Bold Ideas, Emerging Leaders

Roosevelt Network Emerging Fellows Journal

2024

Roosevelt Network

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Who We Are

The Roosevelt Network develops and supports undergraduate college students and early career professionals—in particular, those who hold identities historically denied political power—to be the next generation of leaders in the progressive policy ecosystem. We are creating a pipeline of new leaders who champion ideas that rebalance power in our economy and democracy. As a program of the Roosevelt Institute stewarding the legacy of Eleanor and Franklin Roosevelt into the 21st century, we believe that we can rewrite the rules by changing who writes them.

About the Emerging Fellowship Program

The Roosevelt Network's Emerging Fellowship is a yearlong fellowship experience focused on policy writing and designed for students in the last one to two years of their undergraduate degree program. This rigorous and advanced fellowship offers progressive-minded students the opportunity to dive deeper into policy research and writing, receive mentorship from Network alumni and Roosevelt Institute staff, be in community with other passionate policy wonks, and ground themselves in Roosevelt's vision for a just economy and multiracial democracy. Fellowship alumni become members of our national Network, with continued opportunities for mentorship and programming for young professionals. To learn more about the fellowship, visit www.rooseveltinstitute.org.

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Foreword

By Katie Kirchner and Eric A. Paul

In her 1993 dystopian science fiction novel *Parable of the Sower*, Octavia Butler wrote: "The only lasting truth is change." That quote—from a story set in the distant year of 2024—feels particularly apt for the moment we're living through, where news cycles and political conditions seem to shift faster than it is possible to keep up with.

If we believe that change might be our one constant, then it should be clear that our fight must be for the kind of change we want and need. There are many ways to do that; the Roosevelt Network Emerging Fellows do so by developing around-the-corner policy ideas that could fundamentally change their communities. They complete a yearlong program in which they research, write, speak with community members and subject-matter experts, and produce what you're about to read: policy briefs that embrace the intersections of policy, power, and narrative change.

Casey Williams and Olivia Ligman examine the unequal balance of power between workers and employers in low-wage industries like food service, retail, and health care. Williams examines how better policies could empower workers, such as a wage checker law in New York that would give workers the right to appoint a representative to ensure they are paid their full wages. Ligman turns to Wisconsin, exploring how government can create and promote policies that produce equity for workers there. Aryen Shrestha and Lina Hunt analyze the housing affordability crisis in Massachusetts and Virginia, respectively, and how local political participation and local policies can address the crisis and build the power of local communities.

Henry Means documents how bold and imaginative infrastructure policy solutions can help rectify past wrongs and provide justice for Seattle communities, while Mara Pusic highlights the need for governance reforms that ensure community engagement and democratic accountability in Michigan's renewable energy transition. Catherine Tong and Evelyn de la Cruz illustrate how unchecked corporate power in energy utilities and Big Tech, respectively, requires a strong government response that establishes guardrails to protect California residents.

Paradigm-shifting policy work is a bit like sci-fi world-building: It requires creativity to imagine a world different from our own and to think about what would lead to making that world a reality. Unfortunately, there are too many eerie parallels—from climate destruction to severe wealth inequality—between the dystopian world Butler envisioned 30 years ago and the one that threatens to emerge today. These ideas, however, are affirmatively trying to steer us away from that dystopia and toward a future where people thrive and communities are safe and inclusive of all.

Worker Power and Economic Security

Rebalancing Bargaining Power in New York City's Restaurants (and Beyond)

By Casey Williams

Introduction

After decades of declining power, the labor movement has been experiencing something of a revival in recent years. Actors and autoworkers on strike have grabbed national attention, successful organizing efforts have won union representation for baristas and Amazon workers alike, and in 2021, public support for unions reached 71 percent—its highest level since 1959 (Milkman and van der Naald 2023). As the labor movement regains prominence nationally, unions in cities and states where organized labor has managed to withstand decades of automation, deindustrialization, and economic organization have fared the best. The state of New York, where workers are unionized at twice the rate of the US national average, appears to be one such stronghold (Milkman and van der Naald 2023).

New York's reputation as an enduring stronghold for organized labor has not exempted it from changes in the nation's economic structure. The state's union density, like that of the nation as a whole, has been in decline: From 1953 to 2023, while the national unionization rate fell from 32.6 percent to 10.1 percent, New York's fell from 34.4 to 20.2 percent (Milkman and van der Naald 2023). The decades of declining union density can be attributed in large part to the combined effects of reduced employment in heavily unionized sectors, such as manufacturing, and growing employment in weakly unionized ones. In New York, the composition of its unionized workforce buffered this decline.

A large, heavily unionized public sector has softened the blow of deindustrialization on average unionization rates—an effect that is particularly visible in New York City. Among wage and salary workers living in the city in 2023, 17.7 percent were union members. More than 60 percent worked in just three industry groups, all containing large numbers of public sector employees: healthcare and social assistance, public administration, and educational services (Milkman and van der Naald 2023). While unions have found strength and stability in the public sector, a different story has played out in the private sector. The city's private sector unionization rate sat at 12.4 percent in 2023, down from 25.3 percent in 1986 (Milkman and van der Naald 2023). As a result, a growing share of workers in the private sector do not enjoy union representation and protection in the workplace.

These unorganized workers rely on the state to protect their rights in the workplace, but New York's enforcement capacity has not kept pace with the growing need. The New York Department of Labor's (NYS DOL) enforcement arm, the Division of Labor Standards, had 129 full-time employees in 2023, up from 126 in 2021, but still insufficient in a state with 10 million workers (Baram 2023). From 2008 to 2017, its number of employees shrank from 282 to 140, while the division's number of open investigations grew from 6,923 to 15,824 (Baram 2023). Without the resources to ensure robust labor law enforcement, the state cannot provide the protection necessary to guarantee workers' rights.

State enforcement and union representation are crucial constraints on employers' power over the workplace (Bustamante 2023). In their absence, employers face few—if any—consequences for violating workers' rights and undermining employment law in pursuit of profit. Under these conditions, labor law violations have become common among low-wage segments of New York City's labor market, depressing labor standards for entire industries (Bernhardt, Polson, and DeFilipis 2010).

The city's massive restaurant industry is defined by the vast power imbalance between workers and employers. For many restaurant workers, their rights in the workplace have remained an unfulfilled promise. The practices and working conditions in much of the industry illustrate how the reorganization of production has changed the dynamic between workers and employers more broadly. If New York is to guarantee workers' rights, it must adapt to this reorganization—a task that demands a new model for how the NYS DOL enforces labor law and reimagines the role of the state as a force for reshaping the economy to serve the public good. New York can use policy to lay the groundwork for a more democratic economy for the state's workers, so long as those policies are rooted in an understanding of the workplaces where violations occur. To that end, it is useful to examine one of the state's industries where workplace violations have proliferated.

Background

New York City's restaurant industry is exceptional in scale: The city had nearly 21,000 restaurants in 2023, employing more than 262,000 workers across the five boroughs (New York Department of Labor 2022). Low union density is characteristic of restaurant work, even in cities and states where unions are strong relative to the US as a whole—as is the case in New York City, one of the "most restaurant-dense [cities]" in the US (Hunter College New York City Food Policy Center 2019). Unionization rates for New York City's restaurant industry sit at 3.1 percent, consistent with the statewide average of 3.2 percent (Milkman and van der Naald 2023). While both figures are more than double the industry's national rate of 1.5 percent, they are significantly lower than the unionization rate for the private sector as a whole—12.4 and 12 percent for the city and state, respectively.

Employment in New York City's restaurant industry is characterized by many of the same problems present in the industry nationwide, such as low wages, poor working conditions, and high turnover (Hell Gate 2023). A 2018 survey of the city's restaurant workers found that more than half of all respondents received no paid leave whatsoever, and more than 78 percent reported "sometimes or always [working] more than 10 hours a day" (Hunter College New York City Food Policy Center 2019). New York City's daily overtime requirements, which apply to employees working more than 10 hours in a day, entitle those restaurant workers to additional pay for those shifts.

Entitlement, however, is no guarantee of compensation, as demonstrated by a 2010 report published by the National Employment Law Center examining the results of a survey of 1,432 low-wage workers in New York. Of restaurant workers who worked more than 40 hours during the previous workweek, more than 75 percent experienced an overtime violation through underpayment or nonpayment (Bernhardt, Polson, and DeFilipis 2010).[1] Restaurant workers reported other pay-related violations as well, such as compensation below the minimum wage, failure to receive meal breaks, and unpaid work before and after their shifts. Rampant wage theft is characteristic of the imbalanced employment dynamics in the industry.

1 While the study was published in 2010, there is little reason to believe that conditions have changed substantially, for reasons discussed later in this brief.

Why Employers Don't Comply with Labor Law

The logic behind an employer's decision to treat labor laws as a variable rather than a legal obligation is economic: Lowering costs increases profits. Broadly speaking, employers are incentivized to violate labor laws so long as the expected profits outweigh the expected costs. Expected costs depend not only on the penalties attached to a violation but also on "the probability of detection" (Stansbury 2021). If an employer expects to get caught, and violations carry sufficiently large penalties, noncompliance ceases to be a viable strategy for reducing labor costs.

In the low-wage labor market, however, noncompliance abounds. A survey of frontline workers in New York City, Los Angeles, and Chicago found that 67.5 percent of the 4,387 respondents had experienced some form of wage theft during the previous workweek (Bernhardt, Spiller, and Polson 2013). Respondents were employed in a range of sectors and industries—including restaurants as well as retail, healthcare, manufacturing, transportation, and construction—indicating that the competitive strategy is not restricted to one segment of the low-wage labor market. Employers who do not expect that their violations will be detected have little economic incentive to comply with labor law. In fact, an analysis of Fair Labor Standards Act (FLSA) enforcement data from 2005 to 2020 indicated that "all but the most serious repeat and willful violators" would need to expect detection at a rate of at least 78 percent to incentivize compliance—far higher than the actual rate of detection for most firms (Stansbury 2021). While these conclusions are based on the US Department of Labor's (US DOL) enforcement, they illustrate the same dynamics of compliance at play at the state level.

Firms may actually have a stronger incentive to comply with the FLSA than with state-level labor laws. In 2017, investigations by the US DOL Wage and Hour Division (WHD), which enforces the FLSA, were split evenly between proactive investigations and those triggered by worker complaints (Stansbury 2021). The WHD's proactive investigations have targeted high-risk industries, increasing the likelihood that violations will be detected. By contrast, many state agencies rely primarily on worker complaints to trigger enforcement, a model that makes detection less likely overall—thereby reducing firms' incentives to comply with state labor law (Stansbury 2021). Moreover, workers' decisions about whether to report a violation are influenced by the power dynamics of the workplaces where violations occur.

Why Workers Face Risks Reporting Violations

While employers' power is offset, in theory, by workers' power to "leave bad jobs and find employment elsewhere," in practice, workers' leverage is limited by their need to be consistently employed (Bustamante 2023). Low-wage workers cannot use that leverage outside of exceptionally tight labor markets. Employers' control over workers' livelihoods—the authority to terminate employment at will—compounds this power imbalance (Tung et al. 2023). As a result, most workers "enter the labor market at a structural disadvantage" and work under pressure to accept unsafe and illegal working conditions (Andrias and Hertel-Fernandez 2021).

Reporting a violation puts workers at risk of retaliation. Like wage theft, retaliation can take many forms: sudden changes in scheduling, reduced hours, increased workloads, harassment, abuse, and termination (Bernhardt, Spiller, and Polson 2013). Employers may take advantage of vulnerable workers' reluctance to speak up when their rights are violated—on account of their legal status or precarious economic circumstances—to drive down labor standards (Andrias and Hertel-Fernandez 2021). In New York City, where more than 60 percent of restaurant workers living in the city are immigrants, the fear of being reported to immigration authorities keeps many undocumented workers from exercising their rights (Siegelbaum 2023). Workers in the restaurant industry, as well as workers in other high-turnover industries, often quit rather than undertake the complex and time-consuming process of reporting a violation (Stansbury 2021). When workers fear retaliation for speaking up, labor law can go unenforced in the very industries where it is most needed.

Recent analyses of statewide wage theft data illustrate the impact of power imbalances in the workplace on labor law enforcement. The US DOL estimated in 2014 that employers in New York state steal "up to $1 billion from their workers every year" through minimum wage violations alone (Siegelbaum 2023). While more than 13,000 cases of wage theft were reported from 2017 to 2021—representing a total of $203 million stolen from

roughly 127,000 workers across the state—these cases likely represent only a fraction of the violations workers experienced. Even with these limitations, the restaurant industry stands out. More than 25 percent of all reported cases of wage theft occurred in the restaurant industry, coming to a total of $52 million in stolen wages—"more than in any other industry in New York" (Siegelbaum 2023).

New York's current approach to labor law enforcement relies on mechanisms which were not designed to address widespread, systematic wage theft—due, in part, to their neoliberal underpinnings. The complaint-led model directs the state's enforcement efforts toward individual claims and, as a result, the state protects workers' rights by protecting the rights of individual workers. This approach to regulation expresses a fundamentally neoliberal vision of how the economy should function. Core elements of neoliberal ideology—individualism, market primacy, minimal state intervention, naturalized power imbalances—are embedded in New York's enforcement mechanisms, and manifest in the state's inability to combat wage theft structurally and at scale (Wong et al. 2023).

Analysis: Shifts in Policy and Industry

A slate of policy interventions currently under consideration in New York would embed the benefits of unionization and stronger state enforcement into the baseline of workers' rights. That change would be a boon to all workers, but they would be particularly beneficial to workers in the restaurant industry, where single-digit union density leaves the vast majority of workers with few options for demanding these changes on their own.

State and Local Labor Bills

In 2020, the New York City Council passed two bills aimed at building worker power in particular industries: the first requiring retail and fast food employers to give workers notice prior to changes in scheduling, and the second instituting just cause protections for fast food workers employed by chains with 30 or more locations (de Freytas-Tamura 2020). Just cause, a common provision in union contracts, empowers workers to enforce their rights by providing "broad protections against arbitrary firings and a basic framework of fairness in discipline" (Tung et al. 2023). Restaurant trade groups challenged the city's just cause law in court, but it was upheld by the US Court of Appeals as an exercise of the state's authority to regulate labor standards (Wiessner 2024).

City and state legislators alike have since moved to expand just cause protections beyond the restaurant industry alone. The Secure Jobs Act (Int. 837), introduced during the Council's 2022–23 session, would expand just cause to all private sector employees in the city not covered by a collective bargaining agreement (Committee on Consumer and Worker Protection 2022). At the state level, the state legislature is considering the Safeguarding Employees and Accountability for Termination (SEAT) Act, which would establish similar protections statewide (SEAT Act 2023). If enacted, these policies would extend job protections typically guaranteed by a collectively bargained contract to unorganized workers.

In addition to the indirect enforcement benefits of the SEAT Act, the state legislature is considering four other bills that target wage theft directly. The Wage Theft Deterrence Package, which contains three bills, was introduced to strengthen the state's ability to deter and punish wage theft. The bills—S8451, S8452, S8453—would empower the State Liquor Authority to suspend a bar or restaurant's liquor license, the Department of Labor to issue a stop work order, and the Tax Department to strip violators of their right to do business by suspending their Certificate of Authority (Baram 2024). Each of the bills would empower the state agency to act against any employer who fails to resolve a wage claim of $1,000 or more within 15 days.

The fourth bill differs in that it would empower workers, rather than state agencies, to enforce labor law. The Empowering People in Rights Enforcement (EMPIRE) Worker Protection Act would authorize private actors—known as relators—to initiate labor law enforcement actions on behalf of the state, known as qui tam enforcement. (EMPIRE Act 2023). In such cases, the government is the named plaintiff—as it would be in cases

brought by an attorney general—and if the case is successful, a portion of the award goes to the relator (Andrias and Hertel-Fernandez 2021). The Act would allow workers and representative organizations—such as unions and worker centers—to "supplement government agency enforcement", while generating the revenue necessary to rebuild the NYS DOL's enforcement capacity (Tung et al. 2023).

Recent Unionization Efforts in the NYC Restaurant Industry

In New York City, some restaurant workers, rejecting the notion that the industry's low union density is inevitable, have mobilized to organize their workplaces. The recent efforts to organize Barboncino, an independent pizzeria in Brooklyn, and Lodi, a café in Rockefeller Center, illustrate workers' desire for more democratic workplaces in the restaurant industry. At Barboncino, workers voted unanimously in July 2023 to form Barboncino Workers United, making it the city's first unionized pizzeria (Lin 2023). Workers cited their desire for "higher wages and benefits," "consistent schedules," and "protections from unjust disciplinary action" as reasons for unionizing (Morales 2023). While the workers at Barboncino were not granted voluntary recognition, they faced minimal opposition in the period leading up to the union election.

Unlike Barboncino, Lodi is owned by a restaurant group—a company that operates several standalone restaurants. When workers requested voluntary recognition to unionize with Restaurant Workers Union (RWU-STR), Mattos Hospitality—which owns Lodi as well as Altro Paradiso and the Michelin-starred Estela—responded with a fierce anti-union campaign (Hell Gate 2023; Garza 2023). During the month prior to the union election, management held regular captive-audience meetings where hired consultants discouraged workers from joining the union in Spanish and English (Leon 2023).

RWU-STR filed unfair labor practice charges against Mattos Hospitality 11 days prior to the election—which it lost 21–26 (Cheng 2023). In October 2023, however, the National Labor Relations Board (NLRB) invalidated the election following a seven-month investigation. The NLRB rejected management's request for another election. Instead, the NLRB sought a court-issued Cemex bargaining order, which would declare RWU-STR the exclusive agent for workers at Lodi, sending the case to a trial set for June 2024 (Krishna 2024; Restaurant Workers Union 2023; Hell Gate 2023).

In light of the fierce opposition restaurant workers can face when attempting to organize their workplaces, enacting legislation at the state level that protects workers' right to organize may seem like the next step. Unfortunately, judicial interpretation of the National Labor Relations Act (NLRA) over the past 50 years has created a standard of federal preemption that bars states from "[regulating] activity that the NLRA protects, prohibits, or arguably protects or prohibits" (Clean Slate for Worker Power 2021). Without changes at the federal level, state and local governments have few—if any—options for encouraging collective action outright. They can, however, use the authority they already possess to make workplaces more democratic.

Recommendations: Fighting Wage Theft with Wage Checkers

New York state legislators have proposed a slate of policies that would ensure the efficacy of the state's labor law enforcement by strengthening penalties for wage theft and, through the EMPIRE Worker Protection Act, allowing workers to enforce labor law on the state's behalf. While valuable, under the current complaint-led enforcement system, detection and enforcement would continue to depend on the dynamics of the workplaces where violations occur. Nonetheless, workers are likely to remain the state's de facto partners in wage theft enforcement for the foreseeable future. As such, the state should equip workers with the tools to do so more effectively at the level of the workplace.

A 2015 article in the *Indiana Law Journal* authored by labor law scholar Matt Finkin proposed combating wage theft at the level of the workplace by passing a wage checker law. Modeled on state laws passed to protect coal miners from wage theft during the late 19th and early 20th centuries, a wage checker law would give workers the right to appoint a representative to ensure "that they were being paid their due" (Finkin 2015). Once appointed, the wage checker would be authorized to monitor the workplace on a continual basis to ensure compliance with wage laws and, if a violation occurs, to pursue enforcement action on workers' behalf.

New York's state legislature can build on Finkin's proposal by passing a wage checker law of its own and creating an office within the NYS DOL's Bureau of Worker Protection dedicated to its implementation. The law would give workers the right to appoint a wage checker and establish the rights necessary for wage checkers to be effective—such as the rights to contact the workforce to offer their services and to access records once appointed.

The law should establish that wage checkers are to be appointed by election while authorizing the office to establish the procedures for certification and appointment. With regards to eligibility, any qualified third party—such as accountants, worker centers, or unions—should be eligible to serve as the wage checker for a given worksite, so long as they are independent of the employer. The procedures for electing a wage checker should be designed to ensure the law's efficacy. To this end, Finkin suggests empowering the agency to determine workers' desire for a wage checker by whatever means it deems most expedient (Finkin 2015). In doing so, the NYS DOL would be empowered to bring its experience with labor law enforcement in to bear on the selection process and tailor it accordingly.

While the legislation currently under consideration by the state legislature—the EMPIRE Act and the Wage Theft Deterrence Package—would help strengthen labor law enforcement, a wage checker law would target two barriers to enforcement that have gone unaddressed. First, the state's ability to investigate wage theft is constrained by its limited enforcement capacity, and with only 129 full-time Division of Labor Standards employees, worker reports will likely remain the primary method for detecting violations. The wage checker law would make the complaint-led model more effective by enabling continuous monitoring, thereby increasing the likelihood of detection. Wage checkers would also help address a second barrier to enforcement: workers' reluctance to speak up about wage theft. Establishing a collective mechanism for monitoring and reporting alleviates the burden currently borne by individual workers, who risk becoming targets for retaliation if they report a violation. In this regard, wage checkers would help ensure that the imbalance of bargaining power between workers and employers does not inhibit enforcement.

Recognizing that workers have a meaningful role to play and using state power to realize that role is useful for more than just addressing wage theft—it provides a post-neoliberal model for how the state should approach the economy. Workers, unions, and the state all struggle to rein in employers' power, but each possesses a unique kind of leverage. That leverage is currently potential rather than actual, but the state has the power to assist in its actualization.

In the short term, the wage checker law would improve existing enforcement mechanisms—improvements that are crucial to protect the vulnerable workers who depend on them. Protecting workers' rights in the long term, however, demands more. The policies under consideration by the state legislature, such as the SEAT Act and the EMPIRE Worker Protection Act, represent an acknowledgment of how the neoliberal approach has failed and signal a willingness to reimagine the state's role in the market. But individual policies cannot realize a post-neoliberal vision for the economy on their own. The state must move beyond enacting policies to curb particular practices and toward the creation of a new policy paradigm. New York has an opportunity to use its power to reshape the economy to serve the public good.

The wage checker law and its approach to wage theft provide a useful illustration of how the state can rethink its approach to the market. Workers, by virtue of being workers, have greater access to—and a greater understanding of—their workplaces. Relative to the state, they are better situated to continually monitor and confront issues on the shop floor as they arise. The wage checker law recognizes this advantage and empowers workers to use it. By establishing a collaborative enforcement model, the wage checker law reimagines the role of workers in how labor law is enforced according to where they can have the greatest impact.

Conclusion

The state possesses a power that it shares with no other entity: the power to shape markets. The state can exercise this power by establishing priorities and setting baseline labor standards, a role envisioned by bills under consideration by the NYS legislature, such as the SEAT Act. In this capacity, the state serves as a kind of representative for the unorganized. Expanding beyond just cause protections, the state can decide which labor standards should not be subject to negotiation and guarantee protections that benefit workers regardless of industry.

In addition, workers' leverage at the level of the workplace is not limited to enforcement. The state can help realize workers' leverage by protecting them from retaliation, thereby creating workplaces more conducive to ensuring workers' rights—including the right to organize. If the state provides certain standard union contract provisions to all workers, the goal of unionization may become more tailored to specific workplace demands. Given the opportunity to do so safely, more workers in industries with low union densities could organize to improve their jobs. More workers could organize not only for higher standards but for more democratic workplaces.

Organized labor can fill the gap between the state and workplaces and counterbalance employers' power at the sectoral level. Sectoral bargaining expands collective bargaining beyond individual firms to entire sectors. Since the NLRA "largely limits collective bargaining to individual worksites for firms," sectoral bargaining in New York would likely need to be established at the local level through high union density (Bustamante 2023). When paired with state-level policies that raise labor standards generally, sectoral bargaining would allow unions to bargain for stricter protections and tailor their demands to particular industries.

For many low-wage frontline workers in New York, employers define the conditions of the workplace, and workers can accept those conditions or quit. But it doesn't have to be this way. The power imbalance between workers and their employers is not inevitable. New York's policymakers have introduced policies that would begin to rebalance bargaining power between workers and employers. For these policies to be truly effective, the state must aim to rebalance bargaining power throughout the economy as a whole and govern accordingly. The state cannot achieve that goal alone, but it can begin moving toward a long-term resolution to the power imbalances that undermine its laws and workers' rights. New York can decide for whom its economy should work, and how.

About the Author

Casey Williams graduated in May 2024 from Hampshire College, where he studied politics with concentrations in labor studies and urban studies. Inspired by his experience working in a bakery, Casey focused his Emerging Fellowship research on how to increase workers' bargaining power in low-wage industries across New York state. He is passionate about urban development, housing policy, and the working class, and he intends to continue researching worker power. Casey hopes to pursue a career focused on rebuilding the power of the labor movement beyond the shop floor to help create an economy—and a society—that workers for workers.

Acknowledgments

First, I would like to thank the Roosevelt Institute for this remarkable opportunity. I am grateful to the entire Roosevelt Network staff for their guidance and support and for making this fellowship possible. I would like to thank Eric A. Paul in particular for his invaluable assistance throughout the writing process. I would like to express my gratitude to Casey Brand for her feedback and insights into the culture and dynamics of the restaurant industry. I would also like to thank Alex Dinndorf of Barboncino Workers United, Tareq Saghie of ROC New York, Alex and Ryan of the Restaurant Workers Union, and Jeremiah Gorbold for taking the time to speak with me. Finally, I would be remiss if I did not thank Professor Preston H. Smith II of Mount Holyoke College for encouraging me to find structural questions in my personal experiences and pursue them.

References

Rebalancing Bargaining Power in New York City's Restaurants (and Beyond)

Andrias, Kate, and Alexander Hertel-Fernandez. 2021. *Ending At-Will Employment: A Guide for Just Cause Reform*. New York: Roosevelt Institute. https://rooseveltinstitute.org/publications/ending-at-will-employment-a-guide-for-just-cause-reform/.

Baram, Marcus. 2023. "NYS Department of Labor Fails to Recover $79 Million in Stolen Wages." *Documented*, August 21, 2023. https://documentedny.com/2023/08/21/nys-department-labor-wage-theft/.

_____ 2024. "Proposed Wage Theft Legislation Would Strip Violators of Their Ability to Do Business in the State." *Documented*, January 31, 2024. https://documentedny.com/2024/01/31/wage-theft-legislation-violation/.

Bernhardt, Annette, Diana Polson, and James DeFilippis. 2010. *Working Without Laws: A Survey of Employment and Labor Law Violations in New York City*. New York: National Employment Law Project. https://www.nelp.org/publication/working-without-laws-a-survey-of-employment-and-labor-law-violations-in-new-york-city/.

Bernhardt, Annette, Michael W. Spiller, and Diana Polson. 2013. "All Work and No Pay: Violations of Employment and Labor Laws in Chicago, Los Angeles and New York City." *Social Forces* 91, no. 3: 725–46. https://doi.org/10.2139/ssrn.2013387.

Bustamante, Alí R. 2023. "Balancing Power between Workers and Employers Requires Sectoral Bargaining." *Roosevelt Institute*, July 13, 2023. https://rooseveltinstitute.org/publications/balancing-power-between-workers-and-employers/.

Committee on Consumer and Worker Protection. 2022. *A Local Law to Amend the Administrative Code of the City of New York, in Relation to Wrongful Discharge from Employment*. New York City Council. December 7, 2022. https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=5958217&GUID=44D72CEC-FE82-4A43-BA31-4BB15FBC15EB.

Cheng, Annie Faye. 2023. "Workers at Rockefeller Center Restaurant Vote against Unionization." Prism, March 7, 2023. http://prismreports.org/2023/03/07/lodi-rockefeller-center-vote-against-unionization/.

Clean Slate for Worker Power. 2021. *Overcoming Federal Preemption: How to Spur Innovation at the State and Local Level*. Cambridge, MA: Center for Labor and a Just Economy, Harvard Law School. https://clje.law.harvard.edu/app/uploads/2022/12/Clean-Slate-Overcoming-Federal-Preemption.pdf.

Colodny, David, Aaron Halegua, Leah Lotto, Jenny Pelaez, Holly Pfitsch, Christine Ricardo, and Amy Tai. 2015. *Empty Judgements: The Wage Collection Crisis in New York*. New York: National Center for Law and Economic Justice. https://nclej.org/wp-content/uploads/2015/11/Empty-Judgments-The-Wage-Collection-Crisis-in-New-York.pdf.

