

Kennedy School Review



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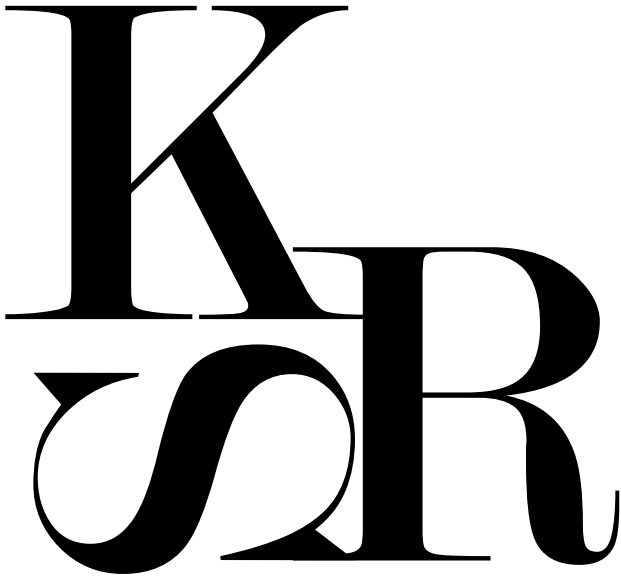
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Editor's Note

In its 18th year, the *Kennedy School Review* continued to shape more informed policy and policy makers.

Online contributors analyzed political turmoil from Germany to Jakarta and reacted to mass shootings in Las Vegas and Parkland, Florida. Writers from across the political spectrum and around the world added reflections to the #MeToo conversation, proposed innovations in education and health care, and raised concerns about data-driven decision-making.

In a new effort to invite experts and student writers into conversation, we launched special series of themed online content. To kick off the inaugural series, “Inside the Statehouse,” Governor Michael Dukakis explained the value of cutting your teeth in local politics. Professor Iris Bohnet grappled with our query “Can behavioral science save humanity?” As part of our “Election Reflection,” Governor Howard Dean predicted activists—not Democratic stalwarts—will lead the way to progressive victories in 2018.

We also invested in new channels to engage supporters like you. A weekly e-newsletter delivered fresh content direct to readers’ inboxes. KSR’s first-ever podcast team posted episode one to SoundCloud in February 2018. Our website got a face-lift. And we continued sharing headlines with friends and fans on Facebook and Twitter.

At the same time, the staff worked tirelessly to produce the volume you hold in your hands. This 2017–18 edition contains 22 pieces—and one political cartoon—thoughtfully curated, meticulously researched, and carefully edited by graduate students at the John F. Kennedy School of Government at Harvard University.

We selected stories that showcase the impressive range of interests and talents of our authors. The writing that follows tackles both novel topics like algorithmic bias and digital organizing as well as stubborn policy challenges like housing affordability and criminal justice. In the end, each writer offers optimism: smart solutions are within reach.

We are enormously proud to share this volume with you and hope it catalyzes a long-term relationship with the *Kennedy School Review*. As we all confront the policy hurdles ahead, KSR aims to be among your top sources for timely analysis and insightful commentary.

Marie Lawrence
Editor-in-Chief

Sunila Chilukuri, Hubert Wu, and Haiyang Zhang
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The Red Ballot: How Some Conservative States Are Bucking the Trend and Making Voting Easier

Michael Auslen

Indiana is hardly the poster child for voting rights. In 2005, it became the first state in the country to pass a strict photo identification (ID) requirement for voting—a measure criticized as an unfair barrier to participation for poor and minority communities.¹ When the US Supreme Court refused to throw out the law in a landmark 2008 decision,² a wave of conservative states jumped to pass similar restrictions.³ Critics have called Indiana’s voting laws “some of the worst . . . in the nation,”⁴ accusing Republican state officials of voter suppression.⁵

Yet just one year after passing its controversial ID bill, Indiana became an early adopter of an innovative policy to make voting easier. The state started a pilot program for counties to open “vote centers,” which replace traditional voting at neighborhood-based precincts with a smaller number of central locations where any voter from the county can cast a ballot.⁶ In 2011, Indiana lawmakers made the pilot program available to all 92 counties statewide. By making voting more convenient, vote centers have been shown to increase turnout, particularly among infrequent voters.⁷

Indiana isn’t alone. While the prevailing narrative is that Republicans and Democrats are on opposite sides of the voting-rights debate, a quiet movement to ease voting in conservative states has been stirring under the surface for years.

The politics of the national voting-rights debate are relatively straightforward: conventional wisdom tells us that when more people vote, Democrats tend to do better. This is, in part, because low-income and working-class voters who face inflexible demands on their time—and are thus less likely to turn out—tend to support Democrats.⁸ Nevertheless, Republican-dominated legislatures in states like Indiana, West Virginia, Alaska, and Texas have adopted surprising policy changes to make voting simpler than ever before. It is a heartening shift for voting-rights activists, who have generally responded with shock and cautious optimism.⁹

To be clear, there remains an intense partisan element to this debate, especially in the era of Donald Trump. The president has repeatedly doubled down on unsubstantiated¹⁰ Republican claims of rampant voter fraud,¹¹ which are often invoked to justify policies like voter ID. His eager entrance into the debate, through tweets and the formation of a Presidential Advisory Commission on Election Integrity,¹² has made an already divisive set of questions more partisan.

However, the success of progressive voting reforms by conservative state legislatures and their implementation by Republican secretaries of state reveal a broader truth: voting reform need not be partisan.

While the prevailing narrative is that Republicans and Democrats are on opposite sides of the voting-rights debate, a quiet movement to ease voting in conservative states has been stirring under the surface for years.

The Case for Simplifying Voting

Voter participation in the United States lags dramatically behind other developed nations. In 2016, about 55 percent of the voting-age population cast a ballot here, compared to rates as high as 87 percent and 83 percent in the most recent elections in Belgium and Sweden, respectively.¹³ How US states administer elections, in part, propels this trend.

Most fundamentally, tens of millions of Americans are simply not registered to vote. Although an exact number is difficult to estimate, studies suggest that there may be more than 51 million unregistered citizens—equaling nearly one-quarter of the eligible voting population.¹⁴ This is partly because registering to vote is a hassle.¹⁵ Some states set registration deadlines weeks or even months before Election Day, and voters must re-register each time they move. These barriers can cripple turnout by as much as 5–10 percent.¹⁶

Even registered voters don't al-

ways participate, because they find it inconvenient. US elections fall on Tuesdays, and full-time workers may face unavoidable scheduling conflicts that prevent them from voting. Most states also require voters to cast ballots at precinct locations near their homes (and not necessarily near their workplaces or other convenient locations), making voting during the work day more onerous.¹⁷

Determining how to mitigate these barriers to voting—and even whether they are worth trying to address—falls upon states, and each has responded differently. Some have taken it upon themselves to push for greater participation by loosening restrictions on voting.

Closing the Registration Gap

In 2016, the Republican-led legislature in West Virginia did something surprising. Lawmakers in Charleston passed the nation's third automatic voter registration law—the first to pass in a conservative state or by a bipartisan vote. The legislation instructs state officials to automatically register eligible voters when they obtain or renew a driver's license or state ID card.¹⁸ Instead of requiring eligible adults to opt in, they are registered by default unless they opt out. Once implementation of the law begins, West Virginia voters will be able to treat the Department of Motor Vehicles (DMV) as a one-stop

shop for both obtaining or renewing licenses and for updating their voter registrations.

This move by West Virginia was shocking, particularly since the proof of concept for the policy comes from Oregon. Oregon successfully implemented automatic registration ahead of the 2016 election, and data suggest that the program registered more than 272,000 new voters—almost 100,000 of whom participated in the presidential election for the first time.¹⁹

West Virginia's statute passed with bipartisan support, primarily because it was part of a legislative compromise that also ushered in a new voter ID requirement (which is, notably, far more permissive than strict photo ID laws in states like Indiana).²⁰ Good-government groups lauded this deal as a good-old-fashioned compromise between Democrats and Republicans in a political age when such moments are rare.²¹

But Republicans themselves also

“If you’re making an argument against it, I don’t know what it is,” State Senator Craig Blair, the Republican whip, told the Huffington Post. “When you’re automatically registered to vote, that makes your life easier.”

heralded automatic voter registration as a common-sense, apolitical reform.

“If you’re making an argument against it, I don’t know what it is,” State Senator Craig Blair, the Republican whip, told the Huffington Post. “When you’re automatically registered to vote, that makes your life easier.”²² Republican Senator Charles Trump (no relation to Donald) said it “surprises” him that the issue has been partisan and divisive in other states.²³

A few months later, Alaska voters directly passed a similar policy, and Republican Senator Dan Sullivan celebrated the result as an “opportunity to cut waste and stop forcing people to fill out more and more forms.”²⁴ Georgia’s government put automatic registration into place via administrative action.²⁵

It may seem counterintuitive that states like West Virginia, Alaska, and Georgia are turning to automatic voter registration, given the common wisdom that when more people vote, Democrats tend to perform better. And while elected officials tend to say they support such measures because they provide efficiency and simplicity in the voting system, a recent article in *Governing* magazine suggests that Republicans may be willing to allow automatic registration because they have far less to lose than common wisdom suggests.²⁶

We might assume that adding millions to the voting rolls nationwide

would increase access primarily for underrepresented and historically disenfranchised groups, like the poor and racial minorities, who tend to vote for Democrats.²⁷ However, roughly two-thirds of unregistered adults nationwide are White.²⁸ While experts say this trend doesn't mean automatic voter registration is a "slam dunk" for Republicans, it certainly suggests that they may not be harmed by the policy as much as the typical narrative presumes.

Republican-led states have also led other voter registration reforms. The only state in the country that does not require registration at all is as conservative as they come: North Dakota.²⁹ The state hasn't required registration to vote since 1951, although it does require voters to bring proof of residency or to sign and swear affidavits that they are residents. Republican Secretary of State Alvin Jaeger's office freely acknowledges that this has created no problems with fraud or non-resident voting.³⁰

In addition, eligible residents in Idaho and Wyoming can register when they cast ballots in person on Election Day, a practice known as same-day registration.³¹ This policy eliminates the burden of traditional laws that require voters to register weeks ahead of the election.

Voting in Places We Already Go
The old way Americans voted—by

waiting in line, on a Tuesday, at a pre-assigned library or school near home—is becoming increasingly arcane. Conservative states have contributed significantly to crafting policies that allow voters to participate when and where they see fit.

Indiana's vote center pilot in 2006 and permanent adoption in 2011 were early milestones in the model's development nationwide. Today, a host of conservative states, including Arizona, Arkansas, North Dakota, South Dakota, Tennessee, Texas, Utah, and Wyoming, has readily championed the idea.³²

Here's how a vote center works: election officials identify a handful of locations to serve as polling places on Election Day or during an early voting period. Selected locations are often convenient community spaces, like school gyms or recreation centers. In Texas, some county election officials have turned to grocery stores and malls, encouraging voters to cast a ballot while they're out doing the week's shopping.³³ Vote centers then take advantage of computer technology. Poll workers can look up each person in a database of registered voters and print a ballot that is customized to their precinct (only including the races they are eligible to vote in).

The process is almost the exact same as voting at a precinct. However, voters have greater flexibility and are able to choose from multiple,

convenient locations to cast a ballot.

The voter center model has proven to be appealing to states controlled by both parties.³⁴ In addition to making voting more convenient, vote centers reduce administrative costs.³⁵ Election administrators pay fewer poll workers, put on fewer training sessions, and buy fewer voting machines due to economies of scale. As mentioned earlier, vote centers also appear to significantly increase turnout, especially among unlikely voters.³⁶ In sum, if properly operated, they allow election officials to boost turnout while lowering overall costs. That's what happened in Indiana. After a few years with vote centers, Hoosier counties were able to increase turnout and decrease the aggregate cost of their elections.³⁷

These benefits turn on vote centers being sufficiently funded and located equitably throughout the community. For example, in the 2016 presidential primary, Arizona's Maricopa County switched from precincts to vote centers, decreasing the number of polling places in response to state election budget cuts.³⁸ But they weren't equipped to handle the large number of voters, leading to widely publicized long lines. In the aftermath of the debacle, the county came under fire from voting-rights activists who said the locations of the new vote centers may have privileged White voters over Latinx communities.³⁹

An End to "Election Day"

Americans are voting before Election Tuesday more and more. The rise of mail voting (also called no-excuse absentee voting) and in-person early voting is dramatic. In Florida, for example, Republican lawmakers passed a 10–15-day early voting period⁴⁰ as well as a mail ballot option that any voter can use without proving they will be away during the election. In the last four general elections, more than half of Florida's votes have been cast by mail or in person before Election Day.⁴¹

At the far end of the spectrum, several states have turned to all-mail voting to make elections simpler and more efficient. The model is true to its name: every voter is treated as an absentee voter and automatically receives a ballot in the mail. Four states (Oregon, Colorado, Washington, and California) have adopted all-mail elections statewide, though they occasionally have in-person voting options for major races.⁴² Although none of these states can be reasonably characterized as conservative, at least some Republican secretaries of state and election administrators say all-mail elections feel "more secure" and eliminate the problem of running two redundant elections—one in person and one via mail.⁴³

Evidence shows that more voters participate when they are automatically mailed ballots, including those

who vote less often.⁴⁴ The turnout bump from all-mail voting has a clear political upside for conservatives. Historically, Republicans have been as much as 1.7 times more likely to vote absentee than Democrats.⁴⁵

Alaska—the country’s most remote and least densely populated state—is perhaps the greatest pioneer of policies that prioritize voter convenience. Any Alaska voter can download a ballot from a secure server, fill it out on their computer, and return it electronically to be counted like a normal paper ballot.⁴⁶ Alaska is the only state to extend electronic balloting to all of its registered voters, and the law was passed by a heavily Republican legislature.⁴⁷

Notably, cybersecurity experts have expressed concern over Alaska’s experiment, fearing the state may not be doing enough to protect against hacking.⁴⁸ These concerns are timely and valid, but they do not detract from Alaska Republicans’ commitment to the state’s voters.

