access 2.2 million unused green cards.¹⁷ Recapturing unused visas dating back to 1992 has the potential to reduce application backlogs by almost twenty years.¹⁸ The bill would also provide support to families with children, regardless of immigration status, by re-granting them access to the Child Tax Credit.¹⁹ This income support was revoked for immigrant children without social security numbers by the Trump administration.

The immigration protections in the Build Back Better Act would grant parole, providing temporary protection from deportation

for nearly eight years, work authorization, and drivers licenses to 6.5 million undocumented immigrants, legal temporary workers and their families.²⁰ The Congressional Budget Office (CBO) states that 3 million people would be able to gain permanent residency after receiving parole. This is because “anyone who is married to a U.S. citizen, is the parent of an adult U.S. citizen, or is the minor child of a U.S. citizen could immediately adjust to legal permanent residence after receiving parole because being “paroled” removes the illegal entry bar to adjusting to permanent residence.”²¹

While this is monumental, one of stipulations is that an applicant must have entered the U.S. prior to January 1, 2011 and maintained continuous residence here since then.²² This cutoff date leaves millions of undocumented people who entered the United States in the last ten years behind, as they would not qualify to apply for parole. The CBO estimates that only 3 million people would gain permanent residency, while 3.5 million others would not qualify to adjust status.²³ The lack of a pathway to citizenship or permanent residency for those 3.5 million people would subject them to the hardships experienced by many immigrants under temporary relief programs, such as expensive application fees for work authorization, requesting permission to travel outside of the country, and not having the right to vote. Build Back Better would increase fees for immigration applications, which places a financial burden on low-income applicants.²⁴

Advancing the Immigration Registry Date

It has been more than 35 years since the immigration Registry has been updated. However, on July 20th, 2022, legislation was introduced in the U.S. House of Representatives by Representative Zoe Lofgren (D-California) and on September 28, 2022, Senator Alex Padilla (D-California) introduced a bill in the U.S. Senate that would update the existing

Registry status. The “Renewing Immigration Provisions of the Immigration Act of 1929” would amend section 249 of the Immigration and Nationality Act (INA) so that immigrants who are long-term residents of the U.S. and have lived in the U.S. continuously for at least seven years before filing their application for permanent residency are eligible to apply for their green card under Registry.²⁵ Updating the immigration registry would allow up to 8 million people, including Dreamers, TPS holders, children of long-term visa holders who face deportation, essential workers, and highly skilled members, including H-1B visa holders, to apply for their green cards and become lawful permanent residents.²⁶ If this bill is passed and enacted to law, it is estimated that undocumented workers would contribute approximately \$83 billion to the U.S. economy annually and nearly \$27 billion in taxes.²⁷

One of the criteria for becoming a permanent resident under the Registry Act of 1929 is longstanding presence in the U.S., regardless of an immigrant’s status or manner of entry into the United States, among other criteria.²⁸ The registry provision would establish a record of lawful admission into the United States, and would allow undocumented immigrants to become permanent residents, and eventually citizens.²⁹ The date of entry cutoff date has been advanced four times since the passing of the Registry Act of 1929, but the immigration registry has not been updated since 1986, when the date of entry was last updated to January 1, 1972.³⁰ Under this alternative, Congress would completely remove the date of entry cutoff, which would place it on a rolling basis instead of tying it to a specific date.

If the immigration registry date were advanced...6.8 million immigrants would be eligible to become permanent residents.

Astonishingly, only 73,000 immigrants have secured a green card through registry since 1985.³¹ There is a strong possibility that opponents of the bill would require Senator Padilla to impose a date of entry cutoff date. In the likelihood that this occurs, the Center for American Progress states that if the immigration registry date were advanced from January 1, 1972 to January 1, 2010, 6.8 million immigrants would be eligible to become permanent residents, including more than 1.5 million immigrants living in California and 1.2 million immigrants living in Texas.³² Registry would allow both undocumented immigrants and immigrants with temporary statuses to adjust their status, and would be transformative and monumental for the immigrant community.

Nonetheless, any immigrant who arrived to the US after the January 1, 2010 date of entry cutoff date (but would otherwise qualify) would be left behind as they would not qualify for the registry. The most equitable option would be to advance the registry date to January 1, 2021, to include those who have arrived most recently to the U.S. Immigration relief is at the discretion of an immigration officer and approved on a case-by-case basis. Thus, the applicant must merit the favorable exercise of discretion, not only by meeting the eligibility criteria, but also by demonstrating good moral character and by having continuous residence in the U.S. since entering the country.

Political Feasibility

The Budget reconciliation process makes passing legislation in the Senate easier with a simple majority, and would allow Democrats to avoid a Republican filibuster.³³ However, while the House succeeded in passing immigration reform in the Build Back Better Act, the Senate Parliamentarian ultimately ruled against Democrats in their third and final attempt in the Senate on December 16, 2021. According to Senate Rules, the Senate parliamentarian must determine what can and cannot be included in the reconciliation bill. The current Senate parliamentarian, Eliza-

beth MacDonough, has also previously ruled against Democrats' plans to create a pathway to citizenship for 8 million undocumented immigrants, stating that the reconciliation process cannot be used to create a pathway to citizenship.³⁴

Experts are divided about whether the Senate parliamentarian would approve changing the registry date in a reconciliation bill. Although registry has had bipartisan support in the past, given our current political climate, advancing the registry date to January 1, 2010 (making 6.8 million undocumented immigrants eligible to become green card holders) would face serious opposition in Congress from Republicans, if it were introduced as a bill. The Republican party is against creating pathways to citizenship for undocumented immigrants. There is a lack of political will to alleviate the hardships faced by the undocumented immigrant community because they must vote along party lines, or face backlash from their base and the Republican leadership.