Empowering People in Rights Enforcement Worker Protection (EMPIRE) Act. S. Res. 541A, 117th Cong. (2023). https://www.nysenate.gov/legislation/bills/2023/S541/amendment/A.

Finkin, Matt. 2015. "From Weight Checking to Wage Checking: Arming Workers To Combat Wage Theft." *Indiana Law Journal* 90, no. 2 (Spring): 851–77. https://www.repository.law.indiana.edu/ilj/vol90/iss2/10.

de Freytas-Tamura, Kimiko. 2020. "Fast Food Workers Win More Job Security." *New York Times*, December 17, 2020, sec. New York. https://www.nytimes.com/2020/12/17/nyregion/nyc-fast-food-workers-job-security.html.

Garza, Frida. 2023. "Serving $66 Entrees for $18 an Hour: The Union Push at an Upscale New York Restaurant." *The Guardian*, February 23, 2023. https://www.theguardian.com/us-news/2023/feb/23/lodi-new-york-restaurant-workers-unionize.

Hell Gate. 2023. "NLRB Breathes New Life into Lodi's Restaurant Union." *Hell Gate*, October 27, 2023. https://hellgatenyc.com/workers-at-midtown-restaurant-lodi-union.

Hunter College New York City Food Policy Center. 2019. *NYC Restaurant Workers Report & Survey*. New York: Hunter College. https://www.nycfoodpolicy.org/wp-content/uploads/2019/09/NYCRestaurantWorkers-2.pdf.

Krishna, Priya. 2024. "A Case against a Top New York Restaurant Could Lower Barriers to Unions." *New York Times*, May 15, 2024, sec. Dining. https://www.nytimes.com/2024/05/15/dining/lodi-unions-restaurants-nlrb.html.

Leon, Luis Feliz. 2023. "Restaurant Workers at Rockefeller Center's Lodi Confront Union-Buster Ahead of Vote." Labor Notes, February 24, 2023. https://www.labornotes.org/2023/02/restaurant-workers-rockefeller-centers-lodi-confront-union-buster-ahead-union-vote.

Lin, Sarah Belle. 2023. "Workers at a Popular Pizzeria in Brooklyn Form Union, First Pizza Restaurant in New York City to Do So." *amNew York*, July 27, 2023, sec. Business. https://www.amny.com/news/workers-at-a-popular-pizzeria-in-brooklyn-form-union-first-pizza-restaurant-in-new-york-city-to-do-so/.

Milkman, Ruth, and Joseph van der Naald. 2023. *State of the Unions 2023: A Profile of Organized Labor in New York City, New York State, and the United States*. New York: City University of New York (CUNY) School of Labor and Urban Studies. https://slu.cuny.edu/wp-content/uploads/2023/08/Union-Density-2023.pdf.

Morales, Christina. 2023. "Barboncino, a Brooklyn Pizza Restaurant, Becomes a Union Shop." *New York Times*, July 26, 2023, sec. Food. https://www.nytimes.com/2023/07/26/dining/barboncino-brooklyn-pizza-union.html.

National Employment Law Project (NELP). 2022. "Federal Court Upholds New York City's 'Just Cause' Job Protections." Press release, February 11, 2022. https://www.nelp.org/news-releases/federal-court-upholds-new-york-citys-just-cause-job-protections/.

New York Department of Labor (NY DOL). 2022. "QCEW by New York State Department of Labor." Quarterly Census of Employment and Wages. Last updated May 31, 2024. https://public.tableau.com/app/profile/kylee.teague2482/viz/shared/TTH3MQCWD.

Restaurant Workers Union (@rwu.str). 2023. "🚨 Big News." Instagram photo, October 26, 2023. https://www.instagram.com/p/Cy3f1CVuGWy/.

Safeguarding Employees and Accountability for Termination Act (SEAT Act). S. Res. 5459, 118th Cong. (2023). https://www.nysenate.gov/legislation/bills/2023/S5459.

Siegelbaum, Max. 2023. "127,000 New York Workers Have Been Victims of Wage Theft." *Documented*, August 22, 2023. https://documentedny.com/2023/08/22/wage-theft-restaurants-new-york-nyc/.

Stansbury, Anna. 2021. "Do US Firms Have an Incentive To Comply With the FLSA and the NLRA?" Peterson Institute for International Economics (PIIE) Working Paper No. 21-9. Washington, DC: PIIE. . https://doi.org/10.2139/ssrn.3874221.

Tung, Irene, Paul K. Sonn, Anika Dandekar, Amy Pinilla, and Angeles Solis. 2023. *Fired Without Warning or Reason: Why New Yorkers Need Just Cause Protections*. New York: National Employment Law Project (NELP). https://www.nelp.org/publication/fired-without-warning-or-reason-why-new-yorkers-need-just-cause-protections/.

Wiessner, Daniel. 2024. "NYC Ban on Firing Fast Food Workers without Cause Upheld by Appeals Court." *Reuters*, January 5, 2024, sec. Government. https://www.reuters.com/legal/government/nyc-ban-firing-fast-food-workers-without-cause-upheld-by-appeals-court-2024-01-05/.

Wong, Felicia, Suzanne Kahn, Mike Konczal, and Matt Hughes. 2023. *Sea Change: How a New Economics Went Mainstream*. New York, NY: Roosevelt Institute. https://rooseveltinstitute.org/publications/sea-change/.

Tipping the Scale: How Wage Policy Impacts Wisconsin's Food Service Workers

By Olivia Ligman

Introduction

Working in the American food service industry comes with some notorious stipulations, the most infamous of which is tipping. Tipping is currently protected and codified in both federal and state laws in the form of a two-tiered minimum wage system. Despite arguments dating back to the rise of chain restaurants and the overall increase in service jobs, tipping remains a key part of restaurant and beverage worker income. In Wisconsin, many food service workers are considered low-income, and subminimum (i.e., tipped) wages are often the main culprit.

Low-wage workers (the definition of which varies but generally includes those who earn more than one-third less than the median wage or, currently, less than $20 per hour) are particularly vulnerable to workplace exploitation, poverty, and worse health outcomes given the rollback of protections and enactment of neoliberal policies within Wisconsin. Act 10, which passed in 2011 under Republican Governor Scott Walker, ended collective bargaining for public employees, and in 2015, Wisconsin became the 25th right-to-work state, hindering employees' ability to engage in union activity. This anti-work legislative trend, in conjunction with inflation, has contributed to the livability issues that working Wisconsinites face.

Many of Wisconsin's low-wage workers operate within a few key industries, such as hospitality, food service, retail, and health care (including nursing assistants, hospice assistants, etc.). Low-wage workers in Wisconsin's food and beverage industries are particularly vulnerable to exploitation in the workplace due to a lack of safe working conditions, worker protections, assistance for self-organizing, and external support. Neoliberal wage and labor policies, such as a very low minimum wage and benefits exemptions for tipped employees, have ultimately created a low barrier to entry in this industry, but have also placed these workers in precarious positions, often with little safety net or access to assistance.

The lack of adequate and livable wages for workers in Wisconsin's food and beverage industries is not only a blight on these workers but also a burden misplaced onto Wisconsin's economy and taxpayers. With these low and sometimes subminimum wages, workers cannot make ends meet. Because of this, they often have to turn to other means of income or public assistance, if available. This effectively means that the public is inadvertently subsidizing the cost of employment for the restaurants, bars, and other businesses that pay their workers so little.

In order to tackle the blatant issues that stand in the way of justice for these workers, as well as to protect Wisconsin taxpayers, the government must proactively identify unsafe and exploitative workplace practices and provide greater incentives to expand worker benefits and strengthen safety nets. Policymakers must also phase out tipped wages so that the burden of paying employees is on the business, not on Wisconsin's taxpayers. Implementing this will require an increase in Wisconsin Department of Workforce Development (WDWD) staff, as well as extensive legislative changes to existing policies of rock-bottom legal wages and a lack of mandated benefits packages. Policymakers should also collect data on the number of employees per establishment dependent on government-provided assistance and scrutinize the businesses whose employees are largely reliant on this aid.

Background and Context

Wisconsin has a rich history of labor activism, policy, and organizing. The rise of neoliberal policies in the 1970s and 1980s resulted in decreased union membership and the deterioration of labor rights for Wisconsinites. This process was gradual, but has had large, sustained consequences for Wisconsin's workers. Since 1989, the number of union members in Wisconsin has been cut by more than half, and Act 10 effectively gutted Wisconsin's public sector unions.

Food and restaurant workers in Wisconsin are among those facing not only low rates of union membership, but also higher rates of poverty, on-the-job harassment, and other harmful, unjust workplace practices (USBLS 2024a; Shierholz 2014). Among the most glaring of these issues is the subminimum wage and the lack of protections in place for food and beverage workers in Wisconsin. From low wages, exploitation based on immigration status, gender-based harassment, and a lack of ensured benefits, restaurant and beverage industry workers face numerous workplace challenges and injustices.

Within the United States at large, the food sector makes up over 7 percent of the annual national GDP and over 7 percent of total US employment (USBLS 2024a). In Wisconsin, restaurants, dining, and beverage industries (such as breweries and cafés) employ nearly 250,000 people, or around 4 percent of the entire Wisconsin population and 8 percent of the civilian labor force (Walther 2019; USBLS 2023). This means that the equivalent of half of Milwaukee's population, or nearly the entire population of Madison, are earning wages that are too low to adequately support themselves, let alone their families, on a single income.

Not only are these workers making an inadequate amount of money, but labor represents almost half of the operating costs of restaurants, providing rife incentives to cut corners to increase profit margins (Yandrasevich 2011). Research into worker experiences within the restaurant and beverage industry clearly showed workers bearing the brunt of cost-cutting measures, including a lack of societal support and legal enforcement. Additionally, workers are continuously placed in precarious and often vulnerable situations, such as exploitation from management. Although this brief focuses primarily on wages, each of these intersecting issues should also be considered and addressed.

The COVID-19 pandemic exacerbated many preexisting issues for restaurant workers. During this time, restaurant workers were among the most likely groups to contract COVID-19 while at work. Bartenders faced the highest infection risk within the food service subcategory. Many food and beverage industry workers also faced heightened risk due to a widespread lack of access to paid leave and prolonged exposure to non-masking people on the job (Pray et al. 2022). The experiences of restaurant workers in Milwaukee during the pandemic echo this sentiment. The lack of benefits provided by many food service jobs, paired with increased safety risks during the pandemic, ultimately led many to leave the industry altogether (Hoffman 2021). If these issues persist, it would not only continue to harm food and beverage industry workers but also weaken Wisconsin's economy through the decrease in workforce, increasing the tax burden on the public to subsidize the cost of inadequate wages.

Over three million restaurant employees were laid off or furloughed between March 2020 and March 2022. The vast majority of these employees were left without organizational, financial, or emotional support, and their former employers often neglected to assist them with filing for unemployment. This lack of support negatively impacted many workers and placed them in emotionally and financially precarious positions (Park et al. 2021). With no job, no safety net, no severance packages, and little mobility in the job market during the pandemic, these workers faced extremely difficult circumstances.

Many workers' wages are not enough to support their basic needs or those of their families. Basic costs such as childcare, health insurance, groceries, and rent are often out of reach for some of these workers. Based on research assessed by the Urban Institute, over 15 percent of Wisconsin's food service and preparation workers were uninsured from 2015–2019 (not including public sector workers or those under the age of 19 at the time of data collection) (Gangopadhyaya and Waxman 2020). This lack of insurance can be tied to employee-provided insurance not being an industry or legal standard, as well as to the widely accepted and utilized practice of paying subminimum wages.

The Wisconsin minimum wage, for example, has not changed for over 15 years. The last change occurred only to match the updated federal minimum in 2008, when living costs were much lower than they are today. The federal non-tipped minimum wage also last changed over 15 years ago, in 2009 (USDOL n.d.).

As of today, Wisconsin's state minimum wage for non-tipped and non-farm hourly workers is $7.25 per hour. For tipped workers, the wage drops to $2.33 per hour (Wisconsin Restaurant Association n.d.). Legally, if the tips a worker makes do not bring the $2.33 minimum up to $7.25 per hour, the business must pay the worker the difference, but this is a legal formality that is not always practiced. Wisconsin's Casa Taqueria LLC is a recent example of this, currently owing their employees over $270K in back pay (Hess 2023). The federal tipped minimum wage has not changed from $7.25 since 1996 (USDOL n.d.) and is currently worth 30 percent less in real value than when it was initially implemented 15 years ago (Payne-Patterson and Maye 2023).

The lack of an updated minimum wage, as well as the acceptance of subminimum wages as normal, leaves many workers with little to no savings, living paycheck to paycheck, and relying on their workplace for necessities like meals or sometimes even shelter. Workers in tipped professions are also twice as likely to live below the poverty line, and are more likely to not receive paid time off, sick leave, or retirement savings (Shierholz 2014).

For Wisconsin workers under the age of 20, for the first 90 consecutive days of employment, the minimum wage drops to just $2.13 per hour. To put this into perspective, the WDWD has stated that a household of four, comprised of two adults earning $27.07 per hour each and two dependents, makes barely enough to support all four people adequately (Glasmeier 2024). This means that a full-time tipped or low-wage worker earning much less than $27.05 per hour is less likely to be able to afford housing, health care, legal services, childcare, groceries, and other necessities.

The two-tiered minimum wage system is harming Wisconsin's low-wage workers and places the brunt of the burden onto the Wisconsin taxpayer by forcing their reliance on tax-funded programs to make up for the gaps left by inadequate income, a lack of work-provided benefits, and unaffordable living conditions. In order to combat this widespread issue, the existing policy of tipped wages must be understood as harmful and be phased out in lieu of livable wages paid by employers themselves.

Policy Analysis

Although worker exploitation still takes place across the Midwest and within Wisconsin, there are currently policies in place aimed at preventing harm or minimizing conflict. While one single policy will not solve all of the challenges facing Wisconsin's food and beverage workers, increasing minimum wages and de-integrating subminimum wages is a good start. One of these protections is wage lien laws that are present within Wisconsin state statutes. These wage lien laws protect worker claims for unpaid wages and costs if an employer fails to comply, particularly with plant closures resulting in layoffs or penalty violations (Reinhart 2016). Although not common within the restaurant industry, these preexisting statutes show that previous worker-centered policies have succeeded. Wisconsin's largely conservative state legislature has prevented many different pro-worker proposals from moving forward, and the extreme gerrymandering of Wisconsin's voting districts has made it very difficult to elect pro-worker politicians into office.

Other states, even within the Midwest, have raised their minimum wages for public benefit. In fact, three of the four states that border Wisconsin (Illinois, Michigan, and Minnesota) already have higher minimum wages and are all implementing further increases within the next year (Payne-Patterson and Maye 2023). These increases include tipped wages—which are also already higher in these three states than in Wisconsin—albeit to varying degrees. As service industry positions continue to take up more of the job market and workforce, higher wages and the elimination of two-tiered minimum wages must follow.

Both the federal and Wisconsin state governments should improve their enforcement of worker safety within this industry and provide further incentives to raise wages and increase benefits and safety nets for low-wage workers. Increasing the ease of the grievance-filing process, having more consistent oversight, and partnering

with workers are all tangible approaches. Due to the large number of people that work within this industry, as well as the significant role that the industry itself plays within the economy, creating a safer, more holistically supportive, and well-paying working environment would not only benefit workers but would strengthen the Wisconsin economy and have positive spillover effects, such as fewer people relying on SNAP, more tax money to fund various projects, and an increase in stable employment. This would also lower the tax burden for Wisconsinites in regard to subsidizing insufficient wages.

The argument that increasing minimum wages negatively impacts businesses and causes job loss has been debunked for decades, and studies now show that improving wages may benefit low-wage communities and small businesses (Godøy and Reich 2020). In response to this data, there has been continued vigor toward achieving this goal, especially from labor unions, low-wage workers, and a few Democratic politicians, such as Wisconsin state senator Melissa Agard.

Barriers to increasing the minimum wage and enacting worker protection legislation include ongoing pushback from Wisconsin's majority Republican legislature, as well as the pervasive myth that raising minimum wages would raise prices, limit job opportunities, and hurt the average Wisconsinite's wallet. If the state does not take measures to prevent inadequate wages from becoming more prevalent, supporters of neoliberal policy will continue to benefit from this myth, as well as make money from unpaid debts, cash-now enterprises, and the lack of political fervor brought on by an exhausted and underpaid sector of the public. Furthermore, food and beverage service businesses will continue to profit off Wisconsin taxpayers and benefit from customers subsidizing their employees' wages and costs, either in the form of tips or from their employees being forced to rely on tax-funded aid.

In order to implement and make impactful changes for Wisconsin's workers, the WDWD would likely need to add to their staff, implement a survey system, vie for a larger part of Wisconsin's annual budget, and streamline their investigative process. States such as Alabama and California are both building new Occupational Safety and Health Administration (OSHA) offices to deal with the disproportionate ratio of investigators to workers (OSHA 2024). Wisconsin could follow suit.

The state government, an already active enforcer of worker protection through agencies like OSHA and the WDWD, is poised to create and promote policies that would produce greater equity and opportunity for Wisconsin's low-wage workers. These policies could range from active lobbying and raising the minimum wage through statutes to working outside the legislature to promote raising wages in other ways. Although governmental presence may limit opportunities for undocumented workers within the food service industry, the cost of not having proper enforcement is continued exploitative practice at the expense of those same immigrant communities.

Recommendations

The WDWD and OSHA are already equipped to create incentives for businesses to pay their workers more or to provide more benefits, such as insurance policies, paid time off, or sick leave. These organizations already have infrastructure in place to perform extensive oversight of workplace practices and conditions and have significant power over workplace standards. Employer-matched or -provided health insurance should be the standard, which should include at least one week of paid time off and sick leave leniency. These incentives could range from tax subsidies or tax breaks to penalties or investigations for extremely high employee turnover rates to state-wide workplace surveys. The state can take numerous courses of action to push businesses to pay their employees more and to provide better protections and benefits.

Ultimately, the subminimum wage must be phased out in lieu of higher, more reliable wages, which are adjusted for inflation. Low-wage workers, particularly those in the food service industry, rely on tips and are far too often left to struggle with insufficient income and workplace protections. As more states begin to adjust their minimum

wages to account for the rising cost of living, Wisconsin must follow suit and address the needs of its low-wage workers. Phasing out the two-tiered pay system may take time, but it is necessary to meet the basic needs of Wisconsin's hardworking waitresses, bartenders, barbacks, line cooks, and baristas.

The phaseout will also require incentives to implement gradual changes in businesses within the food service industry. As the cost of living increases, so does the cost of running a business, and so must the cost of labor. With profit margins in the food service industry being notoriously slim, government intervention must be swift, effective, and implementable in stages.

Conclusion

Workers in Wisconsin face many challenges given the state's recent and historical policies toward workers, rising costs of living, and stagnant, two-tiered wage systems with little to no guaranteed benefits, protections, or safety nets. Situated within the Midwest, Wisconsin would be expected to have lower costs of living, but even so, minimum wages, and especially tipped minimum wages, have not kept pace.

Despite public outcry and multiple pushes for an increase in both the federal and Wisconsin state minimum wage, there has been little progress on this front. Workers across the state, including in cities such as Milwaukee and Madison, have joined the Fight for $15 campaign, but there has yet to be a tangible change in legislation or policy. Wisconsin has already joined the growing movement for a higher minimum wage, but unlike its neighbors, it has not yet fully enacted these goals.

Given these circumstances and research on the food service and low-wage workers in particular, it is clear that phasing out tipped wages, increasing incentives for higher wages and benefits within the food and beverage industry, and creating clearer and easier means of accessing governmental and external assistance are necessary policy measures. As both inflation and the number of service jobs continue to rise, paying food service workers higher wages has become urgently necessary. Restaurant and beverage workers should not have to depend on inconsistent tips to survive, should not face higher rates of exploitation at work, and should have clear and easy access to governmental or external assistance in the face of exploitation, abuse, or wage theft.

Facing pushback from small business lobbies, right-wing politicians, and deeply entrenched neoliberal anti-worker policies, the fight for a fair, equitable, and livable wage is far from over. These challenges are not new, but working toward increasing wages by targeting employers rather than only the legislature, as well as using decades of research that promotes raising minimum wages, may be the first steps toward creating real policy change. Putting forth this policy—alongside other pro-worker policies such as furthering self-organizing and union protections, repealing Act 10, and increasing Wisconsin's SNAP and Badger Health accessibility—would create the greatest, most sustainable impact. These actions combat neoliberal alternatives by fighting against inadequate minimum and tipped wages and strengthen worker power by bolstering institutional workplace oversight.

The implementation of a multi-step process toward increasing the minimum wage would benefit over 250,000 Wisconsinites (Walther 2019). Average rent would become attainable, groceries would be put on the table, and day care would be affordable. In order to work toward a more just society for workers, particularly for Wisconsin's low-wage workers, "low-wage" and "tipped" must become adjectives of the past. All workers deserve adequate compensation and to have their basic needs met through their honest labor.

About the Author

Olivia Ligman (she/her) was born and raised in central Wisconsin. Olivia's passion for labor justice and policy stems from her background growing up in a largely blue-collar community with a strong work ethic and sense of determination. She is a recent graduate of the University of Wisconsin-Madison and plans to continue studying labor history at IU Bloomington while pursuing her graduate degrees.

Acknowledgments

I would like to thank Alyssa Beauchamp, Katie Kirchner, and Eric Paul for their mentorship, advice, and guidance throughout the Emerging fellowship. I would also like to thank Adrienne Pagac and Dr. Laura Dresser, who continue to inspire me with their passion, wisdom, and dedication to the workers of Wisconsin and beyond. I would also like to thank my fellow Emerging fellows for their unwavering support and kindness during the tenuous senior year of my undergraduate education. Finally, I would like to thank my parents and all the workers of Wisconsin, who have helped me become who I am today, and despite adversity, always move forward.

References

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Allegretto, Sylvia A, and David Cooper. 2014. *Twenty-Three Years and Still Waiting for Change: Why It's Time to Give Tipped Workers the Regular Minimum Wage*. Washington, DC: Economic Policy Institute. files.epi.org/2014/EPI-CWED-BP379.pdf.

Cevilla, Eddy. 2013. "Just Dining: A Look Into Service Industry Workers' Rights." Workers' Rights Center of Madison. May 13, 2013. Youtube video. https://www.youtube.com/watch?v=9MvujMde4h0.

Gangopadhyaya, Anuj, and Elaine Waxman. 2020. *Supporting Food Service and Preparation Workers during the COVID-19 Pandemic*. Washington, DC: Urban Institute. www.urban.org/sites/default/files/publication/101931/supporting_food_service_workers_during_covid-19_pandemic.pdf.

Glasmeier, Amy K. 2024. "Living Wage Calculator," Massachusetts Institute of Technology. Accessed on June 26, 2024, https://livingwage.mit.edu/states/55.

Godøy, Anna, and Michael Reich. 2020. "Are Minimum Wage Effects Greater in Low-Wage Areas?" Working Paper no. 106–20. Berkeley, CA: Institute for Research on Labor and Employment (IRLE). http://irle.berkeley.edu/files/2020/09/Are-Minimum-Wage-Effects-Greater-in-Low-Wage-Areas.pdf.

Hanley, Erik S. 2022. "Oak Creek Starbucks Becomes First Location in Wisconsin to Unionize, Joining Wave of Other Locations across the Country." *Milwaukee Journal Sentinel*, April 28, 2022. www.jsonline.com/story/communities/south/news/oak-creek/2022/04/28/starbucks-oak-creek-first-wisconsin-unionize/9567099002/.

Hess, Corrinne. 2023. "Wisconsin Restaurant Owner Owes More than $270k in Employee Back Pay, Violated Child Labor Laws." *Wisconsin Public Radio*, July 27, 2023. www.wpr.org/restaurant-owner-casa-tequila-employee-back-pay-violated-child-labor-laws.

Hoffman, Thomas. 2021. "Milwaukee Restaurants and Service Workers Face Pandemic Stress." *Media Milwaukee*, December 10, 2021. mediamilwaukee.com/news/milwaukee-restaurants-and-service-workers-face-pandemic-realities/.

National Restaurant Association. 2022. "Restaurant Employee Demographics." *National Restaurant Association*, March 2022. restaurant.org/getmedia/21a36a65-d5d4-41d0-af5c-737ab545d65a/nra-data-brief-restaurant-employee-demographics-march-2022.pdf.

Occupational Safety and Health Administration (OSHA). 2024. "Department of Labor Plans to Restructure Workplace Safety, Health Regional Operations Strategically to Protect Workers." Press release, May 8, 2024. https://www.osha.gov/news/newsreleases/national/05082024.

One Fair Wage, UC Berkeley Food Labor Research Center, Catharine A. Mackinnon, and Louise F. Fitzgerald. 2021. *The Tipping Point: How the Subminimum Wage Keeps Incomes Low and Harassment High*. Cambridge, MA: One Fair Wage; Berkeley, CA: UC Berkeley Food Labor Research Center. https://www.onefairwage.org/publications/subminimum_wage_keeps_income_low_harassment_high.

Park, Jeong-Yeol, Kyle Hight, Diego Bufquin, Jessica Vieira de Souza Meira, and Robin M. Back. 2021. "An Examination of Restaurant Employees' Work-Life Outlook: The Influence of Support Systems during COVID-19." *International Journal of Hospitality Management* 97, no 102992 (August): 1-11. https://www.sciencedirect.com/science/article/pii/S0278431921001353.

Payne-Patterson, Jasmine, and Adewale A. Maye. 2023. "A History of the Federal Minimum Wage: 85 Years Later, the Minimum Wage Is Far from Equitable." *Working Economics* (blog). Economic Policy Institute. August 31, 2023. www.epi.org/blog/a-history-of-the-federal-minimum-wage-85-years-later-the-minimum-wage-is-far-from-equitable/.

Pray, Ian W., Barbara Grajewski, Collin Morris, Komi Modji, Peter DeJonge, Katherine McCoy, Carrie Tomasallo, Traci DeSalvo, Ryan P. Westergaard, and Jonathan Meiman. 2023. "Measuring Work-Related Risk of Coronavirus Disease 2019 (COVID-19): Comparison of COVID-19 Incidence by Occupation and Industry—Wisconsin, September 2020 to May 2021." *Clinical Infectious Diseases* 76, no. 3 (February): 163–71. https://doi.org/10.1093/cid/ciac586.

Reinhart Boerner Van Deuren. 2016. "The Wisconsin Wage Lien: What Lenders Should Know." News & Insights. Last updated February 23, 2016. www.reinhartlaw.com/news-insights/the-wisconsin-wage-lien-what-lenders-should-know.

Shierholz, Heidi. 2014. "Low Wages and Few Benefits Mean Many Restaurant Workers Can't Make Ends Meet." *Economic Policy Institute*, August 21, 2014. www.epi.org/publication/restaurant-workers/.

Stack, Megan K. 2023. "Inside Starbucks' Dirty War against Organized Labor." *New York Times*, July 21, 2023. www.nytimes.com/2023/07/21/opinion/starbucks-union-strikes-labor-movement.html.

US Bureau of Labor Statistics (USBLS). 2023. "Occupational Employment and Wage Statistics." Occupational Employment and Wage Statistics Query System. Last updated May 2023. https://data.bls.gov/oes/#/geoOcc/Multiple%20occupations%20for%20one%20geographical%20area.

_____ 2024. "Industries at a Glance: Food Services and Drinking Places: NAICS 722." Labor at a Glance. Last updated June 18, 2024. www.bls.gov/iag/tgs/iag722.htm#workforce.

US Department of Labor (USDOL). n.d. "History of Changes to the Minimum Wage Law." Wage and Hour Division. Accessed June 21, 2024. www.dol.gov/agencies/whd/minimum-wage/history.

Walther, Anna. 2019. "Declining Returns to Low-Wage Work in Wisconsin." *Institute for Research on Poverty*, September 23, 2019. www.irp.wisc.edu/resource/declining-returns-to-low-wage-work-in-wisconsin/.