Hope for Bipartisan Voting Rights

Democracy demands strong public engagement. And the most straightforward way Americans engage democracy is through voting. Technology can help modern democracies dramatically reduce barriers to participation in elections, with limited investment. In countless cases, election mod-

ernization—through policies like automatic voter registration, vote centers, and early voting—has been shown to boost voter turnout while reducing inefficiencies and costs. Yet on a national level, the debate over who votes and how elections are run remains highly divisive.

Despite the national picture, at the state level, more and more conservative leaders are championing reforms that support American voters. It is not yet clear whether simplifying our democracy will become a true bipartisan cause, though it is clear that conservative voters and politicians have strong reasons to support pro-democracy policies. And in a nation where elections are so decentralized, elected officials in red states ought to follow the lead of other conservative trailblazers and recognize that helping Americans vote need not be work left only to Democrats.

Michael Auslen is a first-year master in public policy student at the John F. Kennedy School of Government at Harvard University. He previously was a journalist covering Florida state government, public policy, and the 2016 election for the *Tampa Bay Times* and *Miami Herald*. His reporting has also appeared in *USA Today*, *Dow Jones Newswire*, and the *Indianapolis Star*. Originally from Denver, Michael graduated from Indiana University with a degree in journalism and political science.

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An Undelivered Package: Postal Reform's Failure in the 115th Congress and What It Says about American Democracy

Brett J. Banker



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Imagine there were a bipartisan agreement in Congress for a package of critical reforms to a politically important government agency. Say that the chief sponsors of the legislation enacting those reforms included both the chairman of the conservative House Freedom Caucus¹ and a prominent member of the Congressional Progressive Caucus.² Let's also say that the reforms had broad stakeholder support from both business groups³ and labor unions.⁴ Now suppose that the legislation overwhelmingly passed its committee of jurisdiction by voice vote.⁵ One would think that this proposal would be on the fast track to becoming law.

In 2017, Congress was on the precipice of passing legislation to reform the US Postal Service and provide flexibility to its pension system. These proposals were widely viewed as essential for the agency to maintain its future competitiveness and solvency.

However, a series of extenuating circumstances and unforeseen developments have prevented legislative progress on postal reform. These difficulties are not unique to the issue of postal reform. Rather, they are paradigmatic of the political impasses occurring in all corners of Congress. Legislation today too often fails without a dedicated "champion" willing and able to guide it through the legislative process, and even then, common sense and deadline-account-

able legislation with material consequences can be crowded out by the hyper-salience of partisan priorities. The insights gleaned from postal reform's unsuccessful process are relevant to Congress's inability to pass other legislative reforms in areas such as health care and infrastructure.

The Case for Action

There are several reasons that the functioning of the US Postal Service constitutes a pressing and salient matter for Congress. First, the US Postal Service is one of the agencies explicitly mandated by the US Constitution. This means that Congress cannot eliminate the agency or abdicate federal responsibility for its performance or finances without a constitutional amendment, which is inconceivable. Second, the US Postal Service is the backbone of the mailing industry, which is a major component of the US economy. The agency estimated in 2013 that the US mailing industry accounted for 8.4 million jobs and \$1.3 trillion in revenue.⁶ Third, consumer trends away from brick-and-mortar retail and toward e-commerce will only increase the importance of the US Postal Service in future years. Companies will increasingly rely on the agency's services in order to ship their products to customers.

Thus, the US Postal Service will remain on Congress's radar for the foreseeable future. But to understand

Legislation today too often fails without a dedicated “champion” willing and able to guide it through the legislative process

the growing urgency for Congress to act on postal reform, one must first understand the context underlying the proposals. In December 2006, during the lame-duck session that directly preceded the Democratic takeover of both chambers of Congress, congressional Republicans approved the Postal Accountability and Enhancement Act.⁷

The Act made two key changes that would spur Congress’s later postal reform actions. First, the Act required that the US Postal Service pre-fund its retiree benefits in order to pay down the agency’s unfunded obligations. This provision included a pre-funding payment schedule over the bill’s first ten years, which ranged between \$5.4 billion and \$5.8 billion annually.

Second, the Act required that the US Postal Regulatory Commission, the body that oversees the US Postal Service’s rate-setting practices, conduct a rate review ten years following enactment. The review was thus set to commence in December 2016 and was expected to result in shipping price increases for market-dominant products (those for which the US Postal Service has a monopoly), in-

cluding first-class mail, periodicals, and media mail.

Shortly following the enactment of the Postal Accountability and Enhancement Act, there occurred a noticeable drop in mail volume, which currently stands below 2007 levels. For example, while the US Postal Service reported total mail volume at 212.2 billion units in 2007, that volume fell to 154.3 billion units by 2016.⁸

This slowdown in mail volume has impacted the US Postal Service’s ability to remain financially solvent. In June 2011, the US Postal Service announced that it would not contribute its scheduled payment to the Postal Service Retiree Health Benefits Fund, in violation of the 2006 law.⁹ The agency contended that such a payment was unnecessary. Officials were also concerned about a death spiral, in which the reduction in funds would force the agency to either reduce available services or raise rates on postal products, which would reduce demand and revenue that would lead to future cuts, and so on.

Congressional Action

Beginning in 2015, as concerns mounted and the odds increased that the scheduled December 2016 Postal Regulatory Rate Review would result in even higher postal rates, Congress began to ramp up their focus on postal-reform legislation. In

October 2015, Tom Carper (D-DE), then-ranking member of the Senate Homeland Security and Government Affairs Committee, introduced the Improving Postal Operations, Service, and Transparency Act of 2015.¹⁰ In July 2016, the House Oversight and Government Reform Committee approved its postal-reform bills by a voice vote.¹¹ The legislation had the support of the chairmen and ranking members of both the full committee and the subcommittee that oversaw the US Postal Service.

The House's proposals would, among many things, redesign postal retiree benefits largely through enrolling retirees in Medicare Part A and B and rescheduling required benefits payments, amend the Postal Board of Governors system, establish a chief innovation officer in order to oversee the agency's new postal and non-postal products, and permit the Postal Service Retiree Health Benefits Fund to diversify its investments.

Despite the impending December 2016 deadline and the existence of viable legislative proposals, Congress ultimately failed to enact postal reform in 2016 for several reasons. Most notably, the November 2016 elections drastically reduced Congress's time in session and diminished the appetite of members to take votes that were not politically necessary. In particular, Senate Homeland Security and Government Affairs Commit-

tee Chairman Ron Johnson (R-WI) was engaged in a tough reelection campaign and did not make postal reform a priority for his committee. Following the November 2016 elections, Congress held a relatively brief lame-duck session that focused on several short-term measures to set the stage for the incoming Trump administration.

Moreover, senators Heidi Heitkamp (D-ND) and Jerry Moran (R-KS) led a bipartisan group of 27 senators in expressing concerns with the bill's lack of service improvements.¹² While this group's formation was by no means a death knell for the proposal, it further reduced the likelihood of the full House considering the bill as the legislation was no longer a sure thing to pass within the condensed lame-duck session.

As a result of the aforementioned headwinds, the House failed to take up the House Oversight and Government Reform Committee's bill before the 114th Congress adjourned.

Congress should have swiftly enacted some form of postal reform in 2017. Chairman Johnson was successfully reelected in 2016 and would not need to face reelection until 2022. The House Oversight and Government Reform Committee had already established a blueprint for a politically viable proposal in the previous Congress that would allow it to hit the ground running.

In March 2017, the House Oversight and Government Reform Committee did just that when it approved the Postal Service Reform Act of 2017 as well as the Postal Service Financial Improvement Act of 2017, which were largely based on the 2016 bills.¹³

Of note, the proposal's supporters smartly decided to separate the reform package into two bills in order to game the Congressional Budget Office scoring,¹⁴ which might have otherwise torpedoed the proposal. Postal reform appeared to now have a viable path toward passage.

Things Fall Apart

However, a slew of unforeseen events and circumstances ultimately derailed the legislation. Shortly after the House Oversight and Government Reform Committee approved its postal-reform bills, Chairman Jason Chaffetz (R-UT) unexpectedly announced that he would resign from Congress that June.¹⁵ Chairman Chaffetz was the primary shepherd of the legislation, and his absence from Congress left the bills without a clear champion.

Furthermore, the new House Oversight and Government Reform Committee Chairman, Trey Gowdy (R-SC), had no policy experience on postal matters and was not actively involved in the crafting of these proposals. Chairman Gowdy, a former federal prosecutor, made his reputation chairing the House Benghazi

Committee and has primarily focused on the House Oversight and Government Reform Committee's investigative work during his tenure.

Moreover, Congress's other priorities took attention away from postal reform. Following the House Oversight and Government Reform Committee's passage of postal-reform legislation, the bill was referred to the House Committee on Ways and Means to address the Medicare Part B provisions. However, the Ways and Means Committee was so focused on repealing the Affordable Care Act and crafting the tax-reform proposal that it devoted few resources to considering other issues like postal reform. As of late February, the House Committee on Ways and Means has failed to take any action on the two postal reform bills.

To further complicate matters, President Trump recently tweeted about the issue, which could further hamper the prospects for postal

Postal reform is not the only policy that has experienced legislative setbacks in recent years. Recent congresses have failed to pass reforms to areas in which there was broad stakeholder demand for action

reform. On 29 December 2017, the president posted, “Why is the United States Post Office, which is losing many billions of dollars a year, while charging Amazon and others so little to deliver their packages, making Amazon richer and the Post Office dumber and poorer? Should be charging MUCH MORE!”¹⁶ While this complaint pertained more to service contracts than the primary provisions of the House Oversight and Government Reform Committee’s postal reform bills, the fact that Amazon has publically supported and lobbied for this legislation could make the president less inclined to support it.

As of this writing, the prospects for postal reform appear bleak. In December 2017, the Postal Regulatory Commission concluded its ten-year rate review and indicated that it would raise postal rates on certain categories of mail.¹⁷ The commission’s announcement reduces the urgency for passing postal reform, as the much-dreaded prospect of raised postal rates is now a reality.

Congressional leaders are currently not taking up the legislative proposals. Chairman Gowdy has not made postal reform a top priority during his committee chairmanship and announced in late January 2018 that he would not seek re-election.¹⁸ House Oversight and Government Reform Committee Ranking Member Elijah

Cummings (D-MD) has experienced health problems and has been less active in recent months.¹⁹ Meanwhile, the Senate has yet to seriously consider any proposal of their own in the 115th Congress.

Lessons for the Future

Postal reform is not the only policy that has experienced legislative setbacks in recent years. Recent congresses have failed to pass reforms to areas in which there was broad stakeholder demand for action, such as the US patent system, Fannie Mae and Freddie Mac, state Internet sales tax collection practices, and federal data breach notification rules. What makes postal reform different is that there exists a bill with much broader consensus, which was actually on track to becoming law.

The 115th Congress’s failed endeavor to advance postal reform thus provides two major insights into how the legislative process currently functions. First, this episode indicates that even broadly supported and bipartisan pieces of legislation require legislative champions who will actively shepherd them and that an absence of leadership is almost impossible to overcome. The House Committee on Ways and Means juggles many demands due to its broad jurisdiction. Chairman Chaffetz’s unexpected departure left these bills orphaned, which leaves them vulnerable to getting lost in

the shuffle of the Ways and Means Committee's heavy workload.

Second, this episode indicates that while the prospect of deadlines often motivates Congress to act on pressing matters, even deadline-accountable, material consequences can be scuttled to make room for partisan priorities. While postal reform is important, it is nowhere near as salient as either health care or taxes. The Republican push to pass major pieces of legislation by the end of 2017 took resources and attention away from other legislative efforts, reinforcing how difficult it is to pass even bipartisan legislation.

As a result of the way Congress operates, postal-reform legislation has made no tangible progress since spring 2017. And things aren't likely to change if Congress continues to mail it in.