Recommendation

Given our current political climate, updating the immigration registry so that immigrants who are long-term residents of the U.S (among other criteria) can become eligible to apply for their green card under Registry would be the most equitable policy solution. It would allow up to 8 million people to apply for their green cards and become lawful permanent residents. Registry has the potential to provide relief and advance immigrant communities by creating more security and stability in their lives and protecting them from deportation. Nonetheless, Democrats are operating within a Congress where concessions must be made to the Republican party, who oftentimes use undocumented immigrants as bargaining chips. Certainly, this policy solution will be met with great opposition in Congress as immigration policy remains one of the most divisive and polarizing issues along party lines.

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Mitigating Energy Poverty in Rural and Urban Poor Settlements in Kenya

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Abstract

Energy poverty is caused by insufficient access to clean and affordable energy in poor rural and urban households in Kenya, leading to an overreliance on biomass for everyday use including cooking, heating, and lighting. Attaining a 100 percent transition to clean energy sources, cutting back on indoor pollution from the use of biomass, and devising new ways of raising capital to finance capital-intensive green energy infrastructure projects requires more responsive policies that challenge the status quo. Tax subsidies on Liquified Petroleum Gas (LPG) and investments in solar and wind power sources are the most efficient short-term solutions to transition to clean energy in rural and urban poor settlements. However, diversifying methods of raising capital to finance geothermal energy for expansion of the national grid is a stable and effective long-term way of realizing full transition to clean energy in Kenya. This will help address the energy poverty predominant in rural and urban poor settlements of Kenya.

Global Outlook of Clean Energy Access

Energy poverty can be defined as insufficient access to clean and affordable energy sources for everyday use including cooking, lighting, and heating and cooling. This forces rural and urban poor settlements in Kenya to over rely on traditional biomass energy sources from wood fuel, charcoal, and agricultural residues.¹

As a result, worsening indoor air pollution increases the healthcare burden on these low-income families who may contract respiratory diseases.² Globally, of the 770 million people without access to electricity, 580 million are in Sub-Saharan Africa.³ Conversely, developed countries in the global North have nearly 100 percent access to electricity with huge potential for developing clean renewable energy sources to power their residential and industrial energy consumption needs.⁴

There is a large disparity in the development of new clean energy sources between the global North and global South (Figure 1).⁵ Kenya, and many developing countries fall under the category of "Others" who do not produce or invest much in clean energy sources, either due to inadequate technology or insufficient resources.

Kenyan Context

Kenya has a growing population of 47.6 million people,⁶ with 72 percent of its residents living in rural areas.⁷ According to the 2019 population census, there are about 12.2 million households in Kenya. Only 39 percent of the population live in urban areas, whereas 61 percent live in rural areas.⁸ About 92 percent of rural households and 75 percent of total households in Kenya still do not have access to clean energy for cooking.⁹ Despite being a leading economy in East Africa and

the third-largest developing state in Sub-Saharan Africa by GDP, Kenya still has inadequate access to clean and affordable energy in both rural and poor urban settlements.¹⁰ While there is a gradual increase in uptake of Liquefied Petroleum Gas (LPG) for cooking in urban settlements, the rural population still has poor LPG market infrastructure, and only 3 percent of Kenyan households use electric cookstoves.¹¹

Historically, there have been several progressive policy reforms, including the 1983 Geothermal Resource Act, 1991 Petroleum Development Act, 1997 Electric Power Act, Sessional Paper No.4 on Energy in 2004, Energy Act of 2006, Legal Notice No. 131 of 2012, National Energy Strategy of 2014, Revised National Energy Strategy of 2018, Revised Energy Act of 2019, and Petroleum Act of 2019. These policies have streamlined the energy sector in Kenya by unbundling the generation, transmission, distribution, and retail sales of all forms of energy. However, these reforms are silent on the government's efforts to phase out the use of biomass energy.¹² The current solutions for the clean energy transition are thus slower than the rate of population growth.

The Kenya National Energy Situational Analysis Report of December 2020 reveals that energy demand and consumption is dominated by biomass sources (68 percent), compared to electricity demand (9 percent), and imported petroleum (21 percent).¹³ The International Energy Agency (IEA) forecasts that Kenya could experience faster economic growth if the government made a concerted effort to supply alternative clean energy sources such as geothermal electricity, ethanol fuel, biogas, and LPG to rural and urban poor settlements.¹⁴ This is tenable given that Kenya is endowed with geothermal energy and has more potential for solar and wind power generation.