Wisconsin Restaurant Association. n.d. "Foodservice Laws & Regulations." Laws & Regulations. Accessed June 23, 2024. www.wirestaurant.org/laws-regulations.html.

Witte, Edwin E. 1951. "Labor in Wisconsin History." *Wisconsin Magazine of History* 35, no. 2: 83–142. http://www.jstor.org/stable/4632363.

Yandrasevich, Scott. 2011. "Controlling Labor Costs in Restaurant Management: A Review of the Internal-Marketing Concept as a Method for Enhancing Operating Efficiency." Professional paper for master's program, Las Vegas: University of Nevada. https://digitalscholarship.unlv.edu/cgi/viewcontent.cgi?article=2077&context=thesesdissertations.

Race and Democracy

Barriers to Democracy Are Barriers to Housing: Strengthening Political Participation to Alleviate the Housing Crisis in Massachusetts

By Aryen Shrestha

Introduction

Housing unaffordability and racial segregation, the status quo in Massachusetts, are inextricably linked. They share the same root cause: Power is vested in unrepresentative local institutions, which shape housing policy for a privileged few rather than their communities as a whole. This state of affairs did not develop in a historical vacuum—the emergence of neoliberalism in the 1970s, which encouraged the scaling down of federal involvement in housing, left local governments with the enormous responsibility of managing housing outcomes. To increase housing affordability and improve racial equity, we must strengthen democracy at the local level by radically increasing political participation among tenants, people of color, and poorer households to ensure that the voices of all community members are heard. Empowering democracy will allow us to create a Massachusetts where all residents are able to live and thrive.

Background

There is a housing crisis in Massachusetts. Despite being one of the wealthiest states in the US, individuals and families are finding it increasingly difficult to find a place to call home. More than 18,000 residents are homeless (Henry et al. 2020), and just under half of all renters are considered "cost-burdened," meaning that they spend more than 30 percent of their income on housing (Joint Center for Housing Studies of Harvard University 2016). Individuals and families with a higher cost burden are more likely to experience food insecurity, forego needed medical care, and find it more difficult to pay bills (Shamsuddin and Campbell 2021).

Furthermore, this crisis disproportionately affects already marginalized groups. For instance, as homeownership is the biggest source of wealth for the vast majority of Americans, racial gaps in homeownership lead to massive disparities in wealth. In fact, an estimated 30 percent of the Black-white racial wealth gap can be explained by housing disparities alone (Rouse et al. 2021). Black and Latino households, who are more likely to be tenants rather than homeowners, are consistently 10 percentage points more likely to be cost-burdened than white households at a national level (National Equity Atlas 2020b). Black and Latino populations are also more likely to suffer from

homelessness, and therefore its severe consequences (Fine et al. 2023). Thus, beyond simply four walls and a roof, housing serves as a bedrock for well-being and racial equity, underscoring the importance of making housing affordable for all.

However, Massachusetts cannot just haphazardly build housing anywhere to try to fix the affordability crisis and the related problem of racial segregation. A person's neighborhood of residence determines their access to critical public services, such as quality education, well-functioning sewer and water systems, reliable and affordable transportation, and police and fire protection that can keep them and their loved ones safe (Trounstine 2018). It is thus no surprise that a person's childhood neighborhood is a large factor in future outcomes and prospects for intergenerational mobility (Chetty et al. 2014). Housing has the potential to make the largest impact if it is built in high-quality neighborhoods.

Unfortunately, yet perhaps unsurprisingly, these high-quality neighborhoods are exactly the places where we see the least affordable housing development, leading to increased racial and economic segregation. In Massachusetts, neighborhoods that already have populations that are wealthier and more white—and thus more likely to have high-quality public services due to the current and historical effects of racialized power—are significantly less likely to build housing accessible to low-income and minority households (Goetz and Wang 2020). The uneven development of affordable housing across the region's towns and cities has caused racial segregation to not only persist but also increase in areas in Greater Boston since the end of legal racial segregation (Cornelissen and Godinez-Puig 2023). Racial segregation (which is now increasingly occurring between entire cities, not just between neighborhoods) limits marginalized racial groups' access to quality public services and all the benefits these services provide (Trounstine 2020).

These exclusionary effects are not due to some innate neighborhood characteristics. In fact, there seems to be widespread support for inclusive and affordable housing, even across the seemingly impermeable barriers of race and class—70 percent of Massachusetts residents support low-income housing development (Tenser 2023). Instead, evidence points to the fact that the exclusionary policies we see being implemented are being pushed by a small, unrepresentative subgroup of local participants—a group more likely to be older and wealthier homeowners. However, we must first understand why local governments hold such outsized power to determine housing allocation, which impacts not only their own residents but also the broader regional economy and equitable outcomes throughout the state.

One of the main reasons why local institutions have such great power to shape housing market outcomes is due to the federal government's segregationist involvement and subsequent withdrawal from housing allocation in the 20th century. In the 1930s, the US federal government became heavily involved in the housing market, introducing massive public housing projects and housing subsidies alongside sweeping "slum" demolitions (Rothstein 2012). The explicit segregationist interests in these interventions are well-known—the federal government supported white households purchasing homes through federally backed mortgages and loans for suburban development, whereas Black households were systematically denied these same loans on the basis of race. Black households were instead ushered into increasingly dilapidated public housing projects, contributing to the current vast, interrelated racial discrepancies in homeownership rates, neighborhood quality, and wealth. The neoliberal turn in American (and global) politics in the 1970s and 1980s then saw the prolonged withdrawal of the federal government from public housing and the planned shrinking of support for local public services (Stein 2019). This left local and state governments to shoulder the responsibility of housing their residents.

In Massachusetts, the municipal level of governance plays the most important role in shaping housing outcomes, above and beyond the state government. Unlike many states in the US, Massachusetts currently has a "weak planning framework," meaning there are no state-level requirements that a certain amount of land in each municipality be zoned for multifamily/high-density single-family housing or that municipalities reserve a fraction of the existing housing stock as affordable housing (Bratt 2012).[1] Relatedly, there are only a handful of preemption laws in place that allow the state government to encourage or enforce the development of higher-density, affordable housing without the explicit approval of local governments. Thus, the state government has largely left the responsibility of housing up to the localities themselves.

1 Note that individual municipalities such as Cambridge and Boston have their own individual "inclusive development plans" which require developers to carve out 13–20 percent of their new rental buildings at income-restricted rents (Carlock 2023), illustrating the power localities have in regulating their housing markets and encouraging certain types of growth.

However, as aforementioned, local governments have largely failed to support the development of inclusive, affordable housing. Rather than promote denser housing, which would result in greater affordability for low-income and minority populations, in most communities around Greater Boston, more than 80 percent of the available land is zoned solely for single-family homes (Fair Housing Center of Greater Boston n.d.), with this pattern widely consistent across the rest of Massachusetts. These types of restrictive zoning laws are exclusionary and perpetuate inequality, with research demonstrating that these regulations prevent the construction of affordable, high-density housing and keep poorer families (as well as families of color) out of wealthier neighborhoods (Glaeser and Gyourko 2018; Rouse et al. 2021). The rising unaffordability of housing throughout the state, with a growing share of renters considered cost-burdened, is further evidence of the inadequacy of the status quo (Joint Center for Housing Studies of Harvard University 2016).[2]

Policy Analysis and Recommendations

So if local governments are largely responsible for managing housing supply, why would they institute policies that would lead to more expensive housing and greater economic and racial inequality? It is because the current structure of political participation at the local level promotes unrepresentative voices at the expense of low-income and minority residents and tenants. The solutions then must focus on empowering political participation at the local level among those who are currently left voiceless to turn the tide against rampant housing unaffordability and racial segregation.

First, let us start by considering the prevailing theory about the rationale behind restrictive land practices, which focuses on the concept of "homevoters" (Fischel 2001). The intuition is that homeowners have a special and powerful economic interest in restricting housing supply. The reason is that for home-owning residents, their houses are by far their largest financial asset, so any increase in housing supply may lead to a decrease in the value of their property. Unlike other investments, homes cannot be moved from one place to another, and their value is intrinsically tied to local supply. Homevoters thus vote with this narrow self-interest in mind across local elections and public hearings, especially in favor of instituting restrictive policies such as exclusionary zoning (Fischel 2004).

However, this theory has a number of problems. Firstly, empirical work shows that many homeowners support housing growth. An investigation into voting records showed that liberal residents, regardless of whether they were homeowners or renters, were more likely to support housing growth when they felt it benefited marginalized communities (Wong 2018). Additionally, even if we agree with the assumption that all homeowners are against new construction, they only constitute part of the voting population in any given municipality. Tenants, low-income populations, and minority populations have different incentives to promote housing development. Tenants, for instance, are more likely to support high-density buildings than homeowners, as they stand to benefit most directly from the potential for lower rents (Marble and Nall 2021), aligning with the priorities for low-income households. Similarly, residents of color may be more likely to support housing development on grounds of equity and inclusion, as well as more tangible reasons, such as reduced gentrification pressures due to the lack of rising housing prices and living costs. Polling data confirms the widespread popularity of more inclusionary housing development—70 percent of Massachusetts residents support low-income housing development, including 60 percent who support building more affordable housing in their own neighborhoods (Tenser 2023).

A theory that aligns better with reality may be that pro-housing sentiments are being ignored in local policy not because they are unpopular but because housing decisions are being dictated by a minority whose viewpoints are unrepresentative of their communities' needs. Einstein, Palmer, and Glick (2019a) analyze thousands of public

2 Exclusionary zoning is not the only way municipalities prevent affordable housing. Municipal governments in Massachusetts as of now are by and large unwilling to consider more progressive alternatives to improving housing outcomes, including rent controls, tenant protection laws, and community land trusts. These too are related to their current undemocratic structures, which I explain in the section below.

comments in housing and zoning board meetings[3] across the Greater Boston area and find that individuals who are "older, male, longtime residents, voters in local elections, and homeowners are significantly more likely to participate in these meetings." These participants are unrepresentative of the views and demographics of the larger municipal populations—in fact, over two-thirds of the participants voiced viewpoints opposing dense, affordable housing, standing in stark contrast to polling results, which showed widespread approval for further housing development. Participation at these meetings is crucial in influencing housing supply, especially in Massachusetts, where all 351 municipalities require the input of these public meetings for any new construction or changes in zoning (Stearns and de la Motte 2021).

Looking deeper into the specifics of the undemocratic and exclusionary nature of these institutions, the researchers found that over a three-year period in the city of Lawrence, where 75 percent of the population is Latino, only one resident with a Hispanic surname ever spoke at a planning and zoning meeting (Einstein, Palmer, and Glick 2019a). Given the current makeup of public participation in these crucial housing meetings, it is no surprise that housing policy reflects the will of this outspoken minority against more inclusive and affordable housing.

Thus, empowering the participation of those currently left out of the conversation—tenants, minority populations, and poorer residents—would help create policies that better reflect the entirety of a community. More inclusive and empowered participation should also lead to policies that encourage the development of more affordable housing and, thus, less residential segregation, both clear societal goods. Thus, we need to first examine why political participation would be low in these groups and then move to both removing barriers to political participation and creating systems that encourage and build civic power from the ground up.

Barriers to Political Participation

There are numerous interrelated barriers to participation that contribute to the exclusion of disadvantaged groups. First, there are barriers to even attending these crucial public meetings. For instance, given the rising burden that childcare is putting on working families (Malik 2019), individuals and families who would otherwise be inclined to participate in their local housing or zoning meeting may instead be forced to stay at home to look after their families. Massachusetts does not require municipalities to provide parents with childcare during town meetings, which may bias participation toward the already privileged—those who have the resources or community support to look after their families even when one or both parents are away. Certainly, in Massachusetts, municipalities such as Orleans and Great Barrington seem to already be providing these services, proving that this is entirely possible given political will and resources. However, even in these communities it is unclear how frequently these public care provisions are provided, as information seems to be broadcasted in a fairly informal manner. Infrequent or unreliable care provisions (or information about these provisions) may reduce participation by adding difficulty to what is already a large time commitment. Individuals and families should feel certain that they do not have to choose between taking care of their loved ones and exercising their right to political participation, especially in matters as critical as housing.

Similarly, while research has pointed out that poor public transport may act as barriers to people seeking job opportunities and medical appointments (Rosenblum et al. 2020), it may also be a large barrier to political participation. Commute times tend to be higher for people of color (National Equity Atlas 2020a), in large part because transportation options near their residences are simply worse. Additionally, communities of color and lower-income tenants are less likely to afford housing near key amenities and town halls, which are often centrally located in most towns and cities in Massachusetts. Lacking a cheap, easily accessible, and reliable way to get to and from public town meetings may certainly deter supporters of inclusive housing, who would otherwise be incentivized to attend meetings to voice their support for greater housing.

3 These meetings are crucial elements of New England's town-hall style of democracy—theoretically a place where the public can come together and voice their opinions directly to their representatives on matters that affect their community. Qualitative results from Einstein, Palmer, and Glick (2019a) demonstrate that local policymakers and planners look to these public meetings as a key source of public sentiment and community will.

Furthermore, there are also key informational barriers. Einstein, Glick, and Palmer (2019a) report that, for many Massachusetts municipalities, notices about planned neighborhood developments are sent to landlords instead of the tenants who actually reside in the abutting properties. As aforementioned, tenants are often more likely to support denser, affordable housing in any given neighborhood (Marble and Nall 2021), meaning increased tenant participation may counter voices who would rather close off their communities. Furthermore, Black and Latino households are almost twice as likely to be tenants than their white counterparts in Massachusetts (Urban Institute 2019), meaning these informational barriers may also serve as barriers to racial equity in democratic participation.

Empowering Political Participation

Fixes to these barriers to participation are fairly easy to imagine. Some straightforward solutions include municipal governments directly providing affordable and quality childcare during public housing meetings, increasing access to reliable and affordable public transportation, and requiring information about local developments to be sent out to tenants directly instead of simply to their landlords. Of course, not all municipalities may be able to carry out these fixes—municipalities (especially those that are poorer or more remote) have limited budgets that are often already stretched thin to provide public goods and services that were traditionally supported by robust federal and state spending. Furthermore, many current municipal governments may even be unwilling to carry out these changes—the very same undemocratic institutions captured by overrepresented subgroups who may oppose the dilution of their power.

Thus, these problems may necessitate the intervention of state and federal governments to provide both "carrots" and "sticks" so that municipalities make real efforts to engage a broader set of residents and bring them into the democratic process. Certainly, this falls under the goals of the current federal administration. The Department of Housing and Urban Development's (HUD) Affirmatively Furthering Fair Housing mandate, a recent extension of the Fair Housing Act, requires recipients of HUD funds to "take meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity" (HUD n.d.). As I have argued, barriers to democratic participation are barriers to inclusive and equitable housing, so the federal government should play a more active role in pushing for these policies. For instance, it could push for these policies to be accepted as a requirement for HUD funds or find pathways to directly fund municipal projects themselves, as they did following the pandemic through the Coronavirus State and Local Fiscal Recovery Funds (US Department of the Treasury 2024).[4]

However, beyond simply encouraging participation, state actors can also take more firm measures to ensure that there are voices in public meetings and key housing committees to counterbalance unrepresentative members. For instance, Stein (2019) points out that many leadership positions in city zoning boards are often filled with real estate brokers or homeowners, who are incentivized to prevent the construction of dense, affordable housing developments. Thus, the state government should consider stipulating that zoning boards must solicit

4 More directly related to housing policy, the state government should also provide more comprehensive incentives to municipalities contributing to their "fair share" of affordable housing in the state and the country. Under the current structure, municipalities with extremely restrictive zoning can still benefit from a neighboring town or city increasing their low-income housing supply, as this increases the number of people who could potentially work or spend money in their municipality, without bearing any of the costs of subsidizing affordable housing. The state government would thus be the ideal level of government that bypasses the perverse incentives that municipalities have to not build affordable housing, and encourage more regional cooperation over a clear public good. Massachusetts already has programs such as Chapter 40B, which allows affordable housing developers to override zoning restrictions if a municipality has less than 10 percent of its housing stock earmarked as affordable (Bratt 2012). However, whiter and wealthier municipalities are still failing to reach this 10 percent target, where housing would have the most impact, and municipalities that reach this relatively low target then see a drastic slowdown in affordable development (Goetz and Wang 2020).

One possible solution may be that the state government increase this target to a more ambitious level to spur denser and more affordable housing development across the state, and "supercharge" denser development by providing logistic, bureaucratic, and financial support to developers building in municipalities that fall below the 10 percent range, ensuring a more equitable distribution of low-income housing. Additionally, perhaps the state government should also require each lagging municipality to provide a comprehensive housing plan that specifies how they will get to their 10 percent target, the same way Rhode Island mandates their localities to do so (Bratt 2012). Compliance with said plan should be regularly reviewed by the state government, with consequences for those that don't comply.

representation from a local tenant union, or if there are no tenant unions present, to ensure the appointment of at least a number of tenants. To ensure fair and equitable representation, these positions could be paid and selected via tenant union elections. These tenant-held positions are especially important in more densely populated areas where tenants rather than homeowners make up the plurality of residents. Even in the suburbs or more rural areas, where renter-occupied housing is less common, ensuring the participation and leadership of even a small number of tenants in key positions is still important to protect marginalized and economically vulnerable communities.

Political inclusion through direct representation of disadvantaged constituents is not a foreign concept to the US. One of the most radical innovations of the 1964 Economic Opportunity Act, the centerpiece of the War on Poverty, was the formation of "community-action agencies" to oversee the expansive new programs that defined the program (Rahman 2016). These community-action agencies were given the power to design and administer the programs at local levels and sought "maximum feasible participation" of people experiencing poverty and minorities through direct representation. This helped not only civil rights activists and ordinary citizens to hold institutions accountable to the program's mission to eradicate poverty, but also catalyzed local organizing, setting a foundation for grassroots political engagement. The civic power built by these local democratic institutions was key to the successes of the War on Poverty—it empirically contributed to the drastic reduction in the poverty rate and also directly led to the creation and expansion of housing initiatives such as tenant-advocacy programs (Jencks 2015).

This highlights the importance of not only integrating community engagement into the policy process, but also centering the target beneficiaries of policies as key stakeholders who deserve a seat at the table. This requires long-term and proactive engagement beyond expecting participation by simply opening key housing meetings to the public. Thus, it is also important for policymakers to learn from organizers who have experience working and creating community with vulnerable populations. For instance, planners and municipal workers in Philadelphia and San Francisco have worked alongside grassroots organizers to actively engage with people experiencing homelessness by conducting in-depth interviews, shadowing residents, and incorporating their insights into redesigning the current system of low-income housing allocation and access in those communities (Gilman and Souris 2020). Moreover, in Massachusetts, the Boston Ujima Project is spearheading innovative models for "deep democracy" among working-class people of color by sourcing capital from anchor institutions like hospitals and universities and allocating these funds democratically through collective planning and decision-making, relying heavily on community outreach and educational programs (Pathways to a People's Economy 2019).[5] These case studies underscore the importance of meeting residents where they are, scaling up civic power through careful planning, and taking a human-centric approach to housing policy.

Focusing on building a strong, vibrant local democracy, especially seeking the input and contribution of minority households, poor residents, and tenants, is obviously not a panacea and is unlikely to radically alter our current housing crisis immediately. However, not only is creating a stronger base for civic power a good in and of itself, if one believes in the ideals of democracy, it is also the right step to take in order to create smarter, more equitable housing policies that reflect the values, priorities, and needs of a community, which by and large tend toward creating more opportunities for housing for all.

5 Organizers also make the crucial point that community outreach, education, and grassroots democratic engagement is especially important in communities that have historically been neglected and harmed by the workings of official city bodies, which are responsible for implementing segregation, redlining, and mass policing.

Conclusion

Local governments already hold the keys to shaping the housing market through their power to write the rules for the housing market. However, these local municipal governments do not inherently represent the collective will of their communities. In fact, as the evidence shows, these governments are often vastly *unrepresentative* of their communities and favor the voices of a privileged few. Clearly, who writes the rules matters. Currently, these local institutions fail to live up to the ideals we hold for a multiracial, representative democracy by systematically excluding the voices of tenants, people of color, and low-income residents.

By acknowledging that race, democracy, and housing are inextricably linked, we must move toward a new paradigm that recognizes that better housing outcomes must stem from a stronger democratic system that not only listens to but empowers decision-making among tenants, people of color, and poor residents (Strickland and Wong 2021). We must also recognize the need for coordination between different levels of government and for all levels of governance to engage with the ideas of organizers and grassroots democratic organizations. A stronger local democratic system is the foundation that will allow for the creation of smarter and more inclusive housing policies, creating a Massachusetts where *all* residents are able to live, work, and thrive.

About the Author

Aryen Shrestha is a recent graduate of Amherst College, where he majored in economics. Born and raised in Kathmandu, Nepal, he is passionate about using economic research and policy analysis to help foster communities that allow everyone to thrive, with a special interest in the role of democratic institutions in inclusive development. He was awarded Amherst College's 2024 James R. Nelson Prize for writing a "distinguished honors thesis that applies economic analysis to an important question of public policy" for his work on the impacts of municipal spending on housing affordability and racial segregation in Massachusetts. He has previously interned at the Inclusive Economies unit of the Federal Reserve Bank of Boston, focusing on researching the priorities and impacts of community development plans across New England in the wake of the COVID-19 pandemic. Aryen also worked for three years as an undergraduate research fellow at the Sustainable Policy Lab at the University of Massachusetts Amherst, where he coauthored peer-reviewed journal articles on municipal climate resiliency in Massachusetts and the cost effectiveness of nature-based solutions for reducing disaster risk across the globe. At Amherst College, he was also a student leader in the Better Amherst Initiative, an organization advocating for more institutional support for students interested in social impact careers.

Acknowledgments

First, I want to extend my gratitude to the Roosevelt Network for giving me the support to be able to critically explore this issue. Thank you especially to Alyssa Beauchamp, Katie Kirchner, and Eric Paul for their incredible guidance and constant encouragement throughout this process.

Additionally, I cannot thank enough Alan Smith for his invaluable feedback and engagement with my work, as well as our many deeply interesting conversations that always left me with new threads to follow. Thank you also to Ira Regmi for their insightful comments and feedback, which encouraged me to think more critically about my project, for which I am incredibly grateful.

Finally, thank you to the community organizers, nonprofit leaders, and housing academics who were willing to take time out of their busy schedules to talk to me. These conversations were critical in shaping the focus of this project, and I am extremely grateful for their wisdom and insights.

References

Barriers to Democracy are Barriers to Housing: Strengthening Political Participation to Alleviate the Housing Crisis in Massachusetts

Bratt, Rachel G. 2012. *Overcoming Restrictive Zoning for Affordable Housing in Five States: Observations for Massachusetts*. Report prepared for Citizens' Housing and Planning Association. Medford, MA: Tufts University. https://www.chapa.org/sites/default/files/Bratt-OvercomingRestrictiveZoningExecutiveSummary.pdf.

Carlock, Catherine. 2023. "City Council Greenlights Wu's Hike to Affordable Housing Requirement." *Boston Globe*, September 28, 2023. https://www.bostonglobe.com/2023/09/28/business/new-wu-affordable-housing-rules/.

Chetty, Raj, Nathaniel Hendren, Patrick Kline, and Emmanuel Saez. 2014. "Where Is the Land of Opportunity? The Geography of Intergenerational Mobility in the United States." *The Quarterly Journal of Economics* 129, no. 4 (November): 1553–1623. https://doi.org/10.1093/qje/qju022.

Cornelissen, Sharon, and Luisa Godinez-Puig. 2023. "Homebuying Trends in Metro Boston Contribute to New Locations of Racial Segregation." *Housing Perspectives* (blog). Joint Center for Housing Studies of Harvard University. May 10, 2023. https://www.jchs.harvard.edu/blog/homebuying-trends-metro-boston-contribute-new-locations-racial-segregation.

Einstein, Katherine Levine, Maxwell Palmer, and David M. Glick. 2019a. *Neighborhood Defenders: Participatory Politics and America's Housing Crisis*. Cambridge, UK: Cambridge University Press.

_____ 2019b. "Who Participates in Local Government? Evidence from Meeting Minutes." *Perspectives on Politics* 17, no. 1 (March): 28–46. https://doi.org/10.1017/S153759271800213X.

Fair Housing Center of Greater Boston. n.d. "1970s–Present: Restriction of Multi-Family Zoning." Historical Shift from Explicit to Implicit Policies Affecting Housing Segregation in Eastern Massachusetts. https://www.bostonfairhousing.org/timeline/1970s-present-Local-Land_use-Regulations-2.html.

Fine, Danielle R., Kirsten A. Dickins, Logan D. Adams, Nora K. Horick, Natalia Critchley, Katherine Hart, Jessie M. Gaeta, Elizabeth Lewis, Sara E. Looby, and Travis P. Baggett. 2023. "Mortality by Age, Gender, and Race and Ethnicity in People Experiencing Homelessness in Boston, Massachusetts." *JAMA Network Open* 6, no. 8 (August). https://doi.org/10.1001/jamanetworkopen.2023.31004.

Fischel, William A. 2001. *The Homevoter Hypothesis: How Home Values Influence Local Government Taxation, School Finance, and Land-Use Policies*. Cambridge, MA: Harvard University Press.

_____ 2004. "An Economic History of Zoning and a Cure for Its Exclusionary Effects." Urban Studies 41, no. 2 (February): 317–40. https://doi.org/10.1080/0042098032000165271.

Gilman, Hollie Russon, and Elena Souris. 2020. "Global Answers for Local Problems: Lessons from Civically Engaged Cities." New America, February 12, 2020. http://newamerica.org/political-reform/reports/global-answers-local-problems-lessons-civically-engaged-cities/.

Glaeser, Edward, and Joseph Gyourko. 2018. "The Economic Implications of Housing Supply." *Journal of Economic Perspectives* 32, no. 1 (Winter): 3–30. https://doi.org/10.1257/jep.32.1.3.

Goetz, Edward G., and Yi Wang. 2020. "Overriding Exclusion: Compliance With Subsidized Housing Incentives in the Massachusetts 40B Program." *Housing Policy Debate* 30, no. 3: 457–79. https://doi.org/10.1080/10511482.2020.1726984.

Henry, Meghan, Rian Watt, Anna Mahathey, Jillian Ouellette, and Aubrey Sitler. 2020. *The 2019 Annual Homeless Assessment Report (AHAR) to Congress, Part 1: Point-in-Time Estimates of Homelessness*. Washington, DC: US Department of Housing and Urban Development. https://www.huduser.gov/portal/sites/default/files/pdf/2019-AHAR-Part-1.pdf.

Jencks, Christopher. 2015. "Did We Lose the War on Poverty?—II." *New York Review of Books*, April 23, 2015. https://www.nybooks.com/articles/2015/04/23/did-we-lose-war-poverty-ii/.

Joint Center for Housing Studies of Harvard University. 2016. "Renter Cost Burdens, States." https://www.jchs.harvard.edu/ARH_2017_cost_burdens_by_state_total.

Malik, Rasheed. 2019. *Working Families Are Spending Big Money on Child Care*. Washington, CD: Center for American Progress. https://www.americanprogress.org/article/working-families-spending-big-money-child-care/.

Marble, William, and Clayton Nall. 2021. "Where Self-Interest Trumps Ideology: Liberal Homeowners and Local Opposition to Housing Development." *The Journal of Politics* 83, no. 4 (October): 1747–63. https://doi.org/10.1086/711717.

National Equity Atlas. 2020a. "Commute Time." Indicators. https://nationalequityatlas.org/indicators/Commute_time#/?geo=02000000000025000.

_____ 2020b. "Housing Burden." Indicators. https://nationalequityatlas.org/indicators/Housing_burden.

Pathways to a People's Economy. 2019. "Boston Ujima Project." *Pathways to a People's Economy* (blog). December 3, 2019. https://peopleseconomy.org/boston-ujima-project/.

Rahman, K. Sabeel. 2016. "The Key to Making Economic Development More Equitable Is Making It More Democratic." *The Nation*, April 26, 2016. https://www.thenation.com/article/archive/the-key-to-making-economic-development-more-equitable-is-making-it-more-democratic/.