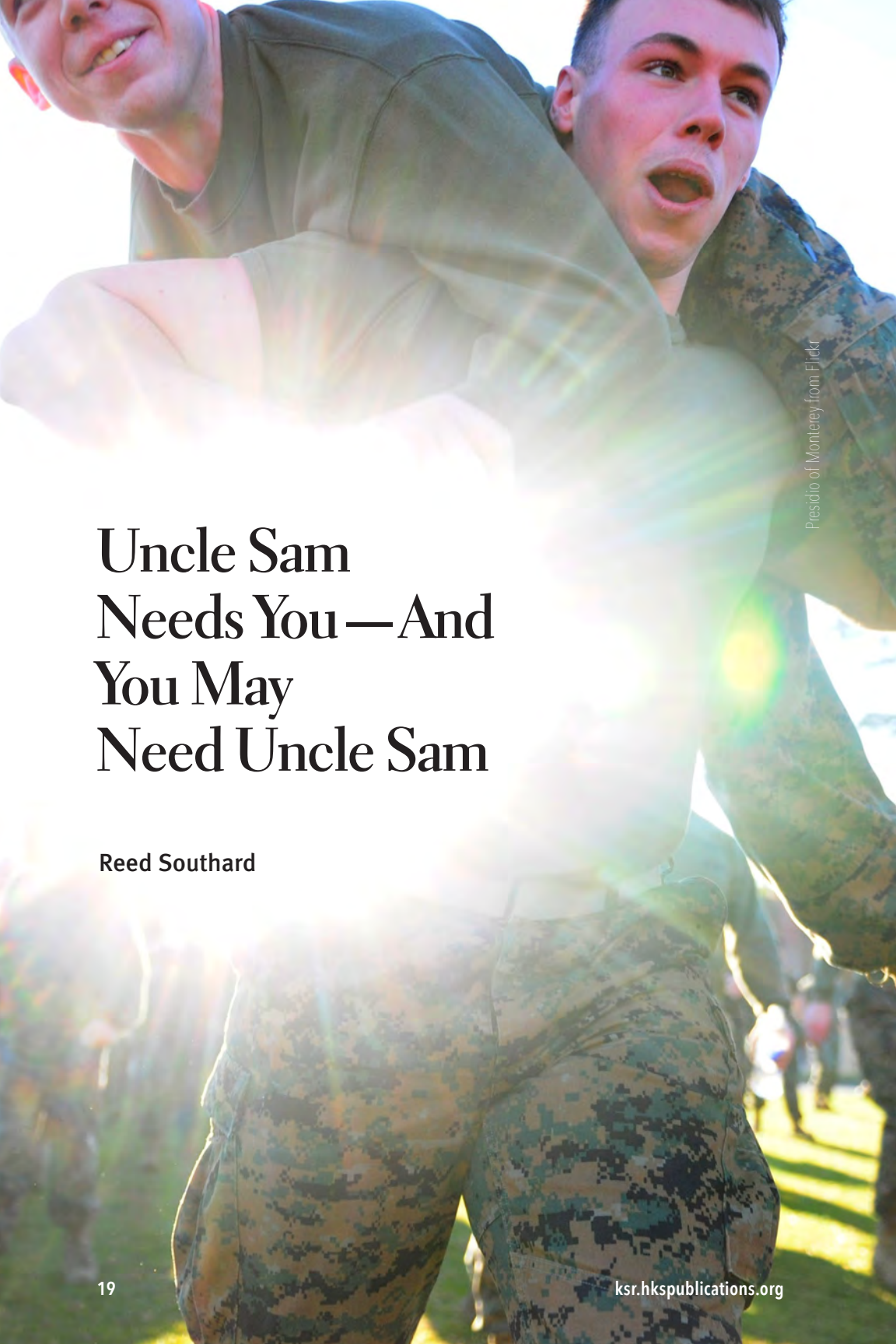
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Uncle Sam Needs You—And You May Need Uncle Sam

Reed Southard

“We must, indeed, all hang together or, most assuredly, we shall all hang separately.”¹ So said Benjamin Franklin at the very birth of the American experiment. Yet Americans today, more and more, hang separately. We no longer collectively tune in to fireside chats, Walter Cronkite, or even Seinfeld. Instead, like a modern version of Narcissus, we stare into our smartphones, reading narratives that reflect our own opinions.² We face a new tribalism where even our perception of reality is partisan.³ Consider FBI Director James Comey’s transition from hero to villain or villain to hero depending on one’s politics.⁴ We are sorely in need of institutions that provide a common experience through which we recognize our fellow citizens as “us” and not “them.” Universal national military service, also known as a national, universal draft, could offer just such a common experience as well as an innovative tool to reduce economic inequality and reconnect Americans to their government.

Retired General Stanley McChrystal notes that, historically, American wars “created a great cross-leavening experience. People who were from farms and cities and different parts of the country interacted with people and experiences that they otherwise wouldn’t have.”⁵ Indeed, sociologists find that among heterogeneous work groups, surface-level differences

become less important over time.⁶ Working on a common task facilitates contact and cohesion among individuals.⁷ Micro-interactions under stress produce social networks that share information and resources.⁸ Military service would offer citizens a network that spans traditional identities.

Essentially, coworkers form friendships, whether they are baristas or Navy SEALs.

One might chuckle at the draft as a national friend-making institution (picture a college mixer with hand grenades), but like any profession, the military creates strong social channels. And it is through these channels that we find spouses, discuss politics, seek advice, and find people we trust even if we disagree. It is no accident that veterans in Congress, from both parties, score significantly higher on measures of bipartisanship than non-veterans.⁹

Bipartisanship is necessary to tackle our most pressing long-term challenge: economic inequality. Most Americans identify inequality as a major problem¹⁰ but disagree on solutions.¹¹ The results are partisan policies that lack broad support. Democrats insist on spending programs that Republicans deride as giveaways to the undeserving, while Republicans offer tax cuts that the left labels welfare for the rich. Veteran lawmakers, bonded by their national military service, may be better equipped to overcome

typical partisan barriers to dialogue and compromise.

In addition, the military is itself a mechanism for channeling economic benefits to low-income individuals in a way that, because of the demands placed on service members, no politician would dare label a handout.

Consider current military benefits: free health care, tuition assistance, a salary that is 160 percent of the poverty level, free or subsidized child care, and vocational training. And these benefits are identically distributed; at each rank there are no pay gaps between genders or races. Beyond direct economic benefits, service members receive legal advice, voting assistance, and (drill sergeants everywhere may smirk) mandatory physical fitness. While a draft would not solve inequality, it would provide a solid foundation for citizens.

Universal military service would also help bridge the divide between the American people and the foreign policy enacted on their behalf. The military is increasingly insular, with 80 percent of recruits related to a veteran.¹² Before the deaths of four soldiers in Niger last fall, few Americans were aware of the US presence in 12 sub-Saharan African nations.¹³ How many know that American and Russian forces nearly came to blows in Syria last year?¹⁴ With less than 1 percent of the population serving, the public is simply disconnected from

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national security.¹⁵

Consequently, voters and lawmakers are reluctant to criticize military spending and organization. The shortfalls of the F-35 fighter jet are hotly debated within the Air Force, but this \$1.5 trillion program receives nowhere near the public scrutiny of the equally large tax cuts passed in December 2017.¹⁶ Likewise, a Pentagon report found that the Department of Defense (DoD) could save \$125 billion over five years by eliminating waste.¹⁷ Veterans of universal military service would be better positioned than today's majority-civilian electorate to hold the Pentagon accountable for spending.

Moreover, conscription could actually check the per-unit costs of DoD civilians and contractors that have ballooned under the all-volunteer model.¹⁸ Annually, the average contractor makes \$21,000 more than a corporal.¹⁹ It is true that many non-uniformed jobs are highly specialized, but draftees could fill most low-level positions, saving significant taxpayer dollars.

“There are two basic arguments against the draft. First is how such a draft would be operationalized to make it fair and to avoid incentivizing behaviors, such as deferment seeking, that would exacerbate the very societal problems a draft sets out to fix. The second has to do with a draft diminishing the quality and professionalism within the Armed Forces. The military America has today is a product of volunteerism and not compulsion. If we go to a system where people don’t want to be there and are just waiting to finish their term, is that really the kind of military we want to have? We saw both of these problems in the Vietnam era.”²⁰

Fairness is indeed central to the success and legitimacy of national service. The wealthy or politically connected cannot be allowed to be exempt. Similarly, it would be wrong to conscript Americans into a system known to cause disproportionate harm to some groups. For example, in the early years of Vietnam, African American battle deaths far exceeded the group’s proportion of the US population.²¹ Although African American casualties were brought back in line by 1967, the incident underlines the need for constant vigilance. A universal draft would demand higher, and

more consistent, standards of equality.

Regarding troop quality, the solution might be to retain a corps of soldiers who volunteer for combat and lengthier service in exchange for extra benefits. Forcing citizens into combat roles may be both counterproductive and widely perceived as morally questionable. Instead, draftees should primarily replace some of the DoD’s 716,000 civilians and contractors²² and expand organizations like the Corps of Engineers.

There is no doubt that national service would be a massive undertaking. Failure to implement it fairly, efficiently, and effectively would have dire consequences. Yet it is worth the attempt. Of course, there is no political will to implement national service now, as political parties obtain power by promising voters benefits, not obligations. But when the nation next faces a galvanizing national crisis, our leaders should be prepared to ask something of citizens, to connect them to one another, to bind their livelihoods with decisions the government makes on their behalf, and to invest in their future.

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Political Organizing in the Digital Age: Why Campaigns Need to Integrate Traditional and Digital Organizing

Ben McGuire

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After a bruising 2016 election, a cascade of Democratic victories has given progressive activists reason to hope for future elections, and the use of new mobilization and engagement technologies in those campaigns is getting a lot of attention.

Virginia Republicans barely held their gerrymandered majority after grassroots volunteers across the left powered a decisive Democratic gubernatorial win and seismic shift in the House of Delegates.¹ A groundswell of African American support elected a liberal Democrat to the US Senate in deep-red Alabama over a disgraced, twice-impeached Alabama Supreme Court chief justice. Smiling volunteers stood in the cold November Michigan rain to hand-deliver more than 400,000 signatures that could amend the state's constitution and move the mapping of congressional districts into a nonpartisan committee.

Digital organizing is one of the key threads running through these stories—progressive volunteers who were engaged and empowered through digital tools that did not exist just two decades ago. In Virginia, organizers sent millions of targeted get-out-the-vote texts and coordinated daily messaging strategy with progressive organizations on Facebook and Twitter.² In Alabama, the Democratic National Committee added 1.3 million phone calls and one million text messages to local organizing through online

platforms.³ In Michigan, an all-volunteer nonprofit collecting signatures began as a Facebook group. On their way to a constitutional amendment, they engaged thousands of Michiganders through social media campaigns alongside traditional door knocks and phone calls. Doing so, they spent a fraction of the money that professional organizers or advocacy groups expend on similar efforts.⁴

The story of digital organizing is complex, and barriers remain to integrating technology into traditional organizing. Social scientists and traditional organizers worry that organizing through social media promotes superficial engagement, relies on platforms optimized for advertising, and hurts civic debate.⁵ On the other hand, technology promoters promise a massive revolution in digital communication that never quite appears. Rather than merge digital into organizing, the modern political campaign still relegates digital staff to a separate team complete with its own management, processes, culture, and data. If the promise of digital technology in politics is meaningful engagement at massive scale, few if any political movements have reached that potential.

This essay explores the challenges and opportunities in digital organizing. It begins with a brief history of how digital tools have influenced the organizing world, summarizes

some of the lessons learned in recent digital campaigns, and argues for an integrated approach that uses the scale and speed of digital tools to scale and augment, not replace, traditional political organizing.

Since at least 1786, when Philadelphia printers went on strike for a \$6 weekly wage,⁶ through Abolition, Prohibition, Vietnam, Occupy, and the Women’s March, America has boasted a robust tradition of community organizing. The practice of organizing reached its modern pinnacle in the Civil Rights Movement—a triumph not only of moral leadership but also of logistics, coordination, and tactical effectiveness. A generation of organizers went on to lead myriad fights for justice, collecting lessons about face-to-face engagement and organization building. Through the 20th century, the most effective organizing remained difficult, slow, labor intensive, and costly. In addition, much of its capacity came from civic and labor organizations, which went into decline.

With the rise of cheap, widely available digital communication technologies, many pundits and political professionals predicted that digital tools would transform politics from top-down, message-driven public relations operations to “small d” democratic, citizen-led movements. Despite the 2004 primary loss, the manager of Howard Dean’s famously digital

campaign sounded an optimistic note: “Government, the entertainment industry and corporate America better get ready. The American people are going to learn how to organize themselves and then watch out.”⁷ In June 2010, a Facebook post calling for action at an annual rally in Cairo quickly became the regime-toppling Tahrir Square protests. Social media tools were changing the relationship between powerful governments and dissidents; overnight, protest organizers could coordinate logistics in ways that “would likely impress even a modern army general with how little effort was needed.”⁸ Reflecting on the use of digital tools in President Barack Obama’s 2012 victory, National Field Director Jeremy Bird mused that in future cycles, “We will have difficulty telling a Field Director apart from a Digital Organizing Director. They are one and the same.”⁹

In his 2016 study of how digital tools had changed the world of progressive advocacy, David Karpf suggested that digital tools “can certainly help you mobilize a crowd, but (at least so far) it is less useful for organizing that crowd into a movement or converting that movement energy into long-term victories.”¹⁰ For every Tahrir Square, many more movements like Kony 2012 and Occupy Wall Street grew to massive scale but faded and disappeared before they could build capacity for electoral change.