Kenya has made progress in increasing access to electricity from 42 percent in 2015 to nearly 70 percent in 2019.¹⁵ Of the national

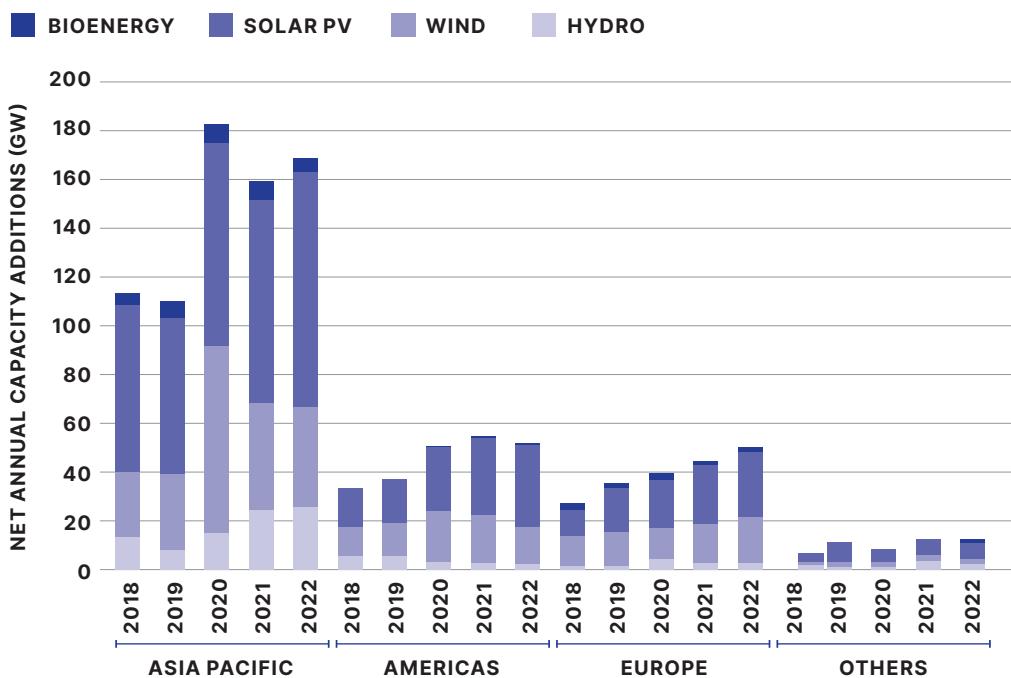
Kenya could experience faster economic growth if the government made a concerted effort to supply alternative clean energy sources such as geothermal electricity, ethanol fuel, biogas, and LPG to rural and urban poor settlements.

electricity supply, 91 percent is concentrated in the cities and urban areas, while 9 percent is in rural areas.¹⁶ Domestic consumption was over 2,000 GWh on average compared to a demand of over 5,000 GWh by small commercial and industrial entities. This affirms an energy supply gap that the government should strive to fill via public-private partnerships between energy investors and multilateral development financing institutions.

FIVE MAJOR PLAUSIBLE CAUSES OF OVERRELIANCE ON BIOMASS ENERGY INCLUDE:

1. Inflated installation and distribution costs due to dispersed rural population/off-grid families, high transmission costs, and poor distribution infrastructure for LPG.¹⁷
2. Low-income levels drive low demand and low purchasing power to cover the high costs of LPG, improved stoves, or clean sources of energy and electricity.¹⁸
3. Over-reliance on biomass energy sources that is cheap and easily accessible, lack of awareness of indoor pollution, and safety concerns with electricity and LPG.¹⁹
4. Poor infrastructure in the rural areas, including inaccessible roads, insufficient funding, and poorly developed markets for LPG in the rural areas.²⁰
5. Lack of a clear government policy to finance or source for development financing needed to phase out biomass as a source of energy.²¹

WORLD NET RENEWABLE ENERGY OUTLOOK



Source: Based on Electricity Market Report (IEA 2021)

Energy poverty in Kenya is a function of the untapped potential of expanding investments in clean energy infrastructure in the rural and urban poor settlements that results from decision making under constraints. It is also a social justice issue resulting from insufficient government focus on subsidizing clean energy supply for the low-income citizens in Kenya, and lack of a clear, specific national policy strategy to phase out biomass as a source of cooking energy.^{22,23}

KENYA MUST ADOPT A POLICY SOLUTION THAT ACHIEVES THREE GOALS:

Increase access to clean energy in rural and urban poor settlements in Kenya by 2030.

Reduce indoor pollution in rural and urban poor settlements in Kenya by 2030.

Explore development financing to mitigate energy poverty in Kenya by 2030.

Current Clean Energy Policy

The Kenya National Energy Policy of 2018 has set the pace for the country's transition into clean energy, and it provided a road map of key priority areas for the government. Under current policies, it is improbable to achieve a full transition to clean cooking energy by 2030. The policies do not make a deliberate commitment to reduce energy poverty through strategies such as investing in increased production of clean energy, encouraging investment in mini grid power sources, or deepening infrastructure for the LPG market. The most recent commitment to cut back 32 percent of greenhouse gas emissions by 2030 does not detail how the Kenyan government will transition to clean cooking energy.²⁴

In addition to a lack of political motivation to support the transition, the International Development financiers and private investors are not investing in long-term clean energy production due to high upfront costs.²⁵ Attempts to introduce a Clean Cooking Working Capital Fund as seed capital for

startup entrepreneurs investing has faced headwinds.²⁶ This is primarily attributed to an uncertain investment climate and high tax rates which are revised annually.