Rosenblum, Jeffrey, Jinhua Zhao, Mariana Arcaya, Justin Steil, and P. Christopher Zegras. 2020. "How Low-Income Transit Riders in Boston Respond to Discounted Fares: A Randomized Controlled Evaluation." PhD Dissertation, Cambridge, MA: Department of Urban Studies and Planning, Massachusetts Institute of Technology. http://equitytransit.mit.edu/.

Rothstein, Richard. 2012. "Race and Public Housing: Revisiting the Federal Role." Economic Policy Institute. December 17, 2012. https://www.epi.org/publication/race-public-housing-revisiting-federal-role/.

Rouse, Cecilia, Jared Bernstein, Helen Knudsen, and Jeffery Zhang. 2021. "Exclusionary Zoning: Its Effect on Racial Discrimination in the Housing Market." Council of Economic Advisers (blog). The White House. June 17, 2021. https://www.whitehouse.gov/cea/written-materials/2021/06/17/exclusionary-zoning-its-effect-on-racial-discrimination-in-the-housing-market/.

Shamsuddin, Shomon, and Colin Campbell. 2021. "Housing Cost Burden, Material Hardship, and Well-Being." Housing Policy Debate 32, no. 3 (March): 413–32. https://doi.org/10.1080/10511482.2021.1882532.

US Department of the Treasury. 2024. "State and Local Fiscal Recovery Funds." Last updated May 10, 2024. https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds.

Stearns, Frank, and Maria de la Motte. 2021. "Massachusetts Enacts State Zoning Law Amendments Designed to Encourage Housing Development " Holland & Knight, March 8, 2021. https://www.hklaw.com/en/insights/publications/2021/03/massachusetts-enacts-state-zoning-law-amendments.

Stein, Samuel. 2019. *Capital City: Gentrification and the Real Estate State*. London; Brooklyn, NY: Verso Books.

Strickland, Kyle, and Felicia Wong. 2021. *A New Paradigm for Justice and Democracy: Moving Beyond the Twin Failures of Neoliberalism and Racial Liberalism.* New York: Roosevelt Institute. https://rooseveltinstitute.org/publications/new-paradigm-for-justice-and-democracy-moving-beyond-the-twin-failures-of-neoliberalism-and-racial-liberalism/.

Tenser, Phil. 2023. "Majorities in Mass. Support Rent Control, 'Right to Shelter' Law, Poll Finds." WCVB, October 24, 2023. https://www.wcvb.com/article/massachusetts-housing-rent-control-right-to-shelter/45620008.

Trounstine, Jessica. 2018. *Segregation by Design: Local Politics and Inequality in American Cities*. Cambridge, UK: Cambridge University Press.

_____ 2020. "The Geography of Inequality: How Land Use Regulation Produces Segregation." *American Political Science Review* 114, no. 2 (May): 443–55. https://doi.org/10.1017/S0003055419000844.

Urban Institute. 2019. "Massachusetts: Forecasting State and National Trends in Household Formation and Homeownership." Housing Finance Policy Project. Accessed April 10, 2024. https://www.urban.org/policy-centers/housing-finance-policy-center/projects/forecasting-state-and-national-trends-household-formation-and-homeownership/massachusetts.

US Department of Housing and Urban Development (HUD). n.d. "Affirmatively Furthering Fair Housing (AFFH)." Accessed May 12, 2024. https://www.hud.gov/AFFH.

Wong, Weihuang. 2018. "Essays on the Behavioral Political Economy of Housing." PhD Dissertation, Cambridge, MA: Massachusetts Institute of Technology. https://dspace.mit.edu/handle/1721.1/118197.

Transforming Virginia through Upzoning: Using Sustainability, Population Density, and New Data to Tackle the Housing Crisis

By Lina Hunt

Introduction

The housing affordability crisis is nothing new to residents of the United States' biggest cities, but lately, even small and mid-sized communities are feeling its effects. In Virginia, where residents might live in urban or rural areas, the National Low Income Housing Coalition (NLIHC) estimates that there is a shortage of over 180,000 extremely affordable and available units (NLIHC 2022). Virginians, especially Black, Latinx, and low-income renters, have very few affordable and sustainable housing options (Aurand et al. 2023). This is in part caused by the ongoing impacts of decades of institutional racism in housing policy and by the gentrification of historically affordable neighborhoods. The NLIHC estimates that 78 percent of extremely low-income renters in Virginia experience a severe cost burden, spending more than 50 percent of their monthly income on rent (Aurand et al. 2023).

In order for housing to be considered affordable, a household must spend no more than 30 percent of its income on housing. The term "sustainable housing" refers to the durability and environmental friendliness of a building's construction. Housing affordability and sustainability may seem at odds, but both are necessary. These two principles must coexist in order to meaningfully address the housing crisis. This brief does not prioritize one over the other.

Virginia localities can provide housing relief and transform their communities through policies tailored to their municipalities. This brief recommends substantial zoning reforms for high-density communities and creative investments in low-density areas to ensure affordable, equitable, and sustainable housing.

Cities and counties in northern Virginia typically have the highest population density in the Commonwealth, and northern Virginians generally deal with a high cost of living (Fiddler 2023). Recently, small cities such as Richmond and Charlottesville have experienced increased housing costs as housing supply has failed to keep up with population growth (Hawkins and Ndirangu 2023). On the other hand, rural communities tend to have a higher percentage of homeowners than renters, and these communities see fewer investments in housing from both federal programs and private developers (NLIHC 2021). Overall, densely populated areas have a greater need for deeply affordable housing and for further urbanization. Low-density areas need lower construction costs in order to stimulate greater investment. Due to these differences, distinct approaches are required to bring affordability and sustainability to communities in Virginia. While these should be guiding principles for rezoning and other housing policy changes, there are other key concerns to consider.

Background

Since the early 20th century, Virginia's urban development has largely been characterized by racism and neoliberal individualism. Virginia communities became shaped by segregation due to redlining, the racism inherent in zoning, as well as by massive resistance from 1956 to the early 1970s (LDF n.d.). Communities of color were left with far fewer opportunities for education, poorer environmental quality, and fewer options for opportunity and advancement (Rothstein 2019).

Housing policy, especially zoning, is inextricably tied to race and racism in the US. Historically, zoning regulations frequently produced segregated communities, often by design (Rothstein 2019). Most localities in the US favored single-family zoning over multifamily or multi-use zoning. This helped create segregated and environmentally harmful suburbs. In general, separating areas zoned as single-family from areas zoned as multifamily creates dramatic differences in household income between neighborhoods, which perpetuates income inequality in a locality.

Housing policy also reinforced racism by allowing environmentally harmful industrial practices into communities of color more frequently than into white communities. This has had a lasting, negative impact on living conditions for people of color, especially Black Americans. Sustainability, racial justice, and housing are tied up together through zoning regulations. As a result, policymakers must make racial equity in zoning a primary concern and take steps to redress harm done by institutional racism. Racial equity must be inseparable from zoning reform.

In addition, the prevailing neoliberal ideology of individualism at the time emphasized single-family zoning and car-based urban planning. Neoliberal individualism refers to policy choices that protect individual choice, individual utility, and private property over all else (Wong 2020). In this case, the rapid growth of car-dependent suburbs not only increased socioeconomic inequality, but also negatively impacted the walkability of communities and downplayed the need for public transportation. Recently, a report found that walkable, mixed-use neighborhoods are less affordable due to high demand and low supply (Leinberger and Rodriguez 2023). However, many of the design components that walkable communities are praised for today are restricted under current zoning codes. Upzoning advocates imagine ways to address the lack of sustainable communities through local governance, but they must also prioritize affordability in order to avoid the pitfall of the walkability premium.

Since 2015, upzoning policies gained popularity among urbanist environmental advocates, YIMBYs, and local government officials in municipalities experiencing increasing population density. However, there are still vehement critics of these efforts. Affluent residents of single-family communities often oppose rezoning efforts because they don't want their communities to change, a sentiment that is often fueled by white supremacy and bias against low-income neighbors. This reactionary feeling may be difficult to change. Other residents worry about increased traffic and reduced parking availability. These are major obstacles for proponents of zoning changes, as these reactionary residents often have more wealth and political influence than those outside of their neighborhoods.

In some areas, those who may stand to gain the most from increasing the supply of affordable housing do not have the right to vote. For example, in Alexandria and Arlington, staff from the advocacy group Tenants and Workers United point out that many residents are not US citizens and therefore cannot vote in local elections. This makes it even more important to change the minds of residents who do have the right to vote since policy changes are unlikely to happen without their support. Moreover, it is important to outline how upzoning can benefit homeowners through overall development and incumbent property values.

Preemption is another issue to consider when addressing housing affordability and sustainability in Virginia. The Virginia state government prevents local governments from enacting certain policies, such as a local housing voucher program. This in turn prevents economically diverse localities from using a more extensive array of policy tools to meet their residents' needs. For example, while housing affordability and community sustainability may be primary concerns in both Alexandria to the north and Roanoke to the southwest, the contributing factors and solutions cannot be the same because these cities are so different. Virginia policymakers can learn from current policy failures as well as from upzoning attempts in other states to make the best decisions for their localities.

Policy Analysis and Proposal

Currently, Virginia overemphasizes single-family zoning and parking requirements. Zoning policies in Virginia are also inflexible and do not address the needs of all community members. High-density localities should pass substantial reforms to remedy this. Luckily, they can learn from recent upzoning reform in Minneapolis, MN, and the state of Oregon. These are the two major test sites for progressive zoning policies, such as eliminating single-family zoning, reducing parking requirements, increasing population density, and encouraging mixed zoning. Both sites tried to increase the supply of "missing middle" housing. Policy to address these concerns focuses on increasing the housing supply and housing options in already dense urban areas by permitting increased construction of multifamily housing such as duplexes and triplexes. Virginians can build on the successes and shortfalls that these policies have seen in other parts of the US.

In 2019, Minneapolis became the first major US city to eliminate single-family zoning (Demers 2021), making research on this policy's effect on housing affordability and sustainability even more critical. However, with the COVID-19 pandemic and a court injunction slowing development efforts, the full effects of this policy remain to be seen (Minott 2023). Nevertheless, there are some early observations that are helpful to other localities looking to implement similar policies.

First, there are many more new housing units in Minneapolis now than there were before the passing of the Minneapolis 2040 comprehensive plan (Maltman 2023). Second, early results indicate that the elimination of single-family zoning resulted in a modest increase in housing units. A much larger increase resulted from reducing parking requirements (Britschgi 2022). However, as briefly mentioned before, only eliminating single-family zoning is not enough to upzone a community. Reductions in parking requirements and increases in building size allowances are also necessary to increase the number of housing units in a city or county (Minott 2023). Third, housing prices for single-family homes have increased rather than decreased (Kuhlmann 2021). Economists anticipated this price effect—with the economic activity generated by lots of new development, it makes sense that housing prices would initially increase before eventually decreasing as a result of increased supply. Overall, early increases in the housing supply are a good sign for Virginia localities looking to implement similar policies, but they should be wary of the initial increase in housing prices (Limb and Murray 2023).

Virginia policymakers can also look to Oregon for examples of zoning reform in action (Shumway 2021). In 2019, Oregon's legislative body made their state the first to eliminate single-family zoning across the board for towns with populations of 10,000 or more (Potter 2023). This was one of many changes in their "missing middle" housing reform package, which also effectively reduced parking requirements, allowing new housing construction to be cheaper and quicker. Early results were somewhat promising. For example, Bend, Oregon saw a jump in new housing construction from 62 units in six months to 650 units in construction as of January 2022 (Hirsh 2022). That's nearly a 1000 percent increase. However, a report from the Urban Institute suggests that Oregon's current upzoning reforms are not enough to keep up with population growth (Freemark et al. 2023). The report also addresses a concern similar to this brief, which is that upzoning reform like that of Oregon and Minneapolis does not adequately address the need for deeply affordable housing. Additionally, Oregon's reforms focus on areas with populations above 10,000 or 25,000, but people in rural areas feel the effects of the housing crisis as well. Most of the major reforms in Oregon's plan, including eliminating single-family zoning and parking restrictions, do not and should not apply to rural areas. The absence of major housing policy reform for rural communities is an oversight in Oregon's plan.

Some localities in Virginia have already been inspired by upzoning in other parts of the US. Arlington County passed its Expanded Housing Option (EHO) development plan in 2023 to allow for the construction of multifamily housing on lots that were previously used for single-family houses. In 2023, the city of Alexandria passed legislation to eliminate single-family zoning. Other urban localities in Virginia should follow suit, especially the city of Richmond. The expansion of multifamily zoning and reduction in parking requirements will allow for more housing development and boost property values for incumbent residents (Demers 2021).

Virginia must learn from outside examples, however, by expanding the zoning for multifamily units larger than duplexes and triplexes. As the Urban Institute report points out, a modest increase in duplexes and triplexes is not enough to keep up with the demand for housing. The most urban areas of Virginia should allow for apartment complexes with more units. An important added benefit of this is that developers will be able to take advantage of the Low Income Housing Tax Credit (LIHTC) more easily, as small-scale development can make taking advantage of the LIHTC difficult (Freemark et al. 2023). Additionally, Virginia localities must rapidly increase the supply of deeply affordable housing. This means building new housing units that are affordable to those who earn 40 percent or less of the Area Median Income (AMI). Creating this level of affordable housing is expensive, which makes it more crucial for localities to take advantage of the LIHTC. Virginia localities should expand on policies implemented in Minneapolis and Oregon in order to address the need for deeply affordable housing.

Another key step in creating sustainable communities is to increase mixed-use zoning to make neighborhoods more walkable and less reliant on car travel, therefore making these communities more environmentally friendly (USDN). Food deserts are rife in Virginia in both rural and urban areas (USDA 2021), so localities should reduce any potential barriers to developing greater access to food by emphasizing the attraction of commercial businesses such as grocery stores and drug stores.

Additionally, access to and investment in public transportation must be prioritized in conjunction with upzoning for densely populated areas. Cars are expensive to own and maintain, and they harm the environment through CO2 emissions. Upzoning policies that rely on car travel can also increase traffic. Given that many urban areas in Virginia already see extreme traffic congestion, increased investment in public transit may reduce the potentially harmful effects of upzoning policies by improving both environmental conditions and quality of life. Specific policy solutions to improve public transportation are outside the scope of this policy brief, but it acknowledges the need to develop public transportation alongside zoning reform.

Virginia localities also need to address affordability, sustainability, and the needs of less densely populated areas. Rural communities need to attract more investment for development and reduce the cost of housing construction.

Rural communities looking to attract investment may be able to learn from the example set by Roanoke. A geographically large but sparsely populated region, Roanoke is the urban center of southwest Virginia. As such, the city provides most of the economic and social support that its residents receive. A recent report from the city estimated that Roanoke had a shortage of more than 3,500 affordable housing units (Hunter 2023). The city is currently addressing the region's housing crisis using creative, equitable policy solutions. One key solution is the redevelopment of historic buildings.

The Roanoke Redevelopment and Housing Authority (RRHA) has run redevelopment projects for decades, but recently it has placed a stronger focus on racial equity, shifting what these projects look like. From the 1950s through the 1970s, the city of Roanoke initiated an "Urban Renewal" plan for the primarily African American neighborhood of Gainsboro. The plan aimed to redevelop what the city labeled a "blighted" neighborhood. This resulted in the displacement of African American communities and the destruction of their community landmarks (Taubman Museum 2023).

Since at least the turn of the century, the RRHA has pivoted its redevelopment efforts toward renovating historic properties that are no longer in use. In one example, a developer will renovate a home that is over 100 years old to create an affordable housing unit (Kennett 2023). Additionally, as of December 2023, there are three active plans by different developers, both commercial and nonprofit, to convert historically significant churches into housing units. One of these plans aims to create 15 affordable units geared toward low-income residents (Dietrich 2023).

Roanoke also works closely with the nonprofit Total Action for Progress (TAP) to redevelop historic buildings. TAP operates the city's land bank to contract housing developers. Rather than declaring whole communities to be blighted (usually abandoned or deteriorated), the city identifies individual blighted properties. TAP's developers then turn blighted properties from the land bank into homes. The current grant for the land bank, funded by pandemic-era federal money, aims for TAP to acquire 16 properties for redevelopment by the end of 2024. TAP also oversees an affordable housing fund for the city of over $2 million to attract housing developers by providing them with low-interest loans (Gendreau 2023).

Not only is this approach less destructive, especially to historically Black neighborhoods, it is more environmentally friendly to fix existing structures than to construct new ones. It can also be cheaper due to financial incentives, such as the federal historic tax credit (US EPA 2024). This policy is still new, so its impact is not yet fully understood. While it is time-consuming to identify and redevelop historic buildings, the process is a good start to addressing affordability and sustainability and could be replicated by low-density localities in Virginia.

Another key policy goal for reducing the cost of housing construction in sparsely populated areas is to increase access to accessory dwelling units (ADUs), modular housing, mobile homes, and prefabricated housing. Manufactured housing is cheaper to construct than traditional housing, making it a great affordable option (Mandelker 2016). Renting is much less common in rural areas (Freddie Mac Multifamily 2020), so rezoning for cheaper new construction could benefit residents of sparsely populated areas. ADUs can exist as attached or detached to the main housing unit on a property, meaning homeowners could build ADUs for family members or rent them to residents in need of affordable housing. Since some rural areas have limited infrastructure, building additional housing on existing residential lots may be more cost- and energy- effective (Cobb and Dvorak 2000). Rezoning to allow the construction of manufactured housing could increase the supply of affordable and sustainable housing in rural areas. Approaching these policies from rural homeowners' perspectives will allow for solutions that are better tailored to the housing crisis in these regions.

No matter their population, Virginia localities must invest considerable time and resources in sustainable and affordable housing policies, learn from successfully implemented policies across the nation, and keep racial and economic equity at the forefront of the conversation.

Conclusion

Many diverse regions of Virginia are experiencing the housing affordability crisis, each in unique ways. New housing policies should aim to increase the supply of affordable and sustainable housing in Virginia through upzoning, keeping in mind that solutions will look different depending on each region's specific needs. Key differences include a greater need for deeply affordable housing and further urbanization in densely populated areas, as well as a need for greater investment from developers and a lower cost of housing construction.

Densely populated Virginia localities can look to examples of similar policies in Minneapolis and Oregon to replicate successes and avoid problems. These localities should focus on eliminating single-family zoning, reducing parking requirements, encouraging developers to use the LIHTC for affordable housing development, expanding mixed-use zoning, and increasing access to public transportation. Low-density Virginia localities should focus on renovating historic properties and modifying zoning to increase access to ADUs, modular housing, mobile homes, and prefabricated housing.

Virginia localities have the power to transform their communities without asking for the state's permission. By passing upzoning housing policies, they could increase the overall supply of housing, generate access to affordable housing, and make their communities more sustainable.

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Acknowledgments

I would like to thank Tarsi Dunlop, Eric Paul, Katie Kirchner, and Alyssa Beauchamp for their wisdom and mentorship. I'm also incredibly grateful to the community partners and local officials who shared their knowledge with me, especially Evelin Urrutia and Ingris Moran at Tenants and Workers United, Frederick Gusler at the City of Roanoke Redevelopment & Housing Authority, and Helen McIlvaine at the City of Alexandria. Finally, thanks to my parents for deciding to raise me in Virginia.

References

Transforming Virginia through Upzoning: Using Sustainability, Population Density, and New Data to Tackle the Housing Crisis

Aurand, Andrew, Dan Emmanuel, Emma Foley, Matt Clarke, Ikra Rafi, and Diane Yentel. 2023. *The Gap: A Shortage of Affordable Homes*. DC: National Low Income Housing Coalition. https://nlihc.org/gap.

Barthel, Margaret. 2024. "Metro Needs Funding, Badly. Will Virginia Help Provide It?" *DCist*, January 19, 2024. https://dcist.com/story/24/01/19/virginia-lawmakers-weigh-additional-metro-funding/.

Britschgi, Christian. 2022. "Eliminating Single-Family Zoning Isn't the Reason Minneapolis Is a YIMBY Success Story." Reason, May 11, 2022. https://reason.com/2022/05/11/eliminating-single-family-zoning-isnt-the-reason-minneapolis-is-a-yimby-success-story/.

Cobb, Rodney L., and Scott Dvorak. 2000. *Accessory Dwelling Units: Model State Act and Local Ordinance*. Washington, DC: AARP; Public Policy Institute. http://chhoa.metamediacom.com/wp-content/uploads/ARRP-Model-State-Local-Ordinance-d17158_dwell.pdf.

Demers, Benjamin. 2021. "Measuring the Early Impact of Eliminating Single-Family Zoning on Minneapolis Property Values." *Journal of the American Planning Association* (blog). August 19, 2021. https://www.planning.org/blog/9219556/measuring-the-early-impact-of-eliminating-single-family-zoning-on-minneapolis-property-values/.

Dietrich, Connor. 2023. "Historic Roanoke Churches Are Being Converted into Housing Properties." *WSLS 10*, December 19, 2023. https://www.wsls.com/news/local/2023/12/19/historic-roanoke-churches-are-being-converted-into-housing-properties/.

Egitto, Daniel. 2024. "A New Era of Housing Questions for Arlington One Year after Passing Missing Middle." *ARLNow*, March 19, 2024. https://www.arlnow.com/2024/03/19/a-new-era-of-housing-questions-for-arlington-one-year-after-passing-missing-middle/.

Fiddler, Carolyn. 2023. "Virginia has a Housing Affordability Crisis." New Virginia Majority, June 14, 2023. https://www.newvirginiamajority.org/virginia_has_a_housing_affordability_crisis.

Freddie Mac Multifamily. 2020. *LIHTC in Rural Persistent Poverty Counties*. Washington, DC: Freddie Mac Multifamily. https://mf.freddiemac.com/research/duty-to-serve/20201210-lihtc-rural-persistent-poverty-counties.

Freemark, Yonah, Rodrigo Garcia, Samuel Lieberman, and Annie Rosenow. 2023. *Unifying Upzoning with Affordable Housing Production Strategies*. Washington, DC: Urban Institute. https://www.urban.org/sites/default/files/2023-12/Unifying_Upzoning_with_Affordable_Housing_Production_Strategies.pdf.

Gendreau, Henri. 2023. "Roanoke Steers Millions To Nonprofit TAP with Goal of Spurring Affordable Housing." *Roanoke Rambler*, December 19, 2023. https://www.roanokerambler.com/roanoke-steers-millions-to-nonprofit-tap-in-hopes-of-spurring-affordable-housing/.

Hawkins, Chloe, and Zahra Ndirangu. 2023. "'Situation is Pretty Dire': Virginia's Unaffordable Housing Problems." *Williamsburg Yorktown Daily*, May 15, 2023. https://wydaily.com/latest-news/2023/05/15/situation-is-pretty-dire-virginias-unaffordable-housing-problems/.

Hirsh, Jack. 2022. "Bend's Big Shift from Single-Family Homes to More Multifamily Housing Tops City's Expectations." KTVZ, January 24, 2022. https://ktvz.com/news/bend/2022/01/24/bends-big-shift-from-single-family-homes-to-more-multifamily-housing-tops-citys-expectations/.

Hunter, Molly. 2023. *Home-ARP Allocation Plan (Draft)*. Roanoke, VA: US Department of Housing and Urban Development. https://www.roanokeva.gov/DocumentCenter/View/18239/Roanoke_HOME-ARP_Allocation_Plan_from_Template_FINAL?bidId=&ref=roanokerambler.com.

Kennett, Lindsey. 2023. "Renovation Begins on Blighted Southeast Roanoke Home." *WSLS 10*, October 12, 2023. https://www.wsls.com/news/local/2023/10/12/renovation-begins-on-blighted-southeast-roanoke-home/.

Kuhlmann, Daniel. 2021. "Upzoning and Single-Family Housing Prices: A (Very) Early Analysis of the Minneapolis 2040 Plan." *Journal of the American Planning Association* 87, no. 3: 383–95. https://www.tandfonline.com/doi/full/10.1080/01944363.2020.1852101.

Legal Defense Fund (LDF). n.d. "The Southern Manifesto and 'Massive Resistance' to Brown." The Case That Changed America: Brown v. Board of Education. Accessed June 30, 2024. https://www.naacpldf.org/brown-vs-board/southern-manifesto-massive-resistance-brown/.

Leinberger, Christopher B., and Michael A. Rodriguez. 2023. *Foot Traffic Ahead: Ranking Walkable Urbanism in America's Largest Metros 2023*. Washington, DC: Smart Growth America. https://smartgrowthamerica.org/wp-content/uploads/2023/01/Foot-Traffic-Ahead-2023.pdf.

Limb, Mark, and Cameron Murray. 2023. "We Zoned for Density and Got Higher House Prices: Supply and Price Effects of Upzoning over 20 Years." *Urban Policy and Research* 41, no. 2: 129–47. https://www.tandfonline.com/doi/full/10.1080/08111146.2022.2124966?src=recsys.

Maltman, Matthew. 2023. "A Detailed Look at the Outcomes of Minneapolis' Housing Reforms." *One Final Effort* (blog). April 17, 2023. https://onefinaleffort.com/blog/a-detailed-look-at-minneapolis-housing-supply-reforms.

Mandelker, Daniel R. 2016. "Zoning Barriers to Manufactured Housing." *Urban Lawyer* 48, no. 2 (Spring): 233–78. https://tomasilegal.com/wp-content/uploads/2021/01/Article-Final-pdf.pdf.

Minott, Owen. 2023. "Comprehensive Zoning Reform in Minneapolis, MN." *Bipartisan Policy Center* (blog). October 3, 2023. https://bipartisanpolicy.org/blog/comprehensive-zoning-reform-in-minneapolis-mn/.

National Low Income Housing Coalition (NLIHC). 2021. "Housing Needs in Rural America." *NLIHC*, March 31, 2021. https://nlihc.org/sites/default/files/Housing-Needs-in-Rural-America.pdf.

_____ 2022. "Housing Needs by State: Virginia." NLIHC. Last updated 2022. https://nlihc.org/housing-needs-by-state/virginia.

Pilot Online. 2017. "One Year After Light Rail Vote, Conversation about Virginia Beach Priorities Is on Roads." *Virginian Pilot*, October 21, 2017. https://www.pilotonline.com/2017/10/21/one-year-after-light-rail-vote-conversation-about-virginia-beach-priorities-is-on-roads-not-more-public-transit/.

Potter, Halley. 2023. *A Bipartisan Vision for the Benefits of Middle Housing: The Case of Oregon*. DC: The Century Foundation. https://tcf.org/content/report/a-bipartisan-vision-for-the-benefits-of-middle-housing-the-case-of-oregon/.

Rothstein, Richard. 2019. *The Color of Law*. New York: W.W. Norton & Company.

Shumway, Julia. 2021. "White House: Oregon Single-Family Zoning Law Could Be Model for Nation." *Oregon Capital Chronicle*, October 29, 2021. https://oregoncapitalchronicle.com/2021/10/29/white-house-oregon-single-family-zoning-law-could-be-model-for-nation/.

Taubman Museum of Art. 2023. "David Ramey: Gainsboro Road and Beyond." What's Happening at the Museum. Accessed June 30, 2024. https://www.taubmanmuseum.org/ramey.

United States Environmental Protection Agency (EPA). 2024. "Smart Growth and Preservation of Existing and Historic Buildings." Smart Growth. Last updated March 7, 2023. https://www.epa.gov/smartgrowth/smart-growth-and-preservation-existing-and-historic-buildings.

United States Department of Agriculture (USDA). 2021. "Food Access Research Atlas." Economic Research Service, USDA. Last updated April 27, 2021. https://www.ers.usda.gov/data-products/food-access-research-atlas/download-the-data/.

Urban Sustainability Directors Network (USDN). n.d. "Creating Walkable Mixed-Use Neighborhoods." Sustainable Consumption Toolkit. Accessed February 22, 2024. https://sustainableconsumption.usdn.org/initiatives-list/creating-walkable-mixed-use-neighborhoods.