Networked social movements were a mile wide and an inch deep, “capable of responding quickly to breaking news when an issue is likely to generate a strong response from members, but less likely to have strong local chapters capable of pressuring political representatives.”¹¹ Internet-based movements attracted attention and small commitments (for example, “liking” a post), but they failed to generate what digital movements scholar Zeynep Tufekci calls “network internalities”—the “benefits and collective capabilities attained during the process of forming durable networks.”¹²

It seemed as if there might be an inevitable tradeoff between the scale offered by digital tools and the ability of a movement to build strong and effective relationships. Political campaign management hierarchies reflected this tension. Organizers remained within a dedicated “organizing” silo, and digital teams stayed close to technology, focused more on fundraising than organizing voters. Campaign organizers found themselves repeatedly calling into

an ever-shrinking phone list to beg for help, while digital teams sent out repeated emails to large lists without knowing whether there was follow-up on the ground. Potential recruits for volunteer activities were not passed quickly from digital to organizers—most campaigns lacked any dedicated technology or process to transfer data between the units. The vast majority of campaigns “haven’t evolved to think through an integrated ladder of engagement that reflects how people connect with the campaign,” finds Kristee Paschall at the Wellstone Institute. “Instead, we have separate teams in charge of different programs, organizing and mobilizing and contacting with separate lists that sometimes overlap.”¹³

Hypothetically, digital organizing creates an attractive scenario for political campaigns: converting a huge and diffuse base of social media followers into volunteers. Rather than relying completely on volunteers who are older, retired, and already engaged in politics, organizing in digital channels could catalyze a new (and more representative) generation of activists at huge scale and little cost. Rather than attempting to inject outside ideas into a community, social media could be used as a precise listening technology, letting civic leaders and organizers pinpoint sentiment and take advantage of organic energy. To understand how this plays out

The choice between organizing a campaign through digital tools versus traditional face-to-face methods is a false one.



Women for Hillary volunteers attend a phone banking event at the Arizona Democratic Party headquarters in Phoenix, Arizona.

traditional tasks (e.g., volunteer recruitment, Get Out the Vote) as well as new volunteer and voter engagement tasks (e.g., pushing a message through social media, text-based donations). The campaign recruited 250,000 social media volunteers to drive online messages, sent 40 million peer-to-peer texts, and raised \$9 million through a new SMS subscriber list.¹⁴ Before the Iowa primary, managers pushed local field organizers to build not only a physical presence through offices and canvassing but also a digital presence by recruiting volunteers to push messaging online. New tools could get more and more volunteers in the office, but the campaign still needed organizers to forge deep relationships

to last until and through Election Day.

To organize thousands of local watch parties that tuned in to live video calls with Bernie Sanders, the senator's team used digital tools, which let them connect with this large-scale excitement quickly. Leadership wanted to replicate Obama's 2008 primary approach of local volunteer teams led by organizers. But because the campaign did not have a large staff of organizers to manage volunteers, they had to let groups of citizens self-organize into independent teams. To build a team, digital organizing cold-emailed hundreds of people who had expressed interest through digital sources and set up a conference call with 10–50 prospective mem-

bers. They then invited a subset who completed a simple task to a shared communication channel and gave them responsibility to organize voters. In this way, the Sanders campaign engaged thousands of distributed volunteers into independent teams and put together an imposing volunteer infrastructure on a shoestring budget.¹⁵

Although the two campaigns thought about and used digital tools very differently, both approaches reveal that we still have a lot to learn about cultivating leaders and supporting communities through digital media. They also show that future campaigns must stop artificially separating digital from organizing; the choice between organizing a campaign through digital tools versus traditional face-to-face methods is a false one. Despite growing sophistication of social media tools, trying to turn millions of low-effort digital engagements into functional and useful volunteers is unrealistic. The problem is not that we don't yet have the right tools. It's that campaigns have not been able to turn digital engagements into meaningful interactions at real scale. And despite technological advances, face-to-face conversation between human beings remains the most effective way to achieve mobilization and persuasion. Rather than undermine or replace relationships, advances in digital tools create opportunities to identify and recruit volunteers faster and at

greater scale. This lets organizers spend more time creating authentic connections and driving value and less time cold-calling previous volunteers to beg for support.

What are the practical elements of an integrated approach? First, be prepared to take advantage of digital moments. When lots of people are looking at and talking about your campaign, have mechanisms in place to collect email addresses, phone numbers, social media handles, and voter-registration status. This tactic applies not only to the website and social media set-up that serves as the campaign's public face—it also means making sure that volunteers always have the means to collect critical data from citizens engaged through digital channels. The original Women's March had stellar success in mobilizing people across the world to show up and be heard, but little campaign infrastructure was prepared onsite to collect voter data and ensure that the digital moment could be converted into on-the-ground volunteers moving forward. In Beto O'Rourke's Texas campaign for US Senate, organizing staff redirect digital engagements to join local house parties for video town halls. Staff or volunteers are ready on-site to collect contact information and make "hard asks" for people to volunteer in person the next weekend. Through a simple and intuitive process, the campaign is

An integrated approach to digital and traditional organizing could reinvigorate the world of campaigning by offering massive scale, bringing disengaged voters back into the debate, and creating more spaces for meaningful conversation and leadership development.

engaging a huge and growing network, long before most campaigns would ever attempt such a large organizing footprint.

Second, build a digital-to-volunteering funnel that prioritizes incremental gains against a large digital base rather than expecting or attempting mass conversion. The sheer size of populations engaged through social media leads some digital advocates to suggest that we should be creating huge revolutionary change by mobilizing everyone we engage. However, no campaign will ever be able to get the thousands or millions of people who express interest in their candidate to show up and phone bank. Instead, identify and recruit volunteers through digital channels to win your organizers a bigger pool for one-on-one conversations and real training. Increasing the percentage of social media engagers who show up to an office by just a few

percentage points might represent thousands of new potential volunteers. In Virginia's gubernatorial election, organizers used new SMS tools to mass-text Democratic registrants for get-out-the-vote volunteering shifts. By scaling and streamlining initial outreach, they created more time for training and direct conversations between organizers and volunteers. On the back end, this generated more shifts and more contact with voters, more efficiently using staff time for the tasks where great organizers can make a difference.

Finally, hire and manage staff to reflect the integration of digital and face-to-face relationships in the real lives of today's voters. Don't build one organizing team that does only traditional field work and another separate team of "digital organizers" who engage people online. You'll prevent the former from the kind of scale that can make them cost effective and prevent the latter from creating meaningful and useful contributions to voter contact goals.

Digital is simply another tool that we can use in organizing work; as Zack Exley, a veteran of multiple digital and organizing campaigns (including Sanders 2016) argues, it makes no more sense to hire "traditional" and "digital" organizers separately than it would to hire "phone" and "non-phone" organizers.¹⁶ Clinton's Iowa primary team broke from tra-

dition when they pushed organizers to communicate directly with voters through social media and publicly push campaign messages through Facebook and Twitter. Driving staffers to cultivate a digital presence in addition to a traditional “ground game” let them communicate with and activate more young voters, broadcast messages beyond early volunteers, and publicly demonstrate the campaign’s size and strength.¹⁷

Moving digital organizing entirely under organizing would drive coordination and data-sharing but carries risks; if digital does not have a seat at the table, important early investments in technology (which take a long time to pay off) could be missed. On the other hand, keeping digital organizing under a technology or digital chief ensures a close relationship with tech and analytics but could prevent an effective working relationship with organizers. More important than any specific structure is that organizers (and their managers) have a coherent plan to use digital tools and that those tools reflect actual needs and experiences of organizers in the field.

The experience of organizers in recent campaigns shows that an integrated approach to digital and traditional organizing could reinvigorate the world of campaigning by offering massive scale, bringing disengaged voters back into the debate, and creating more spaces for meaningful conver-

sation and leadership development. As organizers move on from Virginia and Alabama and begin to prepare for the 2018 elections, successful digital approaches will follow them and build in scale and effectiveness. If progressive organizations can learn to harness that energy to organize Americans into a coherent and positive political voice, the potential impacts could be revolutionary.

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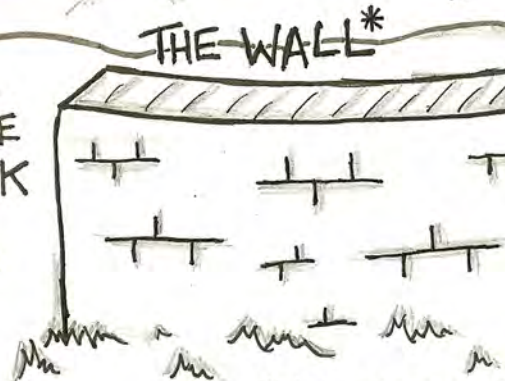
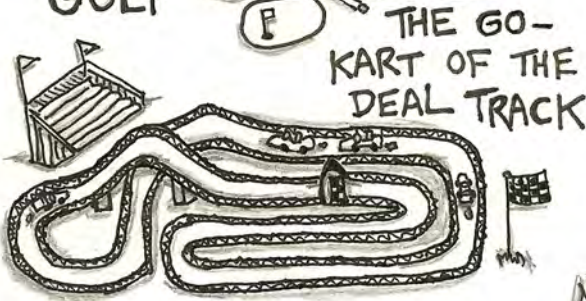
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Adam Giorgi is a proud Minnesotan seeking the intersection of government service and comic book superheroics. He is a master in public policy student at the John F. Kennedy School of Government at Harvard University, and he swears he doesn't draw cartoons during lectures (most of the time).

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The Detention Archipelago: Immigrant Prisons and the Companies that Run Them

Maksim Wynn

**South Texas Family Residential Center
in Dilley, Texas**

Photo courtesy of Austin Kocher

Rising out of the South Texas brush country, 50 acres of stadium lighting dominate the night sky. Directly to the east of those 50 acres is a small town fairly typical of this part of the state—low-slung buildings; a number of good Mexican restaurants; and a lot of corrugated steel, limestone, and wood paneling. During summertime, the ubiquitous red clay dirt dries out. In town, it cakes to the cabs of air-conditioned pickup trucks. On the 50 acres, it clogs the lungs of the women and young children who are being marched, under armed guard and barbed-wire fencing, between the “neighborhoods” of “Red Parrot” and “Yellow Frog.”

The women and children are asylum seekers. They are officially known as either “residents”—or, slightly more accurately, “detainees”—of the South Texas Family Residential Center (STFRC) in Dilley, Texas. Like nearly every naming convention in the “immigrant detention” system, the name “Family Residential Center” cloaks brutality in euphemism. These residents are prisoners, and the STFRC is for all intents and purposes a prison.¹

The migrant prison in Dilley is just one of many around the country. Together they constitute an unjust, inhumane system—one that is heavily privatized and inefficient. Using the STFRC as a lens to examine that system, this report will first describe the

conditions in the Dilley prison before comparing these conditions to those in other facilities. The report will then examine the role of the private prison industry in creating, operating, and maintaining the system. Finally, it will map the contours of a better system and provide policy recommendations for achieving it.

Life in the STFRC

Before 2014, it was rare that a mother and child seeking asylum would be detained for any amount of time.² Currently, there are three prisons in the United States—with a combined capacity of 3,326 beds—whose sole purpose is family incarceration.³ Two thousand four hundred of these beds are located in the STFRC.⁴

Advocates granted access to the STFRC have described hellish conditions within the prison. According to one, the day begins at 5:30 a.m. when guards wake the prisoners with bright lights and loud noises. Prisoners, a hundred of them under two-and-a-half years old,⁵ are counted three times a day. During one such count, a young child was witnessed peeing her pants when guards prevented her from leaving to use the restroom.⁶

In town, many residents believe that the water supply has been compromised and few will drink tap water if they can avoid it. The Texas Commission on Environmental Quality (TCEQ) has repeatedly found dan-

gerous levels of *E. coli* in the water supply and has fined the municipal government multiple times, citing double-digit violations.⁷ Aside from prisons, Dilley's other major industry is oil, and that oil is being extracted using hydraulic fracturing, or as it is more commonly known, fracking. This practice has deepened concerns about the potability of the town's water supply. Yet, in the STFRC, prisoners are expected to drink tap water.