At the current rate of shifting to clean energy sources, it is unlikely that the Kenyan government will realize a significant transition to clean energy, especially for cooking, by 2030. The previous goal of meeting the geothermal target of 1,650 megawatts by 2020 did not materialize, expansion of LPG supply, solar and wind energy sources has been hit by budget deficits, and a high VAT tax on LPG threatens to cripple the renewable energy sector. Additionally, past attempts to introduce a large-scale and subsidized LPG roll-out to low-income families in Kenya, such as the Wananchi Gas Project, faced corrupt government and business elites. These entities instead colluded with a bankrupt private investor to supply LPG before the project went under.²⁷

Tax Subsidies for Clean Energy and Rural Infrastructure

The market price of a new 13kg LPG cylinder is 36 USD while refilling costs 15 USD, tax inclusive. This is out of reach of many low-income families whose daily earnings are below 2 USD.²⁸ Thus, removing the 16 percent VAT tax on purchasing and refilling of LPG cylinders will subsidize the upfront cost of acquiring LPG. Expanding energy infrastructure by widening LPG market access in rural Kenya and reviewing the transportation policy of the LPG cylinders across the country will create business opportunities for distributors and small-scale retailers, simultaneously increasing employment opportunities and access to clean energy for cooking.

Tax subsidy is the most effective short-term means of lowering the cost of clean energy. Removing the 16 percent VAT tax on LPG, solar, and wind sources of energy is feasible and will subsidize energy rates to a level that

ENERGY CONSUMPTION AND DEMAND BY MARKET SEGMENT

TARIFF	CUSTOMER TYPES COVERED BY TARIFF	CONSUMPTION IN GWH				
		2014-15	2015-16	2016-17	2017-18	2018-19
DC	Domestic	1,866	2,007	2,138	2,335	2,366
SC	Small Commercial	1,143	1,153	1,201	1,222	1,250
CI	Commercial & Industrial	4,030	4,104	4,266	4,225	4,462
IT	Off-peak	15	26	41	33	N/A
SL	Street lighting	35	40	55	66	68
	REP system (DC, SC, SL)	525	537	549	554	595
	Export to Uganda	38	43	20	22	27
	Export to TANESCO	2	2	2	1	0.01
TOTAL		7,655	7,912	8,272	8,459	8,769
% Increase PA		5.7%	3.4%	4.5%	2.3%	3.7%

Source: National Energy Situational Analysis (Petrik, et al. 2020)

draws more low-income households into the market of clean energy consumption. It will also encourage more private players to enter the LPG market and invest in retailing, distribution, and importation of LPG. With modern research by the vibrant and growing Alliance of Clean Cooking Energy stakeholders in Kenya, relevant data is pointing to the benefits of removing the 16 percent VAT. There is also political goodwill to petition the President to amend VAT on clean energy taxes, and continuous stakeholder engagement work has been supported by international development partners. The National Treasury and Ministry of Energy are planning to revive the subsidized clean cooking energy program for low-income families – an improved version of the Mwananchi Gas Project.²⁹

There has been mounting pressure on the government to remove the VAT tax from private sector players such as Clean Cooking Association of Kenya, Africa Minigrid Developers, Kenya Renewable Energy Association, and Global Off-Grid Lighting Association (GOGLA). General public outcry due to the excessive cost of living, compounded by the containment measure of Covid-19, forced

the then President Kenyatta to temporarily reverse the Public Finance Act of 2021 that provided for implementation of 16 percent tax on LPG and solar and wind energy sources. This has since changed as the current regime under President William Ruto has temporarily reduced VAT on LPG and renewables from 16% to 8%. While this is relief is welcomed, it is insufficient to address the prohibitive cost of gas and LPG. Costs have recently increased further due to the impacts of Covid-19 and the Russia-Ukrainian war on the global LPG and gas value chains.³⁰

Subsidizing the cost of LPG, solar, and wind power by removing the VAT tax permanently will increase its uptake by low-income families thus reducing the burden of disease from indoor air pollution. More importantly, the government should review policies safeguarding participation in the upstream (importation), middle stream (distributions), and downstream (retailing) of LPG in Kenya. This will deepen the market infrastructure, create more jobs, and ensure cleaner and affordable energy alternatives are available across the country.

Diversifying Financing Sources

To achieve a 100 percent transition to clean energy sources, expansion of the national power grid through geothermal energy is needed to ensure a stable power supply for domestic and industrial use. Geothermal energy is the most stable source of clean energy, Kenya is endowed with abundant deposits of geothermal sources of clean energy within the Rift Valley.³¹ However, insufficient up-front capital made Kenya miss its 2020 target for geothermal energy production.³²

The government should diversify sources of capital to finance this critical clean energy project that will lower the cost of power and make it affordable for domestic and industrial consumers. The government can raise equity financing from local revenue by allocating 2 percent of the annual budget to clean energy project financing. Dedicating 2 percent of the 3.3 trillion GDP (KES 66 billion) and mobilizing the other 5 percent from partners such as the World Bank, African Development Bank, and private investors would drive down the per-unit cost of electricity for domestic consumption. This would incentivize low-income households to enter the electricity market and become active power consumers. It will also contribute to massive employment opportunities.