Wong, Felicia. 2020. *The Emerging Worldview: How New Progressivism Is Moving Beyond Neoliberalism*. New York: Roosevelt Institute. https://rooseveltinstitute.org/publications/the-emerging-worldview-how-new-progressivism-is-moving-beyond-neoliberalism/.

Corporate Power

Reregulating Utilities and Energy Markets to Promote Public Power and Energy Democracy in Northern California: The Case of PG&E

By Catherine Tong

Introduction

Amid constant reports of environmental disasters such as the Flint Water Crisis and California's endless wildfires, it is widely agreed that infrastructure ranging from roads to energy to dams in the United States is broadly unreliable, outdated, and not well-maintained. Transmission lines in the US, for example, were constructed shortly after World War II and have not received substantial updates since then (Blunt 2022).

This brief focuses on California and the energy crisis caused by Pacific Gas and Electric Company (PG&E) in the wake of fresh memories of rampant wildfires, increased rates, and power outages. Incorporated in 1905, PG&E is one of the largest utility providers in the United States, covering a large geographic region and 16 million customers (PG&E n.d.a.). More specifically, like many other utilities, PG&E is an investor-owned utility (IOU), which means it is a for-profit corporation and owned by shareholders (Stein 2024). It is also traded on the New York Stock Exchange under the stock symbol "PCG" (MarketWatch n.d.).

PG&E was once seen as the pride of California. Not only did its monopoly initially provide great electricity service to Californians, it also spent the end of the 1800s acquiring companies operating waterways and canals during the gold rush to expand its network of water access to millions of customers, generating millions of jobs (Blunt 2022).

However, this long history also includes reports dating back to the 1950s, when PG&E faced issues such as wildfires, contamination of local water supplies by their natural gas compressor stations, and explosions caused by equipment failure (Shannon 2019). These disasters can be large in area and destruction; for example, the Dixie Fire in 2021 was the second-largest wildfire in California's history. The Dixie Fire was caused by one tree among over 8 million within striking distance of PG&E power lines (Moon 2022). In numerous incidents, institutions such as the California Department of Forestry and Fire Protection (Cal Fire) have determined that PG&E was the cause of these fires. PG&E has been convicted of 84 felony counts of involuntary manslaughter and has also been bailed out of two bankruptcies (AP News 2022).

In addition to wildfires, PG&E is also infamous for being poorly prepared for winter weather despite its high prices. In February 2024, atmospheric rivers resulted in the worst and largest single storm for PG&E outages in 30 years (Larson 2024). Over 1.3 million customers were affected and lost power for durations ranging from hours to days. Each time, PG&E has assured customers that it was prepared for impending disaster, taking precautionary actions such as trimming trees. They also took drastic measures, famously initiating rolling blackouts known as "public safety power shutoffs" that endangered public safety on a wide scale as a part of their wildfire and winter disaster prevention plan (PG&E n.d.a.).

Despite these consistent issues, PG&E has actually initiated rate hikes, proclaiming higher prices will help them modernize their massive amount of infrastructure. According to the San Francisco Chronicle, "The biggest reason power prices have risen so sharply in recent years is wildfires," as well as "the rising cost of labor and supplies" (Johnson 2024). However, increased prices has made PG&E now the most expensive power utility in California, one that many consumers have no choice but to opt into (Van Derbeken 2024).

In 2024, alongside these raised prices, PG&E decided to start issuing stockholder dividends. In 2017, due to the billions it owed in liabilities as a result of the devastating wildfires, PG&E had temporarily stopped paying shareholders dividends. In 2020, when Governor Gavin Newsom was negotiating PG&E's bankruptcy bailout, suspending the payment of dividends was once again on the table. One of the terms they agreed on was that PG&E was simply not allowed to start issuing dividends for three years (until 2023), meaning shareholders would be missing out on $4 billion of dividends (Lin 2020). In September 2017, shareholders received 53 cents per share (Kilgore 2023). Now, even with unsatisfactory service in the shape of spontaneous, long blackouts during winter storms, PG&E shares are somehow at a four-year high, allowing these dividends to be comfortably paid (Kilgore 2023). Even though the dividend is now drastically lower at one cent per share, the timing could not be worse.

Many were fed up with PG&E's prioritization of shareholders over customers, with a federal judge in San Francisco—who had forbidden PG&E from paying dividends if they did not work aggressively toward wildfire prevention—saying, "A lot of money went to dividends that should've gone to your trees" (Dillon 2019). Customers also continue to be largely unhappy with this unsatisfactory, money-driven reality. The average customer who is unaware of alternatives or advocacy options feels powerless in influencing the government's decisions and PG&E's actions as an unstoppable, impenetrable monopoly (Kerman 2024).

However, there is an alternative. The California government can better regulate PG&E instead of treating the utility company as inevitable and uncontested in its dominance over customers, service, and influence. Furthermore, the state should promote the many public power alternatives that help with processes such as power generation. Defined as "community-owned, not-for-profit electric utilities" (APPA n.d.b.), public power utilities can take many forms, such as municipalities, co-ops (co-operatives), community choice aggregations (CCA), and more. These are smaller, more local entities that would restore power and decision-making capabilities to communities.

Thus, "reregulation" of PG&E and energy markets in general, as well as municipalization (a city buying out "the energy infrastructure from the utility company, taking over all of its functions" [ILSR n.d.b.]), could serve as an effective policy solution to PG&E's dominance. Without better regulating PG&E and promoting public power initiatives, catastrophic incidents in California will only continue. State-sanctioned corporate energy monopolies such as PG&E often negatively harm the environment and customers they claim to serve. Even though monopoly utilities have a record of making it extremely difficult for independent efforts to succeed, a local power option is necessary to dismantle the neoliberal assumptions underlying the energy sector, as well as to increase innovation, reliability, safety, and affordability in California—all of which are tenets that PG&E is currently not able to satisfy. California must reject this status quo.

Background

Generally, private ownership has been focused on profit, not the people. Investor-owned utilities initially appeared to be a good idea when energy infrastructure was first being built—construction was costly and investors had the money—but now they seek to slow down positive change while focusing on shareholder returns.

As an IOU, PG&E's legal obligation is not necessarily to the customer, the quality of service it is providing, or even sustainability, but to act in the interests of its shareholders and investors. For example, like many utility companies, PG&E unnecessarily overinvests in California's already "overbuilt" electric transmission infrastructure rather than clean energy efforts, as the former will provide a greater return to shareholders (Smith 2022). Building new transmission infrastructure is considered a capital expense (physical infrastructure), and for a

capital expense, utilities like PG&E can "collect the money they invested plus an additional percentage they keep as profit" (Kibbey 2021). PG&E currently has a 9.7 percent return on equity (ROE), which means that if a project costs $100 million to build, shareholders will earn around $10 million on a costly new project that may or may not actually benefit California's climate and residents (Yahoo! Finance n.d.). Due to these misguided priorities, the American Society of Civil Engineers' (ACSE) 2019 assessment of California's energy sector is even worse than that of the United States, at a D-minus versus a C-minus nationally (ASCE Staff 2019). In addition, the ASCE has doubts about California achieving its climate change goals.

Based on data provided by the Securities and Exchange Commission, publicly traded "electric utility companies have passed over $250 billion on to shareholders over the past decade—that is, over 86 percent of the industry's earnings distributed directly out to shareholders, mostly in cash dividend payments" (Lusiani 2022). Almost all net profits from a utility go directly to shareholders (Lusiani 2022). Meanwhile, the United States' electric grid will need $197 billion by 2029 to meet renewable portfolio standards (RPS), which are "policies designed to increase the use of renewable energy sources for electricity generation" (US EIA 2022; 2021 Report Card for America's Infrastructure. n.d.).

There are lives at stake when it comes to energy reform in California. According to a 2022 PBS report, PG&E is the cause of more than 30 wildfires since 2017, killing over 100 people and destroying over 23,000 homes and businesses (Rodriguez 2022). Between June 2014 and December 2017 alone, investigators deemed PG&E to be the cause of 1,500 fires in California (Gold, Blunt, and Smith 2019).

Since 2010, state auditors have found that PG&E is always behind schedule when it comes to maintenance and repair work. This is due to many reasons such as not being able to hire sufficiently qualified staff or having disputes with landowners on clearing trees on private property. Misguided spending also likely plays a role here: PG&E's 9.7 percent ROE disincentivizes maintenance projects like tree trimming or updating old infrastructure, favoring expensive, unnecessary projects instead because the former does not yield any returns (Yahoo! Finance n.d.). Moreover, just weeks after the 2017 fires in California, PG&E stated that wildfires are "its fifth-most-significant safety risk, behind factors such as employee safety" (Gold, Blunt, and Smith 2019). In comparison, unlike PG&E, other utilities like Sempra Energy and Edison International in Southern California began tracking wind using newly installed weather stations as a part of their wildfire mitigation plan.

The Camp Fire of November 8, 2018, was California's deadliest wildfire in history, and was caused by a faulty electric transmission line (State of California. n.d.b.). Eighty-five civilians died, and 12 civilians and five firefighters were injured. Approximately 19,000 buildings, or 95 percent of structures, in the city of Paradise and the unincorporated rural community Concow were completely destroyed. In fact, this was the exact case that PG&E's CEO and President Bill Johnson pleaded guilty to, acknowledging that "our equipment started that fire" (Romo 2020). The grand jury report at Butte County Superior Court found that "the San Francisco–based utility company repeatedly ignored warnings about its aging power lines and faulty maintenance, and failed to follow state regulations. It showed 'a callous disregard' for life and property" (Romo 2020).

While bankruptcies for utilities are rare because they are essentially state-sanctioned, PG&E filed for bankruptcy from 2001 and 2004, citing debt from wholesale energy and lack of authority to raise prices to cover the missing cash flow. The energy crisis was also marked by rolling blackouts. Despite corporations' surface-level statements, Loretta Lynch, California's utility regulator at the time, believes that these blackouts and debt relating to wholesale energy, lack of sufficient energy available, and high energy prices were due to California's 1996 "deregulation" of their energy sector (Jamali 2021). Deregulation in California was supposed to increase competition and ensure that the California Public Utilities Commission would not set prices for electricity, making electricity a traded commodity (Blunt 2022). Arguably, though, California's energy markets were not "deregulated." Rather, California's market structure was redesigned to favor and be easily exploited by corporations.

During this deregulation (or "redesigning") process, all of a sudden, California's demand for energy increased by 11.3 percent. According to the US Energy Information Administration, "Electric generating capacity decreased by 1.7 percent during the same period" and California's "average revenue per kilowatt-hour (a proxy for price) of electricity sold . . . was 9.48 cents, the 10th highest among the 50 States and the District of Columbia," compared to a national average of 6.86 cents per kWh (US EIA n.d.).

The energy company Enron was one of the main facilitators in manipulating California's energy markets to create artificial scarcity, contributing to the unnecessary rolling blackouts. For example, a scheme called "Ricochet" involved purchasing California-generated power at a low price to sell it to other states (Jamali 2021). And when California needed that electricity back, the state would be purchasing it at a much higher price. This was just one of the many ways that Enron manipulated the markets, exploiting the newly deregulated energy sector. To this day, there is lasting damage.

The 2001 energy crisis was so severe that it fueled Californians to successfully recall former governor Gray Davis (Patterson 2003). The Camp Fire catastrophe resulted in PG&E filing for its second bankruptcy, citing financial pressures from paying settlements and lawsuit claims as a result of many wildfires in 2017 and 2018. However, the penalties were considerably small compared to the tragedy and losses that residents experienced. Shareholders would be missing out on dividends until after 2023; right before the February 2024 winter storms in California, the shareholders started receiving dividend payments once more (Lin 2020).

Furthermore, the California government was the one to bail out PG&E. Even though Gov. Newsom stated that California spending taxpayer dollars in an "unprecedented intervention" to bail out PG&E would result in "totally transformed board and leadership structure for the company, real accountability tools to ensure safety and reliability and billions more in contributions from shareholders to ensure safety upgrades are achieved," the actions taken were controversial and many critics described them as corrupt (Penn and Eavis 2020). The government spent $9.6 million hiring private attorneys from a law firm that was a long-term ally of PG&E to write a law that would protect the company (Rittiman 2022). Newsom's government itself is a longtime beneficiary of PG&E. Furthermore, taxpayers also footed the $3.7 million cost for PG&E's bailout bill, prepared by investment bank Guggenheim Partners (Rittiman 2021).

Another mitigation tactic PG&E commonly takes is rolling blackouts, especially in the summer, to alleviate the burden on the grid and potentially prevent wildfires. Although these are sometimes a technical necessity, most customers find the practice unacceptable, especially since PG&E charges customers very high prices. For example, in 2024, PG&E raised prices by 13 percent, meaning the average family would pay an additional $33 a month (Van Derbeken 2024). The company has also requested to raise rates by $14 a month for the average customer to cover storm repairs.

PG&E also has a history of overspending, for example, exceeding the $4.7 billion the California Public Utilities Commission (CPUC) allowed for vegetation management. Instead, PG&E spent close to $14 billion. This was likely due to a lack of oversight from CPUC, as a report from CPUC itself "estimated PG&E's self-approved projects would make up more than 80 percent of company's total transmission investments" from 2020–21 (EWG 2021). Expensive projects also benefit PG&E's shareholders at the expense of customers: Costlier projects earn shareholders more money, even if a $2.75 billion transmission investment in transmission projects "equates to nearly $10 billion on ratepayer bills over the lifetime of the investment in cost recovery for the capital investment, profit, and operating and maintenance" (EWG 2021).

While the reasons—such as storm repairs and wildfire mitigation—seem reasonable at first glance, their timing coincides with the reissuing of dividends to shareholders. Indeed, PG&E even made a $2.24 billion in profits in 2023, a 24 percent increase from 2022 (Rasmus 2024).

Analysis: Promoting Energy Democracy through Publicly Owned Utilities

The neoliberal policies that have allowed PG&E to thrive despite constant disasters at the expense of customers perpetuates the aforementioned issues like reliability and affordability, and also impedes efforts of local public power initiatives and a smooth green transition. Therefore, California should focus on encouraging the development of public power initiatives—particularly municipalization—as an alternative to PG&E.

If customers have already been forced to keep paying for disaster after disaster, including PG&E's own bankruptcy reorganization, then they should have a say in creating a new status quo.

In contrast, public power initiatives like co-ops seek to keep power within the community rather than in the hands of out-of-touch and profit-driven shareholders and private investors. Publicly owned utilities (POUs) are not-for-profit and in California, supply a quarter of electricity consumption (State of California n.d.a.). The benefits of public power include local control, which means more accountability and transparency,[1] and providing residents with an option other than PG&E. The utility could be managed by a local city council (such as in the case of a municipal utility setup) or a board of local community members (e.g., a co-op). In this structure, essentially, every customer is an employee of the public utility (APPA n.d.c.). This means that customers have unparalleled access and input on key decisions, e.g., attending board meetings or public hearings. And if distribution of electricity is local rather than statewide, local staff could more promptly fix outages and distribution could be faster as well.

In California, there are four main types of POUs: city municipal departments, public utility districts, municipal utility districts, and irrigation districts (CMUA 2019). Any and every POU engages in actions and behaviors that local governments take. According to the state constitution, "'municipal corporations' may establish, purchase, and operate public works for power, heat, and other purposes . . . These municipal utilities are generally not subject to regulation by the California Public Utilities Commission (PUC)" (LAO 2001).

Most POUs were launched relatively recently, but some have been around for a long time. For example, Ava Community Energy (Ava) is a community choice aggregator (CCA) that covers urban areas like Berkeley in Alameda County in addition to unincorporated areas in Alameda County (Ava n.d.). Ava claims that their customers save $23 million in money that would have otherwise gone to PG&E, and that they are more efficient, running on only $770 million a year and spending 95 percent of their annual budget on power procurement (Ava n.d.). Because Ava is so local, they even spend millions of dollars sponsoring local programs in athletics and STEM. However, while Ava buys most of their energy from clean power plants to sell to customers at lower prices, they are not actually in charge of distribution. PG&E controls distribution, and so customers still have to pay PG&E for distribution. Another successful POU is Sacramento Municipal Utilities District (SMUD), which divides its 900-square-mile coverage into seven wards overseen by a respective elected board member (SMUD n.d.c.). SMUD has been the "nation's sixth-largest, community-owned, not-for-profit electric service" for 75 years (SMUD n.d.a.). In addition, the POU's rates are, on average, 54.7 percent lower than PG&E's rates (SMUD n.d.b.).

Recommendations

The 1996 deregulation process and Enron's market manipulation has left behind a long, dark shadow. The California government's primary objectives should be to begin regulating energy markets and supporting municipalization and efforts of individual customers, even if and especially if such actions would be considered opposition against PG&E.

The CPUC should first restart regulation. Even if electricity were to remain a tradable commodity, its prices should not fluctuate so dramatically based on supply and demand. The extreme highs and lows of electricity prices make power extremely vulnerable to bad actors, such as Enron, who could manipulate markets by artificially creating scarcity. The caps set on wholesale market prices during periods of high demand should be "hard" caps, rather than soft caps that effectively do not meaningfully reduce market manipulation (Blunt 2022). However, this new regulation effort should begin slowly. The deregulation process came on too hard, too fast, with insufficient input from academics, lawyers, industry professionals, and government officials, resulting in inaction from all parties involved, especially the utility (Blunt 2022). While California's continuing energy crisis remains urgent, the response should not take any shortcuts, which is what caused this problem in the first place.

1 This is not always the case, as some public power initiatives like co-ops and community choice aggregators are also prone to struggling with democratic access and transparency to customers.

Secondly, CPUC should make it easier for municipalities as well as individual consumers to develop their own renewable power generation capabilities to meet climate goals. Currently, investor-owned utilities and CPUC are actively working to change the rules to stop electricity customers from engaging in virtual net metering of their solar panels to make money back. This means that even though customers have to sell the electricity generated by their own solar array on their apartment complex or house to the IOU at a wholesale price, they have to purchase that electricity at a retail price. In the past, with their virtual net metering facilities, customers could sell their power back to PG&E for the full retail value of the kWh (EnergySage n.d.).

Additionally, PG&E's other new policy that began in 2023 means the company will only pay customers for the amount they did not use (avoided cost rate), which means that customers' earnings would go down by 75 percent. So rather than requiring customers to still pay PG&E a certain fee when it comes to rooftop solar, governments should make it easier for customers to start their own initiatives and set up a virtual net metering system with each other—perhaps even selling electricity to their friends and neighbors. Rooftop solar is not only designed to help propel the green energy transition but also to save individual customers money (Neely 2023). A profit-driven mindset, which fails to do this, should be replaced with a mindset based on energy democracy and public ownership. In general, power generation should be the focus of the state and all parties involved—public or private. It is doable: In 2023, SMUD launched its own virtual power plant (VPP) program, which "would give the California public power utility the ability to tap into its customers' energy storage devices" (Maloney 2023). This initiative even made solar energy accessible to low-income households via property owners who already possess solar facilities on their property (SMUD n.d.d.).

The Promise of Municipalization

The local government would also be involved as the enforcer and provider under the municipalization model, as municipalities are typically a division or department within local government. Municipalities should be set up locally—ideally large enough to cover multiple counties but not so many areas that there would be issues surrounding maintenance, cost, and distribution, like with PG&E originally. Currently, many municipalities and public power initiatives are distribution only; they purchase energy from elsewhere (and generally do not own their own power plants) and purchase transmission from larger utilities to deliver to their customers (APPA n.d.c.). Municipalities generally have to enter into contracts with major utilities at varying levels of cost, trust, and longevity.

Local governments should incentivize the development of municipalities. One of the main problems with PG&E and safety is actually based on bureaucracy, staff culture, and its record-keeping practices. Many large utility companies find it simply too hard to keep up with all of their property and territory or to even begin the process of digitization (Blunt 2022). This has resulted in difficulty finding records of situations such as gas leaks or poorly maintained trees across departments, or unwittingly disposing of critical records. Furthermore, in terms of staff culture, supervisors and their crew of inspection employees are actually incentivized not to report gas leaks, creating a false sense of security. PG&E has also simply given up on certain areas that are at very high fire risk, such as Paradise, California, saying that burying their distribution lines underground as a fire mitigation risk would be too costly.

The residents of Paradise and other areas heavily prone to fire definitely would not consider it too costly or their community not worth investing in. If they had their own municipality where customers themselves could vote for such actions, it would have been much easier for them to invest in their own community themselves to build up this very necessary infrastructure. Furthermore, communities that are worried about or particularly prone to fires would not develop a culture of complacency or false reporting. Rather, they would be incredibly vigilant, especially given the tragedies that have already happened. This is the whole purpose of local power—for local people to be involved and for solutions to be locally created, locally focused, and grounded in local understanding.

Furthermore, municipalization would prevent the common excuses that PG&E cites—too many customers, too much land, too many transmission lines to keep track of, and not enough people available to hire. By localizing the customer base with municipalization, customers themselves are not only "owners" with the ability to

influence the city council, but they are also fewer in number, making big incidents easier to address by engineers or inspection crews. This would also make transmission lines easier to maintain—because there are so many transmission lines in the state, CPUC has given up on careful monitoring and maintenance. The commission only has three sentences on rules for transmission lines, saying that utilities are free to come up with their own procedures (Blunt 2022). However, each area is slightly different, and it is impossible for a large corporation like PG&E to cover and monitor everyone. A smaller organization like a municipality has a greater ability to do so.

Moreover, a municipality understands its community much more than any organization, even CPUC. For example, CPUC did not even require PG&E to come up with a wildfire plan in 2012, thinking that Northern California did not need one as much as Southern California, which was required to develop a plan (Blunt 2022). Local communities, even if CPUC does not force their hand, would likely know that they need a wildfire plan, because they understand firsthand and very personally their fire risk. The consequences are real for a local community, when they often are not for a big monopoly.

Furthermore, mitigation efforts could be cheaper, and municipalities themselves would require less money from the government. PG&E attorneys greatly exaggerated how many trees they needed to clear and how much it would cost, claiming there were 100 million trees within striking distance of power lines when there were actually only 8 million (Blunt 2022). A municipality would be able to better estimate the local landscape and the cost of effective mitigation.

Anticipating Obstacles to Municipalization

The main obstacles to municipalization are the will of the people in less fire-prone places, possible corruption or lack of transparency at the local level, and PG&E itself. First of all, because municipalities are made by the people and for the people, it is not easy to get one started. Oftentimes, the effort requires a strong and passionate leader to get it off the ground, and the initiative takes years and lots of initial investment, as it is very expensive (ILSR n.d.a.). However, advocacy organizations have created numerous tool kits with instructions on how to start; e.g., how to set up for success in accomplishing a goal like 100 percent clean energy power production. Staff at organizations such as the Institute for Local Self Reliance (ILSR) help many customers start their own local energy economies to promote energy democracy (McCoy 2022).

Secondly, it is possible that there could be corruption at the local level, even if municipalization is intended to increase transparency. When customers are voters, owners, and employees all in one, voter participation could be very low. In one case, regarding an election for the governing board of a Kentucky co-op, voter turnout was less than 2 percent, and the newcomer candidate easily lost the election (Grimley 2016). Furthermore, because media coverage of local government is less frequent and turnout at city hall meetings tends to be low, local officials could engage in corrupt actions that are easier to hide from the public. In contrast, the media regularly probes PG&E, as the company has a larger impact on more people.

Third, PG&E itself could be an obstacle. In 2021, Boulder, CO, citizens tried to create their own municipality that would take back the $100 million spent on electricity imports and instead contribute $350 million to local economic development in the form of clean energy production (Farrell 2011). Unfortunately, the utility lobbied hard for citizens to vote against the proposal, outspending the municipalization group 10 to 1. The municipalization group barely won this battle due to the influence and spending power of the monopoly utility. About a century ago, in 1923, Sacramento residents were already thinking of public power. They wanted to "purchase PG&E's local distribution lines and operate them through a municipal agency" (Blunt 2022). For over 20 years, PG&E fought the city, taking the case all the way to the state Supreme Court. In 1946, the court ruled that the city of Sacramento could proceed with the takeover, forcing PG&E to sell. San Francisco went through a similar situation. Though the city did not make up a major portion of PG&E's customer population, it was symbolically important. San Francisco calculated that being independent from PG&E would be the most beneficial action to take and even offered $2.5 billion to acquire PG&E's power lines and substations (Hutson 2019). PG&E's CEO at the time refused to sell. Such fights are often extremely expensive, and given the high cost of legal and political lobbying fees, it is hard for a local municipality to afford on its own.

However, municipalization is still the best option for returning power to the hands of the people. First of all, even if customer participation is low, a municipality's goal is ultimately not-for-profit, so it would not be reporting to any shareholders. Secondly, municipalization would ensure more clean energy investment. Not only do many municipalities sign 100 percent clean energy–only contracts with major utilities, but local governments supporting them could help them build their own production and distribution systems, resulting in greater reliability and efficiency for getting energy to people.

Starting a municipalization effort would combat neoliberal ideology. Neoliberalism argues for unregulated free markets, believing that such an economic system is the solution to societal and economic problems (Roosevelt Institute 2020). PG&E is relatively unregulated—despite the existence of CPUC—and energy has widely been treated as an ordinary commodity (Boyd 2022). In the case of rooftop solar, for example, it is clear that the markets are not free. PG&E, a private corporation, dictates how much customers can be paid for the generation of electricity using their own solar panels. Instead, being pretty much deregulated exposes this system to manipulation and corruption.

California's neoliberal energy history began when Daniel Fessler, a former contracts law professor at UC Davis who was appointed by Republican Governor Pete Wilson in the mid-1990s to lead PG&E's neoliberalization effort, decided to create a free market for electricity. This resulted in an almost 1,000 percent increase in prices, and market manipulation still occurred. In fact, California was the first state to introduce this deregulated energy industry, which removed all limits on electricity, instead allowing prices to fluctuate based on supply and demand—a free market concept (Quick Electricity n.d.).

But energy is a critical infrastructure sector and lives are at stake. Energy crises have continued under the neoliberal model, making it imperative that governments embrace municipalization and reject free market capitalism in energy.

Conclusion

The California government should reregulate wholesale energy markets to prevent dramatic price fluctuations, promote energy democracy initiatives like virtual net metering of rooftop solar, and support municipalization. State-sanctioned monopolies like PG&E have been given too much freedom to cause harm and prioritize profits over service by relying on measurements like return on equity that allow the company to incentivize expensive, unnecessary projects over necessary maintenance tasks or even renewable energy.

However, it is important to note that public power initiatives are not infallible, and there are instances where monopolies and their existing vast transmission networks make sense rather than a municipality building it from the ground up. This is especially the case in rural communities, where city funds are relatively low. Further research can be done on municipalization and blending private, public, and resident-created setups to provide energy to ensure that the same problems plaguing PG&E do not repeat themselves in public power initiatives.

The status quo is not working in California. Lives are at stake when it comes to energy reform, and embracing an alternative is imperative. In the long term, policies promoting reregulation and municipalization can help achieve energy democracy, foster local ownership, and deliver more reliable service. Even if the start-up cost is expensive (e.g., a municipalization effort may need to buy billions of dollars of PG&E infrastructure or spend that much to build its own), there will be significant savings in the future. Moreover, PG&E's practices of prioritizing shareholders over customers—as seen through its overinvestment in costly projects, overspending budgets, and issuing profits back to shareholders rather than upkeep or renewable energy projects—has endured for far too long.

About the Author

Catherine Tong (they/them) is a student at the University of California, Berkeley studying comparative literature. Catherine is committed to gaining an interdisciplinary education: They are learning two different languages, took part in a cybersecurity graduate seminar, and completed courses in medical anthropology, biostatistics/R, and more. As a nonbinary Chinese American, they are deeply committed to uplifting the marginalized and underrepresented. They continue to teach and volunteer for Speech & Debate: Global Citizenship, a program they founded as a high school junior that has won national recognition for teaching over 100 3rd–5th graders about stigmatized social justice issues. At Cal, Catherine is a student researcher at Berkeley Law's MacArthur Award–winning Human Rights Center, investigating worldwide human rights violations and atrocities. They also work to promote inclusion, awareness, and celebration of queer folx on campus, having conducted a semester-long ethnographic research project on LGBTQ+ student affairs and interned for UC Berkeley's Gender Equity Resource Center. In their personal time, Catherine enjoys reading (49 books in 2023), indoor rock climbing, and visiting museums.