Eleni Bakst, an attorney volunteering with the CARA Family Detention Pro Bono Project, reported that illnesses—including rashes, conjunctivitis, diarrhea, vomiting, and fever—were rampant in the STFRC. Prisoners told her that they were often prescribed tap water instead of medicine when seeking medical care related to these illnesses—illnesses that the tap water may have caused in the first place.⁸

The health care problems in the STFRC extend well beyond issues with the water. The STFRC's overall standard of medical care appears to be dismal. Bakst reported that mothers she spoke with had “numerous complaints [about] the medical clinic in the detention center, including failure to conduct physical examinations, lack of communication about symptoms and diagnoses, . . . and illogical and incorrect diagnoses of patients.”⁹

Systemic Abuse in the Immigrant Prison System

The STFRC is not an outlier. The harsh conditions there are found throughout a sprawling immigrant prison system that held, for varying lengths of time, more than 323,500 people in 2017.¹⁰

Inadequate medical care is a systemic problem in immigrant prisons. In 2013, researchers at the University of Arizona interviewed 1,113 recent deportees and found that 37 percent of the respondents who requested medical attention had their requests denied.¹¹ Meanwhile, in 2015, the US Commission on Civil Rights (USCCR) found that a number of detention facilities were not fully complying with contractually binding medical care standards.¹²

There have also been repeated reports of detainees receiving insufficient food, spoiled food, or both. According to the University of Arizona survey, 45 percent of respondents reported not receiving “sufficient food” while being detained.¹³ Another report found that detainees at one facility lost an average of 10 pounds while in custody.¹⁴ Hunger strikes were initiated in at least two other facilities to protest insufficient, spoiled, and maggot-filled food.¹⁵

These issues have led to instability and violence within immigrant prisons. Inadequate medical care, contaminated food, and the prisoner



Residents at the South Texas Family Residential Center

populations' general dissatisfaction with conditions led to large-scale riots at the Reeves County Complex in Pecos, Texas, and at the Willacy County Regional Detention Facility in Raymondville, Texas.¹⁶

Access to legal counsel is another persistent problem in the immigrant prison system. Undocumented immigrants have no legal right to counsel, and whether they are imprisoned is a key determining factor in their ability to access representation. Only 14 percent of imprisoned migrants have legal representation when appearing in immigration court, while 66 percent of non-imprisoned migrants secure representation.¹⁷ Detained migrants who do have access to counsel are much more likely to be released from detention than are those who do not.¹⁸

Considering these harsh conditions, one might think that the immigrant imprisonment system was designed to deter undocumented migration or to punish criminals, but according to US Homeland Security officials, the system is not supposed to be a punitive one. Instead, they say it is only a mechanism for ensuring that migrants appear in immigration court.¹⁹

In addition, neither imprisoned asylum seekers nor imprisoned undocumented economic migrants are accused of having committed a crime. Undocumented economic migrants who are imprisoned after being picked up by immigration enforcement authorities for being in the United States without authorization are accused of a civil violation, not a criminal offense.²⁰ And subjecting asylum seekers to the

harrowing reality of imprisonment is especially confounding since they are accused of neither a civil violation nor a criminal offense. They are being imprisoned while attempting to go through the asylum process as it is laid out in US law.²¹

The dissonance between the stated purpose of the immigrant imprisonment system and the harsh conditions that migrants face within it makes the existence of this system all the more unacceptable.

Private Prison Firms Turn Pain to Profit

While immigrant prisons are a miserable ordeal for those incarcerated in them, they are a wellspring of profit for firms like CoreCivic, the private firm that runs the STFRC and that has managed to successfully monetize the misery of that place and many like it.

In fact, CoreCivic and the rest of the private prison industry have been monetizing misery for a long time, first through their role in mass incarceration and now increasingly through immigrant incarceration. The history of CoreCivic, which was known as Corrections Corporation of America (CCA) until it rebranded in 2016, began in 1983. The firm, and the private prison industry as a whole, emerged in lockstep with mass incarceration. The industry rose to prominence as the increasingly punitive criminal justice policies of

the 1980s and 1990s swelled the ranks of the incarcerated population. As a result of these policies and the private prison industry's political influence, the number of people imprisoned in private facilities increased steadily until the mid-2000s.²² However, by that point the US prison population was falling for the first time in nearly three decades, and the private prison industry needed new revenue streams. To address this need, the industry pivoted toward immigration imprisonment. It was an incredibly lucrative choice.

Despite being a major player in the “prison boom” of the 1980s and 1990s, CoreCivic saw record profits in 2015—the year that the STFRC opened.²³ That year, STFRC alone generated \$71.6 million in revenue for CoreCivic, or 14 percent of the firm's total revenue.²⁴

Immigrant prisons are overwhelmingly private institutions regardless of whether they house asylum seekers, who are more often women and children, or undocumented economic migrants, who are more often men. According to the Washington Post, as of late 2016, “[CoreCivic] and its only major competitor, the GEO Group, operate nine of the ten largest immigration detention centers.”²⁵ In total, 65 percent of all people in Immigration and Customs Enforcement (ICE) custody are imprisoned in a private facility.²⁶

To understand why private immigration prisons have generated enormous revenues for the firms that operate them, it is instructive to look at the cost of immigrant imprisonment. As of 2013, the cost to imprison one migrant for one day was between \$122 and \$164.²⁷ That year, the average daily population of detained migrants was 33,788.²⁸ Therefore, immigrant detention cost US taxpayers between \$1.5 billion and \$2 billion for the year—or between \$4.1 million and \$5.5 million per day. The majority of those taxpayer dollars were pocketed by the private prison industry.

An Alternative: What It Looks Like and Why We Don't Have It

The immigrant imprisonment system is not only costly to taxpayers and extremely inhumane, it is also unnecessary. Much cheaper policy alternatives exist, but the wholesale transition to these alternatives is inhibited by the private prison industry's vested interest in the system and the political influence it can exert to expand and protect it.

Imprisoning migrants is at least 20 times more expensive than available “alternatives to detention” (ATDs). According to the ACLU, ATD programs involve using “electronic ankle monitors, biometric voice recognition software, unannounced home visits, employer verification, and in-person reporting to supervise participants.”²⁹

ATDs represent a low-cost and effective mechanism for monitoring apprehended migrants and ensuring that they appear in immigration court. ATDs cost an average of \$5.16 per person per day.³⁰ They are also nearly as effective as imprisonment. A Government Accountability Office (GAO) study found that migrants placed into a full-service ATD program appeared for 99 percent of their court dates.³¹ ATDs have also been shown to improve integration outcomes when apprehended immigrants are allowed to stay in the migrant-receiving country.³²

So why do so many apprehended migrants end up in prison?

A major contributing factor is a provision in the annual appropriations bill that has come to be known in congressional circles as the “bed mandate.” First implemented in 2009 and renewed every year since, the bed mandate has been interpreted as requiring not only that immigration enforcement officials supply a specific number of beds for immigrant imprisonment but also that they ensure that those beds are filled.³³ This policy is unprecedented. No other law enforcement agency is required to detain a predetermined number of people.³⁴

The bed mandate incentivized the arbitrary expansion of immigrant imprisonment. The share of apprehended migrants who are imprisoned has risen sharply even as total appre-

hensions have declined. In 2001, ICE and Customs and Border Protection (CBP) apprehended 1,387,486 undocumented migrants; by 2015, that number had dropped to 406,595.³⁵ ICE recorded placing 204,459 migrants in detention facilities in 2001, while there were 307,342 detention intakes in 2015.³⁶ In 2001, 14.7 percent of apprehended migrants were detained, while 75.6 percent of apprehended migrants were detained in 2015.³⁷

The bed mandate has also generated significant revenues for private detention firms. By 2011, CoreCivic, which had been on the verge of bankruptcy in 2000, was operating with a profit margin of roughly \$90 million a year.³⁸ On 6 March 2009, five days before the bed mandate was signed into law, CoreCivic's stock price was \$9.82—close to an all-time low. Later that month, the stock shot upward and finished the year hovering around \$25.³⁹

These figures demonstrate how the profitability of the private detention firms is linked to the implementation and maintenance of punitive immigration policies. Despite their insistence that they are only responding to market forces, private prison firms have made it explicitly clear that they have an active interest in the implementation of punitive immigration enforcement policies like the bed mandate.

According to a report released by Detention Watch, in a 2007 Security

and Exchange Commission filing CoreCivic acknowledged, “We are dependent on government appropriations The demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts or through the decriminalization of certain activities that are currently proscribed by our criminal laws.”⁴⁰

And during all of 2008, the year before the bed mandate was implemented, the lobbying disclosure forms filed by one of the lobbying firms CoreCivic had retained—Akin, Gump, Strauss, Hauer & Feld—stated that they were lobbying for “issues pertaining to the construction and management of private prisons and detention facilities . . . [and] immigration reform legislation.”⁴¹

Policy Recommendations: Decisive Change Is a Moral and Fiscal Imperative

Policy makers must recognize the human and fiscal costs of the immi-

The private prison industry represents the prosperous hub in a wheel of suffering. The spokes of that wheel connect private prison firms to federal immigration enforcement agencies, municipalities, and imprisoned migrants.

grant detention system and decisively dismantle it. The ultimate policy goal should be eliminating immigrant imprisonment altogether while using ATDs when necessary to ensure that apprehended migrants appear in immigration court.

The first step toward achieving this policy goal is eliminating the bed mandate. The bed mandate is nothing short of a subsidy to the private prison industry. It provides no material benefit to any other party, and it imposes enormous suffering on the men, women, and children who fill those beds. It also prevents a transition to more cost-effective and humane policies. Getting rid of the bed mandate will also help break the private prison industry's stranglehold on immigration enforcement policy.

Once Congress repeals the bed mandate, policy makers can go about creating a better system. This system should hinge on prohibiting the imprisonment of immigrants who have not been charged with a criminal offense. All currently imprisoned migrants, and all those apprehended in the future, should be evaluated to determine the likelihood that they will not appear for their immigrant court proceeding. Those who are deemed unlikely to appear can be placed in an ATD program and monitored throughout the legal process. Most asylum seekers are extremely likely to appear since they cannot receive

asylum without doing so.⁴² As such, many of these migrants can likely be released without having to be enrolled in an ATD program. This will generate additional savings for US taxpayers.

The end result of these reforms would be an efficient and fiscally responsible system that treats immigrants humanely while their immigration cases are being processed.

Closing a Shameful Chapter

The tight grip that private prison firms hold on immigration policy and the enormous profits that punitive immigration policies generate for private prison firms have made it difficult for there to be a wholesale transition to a more humane system that relies on cost-effective ATD programs. The result is that instead of moving toward the adoption of more humane programs, immigration policy has, under the sway of private prison firms' political influence, become more punishing. For evidence of the increasing level of brutality in immigration policy, one need look no further than those stadium lights in Dilley, Texas, and the children imprisoned under them.

The private prison industry represents the prosperous hub in a wheel of suffering. The spokes of that wheel connect private prison firms to federal immigration enforcement agencies, municipalities, and imprisoned mi-

grants. In the center, CoreCivic and firms like them reap tremendous profits. But the spokes, like the tentacles of a parasite, are the conduit through which the private prison industry siphons revenue from federal coffers and drains migrants of their health, their dignity, and their freedom.

Policy makers must stand up and break this wheel. They must eliminate the bed mandate. They must close down the STFRC and every facility like it. This may seem extreme, but these facilities serve little purpose, and whatever purpose they may serve is vastly outweighed by the immense human costs they impose. Policy makers cannot hide behind political expediency in the face of such clear injustice. They must move to a system that relies solely on the judicious use of ATDs, and they must take steps to ensure that the current system is never recreated. The rise of immigrant prisons is a shameful chapter in US history; it is a chapter that cannot come to a close soon enough.

A native Texan, Maksim Wynn graduated from UCLA with a bachelor of arts in history. Since graduating, he has worked as a researcher at the UCLA North American Integration and Development (NAID) Center and then as a researcher and research team supervisor at the UCLA Institute for Research on Labor and Employment (IRLE). Maksim has spent his professional life advocating for

economic equity as well as immigrant and worker rights while conducting immigration and labor policy research.

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Jails: America's Biggest Mental Health Facilities

Catia Sharp

James Boyd set up camp for his last time in the foothills of the Sandia Mountains, where you can see all of Albuquerque laid out before you under the sunset. Unfortunately, he was camping without the requisite permit. James had been homeless for a long time.

James was shot to death by the police¹ when they arrived on a nuisance call; the public land he was camping on abutted one of the wealthiest neighborhoods in Albuquerque. “The system” — the labyrinth of social programs designed to help those who can’t help themselves — failed James. It also failed the responding officers, who were ill equipped by that same system to handle problems more appropriately handed to social workers or psychiatrists. Conceptually easy solutions to this problem, like man-

dating that police wear body cameras, are common discussion points. But perhaps the conceptually easy fix is not a fix at all. Maybe the underlying problem that led to James’ untimely death — a convoluted network of uncoordinated agencies often working at odds with each other — can only be solved with a complex and nuanced approach.

“We’re asking cops to do too much in this country. . . . Every societal failure, we put it off on the cops to solve. Not enough mental health funding, let the cops handle it. . . . Policing was never meant to solve all those problems.” — David Brown, Dallas Police Chief²

James spent his adult life homeless —

cycling between sleeping on the street, homeless shelters, jail, and psychiatric hospitals.³ This has led some news outlets to villainize him as a lifelong criminal.⁴ However, his upbringing provides a small window into the vicious cycle that led to his demise. Born in Oregon, James ended up in foster care. He endured violent abuse from his father and was allegedly sexually abused in foster care. Foster care is meant to protect the most vulnerable children; instead, it destabilized James's life. He ended up in New Mexico as a teenager,⁵ where he spent two years in juvenile detention and another seven years in adult prison. When it became clear as a young adult that James struggled with mental illness, he was not treated but instead incarcerated, where his mental health further deteriorated.⁶ By the time he exited institutions as an adult, he was 25 years old and severely mentally ill.⁷ With an unstable mental state and without work experience, he became homeless.

Does "the system" have a unified conscience, a collective will? Is that will nefarious?

More accurately, one might attribute the multitude of failures by various social programs that plagued James Boyd to "silos" of government—a bureaucracy too big to coordinate outcomes on a single case. I argue that the system ought to have both a collective conscience and

the machinery to move people like James Boyd to treatment and stable living, rather than pushing them to the fringes of society and wondering why they end up dead. I will highlight an alternative future system, one compassionately mindful of how to truly enhance safety, health, and well-being in communities.