The Kenyan government can also raise capital from international finance institutions and development partners – specifically the World Bank Group, IMF, African Development Bank, and other regional development banks in the form of concession loans. The only challenge is competing government needs since the Kenyan economy is at the growth stage with many projects equally competing for the limited financing. The country has been operating on a negative budget deficit which has seen increased external borrowing. Currently, the country's external debt rating is rising high, nearly surpassing the parliament's approved limit.^{33,34} This gives the country a poor international credit rating

hence low chances of external borrowing. The other challenge is that external borrowings and conditional grants from development partners sometimes come with regressive policy implications compelling the government to cut back expenses on other critical aspects of the economy- the International Monetary Fund (IMF) is infamous for such reasons.

Thus, there must be intentional internal sources of revenue to finance the clean energy transition through local green bonds and increased budgetary allocation every budget year. Debt financing can be obtained internally by raising green bonds in Nairobi Securities Exchange (NSE) or externally by seeking Eurobonds specifically for the capital-intensive expansion of untapped geothermal energy sources.³⁵ This will be an expensive project at first but will soon be self-sustained due to the multiplier effect of increased money circulation in the economy and increased expansion of clean affordable energy markets. This will have a positive net impact on the human development index and economic growth of low-income households, hence increased GDP growth overall.

This is the time for the Kenyan government to lead the way in Sub-Saharan Africa by exponentially expanding the clean energy grid supply

The prevailing paradigm shift and current global concerns about climate change and the need for reducing greenhouse gas emissions all point to the need for investing in clean energy solutions. This is the time for the Kenyan government to lead the way in Sub-Saharan Africa by exponentially expanding the clean energy grid supply. A transition from biomass to clean cooking energy sources would reduce disease burden on poor households by eliminating indoor air pollution from using biomass. Thus, by diversifying

various sources of capital for financing this transition, it is effective eventually to realize a 100 percent transition to clean energy sources by 2030.

Confronting Trade-Offs

Maintaining the status quo is both inefficient and ineffective for transitioning to clean cooking, heating, and lighting energy sources in rural and urban poor settlements. Therefore, it is critical to address the trade-offs between tax subsidies and diversifying revenue sources.

A tax subsidy on LPG, solar, and wind power, and diversifying revenue sources to raise sufficient capital for massive grid capacity expansion through geothermal energy exploration, are both equally inefficient to implement – taking into consideration benefit-cost implications to society. In terms of effectiveness, tax subsidies are more feasible in the short run to transition to clean cooking energy sources most rapidly. An increasing number of low-income families in rural and urban poor settlements are aware of them and would be readily willing to adopt them if the cost of acquiring and maintaining them is subsidized by removing VAT tax on LPG.

Increasing financing streams through diversification and investing in Geothermal energy is an effective option in the long-term. It is possible to raise capital both from local and international financial markets specifically for grid expansion by increasing geothermal production. In terms of political feasibility, all the three policy options (status quo, tax subsidies and diversified revenue streams) are politically feasible with very minimal key stakeholder objections. However, tax subsidies may be most at risk in the long-term, given that the next Kenyan election cycle is just around the corner and the incoming president might not prioritize geothermal as part of their development agenda.

Conclusion and Policy Recommendations

As a short-term solution, a tax subsidy of removing the 16 percent VAT on LPG, solar, and wind energy sources and streamlining markets to encourage more Kenyans to invest in deepening importation, distribution, and retailing of LPG across the country should be implemented. Lowering the LPG retailing price will push many low-income households who have been priced out of the clean energy market to utilize clean energy sources, especially for cooking, lighting, and heating. This is therefore a faster way of addressing energy poverty efficiently and effectively before 2030. In the long-term, diversified revenue sources are recommended for achieving stable results of an economy powered by clean energy sources. Increasing national grid capacity by clean energy sources from geothermal will tremendously lower the cost of electricity and energy for domestic and industrial consumption in the country.

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An Interview with Margarett Wan-Ling Lin, JD

UC Berkeley lecturer at GSPP and
the College of Environmental Design
and executive director of Just Cities

Interview by
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Edited by Emily
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With support from
Angela Laureano

Joyce Hwang (BPPJ): First, could you introduce yourself in your own words?

Margarett Lin (ML): This is a very profound question. When I thought more deeply about it, I would say two things. First, that I'm someone who tried to honor a promise I made to myself when I was a kid. When bad things would happen to me as a kid, there wasn't anyone I could talk to about those things, so I would write notes to myself and put them in a secret hiding place. My notes always ended with something like, "When I grow up, I'm going to work to make sure this bad thing doesn't happen to other kids." I think about the extraordinary opportunities I've had to do work with so many amazing people on so many impactful movements. And I feel like the work found me; I didn't actively pursue the work. The work that I have ended up doing in my life has helped heal the injustices that I experienced as a child and helped me honor the promise I made to myself as a kid. My work on domestic violence, educational discrimination, or housing injustice, or issues of incarceration, racism, racial reconciliation, all these things that I've been able to do in life have been very personal to me. I feel incredibly blessed.



MARGARETTA WAN-LING LIN, JD

The other thing I would say is, when I was a child, I wanted to be a pediatrician. I wanted to be a healer. Even though I've never been a doctor, I feel like the work I've done - as a lawyer, government official, teacher, organizer - has been about trying to bring healing to the world by examining the roots of human suffering and addressing the suffering through structural changes in public policy and law.