Acknowledgments

I would like to extend my deepest gratitude to the Roosevelt Institute and all of the Network staff for this fantastic experience. I'm proud and excited to be a Roosevelter for life, and to continue to be involved in the Network even after the conclusion of my fellowship. I would especially like to thank Alyssa Beauchamp, Katie Kirchner, and Eric Paul, who helped take my draft from being bullet points to a nine-page publication. I would also like to thank Mayukh Datta, who was the best, most generous, and most informed alumni mentor I could have ever asked for. He supported me with resources and advice at critical stages and I'm sure Mayukh will be a fantastic professor to any and all students who have the pleasure of being taught by him. I would also like to thank Maria McCoy and Katie Kienbaum at the Institute for Local Self-Reliance, Chris Villarreal at the R Street Institute, and Matt Grimley at the University of Minnesota, who engaged in hours-long research outreach calls with me and connected me with key players in the energy industry. They are committed to making the world a better place. Finally, I want to thank my fellow Roosevelters, friends, and loved ones for their abundant support of my academic and professional passions.

References

Reregulating Utilities and Energy Markets to Promote Public Power and Energy Democracy in Northern California: The Case of PG&E

ASCE American Society of Civil Engineers (ASCE). n.d. "About ASCE." ASCE. Accessed March 6, 2024. https://www.asce.org/about-asce/.

_____ 2019. "ASCE Gives California Infrastructure a C-." 2021 Report Card for America's Infrastructure, May 9, 2019. https://infrastructurereportcard.org/asce-gives-california-infrastructure-a-c/.

_____ n.d. *2021 Report Card for America's Infrastructure.* Reston, VA: ASCE. https://infrastructurereportcard.org/cat-item/energy-infrastructure/.

_____ 2019. *California 2019 Report*. Reston, VA: ASCE. https://infrastructurereportcard.org/state-item/california/.

_____ 2021. A *Comprehensive Assessment Of America's Infrastructure: 2021 Report Card for America's Infrastructure*. Reston, VA: ASCE. https://infrastructurereportcard.org/wp-content/uploads/2020/12/2021-IRC-Executive-Summary-1.pdf.

American Public Power Association (APPA). n.d.a "Benefits of Public Power." APPA. Accessed July 3, 2024. https://www.publicpower.org/system/files/documents/municipalization-benefits_of_public_power.pdf.

_____ n.d.b "Public Power: Powering Strong Communities." Public Power. Accessed March 7, 2024. https://www.publicpower.org/public-power.

_____ n.d.c "What Is Public Power?" APPA. Accessed July 3, 2024. https://www.publicpower.org/system/files/documents/municipalization-what_is_public_power.pdf.

Associated Press (AP News). 2022. "Ex-PG&E Execs to Pay $117m to Settle Lawsuit Over Wildfires." *AP News*, September 29, 2022. https://apnews.com/article/wildfires-business-fires-lawsuits-california-450c961a4c6b467fcfb5465e7b9c5ae7.

Ava Community Energy (Ava). n.d. "Powering Alameda and the Valley."Ava. Accessed March 11, 2024. https://avaenergy.org/about/.

Blunt, Katherine. 2022. *California Burning: The Fall of Pacific Gas and Electric–and What It Means for America's Power Grid*. New York: Portfolio.

Boyd, William. 2022. "Energy Price Shocks and the Failures of Neoliberalism." *Law and Political Economy* (blog). December 7, 2022. https://lpeproject.org/blog/energy-price-shocks-and-the-failures-of-neoliberalism/.

California Municipalities Utilities Association (CMUA). 2019. "Publicly Owned Electric Utilities: Frequently Asked Questions (FAQ)." CMUA, February 2022. https://www.cmua.org/Files/Capitol%20Day%202019/CMUA-POU-FAQ-2019-2-4.pdf.

Cybersecurity and Infrastructure Security Agency (CISA). n.d."Critical Infrastructure Sectors." Accessed March 7, 2024. https://www.cisa.gov/topics/critical-infrastructure-security-and-resilience/critical-infrastructure-sectors.

Dillon, Raquel Maria. 2019. "Judge: PG&E Paid Out Stock Dividends Instead of Trimming Trees." *KQED*, April 2, 2019. https://www.kqed.org/news/11737336/judge-pge-paid-out-stock-dividends-instead-of-trimming-trees.

EnergySage. n.d. "How Does Pacific Gas & Electric Net Metering Work?" Pacific Gas & Electric (PGE) Net Metering. Accessed March 11, 2024. https://www.energysage.com/local-data/net-metering/pge/.

Environmental Working Group (EWG). 2021. "PG&E Asks California for $201 Million Profit Hike, Benefiting Directors – But Wildfire Victims Stay Unpaid." Press release, September 15, 2021. https://www.ewg.org/news-insights/news-release/2021/09/pge-asks-california-201-million-profit-hike-benefiting-directors.

Farrell, John. 2011. "Citizens Give 'Going Boulder' a New Meaning: Local Energy Self-Reliance." Institute for Local Self-Reliance (ILSR), November 2, 2011. https://ilsr.org/citizens-give-going-boulder-new-meaning-local-energy-self-reliance/.

_____ 2022. "Public Power Pt. 4: Game Over?" *Local Energy Rules* (podcast). *Institute for Local Self-Reliance*, September 28, 2022. Audio. https://ilsr.org/public-power-series-4-game-over-ler167/.

Gold, Russell, Katherine Blunt, and Rebecca Smith. 2019. "PG&E Sparked at Least 1,500 California Fires. Now the Utility Faces Collapse." *Wall Street Journal*, January 13, 2019. https://www.wsj.com/articles/pg-e-sparked-at-least-1-500-california-fires-now-the-utility-faces-collapse-11547410768.

Grimley, Matt. 2016. "Just How Democratic Are Rural Electric Cooperatives?" Institute for Local Self-Reliance (ILSR), January 13, 2016. https://ilsr.org/just-how-democratic-are-rural-electric-cooperatives/.

Legislative Analyst's Office (LAO). 2001. Letter to Attorney General Lockyer. LAO, May 11, 2001. https://lao.ca.gov/ballot/2001/010476_INT.htm.

Hutson, Sonja. 2019. "San Francisco Offers to Buy PG&E Electric Grid in the City for $2.5 Billion." *KQED*, September 8, 2019. https://www.kqed.org/news/11773007/san-francisco-offers-to-buy-pge-electric-grid-in-the-city-for-2-5-billion.

Institute for Local Self-Reliance (ILSR). n.d.a. "Community Power Toolkit." ILSR. Accessed March 11, 2024. https://ilsr.org/community-power-toolkit-resource-list/.

_____ n.d.b. "Energy Research Hot Spot: Taking Over Your Utility." ILSR. Accessed March 7, 2024. https://ilsr.org/taking-over-your-utility/.

Jamali, Lily. 2021. "The Legacy of Enron in California's Power Challenges Today." Marketplace, August 4, 2021. https://www.marketplace.org/2021/08/04/the-legacy-of-enron-in-californias-power-challenges-today/.

Johnson, Julie. 2024. "PG&E Bills Are Soaring, and Californians Are Angry. Here Are Answers to Questions About the Rate Hike." *San Francisco Chronicle*, February 24, 2024. https://www.sfchronicle.com/climate/article/pge-electricity-bill-rate-18649513.php.

Kerman, Dan. 2024. "'Outrageous and Unacceptable': PG&E's Massive 2023 Profit Frustrates Customers." KRON4, February 23, 2024. https://www.kron4.com/news/bay-area/outrageous-and-unacceptable-pges-massive-2023-profit-frustrates-customers/.

Kibbey, J.C. 2021. " Utility Accountability: How Do Utilities Make Money?" *Natural Resources Defense Council* (blog). January 21, 2021. https://www.nrdc.org/bio/jc-kibbey/utility-accountability-101-how-do-utilities-make-money.

Kilgore, Tomi. 2023. "PG&E's Stock Powers Up Toward a 4-Year High After Plan to Pay First Dividend in More Than 6 Years." *MarketWatch*, November 28, 2023. https://www.marketwatch.com/story/pg-es-stock-powers-up-toward-a-4-year-high-after-plan-to-pay-first-dividend-in-more-than-6-years-006734b5.

Larson, Amy. 2024. "PG&E: Storm Declared Worst in 30 Years for Power Outages." KRON4, February 7, 2024, sec. Weather https://www.kron4.com/weather/pge-storm-declared-worst-in-30-years-for-power-outages/.

Lin, Judy. 2020 "Newsom and PG&E Strike Deal to End Company's Bankruptcy." *CalMatters*, March 20, 2020, sec. Wildfires https://calmatters.org/environment/wildfires/2020/03/california-pge-bankruptcy-gavin-newsom-deal/.

Lusiani, Niko. 2022. "Power Struggle: How Shareholder Primary in the Electric Utility Sector Is Holding Back An affordable and Just Energy Transition." *Roosevelt Institute*, May 24, 2022. https://rooseveltinstitute.org/publications/electric-utilities-shareholder-primacy/.

Maloney, Peter. 2023. "SMUD Launches Virtual Power Plant Program." APPA, January 4, 2023. https://www.publicpower.org/periodical/article/smud-launches-virtual-power-plant-program.

Marketwatch. n.d. "PG&E Corp." Stocks. Accessed May 10, 2024. https://www.marketwatch.com/investing/stock/pcg.

Moon, Sarah. 2022. "California's Second-Largest Wildfire Was Sparked When Power Lines Came in Contact with a Tree, Cal Fire Says." CNN, January 5, 2022. https://www.cnn.com/2022/01/05/us/dixie-fire-power-lines-cause-pge/index.html.

Neely, Christopher. 2023. "California's Investor-Owned Utilities Push for Even More Controversial Changes to Solar Market." Energy Central, October 11, 2023. https://energycentral.com/c/um/californias-investor-owned-utilities-push-even-more-controversial-changes-solar.

Patterson, Thom. 2003. "Genesis of Recall Rooted in California Energy Crisis." CNN, October 7, 2003. https://www.cnn.com/2003/ALLPOLITICS/10/06/energy.crisis/index.html.

Penn, Ivan, and Peter Eavis. 2020. "PG&E Reaches Agreement With Governor, Clearing Bankruptcy Hurdle." *New York Times*, March 20, 2020, sec. Energy and Environment.. https://www.nytimes.com/2020/03/20/business/energy-environment/pge-deal-gavin-newsom-california.html.

Pacific Gas and Electric Company (PG&E). n.d.a. "Company Profile." PG&E. Accessed March 6, 2024. https://www.pge.com/en/about/company-information/company-profile.html.

_____ n.d.b."Public Safety Power Shutoffs." PG&E. Accessed May 7, 2024. https://www.pge.com/en/outages-and-safety/safety/community-wildfire-safety-program/public-safety-power-shutoffs.html

Quick Electricity. n.d. "The History of Energy Deregulation in California." California Energy. Accessed March 11, 2024. https://quickelectricity.com/deregulated-energy-states/california/#:~:text=California%20was%20the%20first%20state,free%2Dmarket%20supply%20and%20demand.

Rasmus, Allie. 2024. "PG&E Profits Soar After Rate Hikes." *Fox KTVU*, February 23, 2024. https://www.ktvu.com/news/pge-profits-soar-after-rate-hikes.

Romo, Vanessa. 2020. "PG&E Pleads Guilty On 2018 California Camp Fire: 'Our Equipment Started That Fire.'" NPR, June 16, 2020, sec. Environment. https://www.npr.org/2020/06/16/879008760/pg-e-pleads-guilty-on-2018-california-camp-fire-our-equipment-started-that-fire.

Roosevelt Institute. 2020. "How We Got Here and Where We're Going: Neoliberalism Has Failed, and a New Progressivism Is on the Rise." Press release, January 15, 2024. https://rooseveltinstitute.org/2020/01/15/how-we-got-here-and-where-were-going-neoliberalism-has-failed-and-a-new-progressivism-is-on-the-rise/.

Rittiman, Brandon. 2021. "Newsom's Office Crafted Law Protecting PG&E after Company's Crimes Killed 84 People." ABC10, August 10, 2021, sec. ABC10 Originals. https://www.abc10.com/article/news/local/abc10-originals/newsom-pge-protection/103-65ca1d41-8efe-45b4-87bc-0cdecc714378.

_____ 2022. "Investigation: Newsom's PG&E Bailout Law Written by Firm That Had Represented PG&E." ABC10, March 27, 2022, sec. Investigations. https://www.abc10.com/article/news/investigations/gavin-newsom-pge-bailout-law-written-by-firm-that-had-represented-pge/103-4ffb6304-298d-41c2-816a-a8d2a3d66026.

Rodriguez, Olga R. 2022. "PG&E to Pay $55 Million for Two Massive California Wildfires." *PBS News Hour*, April 11, 2022, sec. Nation. https://www.pbs.org/newshour/nation/pge-to-pay-55-million-for-two-massive-california-wildfires.

Shannon, Chelsea. 2019. "The History of PG&E's Problems." ABC 10, July 15, 2019. https://www.abc10.com/article/news/the-events-that-contributed-to-pges-growth-to-a-near-monopoly/103-b7badd6e-8eea-4ae3-a935-8628ba98b87e.

Sacramento Municipal Utility District (SMUD). n.d.a. "Company Information." SMUD. Accessed May 15, 2024. https://www.smud.org/en/Corporate/About-us/Company-Information#:~:text=As%20the%20nation's%20sixth%2Dlargest,County%20for%20over%2075%20years.

_____ n.d.b. "Residential Rates." SMUD. Accessed May 15, 2024. https://www.smud.org/en/Rate-Information/Residential-rates#:~:text=Rate%20comparison,as%20of%20May%201%2C%202024.&text=Find%20more%20information%20about%20SMUD's%20rates%20and%20bill%20comparison.

_____ n.d.c. "Our Service Area." SMUD. Accessed May 15, 2024. https://www.smud.org/en/Corporate/About-us/SMUDs-Territory-Map#:~:text=We%20provide%20electric%20service%20to,of%20Placer%20and%20Yolo%20Counties.)

_____ n.d.d. "Virtual Solar." SMUD. Accessed May 15, 2024. https://www.smud.org/en/Going-Green/Virtual-Solar-program.

Smith, Grant. 2022. *Part I: A History of Flawed Energy Investments*. Washington, DC: EWG. https://www.ewg.org/node/7226#_edn1.

State of California. n.d.a "Energy Efficiency in the Public Power Sector." California Energy Commission. Accessed March 10, 2024. https://www.energy.ca.gov/programs-and-topics/topics/energy-assessment/energy-efficiency-public-power-sector.

_____ n.d.b. "Remembering the Camp Fire." Cal Fire. Accessed March 10, 2024. https://www.fire.ca.gov/our-impact/remembering-the-camp-fire.

Stein, Zach. 2024. "Investor-Owned Utilities (IOUs)." Carbon Collective, June 13, 2024. https://www.carboncollective.co/sustainable-investing/investor-owned-utilities-ious.

US Energy Information Administration (EIA). n.d. Status of the California Electricity Situation. EIA. Accessed July 3, 2024. https://www.eia.gov/electricity/policies/legislation/california/index.html#:~:text=In%201996%20(when%20California%20passed,was%206.86%20cents%20per%20kilowatthour.

_____ 2022. "Renewable Energy Explained." EIA. Last updated November 30, 2022. https://www.eia.gov/energyexplained/renewable-sources/portfolio-standards.php#:~:text=Renewable%20portfolio%20standards%20(RPS)%2C,energy%20sources%20for%20electricity%20generation.

Van Derbeken, Jaxon. 2024. "PG&E Becomes California's Most Expensive Power Provider." *NBC 4 Los Angeles*, January 8, 2024, sec. Investigative. https://www.nbclosangeles.com/investigations/national-investigations/pge-rate-hike-california/3302833/.

Yahoo! Finance. n.d. "PG&E Corporation." Statistics. Accessed May 14, 2024. https://finance.yahoo.com/quote/PCG/key-statistics/.

Navigating Data Privacy: Addressing Big Tech's Power under the California Consumer Privacy Act

By Evelyn De La Cruz

Introduction

California's Silicon Valley has, in many regards, become the global epicenter of technological prowess. An abundance of products, services, and—above all—ideas has cemented the region's companies as modern marvels of innovation. Though the definition of a Big Tech company can be difficult to pinpoint, the term is often used in reference to companies whose market indexes are considered to be the largest in wealth and scale—Google (whose parent company is Alphabet), Amazon, Microsoft, Meta (formerly known as Facebook), and Apple. Collectively, these companies "total more than the entire economy of the United Kingdom" (O'Mara 2019).

While all of these companies have a presence in California, Google, Meta, and Apple are often regarded as the flagships of Silicon Valley. These respective companies have all seen a majority of their growth happen while headquartered in Silicon Valley, and have all otherwise benefited from the abundance of resources and capital that the California ecosystem has provided. Most Silicon Valley companies, especially these three, were founded on the ethos and promise of solving tomorrow's problems, thereby equating their technology with solvency. This is a narrative that, until more recent threats to democracy, security, and general economic welfare, was easy to maintain.

All three of these Silicon Valley giants, now involved in major scandals ranging from anticompetitive practices to frequent layoff cycles, exemplify the consequences of an industry that has been left unchecked for far too long. While these companies have indeed made many of our lives more efficient, they have also left many of their consumers susceptible to data breaches, economic hardship, and misinformation. In an almost prescient move, Google decided the first rule in its original code of conduct would be "Don't be evil," a phrase which now feels like nothing more than a foreboding warning.

The fundamental issue behind Big Tech's ongoing ambivalence comes down to the omniscient nature of the industry itself. These companies dominate in their original markets as well as nearly every other digital space. This does not give consumers a viable opportunity to seek alternative mediums for privacy. With no effective workarounds in an essentially untouchable market, companies effectively corner users and their data. These companies have placed users in a panopticon "where prisoners could potentially be observed…without any knowledge of when they [are] being watched" (Bartlett 2018). While the inequity presented by this dynamic is not fundamentally new, the increasing use of artificial intelligence (AI) is creating new threats to the autonomy and privacy of users. Data has become the cornerstone of all tech business models, and the insatiable desire to collect more information from consumers poses increasing threats to privacy that no government, state or federal, has been able to adequately address.

California currently boasts the California Consumer Privacy Act (CCPA), which represents one of the most comprehensive data transparency initiatives in the US to date. The CCPA affords consumers a range of rights, including the ability to understand the nature of data collected and its subsequent usage, the option to request the deletion of their personal information, and the right to opt out of the sale of their data (CPPA n.d.). California was the first state to propose legislation addressing the monetization of data, an initiative broadly aimed at all industries but strongly rooted in scrutinizing tech practices. California has a unique position in this discourse; however, the problem with current California regulation remains enforceability and tangible efficacy.

Background

Google, originally known as "BackRub," was founded in 1998 as a research project at Stanford University. Apple was famously conceived in Steve Jobs's Cupertino garage when he was only 21. Meta, the only one of these three companies not originating in California, moved to Palo Alto in 2004 in order to further expand its operation. Along with many companies before them, these three giants largely benefited from the California ecosystem. Venture capital, coupled with the human capital from nearby universities, in many ways shaped the trajectory of each of these companies (Foroohar 2019). Google and Meta, the two companies who popularized the advertising-per-click business model, both generated upwards of $38.7 billion in 2023 in this area alone (Vanian 2024). Apple, a company primarily associated with hardware, has often distanced itself from the image of data brokering, which platform companies such as Google and Meta fundamentally cannot. This is not to say that Apple is less opportunistic when it comes to data brokering. Although not its primary generator of revenue, Apple also offers subscriptions, platforms, and access to GPS, all of which track and store users' data, much like the services of Google and Meta. However, while Google and Meta rely primarily on third-party transactions, Apple relies most heavily on first-party sales, which are all conducted within their own devices and networks (Cyphers 2020). As many of these companies continue to monopolize aspects of other industries, first-party sales become increasingly easier to transact and increasingly difficult to navigate under the few privacy laws already in place. And while allowing companies to build devices, software, and apps within one ecosystem is often argued to be a safer and more sustainable way to maintain privacy, it is indicative of a larger problem of unfair market competition.

The rapid digitalization of the 21st-century economy has proven prosperous for Big Tech. According to the American Economic Liberties Project, Google has made 270 acquisitions over 21 years, Meta has made 97 acquisitions over 18 years, and Apple has made 128 acquisitions over 34 years (AELP n.d.). To say that these conglomerates partake in monopolistic practices would be an understatement. Each of these companies makes constant attempts to break into new industries, and to further create micro-economies within their already established business models. Google's fourth quarter earnings for 2023 show an increase of nearly $2 billion for "subscription, platform, and devices" revenue since the fourth quarter of 2022. This includes everything from Google Pixel phones to paid YouTube subscriptions, which reported more than 100 million subscribers at the end of 2023 (Alphabet Investor Relations 2024). Though $2 billion may seem insignificant for a trillion-dollar company, this segment of income is relatively new and introduces the idea of monetizing quality, a detail that further manipulates users. Similarly, Apple is shifting its product lines by introducing devices such as the 2024 Vision Pro, a move that has yet to be seen as profitable but has many investors feeling optimistic (RTTNews 2024). The problem with these expansions is not the increase in profit, but the access to even more data and metrics that can be used to track users. Apple's virtual reality glasses quite literally allow the company to see the world through users' eyes. These features build a more holistic profile of each consumer, which allows for further intrusive targeting.

Beyond the shields of free enterprise lies the fundamental Chicago School of economics belief that market dominance does not constitute a violation if consumers are not subject to direct charges or facing ostensible damages. This is, of course, the argument that all Silicon Valley giants have used in defense of their data management practices. Since there is no explicit cost associated with most Google, Meta, and Apple services,

these companies argue that there is no dire need for regulation. Big Tech's power and arguable monopoly have equipped them with the power to manipulate their services and, in turn, manipulate users. They are able to do this through the negative feedback loop that naturally exists in the data monetization business model.

Surveillance capitalism, as coined by Shoshana Zuboff, is "the unilateral claiming of private human experiences as free raw material for translation into behavioral data" (Zuboff 2019). These companies do not need to guess how to market products or services to consumers because consumers, often unknowingly, have given them a blueprint on how to do so. Users create accounts or buy devices and services on a daily basis, which correspond to an entire ecosystem of networks, sellers, and devices. In this way, many companies tap into "raw material for translation into behavioral data" as a way of justifying "innovation" and "accuracy" on behalf of their products. Of the heuristics which these tech giants collect, "some are used to improve products and services. The rest are considered a 'behavioral surplus' and . . . are computed into highly profitable prediction products that anticipate your current and future choices" (Zuboff 2019). In other words, privacy is the implicit cost users pay for what they are being told is a slightly more functional product. Google's response to a 2023 federal lawsuit accusing them of monopolizing the search engine business was simply: "People don't use Google because they have to—they use it because they want to" (Walker 2023). Similar arguments have been made on behalf of Apple and Meta alike. Both Apple and Google have defended a nearly $20 billion deal to make Google the default search engine in Safari's web browser (Nylen 2024). Decisions that innately require users to work against the systems at play are not built with the user's best interest in mind. The rhetoric with which they defend themselves is indicative of the asymmetrical power structure at play, hence the limited user autonomy.

Privacy has become a quality that consumers have been told they must forego. A 2023 Pew Research study found that 67 percent of adults in the United States have little to no understanding of what companies do with the data they collect, and that 73 percent believe they have little to no control over what is done with that data (McClain et al. 2023). Other, less skeptical consumers have come to believe that they themselves are deriving utility from such practices. Seeing product suggestions can seem benign, even convenient. However, targeted advertisements and curated content are just the tip of the iceberg for data brokers. The problem with having unlimited access to everyone's data is that it supplies companies with exact figures detailing the state of users' personal lives. This means that entities that are key in determining someone's quality of life are able to purchase and interact with sensitive data.

"Banks, health insurance companies, prospective employers, predatory lenders, and law enforcement agencies like Immigration and Customs Enforcement (ICE)" (Sherman 2022) have all been found to purchase data. Data purchasing can have potential consequences for consumers such as employment termination and incarceration, simply for engaging with a company's platform. Additionally, "in 2016, [Optum] filed a patent application to gather what people share on platforms like Facebook and Twitter, and link this material to the person's clinical and payment information" (Allen 2018). Insurance companies, perhaps some of the most predatory entities in the data brokering world, have the potential to penalize consumers with data that they are not even aware exists. Similarly, Deloitte's PredictRisk uses information from data brokers to generate a health-risk prediction score that is then provided to life insurance companies to assess whether people may be interested in their product (Klosowski 2021). Generating scores and profiling consumers leads to biases, which are extremely consequential in areas of healthcare, financial services, and employment.

Cerebral transactionality is the known exchange of information for access and service. This is the very foundation of big tech corporations. Cerebral transactionality, however, is often overlooked for a much more marketable term, the algorithm. An algorithm, at its simplest, is nothing more than a set of rules. In the tech landscape, an algorithm is what determines who sees what and when. The news alerts, social media posts, and restaurant recommendations received by users are all tailored to each individual person. This is based on computations aggregated by a team that has been assembled to understand the quirks and patterns of the human mind. In a rather controversial take, author Sarah T. Marshal argues that "the tools and processes that you may believe to be computational, automated, and mechanized are, in actuality, the product of human intervention, action, and decision-making" (Mullaney and Peters 2021).

Companies are very intentional with the decisions they make, and the manner in which consumers are treated is no different. There are conscious decisions made to sell data to third parties, government entities, and other countries, as firms have disclosed themselves. Corporations that argue otherwise usually blame this handling

of data on a system flaw. Companies deal with large amounts of data and naturally rely heavily on computation. However, the need to rapidly and comprehensively predict material for users has minimized the rate at which human input is incorporated on the companies' end. A lack thereof results in the circulation of misleading or disturbing content. In January 2024, Justin Mohr posted a 14-minute video of his father's decapitated head. This video was left published on YouTube, an Alphabet subsidiary, for several hours before being taken down. The reason behind its long and pervading duration on the site is precisely because an algorithm deemed it entertaining. This was not the first or last time that content like this was overlooked by an algorithm. If machines and algorithms are malfunctioning, it then falls on the leadership of a company to fix them. Failure to find solutions is indicative of a company that either does not care for its consumers or is not as technologically robust as it claims to be. Regardless, it would appear that tech conglomerates need a helpful nudge in reforming many of their internal practices.

Intrinsic to these developments is the AI race. While Google, Apple, and Meta all have varying degrees of AI embedded into their products, there is a desire from companies and shareholders alike to create AI that further propels the market. All three companies have invested billions of dollars into the internal and external development of AI (Hu 2023). What makes this different from other developments and investments made by tech companies is the intangible and uncertain nature of AI. The recent release of Google's chatbot, Bard, cost the company nearly $100 billion in market value in a single day after the bot gave out inaccurate information to a prompted question (Olson 2023). The success, or lack thereof, of AI has gravity to it not because it is the latest technology, but because it further pushes users and the economy as a whole into unknown territory. AI is something that trillion-dollar companies have not yet managed to fully understand, yet remain eager to push forth into the world. This overcommitment has the potential to create an information bubble that strips users of any autonomy over their thoughts and ideas. Meta and Google have already updated their privacy policies to stipulate that cerebral productions (photos, writings, emails, etc) are "publicly available information," making it easier to legally use consumer data to train AI models (Fowler 2023). This means that anything that is saved, written, or created is available at the disposal of these companies. Some tech companies have openly stated that they wish to know consumers better than they know themselves. In the wake of the AI renaissance, companies have already demonstrated clear negligence in affording transparency to their users.

Policy Analysis and Recommendations

California currently boasts the California Consumer Privacy Act (CCPA), one of the most comprehensive data transparency initiatives in the US to date. The CCPA affords consumers a range of rights, including the ability to understand the nature of data collected and its subsequent usage, the option to request the deletion of their personal information, and the right to opt out of the sale of their data. California was the first state to propose legislation addressing the monetization of data, an initiative broadly aimed at all industries but strongly rooted in scrutinizing tech practices.