How Jails Took Over Mental Health Care

In Albuquerque, James's death kicked off an awakening to the hidden reality that jails are our largest mental hospitals. People with behavioral health challenges (the combined term for mental illness and substance-use disorders) who are homeless often have run-ins with the police. They might get in trouble for "trespassing" (sleeping in an enclosed ATM because it is cold outside); "public indecency" (urinating in public because store bathrooms are for customers only); or even panhandling, which is an arrestable offense in some cities. These types of minor offenses are often referred to as "crimes of homelessness."

Those arrested might also have a mental health crisis, including extreme emotional disturbance or agitation. Or they might have a severe drug addiction, which is often a way self-medicate untreated mental illness. Police are the ones we send to respond to these problems, whose underlying causes are not criminal in nature.

By dramatically underfunding a community-based continuum of behavioral health care, we have created a systemic problem.

The police have a choice: bring the person to a homeless shelter that is typically full; bring the person to a hospital, where they likely won't be admitted unless they are considered "a danger to themselves or others"; arrest them and take them to jail, even when the officer knows that they are not a criminal, because the jail at least provides some mental health care; or leave them on the street, suffering. Given the constraints, the police most frequently opt for the last two.

This is how jails have become our largest mental hospitals: people with behavioral health disorders get arrested due to poverty and sickness, not lives of crime. An Urban Institute report in 2006 found that more than 60 percent of people in local jails and over 50 percent of people in state prisons are living with some type of mental illness,⁸ while 15 percent of jail inmates were homeless in the year before incarceration and 54 percent of homeless individuals report having spent time in a correctional institution.⁹ The historical basis for this situation is threefold.

1. In response to inhumane conditions and enabled by advancements

in antipsychotic drugs, a national de-institutionalization movement aimed to reduce the use of mental hospitals. In 1963, the United States codified the massive downsizing of mental institutions in the Community Mental Health Centers Act, which established a very strict standard for admittance to a mental hospital—the same standard that now presents the limiting barrier to police drop-offs.¹⁰ In its place, a continuum of community-based mental health care was supposed to support stable living for those with mental illness. But this continuum was never funded.

2. Widespread access to preventive mental health care through insurance is recent and incomplete. It wasn't until the passage of the Affordable Care Act (ACA) in 2010 that full "mental health parity" was required of all commercial insurance plans: plans must now cover behavioral health services with the same restrictions as physical health—discrimination is not tolerated. But despite mental health parity, urgent care for psychiatric illness remains restricted by the high standards for payment imposed by insurers including Medicaid. The ACA also expanded health insurance coverage to low-income, non-elderly adults without children—those like James Boyd. In the states that expanded Medicaid access to childless adults, outpatient preventative behavioral health care may now interrupt the

downward spiral James faced.

3. The war on drugs swept a large number of people—disproportionately people of color—into the criminal justice system, which increased the prevalence of substance-use disorders in the corrections system, increased the number of homeless formerly incarcerated individuals, and failed to address substance use as a disease in need of health care.

Jail administrators across the country are beginning to take notice. The Albuquerque jail has been called the largest mental hospital in New Mexico. But jails are inherently un-therapeutic. While the jail is required to provide a minimum level of physical and behavioral health care to those in custody, the environment is stressful and upends lives. Being separated from support networks of family and friends, having prescription medications interrupted, being subjected to social environments inside of prisons, going through stressful court proceedings, and living in unsanitary conditions all facilitate one's decline in mental health in prison and jail. Further, jail causes unemployment and homelessness by disrupting inmates' ability to go to work or pay rent and presents a barrier to regaining employment and housing upon release.

“The System Functions Exactly as Intended”

By dramatically underfunding a community-based continuum of behavioral health care, we have created a systemic problem. Police and jails are left with a burden of care for which they are ill equipped—not to mention that jails are expensive treatment settings. The average state prison costs \$31,286 per bed for a year.¹¹

There is, however, bipartisan support for reversing this trend to save money, reduce systemic inefficiency, and treat people more humanely. In the following sections, I highlight three promising approaches to creating a unified conscience in the criminal justice system. These three are often not performed in tandem, but I argue for a more synergistic approach.

“Money, people, programs – those are all tools. In the end, you need strategy, you need structure. Design thinking starts to teach us that sometimes the thing you thought was going to be the barrier actually isn’t.” – Leah Garabedian, Senior Manager for Justice, Harris County, Texas, Budget Management Department¹²

Sequential Intercept Model

One method for orienting disparate actors toward the common goal of

reducing recidivism is the Sequential Intercept Model, developed by Drs. Mark Munetz and Patricia Griffin¹³ and propounded by the Substance Abuse and Mental Health Services Administration (SAMHSA), the federal government's behavioral health agency. The idea is to map the pathways people take through various criminal justice agencies, identify the points at which individuals might be diverted out of the criminal justice system and into more appropriate care settings like public housing or mental health facilities, and implement programs to do just that.

Jurisdictions as diverse as Boston, Denver, and Harris County in Houston, Texas, among others, are using sequential intercept mapping. In Harris County, for example, community leaders are using this tool through the Criminal Justice Coordinating Council and their mental health subcommittee, which highlights the siloed nature of criminal justice systems. The subcommittee comprises the district attorney (an independently elected county-level official), a local judge, a major at the sheriff's office (another independently elected county-level department), representatives of the county government, and court system administrators from both county and state courts. Each of these government entities is independent from the others; there is no requirement that they all work

together or even agree on a common goal for their collective "system." But they have chosen to collaborate to create a collective conscience for helping their most vulnerable.

The Harris County subcommittee mapped the system, and the first problem they identified was the one confronting police: limited options for helping a person with severe behavioral health problems. Once they identified this problem, the remedy was clear and simple: provide a behavioral health service for people who aren't sick enough to go to the hospital. The subcommittee's first project became the Harris County Assessment and Recovery Center (HARC), still in development phase. HARC will provide 24/7 access to health, mental health, and substance-use disorder triage and stabilization services, plus other "wrap-around" services like housing support during the day. This type of "diversion" from jail, as leaders in the field refer to it, is the first step in breaking cycles of recidivism for people with behavioral health needs who should never have ended up in the criminal justice system in the first place.

Other options for addressing the same problem include training police officers to recognize and respond better to mental illness, and even hiring clinical staff to go out on calls with officers.

This mapping requires data on the flow of people through “the system.”

Data-Driven Justice

The Data-Driven Justice Initiative, run by the Arnold Foundation and the National Association of Counties, is a model for generating valuable data. For example, existing administrative datasets include 9-1-1 call records, jail information-management systems, and court records. Many jurisdictions are now connecting these separate datasets and analyzing them to identify the highest frequency users of criminal justice services to help pinpoint points of intervention.

Bernalillo County in Albuquerque, New Mexico, has embarked on a journey to use data to make system-level changes in the wake of James Boyd’s death, with the help of the Government Performance Lab at the John F. Kennedy School of Government at Harvard University and the University of New Mexico’s Institute for Social Research. The county used data from the Albuquerque jail to identify the individuals most frequently booked into the jail in order to find out whether there is a relationship between frequency of booking and severity of behavioral health diagnosis. It turns out, unsurprisingly, that the more bookings an individual has, the more likely they are to have serious mental illness. It also turned out that those with more

bookings are more likely to be people of color.

The Data-Driven Justice Initiative provides the resources to more governments seeking to copy Bernalillo County and match data across government silos. Another member of Data Driven Justice, the Middlesex County Sheriff’s Office in Massachusetts, will work with 21 police departments to map the local criminal justice system, something that can’t be done without collaboration between municipal governments.¹⁴

But these types of data analyses are, as yet, imperfect when it comes to fully mapping “the system.” For example, the jail information-management system in Bernalillo County does not collect an individual’s homeless status. Further, attempts to link criminal justice data to health data, like that on emergency room visits, frequently run into patient privacy challenges.

Ultimately, the purpose of this data analysis is to better inform the management of each component of the criminal justice system, as well as community-wide management of “the system” itself, toward the ultimate goal of reducing recidivism while increasing physical and behavioral health treatment among those who shouldn’t be criminalized in the first place.

Jail Management

Jail management is a critical step in

redirecting this flow of people through the system. For those who cannot be diverted to treatment before they make it to jail, the Middlesex County Sheriff's Office is also strengthening its behavioral health services in hopes of making jail time an opportunity for recovery. For example, the Medication-Assisted Treatment and Directed Opioid Recovery program provides cutting-edge opioid addiction treatment to prisoners.¹⁵ Although numerous studies have found this type of treatment to be the most effective for opioid addiction, it is still not available in many jails.

Finally, preparing people to exit a jail is critically important. Bernalillo County is building a Reentry Resource Center through which all discharging inmates will pass.¹⁶ This will be a dramatic departure from prior practice, when people were often discharged to a downtown street corner in the middle of the night, without transportation or housing and certainly without any plans for health care access. The Reentry Resource Center will correct this by not only providing a warm, secure facility where people can wait for rides but also by having social service providers ready to connect them to services in the community that could prevent further recidivism while they await transportation. Bernalillo County will also plan ahead by providing better access to psychotropic medications

to discharging inmates to cover their transition home.

These changes to existing institutions can start to create a system that moves people toward stable, healthy lives as an alternative to recidivism.

Toward a Systemic Strategy

These models are taking hold in different jurisdictions but not always in tandem. To create a system with a collective conscience, sequential intercept mapping cannot be done without being informed by rigorous data analysis; meanwhile, data analysis is only as good as its application to systemic mapping, and systemic mapping is only useful when used to identify new interventions.

People like James Boyd end up arrested and in jail largely due to systemic failures that deteriorate their health. If the idea of the corrections industry is to correct criminal conduct, then these people have ended up in the wrong place. What they truly need is health care delivered by a system of government entities that cohesively sum up to more than their constituent parts. Local governments are stepping up to meet this challenge, starting to build a collective conscience in a unified system. But the hard work has only just begun.

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Risk and Responsibility: A Spanish Prosecutor's Creative Approach to Fighting Terrorism

Jillian Rafferty

“Are you aware of the charges brought against you?”

“Yes.”

“Do you wish to plead guilty or not guilty?”

“Guilty.”

“Do you wish to make a statement at this time?”

“Yes. I want to speak to my people and to my family. I am Muslim. I admit to these crimes. Al Qaeda is a terrorist organization that tries to use Islam to justify the use of violence. But Islam does not demand violence. Islam demands peace. These terrorist organizations promote an extreme version of Islam—but this is not true Islam. I understand that I may now put myself at risk by renouncing this incorrect interpretation of Islam. I hope that by speaking to my people I can contribute to avoiding this

poor understanding of Islam. So I publicly and completely renounce violence.”

“Why are you renouncing violence and terrorism now?”

“Too many innocent people have died. It’s time to put an end to this. So I renounce it completely.”

A Visit to Madrid

A prosecutor and indicted terrorist spoke those remarkable words in a Madrid courtroom in July 2017. I found myself in the courtroom while in Spain to study how the Spanish justice system investigates and prosecutes terrorists. I began my ten-week visit with a series of questions: How does the Spanish justice system deal with international terrorism and violent extremism?¹ Has Spain’s history with domestic terrorism informed its strategies for tackling these problems? Have the country’s more recent history of authoritarianism and its subsequent forceful commitment to human rights created a different set of practices

and outcomes in Spain than those of its neighbors and allies? What might other countries learn from the Spanish example?

My research ultimately centered on the practices of one office and the woman who runs it: Dolores Delgado García, or “Lola,” Spain’s head prosecutor for terrorism. She spent countless hours with me explaining the Spanish system and her office’s strategy; providing me with access to court documents and her own processes; and sharing her perspectives, hopes, and concerns in response to my endless questions. Toward the end of my visit, she invited me to observe the trial of a terrorist cell in which, in an entirely unprecedented move, she convinced the defendants to confess to their crimes and fully renounce terrorism and violence.

International terrorism is a huge and pressing challenge. In large part, it grows out of desperation, an absence of economic opportunity, alienation, and a lack of human rights protections.² And terrorism itself represents one of the greatest threats to human rights in the world today. Terrorists and the organizations they serve commit some of the worst crimes known to modern society: enslavement, trafficking, torture, violence, rape, and murder.³ Terrorism operates in cycles, while the governments threatened by terrorists are quick to retaliate to individual incidents with military

force, stripping still more people of their human rights.

Over the summer, I saw one country’s—and, in particular, one woman’s—effort to break that cycle by refusing to accept that the patterns so familiar to us are the only ones available for addressing the problem. I saw a forward-thinking and dedicated prosecutor working within the constraints of the Spanish justice system and leveraging that system’s unique advantages to chip away at a problem that so often feels intractable. I saw legal innovation.

A Penal Code Designed to Uphold Human Rights

The criminal justice system in which Lola operates is distinct in important ways from the US criminal justice system. First, Spain is a civil law country, not a common law country, like the United States.⁴ Criminal prosecutions rely entirely on Spain’s penal code, the body of national criminal law, updated every few years, that lays out all offenses and the maximum allowable punishments.⁵ To be sure, codified law plays a large part in criminal prosecutions in common law systems. But common law precepts, traditions, and precedents carry comparable weight, often adding wiggle room in otherwise inflexible criminal law.