BPPJ: That's beautiful. Thank you for sharing that.

Relatedly, how do your personal experiences as an Asian American woman and child of Taiwanese immigrants inform your work in public service?

ML: Everything that I've done as an adult has stemmed from my family history, including that of racial exclusion and discrimination in this country. Starting with not meeting my father until I was four years old because the Chinese Exclusion Act, while having been lifted legally, was still in practice because of

the discriminatory quotas against Asian countries. My father was in this country to complete his studies, but he was not able to bring his wife, who was pregnant with me when he left, and his one year old baby, my sister. My parents left their home country because of political oppression that was aided and abetted by the US government. CIA agents helped to train the KMT officials who incarcerated and tortured my grandfather because of his work on democracy for Taiwan.

I feel like the work I've done - as a lawyer, government official, teacher, organizer - has been about trying to bring healing to the world by examining the roots of human suffering and addressing the suffering through structural changes in public policy and law.

Because of the impact of the Chinese Exclusion Act, when we first came to this country, we were always one of the first Asian families in the communities that we lived in. It was also during the height of the Vietnam War, so we had to deal with racial bullying, hate, sometimes even hate crimes that were committed against my family. But we never talked about those things; we just survived them. I think that's because my parents had never healed from the trauma of what happened to their families in their own home country. Then culturally, not having the language of mental health, or access to therapy, being able to talk about how we were feeling - we had none of those things. It was all about survival.

Those early experiences of discrimination and hatred - and it was very explicit at the time - informed my future work to address racial discrimination against all people. It was interesting coming to the USA at a time when Asian Americans were still viewed very much as unsavory people, then personally experiencing the model minority stereotype

beginning to play out. I witnessed my father being stopped by police and being humiliated in front of his family. I was an immigrant kid, and our schools in Philadelphia did not have bilingual education. Instead, they put me into pull-out special ed. That made me feel like I was stupid because all the kids would look at you when the aide would come to the door and call your name and pull you out of class. I didn't need special ed; I needed someone to teach me how to speak and read English. It's amazing that some of the first work I did as a civil rights lawyer was on a statewide California case on the use of IQ tests to track African American students into special ed and another case on bilingual education and discrimination against immigrant kids in Oakland. It took me a while to realize why I felt so passionate about both cases. Like I said, the work has found me.

The other major childhood experience that was transformative was early experiences of multiracial solidarity. When my sister and I first arrived in Philadelphia, we would get picked on by the neighborhood kids, including being chased and called names and having rocks thrown at us. The kid who would come to our rescue was a young black boy who was all of nine, and we saw him as like, "Oh, he's so big and our hero." And his mom, who was our neighbor, took care of us when my mom went to ESL classes. My first experiences in this country of who were the people who were my heroes and friends, it was our black neighbors. Unfortunately, this is not always the experience for a number of Asian immigrants because of the racial stereotypes about Black Americans they get fed by mainstream media in their home countries. I believe that Black and Asian divisions, including over affirmative action, have resulted from intentional strategies to prevent us from dismantling racism and other forms of oppression in the US and worldwide.

BPPJ: Thank you so much for sharing that and for honoring your family and their history in that way. I would love to pivot to talk more about your career. As you have shared, the late congressman and mayor of Oakland

Ron Dellums was a mentor to you. How did he impact your career, and what is something we can all learn from the life and legacy of Ron Dellums?

ML: Ron Dellums changed my life twice. The first time was before I met him when I was in law school and faced with a turning point decision I had to make. In my law school career, I did all the things that you're supposed to do to meet the conventional definition of success. I competed and was able to get onto law review. I was able to get summer internships at the big law firms. I was able to secure a coveted federal appellate clerkship after I graduated. And I had these job offers to work in the big law firms after graduation. Now I had to make a decision about what I was going to do. None of those things, climbing the success ladder, made me happy. But I felt this pressure because of all the sacrifices my parents made, and [I wanted to be] able to provide economic security for my mother. Also everything around my law school environment was pushing me towards this very conventional definition of success.

Then I read this article about Ron, who was still in Congress at the time. It was an article that featured his life and his work in Congress, and he talked about how lonely he felt sometimes because he would take a position on things that other people had not come to realize was something important or the right position. Be it on the Vietnam War, or on South African Apartheid, or on climate change. He actually sponsored the first federal climate change legislation in the late 70s, early 80s. People were like, "What? What is that?" You risk facing ridicule when you're an early leader on issues. Reading about Ron really inspired me and gave me the courage to make a decision based on my heart, and I turned down the big firm offers.

The second time he transformed my life was when we actually met in person. I never thought that years later, I would ever meet Ron Dellums much less end up working for him, becoming his friend, co-founding an organization together; that was not in my wild-

est dreams. I met Ron when I was a lawyer for an anti-displacement coalition in Oakland. This was during the years when Jerry Brown was mayor. People on the ground could see displacement happening, but conventional wisdom was that Oakland needed private market rate development and the displacement occurring in San Francisco was never going to happen in Oakland. Jerry Brown's vision for Oakland was for it to become a bedroom community for SF tech workers, as embedded in his 10k Plan to bring 10,000 tech workers to Oakland because, as he said, "In order to be great, Oakland needs great people." This plan begs the question, "Why are you the mayor of a city where you don't believe that the current people are great? Where is the love for the current people?"