The CCPA began as a 2018 proposition initiated and funded by Alastair Mactaggart, a San Francisco-area real estate developer. Mactaggart went on to fund the 2020 ballot initiative amending the CCPA, which subsequently passed and became known as the California Privacy Rights Act (CPRA). Along with further explicating privacy laws, the CPRA created an enforcing agency known as the Consumer Privacy Protection Agency (CPPA), a first-of-its-kind regulatory body that serves to enforce the CCPA. The CCPA only regulates bodies whose "annual gross revenues are greater than $25 million" and "who processes the data of 100,000 or more consumers." As of March 2024, at least 14 other states have passed extensive initiatives aimed at mitigating privacy violations (Bloomberg Law 2024). However, California, by virtue of location, has some of the most comparably thorough mechanisms in place for addressing these issues. Despite these developments, these measures are not nearly enough to combat the overreach of Big Tech.

While the CCPA is one of the most robust examples of data regulation in the country, it is, unfortunately, a rudimentary approach to protecting consumers. On one hand, the added degree of transparency is a promising step, given that companies have to explicitly stipulate what they do with the data they collect. This itself, however,

does not provide users with enough agency to significantly alter the handling of their data. Disclosure of the names and quantities of specific partnerships is not required under the CCPA, meaning that users could be blindly signing away access to thousands of third parties. Usages and associated partners of these companies that are not openly and clearly stipulated are strategically meant to be hidden from consumers. A 2019 Pew Research study found that just 9 percent of adults say they read a company's privacy policy before agreeing to the terms and conditions, implying that privacy policies are not practical for those without a high-level understanding of technology or law (McClain et al. 2023). In 2008, two Carnegie Mellon professors (McDonald and Cranor 2008) estimated that the average internet user would require 76 work days to read through all their privacy agreements in a year. New provisions are constantly being added to these terms and conditions, meaning that this estimated time would continue to increase in order to accommodate all of the platforms an average internet user engages with in 2024. It does not take a study to know that this CPPR requirement is ineffective within the broader landscape of protecting users. The average consumer does not have time to go through all terms and conditions, and even if there were specific clauses that the user did not agree with, there are few ways of proposing changes. By committing to campaigns targeted at explicating the relationships between consumer rights and user agreements, the CPPA would be better serving its constituents. Creating and enforcing a strict framework for the manner in which data agreements are displayed to users is pivotal in achieving more transparent relationships, which is arguably the intended outcome of the CCPA.

At a more technical level, the CCPA also has very narrow accommodations for users to act on any granted liberties. The CCPA's provisions regarding the deletion of personal information highlight many circumstances in which businesses are exempt from complying with consumer deletion requests. These exemptions can easily account for a majority of requests, as companies can use generic defenses such as their right to "exercise or defend legal claims," which does not require businesses to further elaborate on their denial of a request. Requests to see profiles created on oneself could also be denied on the basis of the right to "collect, use, retain, sell, share, or disclose consumers' personal information that is de-identified or aggregate consumer information." At an analytics level, most collected data can be argued to fall under this category as it is aggregated for the purposes of simply finding patterns in data. While data can be analyzed at an even more granular level, this general grouping can serve as a "valid" reason not to proceed with a request to receive or delete one's personal information. The CPPA must require further specificity in regard to how companies deny data requests. Amending the CCPA to further break down the explanations for these denials would aid consumers in deciding what platforms have their best interests in mind. The CCPA must also be expanded to aid in assisting consumers with an appeal process. As of 2024, the only avenue consumers have to report an incident is an online form, a tool that is not always useful given the limited scope of what is considered an enforceable violation. Given that other inquiries are automatically directed to the attorney general's office, which deals with plenty of other issues already, expansion of CPPA services is necessary.

Additionally, there is currently no text in the CCPA pertaining to AI. There is a current draft for an automated decision-making amendment; however, this does not aim at inhibiting the use of personal data to train models, something that consumers should be concerned about (CPPA 2023). Considering conversations surrounding the presence of AI in tech products have been ongoing for nearly ten years, the lackluster and glacial response of the CCPA is underwhelming. AI-driven systems play a critical role in data processing, profiling, and targeted advertising, yet they operate in a regulatory gray area within the CCPA's scope. The absence of specific guidelines or safeguards pertaining to AI technologies leaves consumers' data vulnerable to potential misuse. On March 8, 2024, the CPPA board voted three to two to further edit the revised draft regulations concerning risk assessments and automated decision-making technologies (ADMT), which includes variations of AI. The revised draft regulations entail several key changes and provisions. Included are updates to risk assessment thresholds, elements of risk assessments, submission requirements, definitions of ADMT and profiling, covered uses of ADMT, notice requirements, and access rights. These updates aim to clarify and streamline the regulations to protect consumer privacy while addressing the complexities of modern technology. While this sounds very one-dimensional in the grand scheme of the AI governance discourse, it brings the CPPA into a more contemporary light. These are issues that the CPPA can influence in real time and can have a more tangible impact on than most.

The CPPA, as it currently stands, operates as a bureaucratic organization devoid of significant enforcement authority, since enforcement is still within the jurisdiction of the district attorney. This discrepancy between the agency's capabilities and consumer expectations is a source of disconnect. To better serve consumers, the CPPA

would benefit from establishing a presence at the city and county levels, fostering local discussions on privacy issues. This localized approach would facilitate the open and widespread discourse on privacy policies that many tech companies have sought to evade. Moreover, the CPPA could play a pivotal role in compiling a centralized database that synthesizes privacy agreements for companies that are subject to its enforcement parameters, thereby enhancing transparency in the agreement process. This could empower users to seek autonomy over when and how they manage their data in accordance with their CPPA-granted rights. Such initiatives could bridge the gap between consumer expectations and the CPPA's current capabilities, fostering a more informed and empowered public discourse on privacy matters.

Notably, Google's recent settlement demonstrates the rigor and potential of the CCPA. In 2023, Google faced a lawsuit under the CCPA, ultimately settling for $93 million (Office of Attorney General Rob Bonta 2023). The complaint filed by Attorney General Bonta alleged that Google misled users about its data collection practices and their ability to opt out of targeted advertisements based on location. As part of the settlement, Google will pay $93 million and "implement injunctive measures to enhance transparency and privacy protections for California users," including providing additional information about location-related settings, disclosing the use of location data for ad personalization, and obtaining internal approval for privacy-related disclosures. While the CCPA is functional, this legislation as it stands makes it difficult to enforce against most corporations. This was not the first CCPA case against Google. California courts rejected a 2021 case (McCoy v. Alphabet) for numerous reasons, including the lack of privacy violations on account of the data being "anonymized and aggregated." The victories of the CCPA against Big Tech are varied and unpredictable, even when lawsuits are similar in substance. Fortifying the CPPA would allow for further appeals on rulings when lawsuits with merit are denied.

Ideally, the CPPA would be able to audit companies' data privacy practices annually in order to make sure that there are reasonable practices in place. Should CCPA lawsuits targeting Big Tech become more frequent, there would emerge a compelling argument for the implementation of taxes on Big Tech firms based on their extensive data brokering activities, assessed on a per-user basis. Despite the inherent challenges in accurately quantifying the profits derived from data brokering, a Sonecon study estimated its value across various industries at approximately $76 billion (Foroohar 2019). Introducing such a tax could serve as a means to not only bolster but also diversify funding sources for the CPPA, which currently operates within the constraints of a $10 million budget, an extremely modest budget. By levying taxes on Big Tech firms engaged in data brokering, the CPPA could potentially access additional resources necessary to enhance its enforcement capabilities, expand its outreach efforts, and reinforce its role in safeguarding consumer privacy rights. This approach aligns with the evolving landscape of data privacy regulation and underscores the importance of equipping regulatory agencies with adequate resources to effectively address emerging challenges posed by Big Tech's data practices.

Conclusion

Big Tech giants remain some of the most influential companies in human history. Silicon Valley's Big Three have only operated within the last few decades, yet have managed to create global problems and solutions alike that will be deliberated for years to come. The CCPA and similar legislation are not intended to be inherently punitive. On the contrary, regulation should be viewed as a way to fortify consumer, business, and government dynamics. Negligence and mismanagement are not issues that disappear rapidly; these are problems that continue to plague the very fabric of a functional world. The CCPA has the potential to be a progressive frontier that encourages discussion on data management at all levels of commerce and provides an ethical platform for innovation.

About the Author

Evelyn De La Cruz, a recent graduate of the University of California, Irvine, majored in business economics and digital information systems to enhance her exploration of data privacy issues. She became interested in data privacy after working with the Women's March Foundation, where she gained firsthand exposure to the importance of safeguarding individuals' personal information. Throughout her academic journey she actively engaged in extracurricular activities, serving as a government relations aide for her school government, ASUCI, and as a director for the UCI Student Alumni Association. Additionally, her role as an advisory member for LA Repair underscored her commitment to community engagement and advocacy. Her professional experiences, including internships at JP Morgan as a corporate and investment banking intern and with the Democratic National Committee as an analytics engineering intern, equipped her with valuable insights into the intersection of technology, business, and policymaking. With this multifaceted background, Evelyn brings a unique perspective to her analysis of data privacy concerns as they pertain to big tech monopolies and the California Consumer Privacy Act (CCPA).

Acknowledgments

I am so very grateful for the entire Roosevelt Network staff and community. I would like to express my sincere gratitude to Anita Sonawane for her unwavering guidance and support throughout my research endeavors and career journey. Her wisdom, encouragement, and mentorship have been invaluable, shaping not only my academic pursuits but also my professional growth. I am deeply thankful to Eric A. Paul for his patience, consistency, and invaluable advice. I am also grateful to Robert-Thomas Jones and Katie Kirchner for their engaging training sessions and insightful contributions to my learning experience. I am inspired by the passion and tenacity of my cohort of fellows, whose dedication has enriched my journey. Lastly, I am profoundly grateful to my family for their unwavering support and encouragement, which have been instrumental in shaping my thoughts and guiding my path.

References

Navigating Data Privacy: Addressing Big Tech's Power under the California Consumer Privacy Act

Allen, Marshall. 2018. "Health Insurers Are Vacuuming Up Details About You — And It Could Raise Your Rates." *ProPublica*, July 17, 2018. https://www.propublica.org/article/health-insurers-are-vacuuming-up-details-about-you-and-it-could-raise-your-rates.

Alphabet Investor Relations. 2024. "Alphabet Announces Fourth Quarter and Fiscal Year 2023 Results." Earning release, January 30, 2024. https://abc.xyz/assets/95/eb/9cef90184e09bac553796896c633/2023q4-alphabet-earnings-release.pdf.

American Economic Liberties Project (AELP). n.d. "Big Tech Mergers." Big Tech Mergers Tracker. Accessed July 2, 2024. https://www.economicliberties.us/big-tech-merger-tracker/.

Bartlett, Jamie. 2018. *The People vs Tech: How the Internet Is Killing Democracy (And How We Save It)*. Boston, MA: Dutton.

Bloomberg Law. 2024. "Which States Have Consumer Data Privacy Laws?" Privacy. March 18, 2024. https://pro.bloomberglaw.com/insights/privacy/state-privacy-legislation-tracker/.

California Privacy Protection Agency (CPPA). n.d. "Laws & Regulations." Regulations. Accessed July 2, 2024. https://cppa.ca.gov/regulations/.

_____ 2023. *Draft Automated Decision Making Technology Regulations*. Sacramento, CA: California Privacy Protection Agency. https://cppa.ca.gov/meetings/materials/20231208_item2_draft.pdf.

Cyphers, Bennet. 2020. "Google Says It Doesn't 'Sell' Your Data. Here's How the Company Shares, Monetizes, and Exploits It." Electronic Frontier Foundation, March 19, 2020. https://www.eff.org/deeplinks/2020/03/google-says-it-doesnt-sell-your-data-heres-how-company-shares-monetizes-and.

Foroohar, Rana. 2019. *Don't Be Evil: The Case against Big Tech*. New York: Crown Currency.

Fowler, Geoffrey A. 2023. "Your Instagrams Are Training AI. There's Little You Can Do about It." *Washington Post*, September 27, 2023. https://www.washingtonpost.com/technology/2023/09/08/gmail-instagram-facebook-trains-ai/.

Hu, Krystal. 2023. "Google Agrees to Invest up to $2 Billion in OpenAI Rival Anthropic." *Reuters*, October 27, 2023. https://www.reuters.com/technology/google-agrees-invest-up-2-bln-openai-rival-anthropic-wsj-2023-10-27/.

Klosowski, Thorin. 2021. "We Checked 250 iPhone Apps—This Is How They're Tracking You." *New York Times*, May 6, 2021. https://www.nytimes.com/wirecutter/blog/how-iphone-apps-track-you/.

McClain, Colleen, Michelle Faverio, Monica Anderson, and Eugenie Park. 2023. *How Americans View Data Privacy*. Washington, DC: Pew Research Center. https://www.pewresearch.org/internet/2023/10/18/how-americans-view-data-privacy/.

McDonald, Aleecia M., and Lorrie Faith Cranor. 2008. "The Cost of Reading Privacy Policies." *Journal of Law and Policy for the Information Society* 4, no. 3: 543–68. https://kb.osu.edu/items/2ab631c3-a553-5cfd-8a8b-560404f68f68.

Office of Attorney General Rob Bonta. 2023. "Attorney General Bonta Announces $93 Million Settlement Regarding Google's Location-Privacy Practices." Press release, September 14, 2023. https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-93-million-settlement-regarding-google%E2%80%99s.

O'Mara, Margaret. 2020. *The Code*. New York: Penguin Publishing Group.

Mullaney, Thomas S., and Benjamin Peters. 2021. *Your Computer is on Fire*. Cambridge, MA: MIT Press.

RTTNews. 2024. "Apple's Vision Pro Might Get Apple Intelligence: Bloomberg." NASDAQ, July 1, 2024. https://www.nasdaq.com/articles/apples-vision-pro-might-get-apple-intelligence-bloomberg?time=1719863162.

Nylen, Leah. 2024. "Google's Payments to Apple Reached $20 Billion in 2022, Antitrust Court Documents Show." *Bloomberg*, May 1, 2024. https://www.bloomberg.com/news/articles/2024-05-01/google-s-payments-to-apple-reached-20-billion-in-2022-cue-says.

Olson, Emily. 2023. "Google Shares Drop $100 Billion after Its New AI Chatbot Makes a Mistake." *NPR*, February 9, 2023. https://www.npr.org/2023/02/09/1155650909/googl e-chatbot--error-bard-shares.

Sherman, Justin. 2022. "Data Brokers and Data Breaches." Duke University Sanford School of Public Policy, September 27, 2022. https://techpolicy.sanford.duke.edu/blogroll/data-brokers-and-data-breaches/.

Vanian, Jonathan. 2024. "Digital Ad Market Shows Signs of Sharp Rebound as Meta, Amazon Point to Growth." CNBC, February 5, 2024. https://www.cnbc.com/2024/02/05/digital-ads-show-signs-of-rebound-as-meta-amazon-point-to-growth.html.

Walker, Kent. 2023. "People Use Google Because It Is Helpful." *Keyword* (blog). Google Public Policy. September 8, 2023. https://blog.google/outreach-initiatives/public-policy/response-us-v-google/.

Zuboff, Shoshana. 2019. *The Age of Surveillance Capitalism*. New York: Hachette Book Group.

Climate Change and Economic Transformation

Rebuild or Rethink: Seattle's Opportunity to Combat the Legacy of Urban Highways

By Henry Means

Introduction

The 1956 Federal-Aid Highway Act (FAHA) forever changed the landscape of American transportation. The historic investment in US infrastructure was designed to connect the nation's cities, suburbs, and rural towns to promote economic growth and facilitate military mobility during potential times of war. Despite the interstate network's successes, as a country, we are just starting to fully recognize the entire scope of consequences of these infrastructure decisions. Like many legislative ventures of the postwar era, the FAHA further reinforced the racialized economic inequality and geographic segregation of Jim Crow policies in cities north and south. Localities and state highway departments received funding from the FAHA but lacked the land needed to build useful and expansive highway networks. The acquisition of this land and the planned routes became an inherently political process that further reinforced the systemic racism of the time. Specifically, the highways—largely constructed with funding from the $27.5 billion allocated by Congress in 1956—were built through city centers at the expense of poor, majority nonwhite, and politically disenfranchised neighborhoods. From Miami to Pittsburgh, this process included a variety of forms of racist planning (Witcher 2021). Some cities chose to route highways directly through the homes of specific activists (Retzlaff and Zanzot 2021), while others, including Seattle, opted for routing highways through areas with the least political power or opportunity to resist. As a result of these highways, many of these neighborhoods still experience higher rates of asthma and other diseases caused by automotive particulate matter (Brugge, Durant, and Rioux 2007) and limited mobility for pedestrians (Nadja, Williams, and Lu 2021).

Seattle is no exception. While many highways span through Seattle's greater metropolitan area, none best exemplifies the prioritization of economic prosperity for white commuters and suburbanites over the livelihoods of nonwhite urban residents quite like Interstate 5 (I-5), which stretches from Mexico to British Columbia and cuts north-south through Seattle's central neighborhoods of Chinatown and the International District (C-ID). While Seattle's I-5 route isn't as egregiously predatory as some other interstate plans, exclusionary and racist attitudes—particularly toward Asian Americans—have long permeated the city's history of urban planning projects (Berger 2021).

Through the first half of the 20th century, Miller Freeman, a Seattle businessman and president of the Lake Washington Bridge and Highway Association (LWBHA), was an influential figure in the development of the interstate system in Seattle who often promoted the use of highways to segregate, divide, and harm. As head of the Anti-Japanese League, Miller fought against Japanese immigration and civil rights and later celebrated the incarceration of Japanese Americans during World War II. As president of LWBHA, Miller supported the construction of I-90 through Seattle's central district, connecting the white-only suburbs of the east side to Seattle with a floating bridge. Though Freeman died in 1955—before I-5 through Seattle was planned—his impact unfortunately remains. The Seattle Post-Intelligencer characterized his legacy by writing, "It is very difficult to look anywhere in the burgeoning region without seeing some abstract idea . . . in which he did not have a hand and mind" (Berger 2021).

From this history arose a movement to counter highway development through Seattle's urban core. Protests in 1961 from First Hill and C-ID residents were not enough to stop I-5; however, urban residents were now on alert. In the 1960s and 70s, when the state wanted to expand Seattle's highway network with the RH Thompson and Bay freeways, activists and interest groups successfully killed the highway expansion that would've razed more than 3,000 homes in the Central District (Goldstein-Street 2018). The burden of preventing harmful infrastructure decisions cannot continue to fall on movements. Instead, the systems themselves must promote reasonable and equitable decision-making to ensure transportation and quality of life needs are met for all Seattle residents.

Celebrating the history and successes of historic infrastructure investments and recognizing the vast negative externalities of the FAHA are not mutually exclusive practices. Environmentalists, progressives, champions of equal opportunity, and all people who care about the well-being of the C-ID and its residents and the well-being of other similarly affected neighborhoods across the US should be open to bold changes in a practice that has proven harmful nationwide. Embracing restorative climate justice—the practice of addressing historical health and environmental inequities—within transportation policy would be a promising step toward a more just and fair nation. Political leaders in Seattle and Olympia—including the Seattle City Council and Mayor, the King County Council, and the Washington State Department of Transportation (WSDOT)—must reevaluate the history of I-5 before considering alternatives. Specifically, imaginative infrastructure solutions to the issue the C-ID faces could include removing sections of I-5 entirely that have been most damaging to the city's urban core; investing in pedestrian, bike, and transit infrastructure; and building affordable housing and other needed public services in the land vacated by a partial I-5 removal. Additionally, our democratic systems have failed the C-ID, which has been subjected to rampant and concentrated overdevelopment with the likes of I-5 and professional sports venues. Reimagining the relationship between the C-ID (and similar neighborhoods) and local governments can help ensure we don't end up in this situation again.

Background

From Atlanta to Seattle, US urban cores are dominated by large highways. The 90 percent matching funds provided by Congress in the FAHA heavily incentivized states to expand the federal interstate system. Transportation policy of the early 20th century can be characterized as the beginning of a transition from streetcar networks, pedestrian traffic, and other modes of micromobility to private automobile dominance (Stromberg 2016). At the time, private and public toll roads existed to some extent, but a future network of free roads—later branded "freeways"—would enshrine private automobile travel as the primary method of transportation (Stromberg 2016). While Eisenhower's original intent of oiling the gears of intercity commerce and economic growth may have been admirable, the reality of the FAHA allowed local cities and planners to engage in the historic looting of urban neighborhoods, often targeting nonwhite neighborhoods.

In 1944, the GI bill subsidized a white-only suburban boom, facilitating"white flight"—the departure of middle-class white households from northern US cities in response to increasing racial diversity. Around the same time, and partially in response to this process, local planners and transportation officials used highway expansion to achieve two central aims: to displace nonwhite residents and to incentivize urban economic activity. Local officials, often at the municipal or state level, targeted nonwhite residential neighborhoods with highway development (Rothstein 2018), taking advantage of these communities' lack of political power. In total, 475,000 households were destroyed for highway development following the passage of the FAHA (Grimminger 2023).

These development patterns have continually resulted in poorer health outcomes for communities situated near highways. Some examples of these outcomes include:

- Black pedestrians are twice as likely to die in a car crash compared to white pedestrians, partly due to the routing of highways and high-traffic roads through largely nonwhite neighborhoods (Grimminger 2023).
- According to a 2023 study from the University of Washington, air pollutants in Seattle are highest in areas that are majority Black, received "D" ratings on Home Owners' Loan Corporation redlining maps, or have median household incomes below $20,000. The study specifically cited the "placement of highways" as a primary cause of this disparity (Bramble et al. 2023).

- In part due to highways, Seattle is littered with urban heat islands, which are the result of heat radiating from industrialized areas, paved roads, and other non-natural landscapes. The effects of these heat islands are most concentrated in areas without parks or tree cover. A recent analysis of heat islands in King County "quantifies the harmful, inequitable impact that hotter summers are having on the region" (Constantine 2021).

What makes Seattle unique among an array of examples of exclusionary and malicious infrastructure is the mounting pressure the city and state face in rebuilding—and possibly entirely reimagining—relevant infrastructure. In many segments of I-5 in the downtown Seattle area, the highway is constructed upon hollow concrete columns that predate modern earthquake standards. Seattle, a city that rests upon its own fault line within the Cascadia Subduction Zone[1] and the Pacific rim, is overdue for a major earthquake. In the event of "the big one," as it's colloquially referred to, the urban—column-dependent—portion of I-5's condition could range from completely unusable to collapse. Seattle's emergency response plan in the event of an earthquake doesn't even consider I-5 as a possible evacuation route, given the instability of its supporting columns. Because of the seismic risks associated with the highway alone, city and state officials are beginning to assess the future of key segments of I-5 (Ryan 2016).

The effects of the FAHA on urban, majority nonwhite neighborhoods across the country show that infrastructure decisions are inseparable from issues of racial and climate justice. For too long, those in power have excluded and punished neighborhoods with infrastructure that serves a suburban, wealthier, whiter, and more politically valued class of people. As these aging highways crumble, cities like Seattle should reexamine the decisions—and racist policymakers—that created these inequitable transportation networks in the first place.

While this legacy of racism in highway planning will require decades of political organizing and infrastructure planning to correct, Seattle's seismic vulnerability provides the city with an opportunity to lead the charge in righting these wrongs and ensuring similar policy failures don't happen again.

Policy Analysis and Recommendations

Setting goals and values for a policy intervention is the best way to arrive at a desired outcome. For those seeking restorative climate justice, the following goals are clear:

- **Restore economic vitality:** The future of I-5 through the central neighborhoods of Seattle must foster some element of growth and protection for First Hill, the C-ID, Capitol Hill, and other communities.
- **Protect the local and global climate:** Successful policy options will limit and disincentivize the use of private automobiles, especially through Seattle's dense urban core.
- **Achieve justice for Seattle's residents:** The neighborhoods most impacted by I-5's shortsighted construction must be prioritized participants of the highway's transformation.

Advocacy groups and researchers have put forward a number of proposals to address the future of I-5. The most prominent alternative is the idea of "lidding" and reconstructing parts of the interstate through the downtown core. This idea, promoted by the organization Lid-I5, has gained popular support and modest endorsements from elected officials (Bicknell Argerious 2023). The proposal, as studied by Seattle's Office of Planning and Community Development, would build a ceiling over some of the exposed portions of the highway, reconnecting some central neighborhoods to the downtown area and allowing for the development of housing and a semi-reconnected street grid on the lid itself (Seattle Office of Planning & Community Development 2021). While this proposal has garnered nominal political support, it unfortunately falls short of satisfying the values needed to achieve restorative climate justice for all neighborhoods harmed by I-5. The Lid-I5 proposal does not offer

1 The Cascadia Subduction Zone is a 620-mile-long fault that runs from northern California to Vancouver Island, BC, approximately 100 miles off the Pacific coast. The Pacific Northwest's low-lying coastal areas would be devastated by a "megathrust" earthquake from the fault, which last hit the region in 1700.

anything to the C-ID neighborhoods that lie south of the studied area (Seattle Office of Planning & Community Development 2021). These neighborhoods would have to experience the logistical issues associated with staging and construction without any removal or mitigation of the barrier that divides them.

A second alternative that is up for consideration is attempting to retrofit the sections of I-5 that are seismically vulnerable through the WSDOT Seismic Retrofit Project (King 5 News 2018). WSDOT is responsible for maintaining more than 3,000 bridges across the state but is currently focusing much of its attention on seismic retrofits in earthquake-vulnerable western Washington (Ryan 2016). Of most concern for WSDOT are highways constructed with prestressed hollow columns that predate modern earthquake standards. These columns are widely used because of their cheap and quick production process and are still common on the East Coast and other areas of the US that are not prone to earthquakes (King 5 News 2018). However, research is optimistic yet unclear on whether a retrofit could improve the seismic durability of I-5 (Tardieu 2019). Even if a retrofit were possible, simply retrofitting the highway columns would not offer any enhanced mobility, mitigated climate effects, or reduced car usage to the neighborhoods that need it.

Fortunately, a more comprehensive option exists for those concerned with fully engaging in restorative environmental justice. The removal of a small stretch of I-5 between the SR-520 and I-90 interchanges would go further than a lid in reconnecting neighborhoods that have been severed from each other by I-5. While lidding I-5, as currently studied, only reconnects some neighborhoods, the removal alternative ensures that all disconnected neighborhoods are reunited and limits the dominance that private automobile travel has on Seattle's downtown. Removing this stretch of highway would also expand beyond the real estate availability created by a lid (Trumm 2016).

Efforts to mitigate the impacts of highways similar to I-5 are popular and picking up steam. In Milwaukee (Daykin 2023), Houston (Susaneck 2022), and on SR-99 South in Seattle (Kroman 2022), campaigns to remove divisive highways have burgeoned. Additionally, the Bipartisan Infrastructure Law passed by Congress and President Biden in 2021 included a discretionary grant program for cities to study, lid, or remove parts of their urban highways. The Reconnecting Communities Pilot program is being used to reconnect "disadvantaged communities" that have suffered these harms for more than half a century (USDOT n.d.). With these funds, cities across the nation are planning and constructing safer streets and pedestrian infrastructure by removing the barriers that highways created. Detroit, Michigan—one of the program's first capital grant recipients—is currently planning construction to remove I-375 and replace it with a mixed-mode boulevard. I-375 was originally constructed in the early 1960s and displaced more than 100,000 residents from multiple thriving Black neighborhoods (CAP 2023). Seattle should follow Detroit and other cities in taking these bold actions.

It should be noted that in the wake of a potential I-5 removal, Seattle would remain largely car-dependent, especially in its peripheral neighborhoods. However, a mix of transit investments, land use policy changes, and traffic calming measures can and should be put in place to reduce local travel times for residents and first responders. Furthermore, the expansion of Seattle's freight and bus lane pilot program (Bancroft 2024), accompanied by investments in infrastructure to improve connections between Seattle's port and highway network, could result in more dependable and consistent travel for commercial vehicles.