In Spain, terrorists face trial in the regular criminal court system. Prosecutors match their conduct and

Plea bargains are nearly ubiquitous in the US criminal justice system, but this deal was extraordinary.

the evidence of that conduct to the very strict provisions of the Spanish penal code and request sentences in line with the code's limitations. Americans are used to hearing about 25-year or lifelong prison sentences for acts of terrorism, but in Spain, there are precious few offenses that carry sentences longer than five years. Sentences longer than ten years are still fewer.

In addition, Spain's penal code is heavily focused on the human rights of the accused—not just of the accusers—and on the values of mercy and rehabilitation above pure punishment. Americans often view the prescriptiveness of a penal-code-driven system as excessively limiting—or insufficiently punitive.⁶ But in Spain, the design of the penal code is intentional and internally consistent. Spain's penal code follows from the country's new constitution, which came into force in 1978 and promises the “exercise of human rights” and a “dignified quality of life for all.”⁷ The code's preamble reminds its reader that only by continuing to work together to better the penal code can the code achieve its all-important objective: “coexistence and the peaceful enjoyment of the

rights and liberties” guaranteed under the Spanish Constitution.⁸ Spain's focus on human rights both in- and outside the justice system is, in short, a matter of codified national values.

Another key difference for Lola is that Spain's prosecutors are neither appointed nor elected. In the United States, prosecutors are typically either elected by the public or appointed by the (elected) executive. Not so in Spain. After completing their legal education, aspiring prosecutors in Spain take a standardized test—the same test, in fact, that aspiring Spanish judges take. Selections are then made on a meritocratic basis. As a result, Spanish prosecutors enjoy a degree of impartiality and autonomy in carrying out their work.

That would all mean very little if Spain's system didn't share an important commonality with the US system: in both countries, prosecutors have a degree of discretion. Prosecutors use their discretion to decide whether, how, and to what extent to pursue those accused of committing crimes. And they do all of this in furtherance of the criminal justice system's priorities: preventing crime, punishing criminals, restoring justice.⁹ The system punishes wrongdoers to deter them and others from committing future wrongs, to incapacitate wrongdoers and so prevent them from reoffending, to rehabilitate criminals so that they may live law-abiding lives, and to

provide a sense of justice and fairness through proportional response.

A Unique Plea Deal Emerges

A week before the trial, I visited the ninth floor of the Audiencia Nacional to meet with Lola. We had met many times by then, and this was meant to be our final check-in before the big trial.

The terrorist cell facing prosecution was a six-member group, including the leader. Spanish authorities had arrested all six following a lengthy investigation. The evidence against these men was overwhelming, and amassing it was a true feat. The cell had served as the primary voice for radicalization and recruitment for jihadist terrorism in the region. Its members generated and disseminated propaganda. They recruited followers. They sent resources and recruits to support other more active cells in the Middle East.

That day, usually calm Lola seemed antsy—not surprising since in a few days' time, she would prosecute one of the most active jihadist terrorist cells ever arrested in Spain. Before I could ask how her preparation for the trial was going, she launched into an excited explanation.

So much had changed since we last spoke, she said.

Originally, these six men faced the longest sentences allowed by the Spanish penal code for their crimes:

the leader faced 12 years in jail, the other cell members 10 years each. But in the lead-up to the trial, Lola had an idea. Perceiving that their commitment to their prior ideals had softened and sensing that this case might present a unique opportunity not only to punish these particular offenders but also to dissuade those who might follow in their footsteps, Lola struck an unprecedented deal. Each of the accused men would have his sentence cut in half if he publically admitted to his crimes, acknowledged their moral wrongfulness, and denounced violence and terrorism as perversions of Islam.

I couldn't believe it. Plea bargains are nearly ubiquitous in the US criminal justice system, but this deal was extraordinary. Lola and I each combed through newspapers and court records looking for traces of a deal like this in the past, but as hard as we looked, we came up empty.

Why are deals like this so rare? In many countries, prosecutors are closely beholden to either an elected leader or an electing public, neither of whom tend to look favorably on a prosecutor who is soft on terrorists. Spain is different. Though a Spanish prosecutor may face public discontent and bad press, she isn't faced with the same looming threat of being voted out of office.

Moreover, accused terrorists are rarely interested in such deals. Mar-

tyrdom¹⁰ is a central component of most terrorist narratives—a source of pride and moral superiority, a means of winning even when you lose. You would be hard-pressed to find a true ideological extremist who would renounce his beliefs in exchange for a little less time behind bars.

And most importantly, deradicalization is not usually central to the judicial-prosecutorial calculus.

When we think about criminal prosecution of terrorism, we think about punishing wrongdoers to prevent crime. We think about police officers handcuffing offenders; lawyers arguing in court; and convicts spending months, years, or whole lifetimes behind bars. When we think about how governments work to address terrorism, we usually think of violence—whether that means drone strikes and interminable wars in faraway territory, refugees fleeing harm and pouring across national borders, or militarized police on our own street corners. We too rarely focus on how we can prevent radicalization or deradicalize those who have already bought in. We too rarely focus on how the justice system’s tools can be used as part of big-picture, innovative strategies to prevent the proliferation of terrorism.

In the lead-up to the trial, Lola and I spoke a few times about her motivation to strike this new and unique deal with the members of the

If silently punishing terrorists and hiding their narratives hasn't worked, then give them, as in this case, an opportunity to have a change of heart.

terrorist cell.

She explained that we have to innovate in responding to the threat of terrorism. Governments are stuck in a tired cycle of militarized force and harsh punishment in their efforts to counter terrorism. Fears of further radicalization and the comfort of tradition provide little incentive to try anything new. But the fact is that these old strategies simply are not advancing our efforts in what will certainly be a generational struggle—and people are more open than we ever could have anticipated to new and innovative strategies.¹¹

When we fail to think creatively and when we fail to experiment, we are surrendering to the perpetuation of the same cycle we are already in. Lola believes our only hope for breaking that cycle is to think outside the box and experiment boldly. If draconian punishment hasn't stopped the perpetuation of terrorism, then turn to the more humane. If dehumanization of terrorists hasn't dissuaded new recruits from joining up, then treat terrorists with the decency and humanity with which you would treat

your neighbor. If silently punishing terrorists and hiding their narratives hasn't worked, then give them, as in this case, an opportunity to have a change of heart—and to project that change to the communities that look to them for guidance.

A plea deal like this was not without risks, however. Lola also talked about her fears in proposing and agreeing to the deal. She worried that the deal would fall through at the last minute—that the judges or the accused men would reject the arrangement, despite her careful efforts to get everyone on board. She worried that the public would react in fear and disappointment, without recognizing the need to try something new. She worried that her commitment to innovate would backfire—that, worst of all, the deal would go through but that the men would carry out acts of violence against the country and people she was trying to protect when they were released from prison in five or six years.

Lola and I agreed that sometimes, you just have to hope that risk is on your side. When you know the current system has failed—when you have decades of evidence that this single approach of charge, imprison, silence, punish hasn't ended the problem and protected people from violence—the only choice you have left is to try something new.

Lola's Day in Court

At ten o'clock in the morning, the doors open. Walking into the courtroom, I'm surprised by the sterile, modern aesthetic. It is a sharp contrast to the sweeping, traditional facades and centuries-old architecture so common in Spain. There is no lofted judge's bench, no wooden witness box, no jury empaneled along the side. There is only a windowless white room sparsely furnished with plastic tables and chairs, a single metal bookcase, and off to the side, a glass-walled chamber.

The three judges and several lawyers sit together around a series of plastic tables arranged in a U-shape. Observers sit on plastic benches at the far end of the small room. I take my seat there.

Five minutes later, six men are led into the glass-walled chamber. It is immediately clear that these are the men on trial. They talk quietly to each other in Spanish and Arabic, nearly inaudible to the rest of the courtroom, as they wait.

Within ten minutes, the trial has begun. Lola addresses the court before she turns to the six men. She reads the charges: conspiring to promote terrorism, recruitment for a terrorist organization, provision of material support to a terrorist organization. The list goes on and on. The accused men sit quietly, watching her, listening.

And then she instructs Mustafa

Al-Lal, the leader of the group, to stand. And she asks, “Are you aware of the charges brought against you?”

It will be a long time before we can even begin to evaluate the success of Lola’s deal. We will not know for years whether Lola’s scheme prevents radicalization or not, whether it successfully deradicalized the specific cell she was prosecuting or not, whether Spain is safer now than it was before or not. But the spirit of legal innovation and the focus on deradicalization she brought into the court room offer lessons for other countries and systems. Our traditional playbook for adjudicating terrorism is failing. Perhaps we can follow Lola’s lead and ask, “What can I try that hasn’t been attempted before? How can I use the tools at my disposal to address this problem? How can I innovate?”

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Endnotes

1 The terminology we use to describe terrorism and extremism is very important—and controversial. In this piece, “international terrorism”

refers to what is variously referred to as “radical Islamic extremism,” “Salafi-jihadism,” “Wahhabism,” and more, though none of these terms accurately or fully captures the phenomenon. Disputes over the right or best terms to use continue. For more on the controversy over terminology and its roots, see Shannon N. Green and Keith Proctor, “Turning Point: A New Comprehensive Strategy for Countering Violent Extremism,” Center for Strategic and International Studies, 14 November 2016, <https://www.csis.org/features/turning-point>.

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Combatting Domestic Minor Sex Trafficking in the Child Welfare System

Steven Olender

When a man promised to love and take care of ten-year-old Withelma “T” Ortiz Walker Pettigrew, she thought her luck had finally changed. Born to drug-addicted parents, T spent her life bouncing in and out of foster care. In ten short years, she lived through 14 placements; several unsuccessful returns home; and physical, emotional, and sexual abuse. Foster care, the very institution meant to protect her, instead made her more vulnerable. In care, she learned to accept being controlled and normalized the idea of adults using her for financial gain. When she was offered the love, support, and attachment she craved, she jumped at the opportunity.

Instead, the man who promised to love her began selling her ten-year-old body to be raped. For eight years, all across the western United States, he beat her and sold her on the streets,

The United States is the world’s second-largest sex-trafficking market. A staggering 40 percent of these cases involve domestic minor sex trafficking.

in massage parlors, and in the back pages of newspapers. She was arrested multiple times for solicitation and prostitution but always returned to her trafficker. Having escaped trafficking at 17, T is a powerful advocate for youth victims of trafficking, testifying before Congress and appearing in TIME’s “100 Most Influential People.” Many of her friends weren’t so lucky, serving lifetimes in prison or being beaten so badly that their bodies could only be identified by the tattoos that branded them as property of their pimps.^{1,2}

T’s story is too common. While awareness of sex trafficking in the United States is rising, it is still largely viewed as a problem in other countries—not our problem. On the contrary, experts estimate that the United States is the world’s second-largest sex-trafficking market. A staggering 40 percent of these cases involve domestic minor sex trafficking (DMST).

DMST refers to the commercial sexual exploitation of a minor, in their own country, to perform sexual acts in exchange for money or other items of value.³ For children in the United

States, this exploitation takes a variety of forms: sex slavery; pimp-controlled sex; youth-initiated trafficking; child pornography; and survival sex, in which youth exchange sex to meet basic needs, like food or shelter.⁴ Calculating precise victimization rates is difficult because buying and selling the bodies of children is a necessarily secretive act, and victims are often too psychologically broken and ashamed to report their abuse.^{5,6} However, it is generally accepted that there are more than 100,000 DMST victims in the United States, with upper estimates ranging between 300,000 and 3 million.^{7,8,9} Most studies place the average age of entry into trafficking between 12 and 16.¹⁰

While we don't know the exact scale of child sex trafficking in the United States, we do have abundant evidence on the risk factors driving this problem. We also know that child welfare involvement complicates and heightens risk factors that drive DMST. Studies show that the majority of child sex-trafficking victims, as high as 86 percent,¹¹ were part of the child welfare system.^{12,13,14} The most prominent risk factor is a history of physical, emotional, and sexual abuse. Victims of abuse are 28 times more likely to be arrested for prostitution than their non-abused peers.¹⁵ "Abuse teaches children that they are of low worth and that those who are supposed to care for them will demean and dis-

It is time for policy makers to emphasize violence prevention — to focus on those who are most at risk of being trafficked, those who have suffered abuse and neglect, and those who are currently in the child welfare system.

respect them," explains Susan Mapp, professor at Elizabethtown College.¹⁶

Despite the noble intentions of the child welfare system, its current structure can exacerbate youth vulnerability. Resource gaps force caseworkers to place many children in sub-optimal homes or residential treatment centers, where they are cared for not out of love, but for a paycheck. T explains, "what we began to do as youth in care is normalize that our purpose is of being a financial benefit of others." As a result, children in care find it difficult to see "the difference in bringing in the finances into the foster home or of bringing money to an exploiter and their stable."¹⁷

Further, being forced to move placements repeatedly robs children of connection, forcing them to adjust to new locations, schools, and parental figures.¹⁸ This lack of connection traumatizes children, hindering their ability to form healthy attachment and causing them to seek love and

consistency any place they can find it.¹⁹ Would-be traffickers recognize this. They seek out foster children specifically, knowing that simply by providing shelter, food, gifts, and consistency, they can groom them for exploitation.²⁰

To date, US legal responses have focused narrowly on rehabilitating survivors, making it easier for victims to come forward, and punishing perpetrators. Beginning with the passage of the Trafficking and Violence Protection Act of 2000 (TVPA), the federal government has sought to protect and support trafficked minors.²¹ Subsequently, nearly three-fourths of all states passed Safe Harbor laws, under which minors caught trading sex are treated as victims and provided with extensive wraparound services. As a deterrent, states and the federal government have also ramped up prosecution of third-party traffickers and of those who purchase sex.