We were the lonely voices around displacement at the time. One of the coalition leaders, a labor leader, reached out to Ron; he was semi-retired living and working in DC. Ron came home to Oakland to help the coalition. His willingness to use his political stature and his political capital to side with the coalition transformed the campaign and also ended up transforming his life and my life.

The night he spoke at City Council about this huge market-rate housing project in West Oakland, word got around that he was in town, and City Hall was packed. When he spoke, you could hear a pin drop. His message was so right on and what everyone needed to hear. He said that the role of political leaders is to set the terms of the policy values and then to bring the different stakeholders to the table to work things out. In the absence of that, what we had was a lot of division in the community. Some residents wanted to see this market-rate housing project because it would bring the amenities that they wanted in their neighborhood, like grocery stores and pharmacies. Other people were really concerned about market force displacement. As Ron said, it did not have to be divisive, and Oakland should not kick the can on poor people. There's a way to advance economic development to benefit the people who live in Oakland today. His speech that night at City

Hall inspired a people's movement to recruit him to run for Oakland mayor.

When Ron was mayor and I was asked to go work for him, I was scared. I was afraid of what I would become in that kind of highly politicized environment. Despite a life at the intersections of politics and law and public policy, I was allergic to politics. I never imagined myself working for a politician. I never imagined myself working for Oakland City Hall. But I ended up saying yes and that experience totally transformed me.

I judge people based on not what they say when the cameras are rolling, but their actions behind closed doors. Being behind closed doors with Ron Dellums and bearing witness to his integrity, his courage and wise decision making - making the hard decisions because they were the right decisions to make rather than the popular decisions to make. And witnessing his compassion towards the unhoused people living in the City Hall Plaza. He treated them the way he treated world dignitaries who visited. Seeing that in action was so inspiring for me, and also having the opportunity to be in this position of power on the inside and being able to be the person to bring the different, oftentimes competing, groups together to advance big changes to help those who needed our help the most. I fell in love with working inside of government and ended up staying there when Ron's term as mayor ended.

I never imagined myself working for a politician. I never imagined myself working for Oakland City Hall. But I ended up saying yes and that experience totally transformed me.

BPPJ: Thank you so much for sharing that story and for instilling a little bit of hope in all of us. You currently serve as the executive

director of Just Cities. What are you most proud of having accomplished through your work there?

ML: Ron was a co-founder of Just Cities, and our original vision was to create vehicles for people working on the inside and outside of government to reclaim the public space of policymaking to create structural change solutions. A corporation's job is to make profits. The nonprofit's job is to do whatever discrete mission they have. It's the job of the government to take care of everyone who needs taking care of. And that's hard work. After 40 years of intentional disinvestment in government that Ronald Reagan as president ushered in, it is hard for people in government who are trying to do the right thing—the resources aren't there.

In many ways, at Just Cities, we're translators for folks who are experiencing harm, providing information in a way that folks in government can receive and act upon and providing platforms for people to speak for themselves. That has resulted in some really significant public policies, like the passage of the nation's northstar Fair Chance Housing laws that remove legalized housing discrimination against people with criminal records. Or the creation of best practice anti-displacement policy and budget frameworks. Or plans to provide immediate and dignified housing to unhoused residents. I try to remember those things when I feel very frustrated about what's not moving.

BPPJ: Thank you for sharing that. I have some questions specific to your role as an educator at GSPP. I would love to hear more about what you aim to impart on the policy students you teach at GSPP and, as a part of that, how you try to embed anti-cynicism into your curriculum and in your classes.

ML: One of my law professors who taught Race in American Law was Herbert Aptheker, who was good friends with WEB DuBois and who, when he was a professor at Columbia, had been blacklisted because of his political beliefs. Every lecture, he yelled at us to not

become cynical. He literally yelled at us, Joyce, because he had experienced students who became cynical. I feel like cynicism is an intentional strategy. What we get fed through mass media is intentional: the forms of communication, the information we receive, all that is very intentional to make us feel a certain way. And there are very legitimate reasons for young people to feel cynical, but there are so many more legitimate reasons to feel hopeful. It's about accessing the other information that isn't so readily available.

So something very important to me as a teacher - at Goldman or any place else - is to bring into the classroom people who are doing impactful, structural change work so students can understand, "this is possible." And also teaching students about how to do it. My classes are all about putting students into real world projects so students can experience the good, the bad, the ugly, and the beautiful of the work so you're not disillusioned when you leave school and you're confronted with real life. For example, students in my Law & Public Policy class worked with All of Us or None leaders on different state efforts to remove legalized slavery in prisons from state constitutions and then eventually the US constitution. The legislative findings of one of the student teams was actually included in a new bill in Pennsylvania that was recently introduced! I believe that having the opportunity to work with extraordinary grassroots leaders and to be part of an international human rights movement was life changing for many of the students.

And we need to build principles and methodology around joy and perseverance. We have to be intentional about cultivating these things because so much around us can snuff out our spark and the light in the world.

BPPJ: It's an act of resistance.