In addition to changes to the built environment, ensuring democratic urban planning that values both regional development goals and local input can prevent future inequitable infrastructure decisions. One strategy to encourage more responsible development could be the implementation of citizen committees to offer suggestions or critiques on major infrastructure projects (MacDonald-Nelson et al. 2024). These committees have become commonplace in other areas of policy, including policing (Miletich 2019). Unfortunately, civic engagement in planning matters under current policies, such as community engagement meetings and town halls, often gets overrun by the loudest and most polarizing perspectives (Kaliski 2005). Limiting these committees to large-scale projects can limit unnecessary bureaucratic red tape and NIMBYism while also gathering a more diverse panel of perspectives. Additionally, due to factors including but not limited to childcare needs, location accessibility, and varying work schedules, community meetings can often be incredibly inaccessible to much of the population impacted by the infrastructure policy decisions being made. While the city of Seattle usually offers a variety of locations, times, and meeting modes—as it's currently doing with its comprehensive plan meetings—cities should also be aware that, as is, these inaccessible meetings don't often reflect the diversity of opinion held by constituents (Widman 2002).

Conclusion

As America's highways built from the FAHA in the 1960s crawl to the end of their lives, cities across the country face a stark choice: rebuild or rethink. To double down on these highways wouldn't just be unfair to the neighborhoods they cut through, it would mean we have learned nothing from our mistakes of yesteryear. The prioritization of suburban commuters through transportation development during the postwar boom has negatively impacted the health and economic vitality of core urban neighborhoods (Boeing, Lu, and Pilgram 2023). This must change.

Miller Freeman and other transportation officials of his time intentionally routed highways directly through the homes, streets, and businesses of vibrant nonwhite neighborhoods as a means of subsidizing white-only suburbanization and inflicting harm on nonwhite Seattleites. To escape the shadow of their decisions, Seattle must remove sections of I-5 that have harmed the city's core neighborhoods, prioritize transit development across King County, and limit transitional and distributional harms by investing in reconnecting a highway network outside the city center.

Moving forward with formal studies of the proposed infrastructure investments and democratic reforms would be an excellent start to reversing the 20th-century norm of divisive infrastructure. However, further research is needed on how to better protect mobility in Seattle should I-5 be partially removed. Additionally, the land vacated by the highway would have tremendous investment potential, both for public and private interests. Ensuring the land within the C-ID, First Hill, and other impacted neighborhoods is used for the needs of the neighborhoods—such as abundant, affordable housing—cannot be overlooked. In addition to changes to the built environment of Seattle's downtown, systemic changes to Seattle's policies of urban development can have a lasting impact.

The United States—and specifically Seattle—must prioritize cleaner air and stronger pedestrian infrastructure by removing ill-placed interstates. Unfortunate risk factors regarding I-5's lifespan are allowing Seattle to reconsider its exclusionary and racist past. The city must use this moment to lead the charge toward a more just and sustainable future.

About the Author

Henry Means is a recent graduate of the University of Wisconsin-Madison, where he studied political science, Spanish, and public policy. During his time at UW-Madison, Henry's classes inspired passions in local governance, climate justice, and housing and land use policy. Henry has spent time interning for a state legislator, a policy research firm, the Department of Housing and Urban Development, and of course, the Roosevelt Institute. Currently, Henry is exploring career options related to public policy research.

Acknowledgments

First and foremost, I would like to thank Alyssa Beauchamp, Katie Kirchner, Alex Trefftz, Eric A. Paul, Elijah Wilson, Carley Przystac, and Robert-Thomas Jones for their continued belief and support in me throughout my year with Roosevelt. My research would not have been possible without their guidance and expertise. I will be forever grateful for this opportunity. Additionally, I'd like to thank the many kind people working with the organizations I interviewed as part of this research. Were it not for The Urbanist, Lid-I5, and the Wing Luke Museum, my research would be lacking significant historical context. Finally, I'd like to express my appreciation for the many friends I have made through the Emerging and Forge Fellowship cohorts. I've thoroughly enjoyed our time together and look forward to our next reunion, whenever that may be.

References

Rebuild or Rethink: Seattle's Opportunity to Combat the Legacy of Urban Highways

Bancroft, Ethan. 2024. "Seattle's First Freight-and-Bus Only Lane (Fab Lane) Pilot Is Part of the Route 40 Project." *SDOT*. (blog) Seattle Department of Transportation. February 7, 2024. https://sdotblog.seattle.gov/2024/02/07/freight-and-bus-only-lanes-route-40-project/.

Berger, Knute. 2021. "The Legacy of Racism Built into Northwest Highways and Roads." *Cascade PBS*, April 27, 2021, sec. Opinion. https://crosscut.com/opinion/2021/04/legacy-racism-built-northwest-highways-and-roads.

Bicknell Argerious, Natalie. 2023. "Seattle City Council Supports Lidding I-5 in New Resolution." The Urbanist, September 6, 2023. https://www.theurbanist.org/2023/09/06/seattle-city-council-supports-lidding-i-5-in-new-resolution/.

Boeing, Geoff, Yougeng Lu, and Clemens Pilgram. 2023. "Local Inequities in the Relative Production of and Exposure to Vehicular Air Pollution in Los Angeles." *Urban Studies* 60, no. 12: 2351–68. https://doi.org/10.1177/00420980221145403.

Bramble, Kaya, Magali N. Blanco, Annie Doubleday, Amanda J. Gassett, Anjum Hajat, Julian D. Marshall, and Lianne Sheppard. 2023. "Exposure Disparities by Income, Race and Ethnicity, and Historic Redlining Grade in the Greater Seattle Area for Ultrafine Particles and Other Air Pollutants." *Environmental Health Perspectives* 131, no. 7 (July): 1–11. https://doi.org/10.1289/ehp11662.

Brugge, Doug, John L. Durant, and Christine Rioux. 2007. "Near-Highway Pollutants in Motor Vehicle Exhaust: A Review of Epidemiologic Evidence of Cardiac and Pulmonary Health Risks." *Environmental Health* 6, no. 23. https://doi.org/10.1186/1476-069x-6-23.

Center for American Progress (CAP). 2023. "I-375 Reconnecting Communities Project." Center for American Progress, June 15, 2023. https://www.americanprogress.org/article/i-375-reconnecting-communities-project/.

Constantine, Dow. 2021. "Results of Heat Mapping Project Show Inequitable Impact of Hotter Summers, Will Inform Actions by King County and City of Seattle." King County, June 23, 2021. https://kingcounty.gov/en/legacy/elected/executive/constantine/news/release/2021/june/23-heat-mapping-results.

Daykin, Tom. 2023. "Here's What We Know About the Two Plans to Remove I-794, and the Seven Plans to Repair the Freeway." *Milwaukee Journal Sentinel*, August 9, 2023. https://www.jsonline.com/story/money/real-estate/commercial/2023/08/08/milwaukees-i-794-has-two-plans-to-remove-it-and-seven-plans-to-fix-it/70542823007/.

Goldstein-Street, Jake. 2018. "50 Years Ago, the Seattle Freeway Revolt Kept the Central District from Being Ripped Apart." *Capitol Hill Seattle* (blog). September 21, 2018. https://www.capitolhillseattle.com/2018/09/50-years-ago-the-seattle-freeway-revolt-kept-the-central-district-from-being-ripped-apart/.

Grimminger, Abigail. 2023. *Divided by Design*. Washington, DC: Smart Growth America. https://smartgrowthamerica.org/resources/divided-by-design/.

Kaliski, John. 2005. "Democracy Takes Command: New Community Planning and the Challenge to Urban Design." *Harvard Design Magazine* 22, (Spring/Summer). https://www.harvarddesignmagazine.org/articles/democracy-takes-command-new-community-planning-and-the-challenge-to-urban-design/.

King 5 News. 2018. "Map: Are the Bridges You Cross Safe in an Earthquake?" *King 5 News*, February 27, 2018, sec. Disaster. https://www.king5.com/article/news/local/are-the-bridges-you-cross-safe-in-an-earthquake/281-523512985.

Kroman, David. 2022. "Grassroots Effort to Remove Highway 99 in South Park Goes Mainstream." *Seattle Times*, August 22, 2022. https://www.seattletimes.com/seattle-news/transportation/grassroots-effort-to-remove-highway-99-in-south-park-goes-mainstream/.

MacDonald-Nelson, James, Claudia Chwalisz, Ieva Česnulaitytė, and Lucy Reid. 2024. *Six Ways to Democratise City Planning: Enabling Thriving and Healthy Cities*. The Hague, Netherlands: DemocracyNext. https://www.demnext.org/projects/cities.

Miletich, Steve. 2019. "Citizen Panel Accuses Seattle Police of Backtracking on Reforms, Violating Federal Agreement." *Seattle Times*, February 20, 2019. https://www.seattletimes.com/seattle-news/citizen-panel-accuses-seattle-police-of-backtracking-on-reforms-violating-federal-agreement/

Popovich, Nadja, Josh Williams, and Denise Lu. 2021. "Can Removing Highways Fix America's Cities?" *New York Times*, May 27, 2021. https://www.nytimes.com/interactive/2021/05/27/climate/us-cities-highway-removal.html.

Retzlaff, Rebecca, and Jocelyn Zanzot. 2021. "The Interstates: Planned Violence and the Need for Truth And Reconciliation." *The Metropole* (blog). Urban History Association. April 7, 2021. https://themetropole.blog/2021/04/07/the-interstates-planned-violence-and-the-need-for-truth-and-reconciliation/.

Rothstein, Richard. 2018. "Local Tactics," in *The Color of Law: A Forgotten History of How Our Government Segregated America*. New York: Liveright Publishing Corporation.

Ryan, John. 2016. "Hollow Columns Holding Up I-5, I-405 Bridges Could Implode in Major Quake." KUOW, March 23, 2016. https://www.kuow.org/stories/hollow-columns-holding-i-5-i-405-bridges-could-implode-major-quake.

Seattle Office of Planning & Community Development. 2021. *I-5 Lid Feasibility Study*. Seattle, WA: I-5 Lid. https://lidi5.org/feasibility-study/.

Stromberg, Joseph. 2016. "Highways Gutted American Cities. So Why Did They Build Them?" *Vox*, May 11, 2016. https://www.vox.com/2015/5/14/8605917/highways-interstate-cities-history.

Susaneck, Adam Paul. 2022. "Mr. Biden, Tear Down This Highway." *New York Times*, September 8, 2022. https://www.nytimes.com/interactive/2022/09/08/opinion/urban-highways-segregation.html.

Tardieu, Tasha Tiffany. 2019. "Seismic Evaluation of Hollow Core Prestressed Concrete Bridge Column-Piles in Washington State" Master's thesis, Seattle, WA: University of Washinton. https://digital.lib.washington.edu/researchworks/handle/1773/44121.

Trumm, Doug. 2016. "What's Better than a Lid? Remove I-5 Entirely from Central Seattle." The Urbanist, October 31, 2016. https://www.theurbanist.org/2016/10/31/remove-i-5/.

US Department of Transportation (USDOT). n.d. "Reconnecting Communities and Neighborhoods Grant

Program." Reconnecting Communities Pilot (RCP) Program. Accessed July 2, 2024. https://www.transportation.gov/grants/rcnprogram.

Widman, Amy. 2002 "Replacing Politics with Democracy: A Proposal for Community Planning in New York City and Beyond." *Journal of Law and Policy* 11, no. 1: 135-205. https://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1310&context=jlp.

Witcher, T.R. 2021. "How the Interstate Highway System Connected — And in Some Cases Segregated — America." American Society of Civil Engineers (ASCE), July 15, 2021. https://www.asce.org/publications-and-news/civil-engineering-source/civil-engineering-magazine/article/2021/07/how-the-interstate-highway-system-connected--and-in-some-cases-segregated--america.

Ensuring Justice and Stakeholder Engagement in Michigan's Renewable Energy Transition

By Mara Pusic

Introduction

As climate change continues to worsen, communities across the United States are seeing the harmful ramifications firsthand. The increase in intensity and frequency of natural disasters, flooding, and droughts is impacting marginalized communities at disproportionate rates. To protect the planet and minimize the future impact of climate change, we need to dramatically change how we produce and use electricity and embrace low-carbon renewable energy technologies. Often, renewable energy development has relied on for-profit energy companies that have little interest in investing in large-scale projects that benefit local communities. Many states are beginning to realize that bold action is needed to tackle our climate crisis and are ramping up investments in renewable energy infrastructure. On November 28, 2023, Michigan Governor Gretchen Whitmer passed the historic Clean Energy and Climate Action Package, which set a 100 percent clean energy standard by 2040 and reformed the permitting process for the construction of new renewable energy projects (Executive Office of Governor Gretchen Whitmer 2023). While the goals of this legislation are exciting, there is concern that these new permitting processes could cause disproportionate harm to certain communities if not coupled with governance reforms that improve community engagement and democratic accountability. As we accelerate the build-out of renewable energy, we must center principles of environmental justice and stakeholder engagement in policy and planning.

Background and Context

We are facing a global climate crisis. Therefore, the actions of our state and national governments are extremely important in limiting the most harmful effects of our increasingly warming planet. By investing in renewable energy, energy efficiency, clean transportation, and climate-smart agricultural practices, states can reduce greenhouse gas emissions, create new jobs, and protect the environment for future generations (Stabenow 2019). While rapid renewable energy deployment will be pivotal to meeting our climate goals, there are many barriers to this infrastructure development, including high capital costs, as well as challenges related to siting and transmission (Union of Concerned Scientists 2017). The Biden administration has made historic investments in our climate; however, addressing local barriers to permitting remains a pressing issue for state governments to address.

Michigan's electric grid is dominated by two major investor-owned utilities (IOUs): DTE Electric Company and Consumers Energy. These companies have long track records of lobbying state government officials to influence legislation and protect their corporate profits. Since 2018, DTE's employees, board, and corporate PAC

have given over $2 million to political candidates (Hill et al. 2022). These companies also have a long history of ignoring the needs of local communities in the development of their energy infrastructure. For example, despite widespread community protests, DTE has repeatedly approved dirty energy generation projects such as wood waste-burning incinerators and coal-fueled power plants (Matheny and Tanner 2022). The company's lack of community engagement has disproportionately impacted marginalized communities, as fossil fuel plants have been historically clustered in low-income neighborhoods as well as Black and brown communities. Across Wayne, Oakland, and Macomb counties, DTE power plant air pollution costs local communities $302 million in health costs annually (Hill et al. 2022).

Despite these utilities' profound influence on state legislation, Michigan's state government has recently made some important changes to streamline renewable energy infrastructure development in the state, supplementing federal government climate action.[1] In November 2023, state officials passed a historic clean energy and climate action package that will quadruple Michigan's renewable energy standard, move to a 100 percent clean energy standard by 2040, and change the regulatory process for renewable energy infrastructure development.

Policy Analysis

The new 2023 climate package will reform the permitting process to allow the Michigan Public Service Commission (MPSC) to authorize the approval of large-scale renewable energy projects beginning in November 2024. The MPSC is the state's regulatory agency for public utilities, tasked with ensuring the public has access to safe, reliable, and accessible energy at reasonable rates. Before the change in the law, the siting authority for wind and solar resided with localities and subjected renewable energy developers to local zoning processes (Verhalen and Siegal 2023). Developers had to navigate local zoning ordinances and planning commissions, often needing to work with multiple local regulators for the same project. This was ultimately an inefficient system that deterred new infrastructure development in a state that otherwise has high renewable energy potential. This led to many delays in the expansion of renewable energy in certain communities, as local municipal governments were able to use their authority to reject renewable energy projects in viable areas while also enabling major energy companies to pursue large-scale renewable energy development in a way that disregarded land use conflicts and the economic impacts on communities (Marsh, McKee, and Welsh 2021).

The new law will likely largely divest Michigan's localities of renewable energy facilities, permitting jurisdiction for large renewable energy projects. This change is expected to streamline and centralize the current permitting processes and result in speedier climate action. However, it remains to be seen if this policy change will result in the needed rapid transition to clean energy that considers issues of justice and the needs of local communities, something that investor-owned utility companies have long ignored.

In Michigan, many groups have lobbied against this new permitting regime over such concerns that it preempts local policies, practices, regulations, and ordinances related to renewable energy facilities. The Governmental Affairs Associate for the Michigan Association of Counties (MAC) explained, "We cannot continue to revisit one-size-fits-all all methods. Each community has different preferences for setbacks, berms, trees, panel heights, pollinators, decibel levels, safety plans, etc. They cannot be satisfied by uniform standards to meet existing county ordinance" (Davidson 2023).

NIMBYism and concerns about aesthetics have historically halted clean energy projects, leading many advocates for fast renewables deployment to blame lengthy environmental review processes as a cause for delays in infrastructure projects (Bozuwa and Mulvaney 2023). However, this oversimplifies the complex dynamics that have slowed renewable energy, such as the lack of investment in new transmission by investor-owned utilities (Gross 2020). Additionally, concerns about losing forests, agricultural lands, or other important ecosystems to

1 While Whitmer's clean energy package was celebrated by many as monumental climate policy, some environmental justice groups and advocates opposed the package due to provisions such as permitting the use of natural gas power plants equipped with carbon capture technology.

renewable development are real and should be taken seriously. Studies have shown that the conservation value of lands has degraded following renewable development in fragile areas, such as the Mojave Desert (Gross 2020).

The shift toward renewable electricity involves a wholesale change in the shape of the power system and required infrastructure. We have a responsibility to work with communities in this transition. The concept of a "social license to operate"—acceptance from local communities and stakeholders—has become an increasingly important principle in mining and oil and gas development. Renewable project developers often assume that the inherent benefits of their projects guarantee automatic community approval (Gross 2020). However, it's crucial to apply lessons learned from extractive industries to renewable development as well.

Recommendations

Michigan's recent reforms to the permitting process are promising as they allow the MPSC to deploy renewable energy infrastructure faster by bypassing local opposition and restrictions. However, the shift toward a sustainable future demands not only a rapid but also equitable deployment of renewable energy infrastructure. The government's current plan lacks clarity regarding the specificities of how it will sufficiently incorporate principles for a just transition. This is pivotal to ensuring that Michigan's energy utility companies do not only prioritize speed and cost in infrastructure development but also consider principles of equity and justice. The commission has a responsibility to strive for a just transition through mechanisms that center stakeholder engagement, as well as comprehensive community benefit and land use plans.

Early and continual stakeholder engagement is necessary to enhance the efficiency of the transition and understand the needs of local communities. As the National Academies of Sciences, Engineering, and Medicine explains:

> If permitting reform includes significant reductions in meaningful opportunities for and forms of public engagement, then such reform would create a real risk of slowing, rather than hastening, the process of building out a net-zero infrastructure. Policymakers must simultaneously consider eliminating redundant and conflicting permitting policies and practice robust and creative engagement in project development and permitting. (National Academies 2024)

By facilitating collaboration and communication between developers, local communities, and regulatory bodies, these initiatives can streamline the approval process and minimize potential conflicts related to land use. Research on Michigan residents' attitudes toward renewable energy development shows that those who perceive fair planning tend to perceive greater benefits of the projects, suggesting that procedural justice is extremely important in gaining long-term local support for renewable energy development (Mills, Bessette, and Smith 2019). Community members and organizations must participate in proceedings and should be compensated for their time. In other states, such as Maine, state law requires the public utilities commission to compensate intervenors in regulatory proceedings. One key stakeholder to keep in mind is Indigenous communities. The commission has a responsibility to respect tribal sovereignty and engage these communities in negotiations regarding land stewardship (Whyte 2023). Self-determination, consent, and self-governance must be at the center of any conversations surrounding infrastructure development on indigenous lands.

In addition to stakeholder engagement, sharing the benefits of renewable energy projects with local communities is a crucial aspect of a just transition.[2] According to the MPSC, the commission will only approve permit applications in which "public benefits justify construction." However, these public benefits have yet to be defined. Utilities and renewable energy developers have a responsibility to create robust community benefit plans, and such benefits need to be standardized. This could include cheaper electricity rates for communities or direct payments for schools, roads, or fire stations. Ideally, these should be in the form of enforceable, legally binding

2 Such benefits must go beyond tax property payments.

community benefit agreements that are negotiated between community organizations and developers to provide a stronger guarantee that developers will follow through with their commitments (Draklellis and Richardson 2023). Ultimately, ensuring equitable distribution of project benefits is a key factor that the MPSC must center in their analysis of new infrastructure development.

Additionally, comprehensive land use planning, including the identification of environmentally friendly areas for renewable energy infrastructure, is important to significantly accelerate and coordinate the transition, as well as to identify areas of environmental and social concern. Some local governments in Michigan have dedicated extensive time and energy to master planning for utility-scale renewables in relation to their specific needs, such as the inclusion of prime farmlands and protection of natural resources. While the MPSC promises to review concerns such as "impact on local land use" and "unreasonably diminished farmland" when reviewing applications, many questions remain as to how these standards will be applied and how compliance will be ensured. California's Desert Renewable Conservation Plan (DRECP) serves as a notable example, streamlining the development process through pre-screening for potential issues, including factors such as environmental protection, agriculture, and cultural significance. The DRECP outlines 388,000 acres as prime locations for renewable energy projects, alongside an additional 800,000 acres designated as suitable for renewable energy development. This allocation exceeds the state's objectives, providing ample space for meeting its renewable energy targets. This model demonstrates how early state and regional planning can streamline renewable energy development with minimal land use conflicts and positive conservation outcomes (Bozuwa and Mulvaney 2023). Similarly, requiring cumulative impact analyses to assess the impact on communities is extremely important. For example, New Jersey's cumulative impact laws, which necessitate the denial of permit requests creating a disproportionately high cumulative burden on the community, set a commendable precedent (Kane 2022).

Conclusion

Neoliberalism has proven its deficiencies in addressing the climate crisis—a rapid build-out of renewable energy infrastructure cannot rely on market forces and local government intervention. However, the new systems that we build need to be carefully designed. We must consider how these changes will impact local communities to ensure that we are not replicating our historical mistakes. The Michigan state government's decision to streamline and centralize the renewable energy infrastructure siting process will likely make way for increased future renewable development. However, in order to enable a just transition, the MPSC must formulate a comprehensive permitting process that considers impacts on local communities and relies on long-term land use planning.

About the Author

Mara Pusic is a recent graduate of the University of Michigan - Ann Arbor, where she earned her degree in public policy with a concentration in environmental policy and sustainable development. She is passionate about issues of climate justice and has extensive experience in policy research, writing, and community engagement. Throughout her time in university she has worked on environmental policy projects as a researcher with the University of Michigan's Graham Sustainability Scholars Program and the Ford School of Public Policy's science, technology, and public policy Program. Mara plans to continue her work in environmental policy as a research associate based in Washington, DC.

Acknowledgments

First, I would like to extend my sincere gratitude to the Roosevelt Institute for granting me the incredible opportunity to participate in the Emerging Fellowship. I am deeply appreciative of the support provided by Alyssa Beauchamp, Katie Kirchner, Eric A. Paul, and Robert-Thomas Jones throughout my tenure with Roosevelt. Their guidance and expertise were instrumental in the realization of this research endeavor. This project was inspired by my research as a University of Michigan Graham Sustainability Scholar, where I focused on the impacts of climate change on Michigan's farmland. I am indebted to the numerous professors, climate scholars, state officials, and Michigan residents who generously shared their insights and assisted me in navigating this intricate subject matter. Lastly, a special acknowledgment goes to my fellow Emerging fellows. It was a privilege to collaborate with such passionate and progressive young adults. I am grateful for our shared experiences and eagerly look forward to the chance to see you all again!

References

Ensuring Justice and Stakeholder Engagement in Michigan's Renewable Energy Transition

Bozuwa, Johanna, and Dustin Mulvaney. 2023. *A Progressive Take on Permitting Reform: Principles and Policies to Unleash a Faster, More Equitable Green Transition*. New York: Roosevelt Institute. https://rooseveltinstitute.org/publications/a-progressive-take-on-permitting-reform/.

Davidson, Kyle. 2023. "House Panel Passes Renewable Permitting Package, despite Pushback from Local Groups." Michigan Advance, October 18, 2023. https://michiganadvance.com/2023/10/18/house-panel-passes-renewable-permitting-package-despite-pushback-from-local-groups/.

Draklellis, Erifili, and Jeremy Richardson. 2023. "Community Benefits Plans: Driving Equitable Clean Energy Development." RMI, September 25, 2023. https://rmi.org/community-benefits-plans-driving-equitable-clean-energy-development/.

Executive Office of Governor Gretchen Whitmer. 2023. "Governor Whitmer Signs Historic Clean Energy & Climate Action Package." Press release, November 28, 2023. https://www.michigan.gov/whitmer/news/press-releases/2023/11/28/governor-whitmer-signs-historic-clean-energy-climate-action-package#:~:text=100%25%20Clean%20Energy%20Standard,-Senate%20Bill%20271&text=By%20204-0%2C%20Michigan%20will%20produce,and%20water%20for%20future%20generations.

Gross, Samantha. 2020. *Renewables, Land Use, and Local Opposition in the United States*. Washington, DC: Brookings Institution. https://www.brookings.edu/wp-content/uploads/2020/01/FP_20200113_renewables_land_use_local_opposition_gross.pdf.

Hill, Alex B., Bridget Vial, Aly Shaw, Gin Armstrong, and Robert Galbraith. 2022. *The Public's Case against DTE Energy: Extracting Profits, Inducing Health Harms, & Damaging Democracy - & What It Would Take to Build People-Powered Utilities*. Detroit, MI: We The People Michigan. https://wethepeoplemi.org/wp-content/uploads/2022/08/REPORT-The-Publics-Case-Against-DTE-20220613.pdf.

Kane, Julia. 2022. "New Jersey Releases Blueprint for Landmark Environmental Justice Law." Grist, June 22, 2022. https://grist.org/accountability/new-jersey-environmental-justice-law-closer-reality/.

Marsh, Kate, Neely McKee, and Maris Welch. 2021. *Opposition to Renewable Energy Facilities in the United States*. New York: Sabin Center for Climate Change Law, Columbia Law School. https://climate.law.columbia.edu/sites/default/files/content/Opposition%20to%20Renewable%20Energy%20Facilities%20in%20the%20US%202%2023%2021.pdf.

Matheny, Keith, and Kristi Tanner. 2022. "Michigan's Poorer, Minority Neighborhoods Become 'Sacrifice Zones' for Increased Pollution." *Detroit Free Press*, January 3, 2022. https://www.freep.com/in-depth/news/local/michigan/2021/12/30/michigan-environmental-justice-pollution-permitting-egle-epa/8888962002/.

Mills, Sarah, Douglas Bessette, and Hannah Smith. 2019. "Exploring Landowners' Post-Construction Changes in Perceptions of Wind Energy in Michigan." *Land Use Policy* 82 (March): 754–62. https://www.sciencedirect.com/science/article/abs/pii/S0264837718307579.

National Academies of Sciences, Engineering, and Medicine (National Academies). 2024. *Accelerating Decarbonization in the United States: Technology, Policy, and Societal Dimensions*. Washington, DC: National Academies Press. https://doi.org/10.17226/25931.

Stabenow, Debbie. 2019. *The Climate Crisis and Michigan*. Washington, DC: Debbie Stabenow US Senator for Michigan. https://www.stabenow.senate.gov/imo/media/doc/Climate%20Crisis%20Report.pdf.

Union of Concerned Scientists. 2017. *Barriers to Renewable Energy Technologies*. Cambridge, MA: Union of Concerned Scientists. https://www.ucsusa.org/resources/barriers-renewable-energy-technologies.

Verhalen, Kodi J., and Arthur Siegal. 2023. "Renewable Energy Infrastructure Siting Moves to Streamlined State-Regulated Approval Process in Michigan." Taft Stettinius & Hollister LLP, December 4, 2023. https://www.taftlaw.com/news-events/law-bulletins/renewable-energy-infrastructure-siting-moves-to-streamlined-state-regulated-approval-process-in-michigan/.

Whyte, Kyle. 2023. *Indigenous Environmental Justice, Renewable Energy Transition, and the Infrastructure of Sovereignty*. New York: Routledge.

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