What is your radical vision for how you would like to see GSPP and other "ivory tower" academic institutions of white supremacy better advance justice? This can also be tied to a question I didn't get to ask you earlier,

which is, how have you sought to ensure that members of the broader community in the Bay Area are engaged in your work and leading movements for change?

ML: Berkeley and GSPP are powerhouses. There's so much status that comes from having a Berkeley degree or the Berkeley logo on reports, our research. How are we using that power in a way that advances structural change and racial justice? I feel like GSPP - the new Dean says this - is at a turning point. As he said at a faculty gathering yesterday, "the Goldman School is under construction." I feel like all of us in the community - each student, each faculty member, each staff member - that we have a duty to help build the new vision for the Goldman School.

My contributions are, number one: my relationships of trust with people who are government leaders or community leaders. And I want to be more intentional around helping students find good internships, find great jobs with people with integrity and courage.

I want to engage more students in our transformative public policy projects at Just Cities and at the Institute of Urban & Regional Development, where I serve as a Principal Investigator. We're working on new projects that examine the legacy of racism in housing, land use, environmental, and transportation public policies and today's solutions, through a collective impact approach that brings together grassroots leaders and government officials. That research project just launched, and I'm excited to include students in that project. It's exciting and also very messy work of trying to dismantle the legacy of entrenched racism. There's a lot of well-deserved mistrust in government, and our job as public policy people, in many ways, is the work of restoring trust through tangible and meaningful actions.

BPPJ: That sounds amazing and so exciting. I can't wait to hear more about it down the road. You juggle a lot of roles at once: you are an educator, a mother, a leader, a researcher. How do you care for yourself, and what brings you joy and healing through all of it?

ML: That's a beautiful question. Teaching students and telling you all to practice self-care and joy has helped me do a better job so that I don't become a hypocrite. Students are really good as seen through hypocrisy. I try to do daily walking meditation. I have amped up energy, so it's hard for me to sit still. So I really enjoy walking meditation. It's so lucky that we live in a place where there are a lot of trees. Even amidst the concrete, there are still some trees. I'm also learning how to be more compassionate towards myself and treating myself as a friend, again based on what I tell my students to do. And then what brings me joy? Frankly, I love my students, Joyce. It's so fun teaching and also having one-on-one conversations with students. My children bring me a great deal of joy. I'm also now a grandmother of a puppy who's bringing me a lot of joy. His name is Baloo.

BPPJ: All great things. Thank you so much for sharing that and for everything else you have shared. Are there any last things you want to share?

ML: I felt like some of the questions around GSPP were really timely ones, so maybe I could quickly answer those.

You had asked a really thoughtful question of, what is the role of a public policy school today? I think not just Goldman but all public policy schools should be preparing students for two things. One, how to become humble public servants. Otherwise, people will then just replicate the harm that government created in the first place. And two, how to be fearless about making big structural change. The system is set up for us to do small things, to do what is called "low hanging fruit public policy." Politicians ask me, what do you think we should do regarding the housing crisis in California or other hot button issues? And I would tell them, based on the problems, what I believe structural solutions look like. A common response I get back is, "Well, we can't do that because it's the third rail of politics. What's low hanging fruit?" And my response is, "If we keep enacting low hanging

fruit, we're going to get the results of low hanging fruit." We can't solve big problems by tinkering at the margins.

All public policy schools should be preparing students for two things. One, how to become humble public servants. Otherwise, people will then just replicate the harm that government created in the first place. And two, how to be fearless about making big structural change.

We have an opportunity at the Goldman School and other public policy schools to train students on how to engage in policy analysis and design that addresses the structural roots of injustices and solves the big problems of our world—climate change, affordable and dignified housing and living wage jobs for everyone, and ending racism and mass incarceration. For any issue, we need to know "how did we end up here?" because there's a history. Second, what are the current policies and the mindsets that are blocking meaningful change? And third, what are potential solutions and who should you be working with?

We need to train public policy people to aim for the stars because we are the caretakers of government and the public domain. We are also the inheritors of flawed and discriminatory systems that can still bend towards justice because of the hard work of the people on the inside and outside of government. In the words of my mentor and friend, the great poet and professor June Jordan, we need to internalize that we are the ones that we have been waiting for.

On the last question of how does GSPP need to change in order to be more responsive to student demands? As Frederick Douglass told us, "power doesn't concede without a

demand." Goldman students over time have demanded changes from faculty diversity to a Critical Race Theory class to other curriculum changes. The GSPP Administration has made responsive changes. Are these changes sufficient from student perspectives? If not, then how do students go about advocating for the changes you want to see? Your time at Goldman is an important opportunity to practice how to speak truth to power in ways that are compelling, effective, and also, I hope, advance the principles of love-based justice.

Also, I think it's so important for graduate programs to give curriculum flexibility for students to explore, including exploring their spiritual and cultural powers. One of the most transformative classes I took as a graduate student was a poetry class. Students should have access to taking poetry, theater, dance, art classes because when else are you going to be able to explore those things and meet all these fascinating people. And after graduation, you might be kind of locked into your career path.

BPPJ: I would love to see more of that too. Thank you for vocalizing all of that and recognizing that those are demands that students have and that we would love to see change. We really appreciate you taking the time [to speak with BPPJ.]

ML: It was such an honor and privilege, Joyce, and I'm grateful for this opportunity.

Notes