It is time for policy makers to emphasize violence prevention—to focus on those who are most at risk of being trafficked, those who have suffered abuse and neglect, and those who are currently in the child welfare system. For these children, the response must be three-pronged. First, it is vital that the child welfare system mitigate the consequences of childhood abuse through greater provision of trauma-informed care. Second, the system must work to

prevent future trauma through a focus on permanency, both in placements and service delivery. Finally, we must acknowledge that while children in care are vulnerable, they also possess great agency, and the current system of protection as social control pushes youth toward sexual exploitation.

Trauma-Informed Care

Helping children heal is critical to preventing domestic minor sex trafficking, yet common therapies can actually make trauma worse for children who have suffered abuse.²² States can help children by requiring both mental health service providers and foster families to use therapy methods that are developmentally appropriate, evidence based, and trauma informed. Trauma-informed care means understanding behavior through the lens of the trauma that caused it, acknowledging that negative behaviors are coping mechanisms, and focusing on building safety so that patients can address the root causes of those behaviors. Modalities like trauma-focused cognitive behavioral therapy and dialectical behavior therapy build on children's natural resilience by offering strategies for self-regulation and health connections, alleviating a child's toxic stress responses.^{23,24,25} While many providers are beginning to incorporate trauma-informed services, this practice is not currently required for children

in care. Requiring trauma-informed services, or at least requiring a baseline of training, would go a long way to helping children recover from complex emotional trauma.

To encourage trauma-informed care, states can set up infrastructure for the dissemination of new knowledge about evidence-based services. New York and South Carolina offer clear models. The Evidence-Based Treatment Dissemination Center in New York has trained hundreds of clinicians, completely free of cost, through in-person seminars. The state encouraged training by creating reimbursement systems that pay trauma-informed therapists above the base rate. The Trauma-Focused Cognitive Behavior Therapy Web in South Carolina took an Internet-based approach to reach more providers, especially those in rural areas. Through its ten-hour interactive online training program, the service has helped thousands provide evidence-based care.²⁶

Many trauma-informed methodologies require caregiver involvement, acknowledging that a child's caregiver is essential to their recovery. Methodologies like the Trust-Based Relational Intervention (TBRI) adapt trauma-informed principles specifically for foster and adoptive placements to help children heal complex developmental trauma.^{27,28} Adding therapeutic modalities to the required training for foster parents will

help them improve child resilience.

By integrating trauma-informed care into the foster care system, we can help develop healthy, emotionally supported children. By focusing on healing the trauma they have suffered early in their lives—through removal from their homes and in the system—we address many of the risk factors that would lead them to DMST. Instead of being preyed upon or turning to the sex trade to meet their basic needs, they will have the tools and support to avoid commercial sexual exploitation.

Permanency

In addition to mitigating the effects of early trauma, the child welfare system should focus on reducing its own traumatic impact. Instability for youth has been shown to increase runaway behavior, symptoms of emotional trauma, and vulnerability to trafficking.²⁹ Each time children are moved into a different home, they learn to not feel safe or stable. Particularly when children are not consulted about changes, these moves reinforce that their beliefs and desires are insignificant.³⁰ When children believe the system doesn't care, they are more likely to turn to other places for consistency. "Due to the over 14-plus placements I have endured," explains T, "the most consistent relationship that I ever had while in care was that of my pimp and his family."³¹

It is imperative, then, that the child welfare system focus on continuity of care. One of the most effective ways to do this is through kinship placements.³² Children long for a connection to their families. Relatives, due to the connection they already have with the child, are better able to meet a child's emotional needs, are more likely to keep sibling groups together, and are less likely to give up when a child exhibits behavioral problems.

To this end, Congress passed the Fostering Connections to Success & Adoptions Act in 2008, which requires states to identify and work with family members of children in care. However, the requirements for states are loose, and overworked child welfare agencies cannot prioritize the often difficult work of finding kinship placements.

In some communities, nonprofit organizations have taken up the mantle, running intensive programs to search for homes the child welfare agency may have missed. These programs should be much more widely available. State child welfare agencies could solve this shortage by funding specialized staff at local nonprofits who have a baseline infrastructure for this work and are more likely to gain families' trust, since they aren't an official agent of the system.

Continuity of care extends beyond living situations. Turnover among overworked and underpaid caseworkers makes children more vulnerable

to DMST as well. Knowing they can't count on the people entrusted to look out for them to remain through their entire cases or devote the necessary time to them, children may seek adults who offer them consistency: traffickers. To help protect children from exploitation, child welfare agencies can improve service delivery and staff retention by decreasing workload.

The Child Welfare League of America recommends caseloads of 12–15 per caseworker,³³ but across the country caseworkers are often saddled with 30–50 cases. Ideally, agencies would create special units with ten or fewer cases to handle chronic runners or other children who exhibit multiple risk factors for DMST.³⁴ Knowing that this would raise costs for state agencies, the federal government could offer grants to support this work, as such a change will not only combat DMST but also improve child outcomes overall.

Youth Agency

Finally, preventing DMST will require a paradigm shift in the child welfare system—one that acknowledges the tension between vulnerability and agency. Throughout this text, I refer to youth who engage in sex trades as “victims,” but it is important when confronting the horrors of DMST to not erase the agency of youth who trade sex. While the dominant narrative of sex trafficking

shows children being kidnapped or groomed, many youth do not see themselves as victims. In a recent study of DMST-involved youth, fewer than 30 percent understood that they were being exploited.³⁵ Still, we use the term “victim,” because regardless of what precipitated their involvement in the sex trades and regardless of their feelings about their involvement, sexually exploited youth suffer extraordinary physical and mental trauma, which can damage cognitive ability and lead to self-destructive behavior and an inability to form healthy relationships.³⁶

Youth are not always forced into sex trades by a third party. Some, instead, are coerced by socioeconomic and cultural systems that make trading sex their most viable option.³⁷ For these children, trading sex is a sexual solution to a societal problem, allowing them to provide for needs that aren’t filled at home.³⁸ It is important to keep youth agency in mind, because thinking only of pimps and sex slavery focuses our anger and energy toward perceived figures instead of the very real structural and cultural factors that fuel sex trafficking.

However, rather than engage with youth in identifying and correcting these structural factors, the foster care system strips them of nearly all autonomy.^{39,40} This comes down to what Rutgers University researchers call “the dominant American belief

that victimization and agency are mutually exclusive.” The focus of the child welfare system has always been on protecting children, but in doing so, it has “positioned [them] as passive recipients of services . . . unintentionally minimizing their agency.”⁴¹ If children are not afforded the opportunity to identify their own needs and desires in the system and exercise agency over their own lives and treatment, the system is priming them to give away control.⁴²

In order to prevent this, child welfare agencies can include youth in the process of deciding their own needs and determining their care plans. This practice has already been piloted in communities throughout the country, including Massachusetts, where the Foster Care Bill of Rights guarantees children in care of the state the right to “participate in the development and review of the service plan and have input into changes to the plan that affect permanence, safety, stability or well-being.”⁴³ Children who are 14 years of age or older get to approve and sign off on their official plan.

Not only have these child input processes helped empower children, they’ve reduced runaway behavior and ensured that the choices being made within the system keep the child’s agency in mind. By acknowledging children’s capacity for self-determination, the model shows youth that they don’t need to run away or be involved

in sex trades in order to be valued.⁴⁴ By incorporating such models, states can shift the paradigm from one of social control to one that respects youth agency.

Conclusion

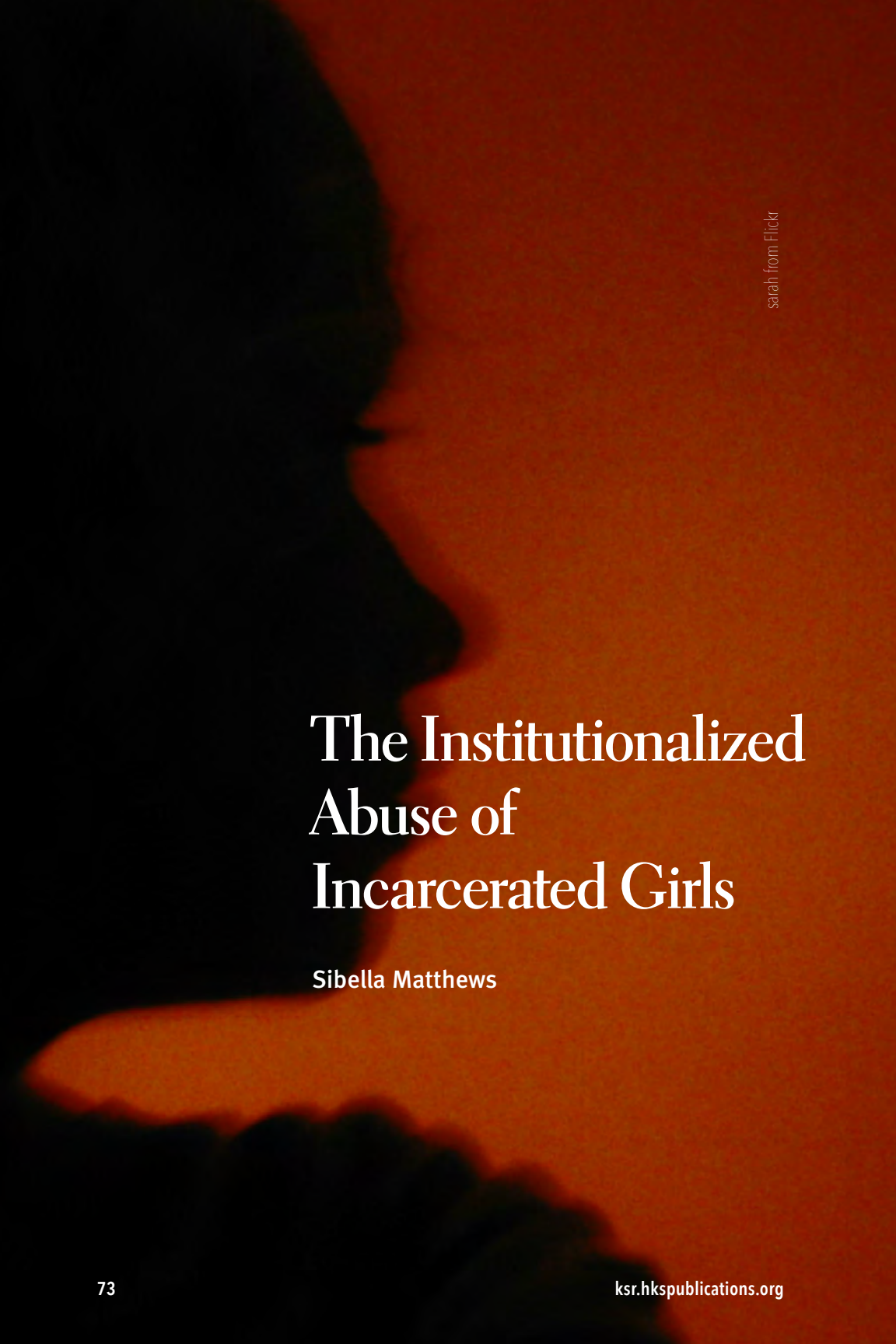
We are failing our most vulnerable children. Despite the intention to keep them safe, the American child welfare system is inadvertently making children more vulnerable to commercial sexual exploitation. Tens or even hundreds of thousands of kids, some just ten years old, like T, and even younger, are being sold to predators, beaten, and raped in our own backyard. It is crucial that the child welfare system reform to stop exacerbating child vulnerability to these unthinkable atrocities. By addressing the trauma and victimization that make children vulnerable, focusing on permanency, and promoting youth agency, state and federal governments can do just that. We've already let too many children be exploited and destroyed by traffickers. Policy makers need to act now to prevent these horrors.

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The Institutionalized Abuse of Incarcerated Girls

Sibella Matthews

In 2014, the Connecticut Department of Children and Families transferred a 16-year-old girl of color known as Angel to a maximum-security adult prison.¹ Guards supervised Angel as she showered and isolated her in solitary confinement for 22 hours per day. Her offense was “delinquency,” a crime that is not serious or violent but the clear result of a childhood marked by untreated trauma. Angel’s incarceration was preceded by years of rape, abuse, trafficking from the age of eight, and several placements through child protective services. Her case received national attention, but it is not unique. Each day, more than 47,000 children, 7,000 of whom are girls,² are held in secure detention facilities in the United States.³ Angel’s story is one of many in which the justice system opted for imprisonment over treatment.

There is an inherent cruelty in incarcerating girls for self-preserving “delinquent” behavior, such as running away or acting out, when that behavior results from the same state’s failure to shield them from abuse, trauma, and neglect. As Angel’s case demonstrates, the current approach of incarcerating girls for minor offenses and technical violations—often victimless offenses that pose no threat to public safety—contradicts common conceptions of fairness and fails to address the individual needs of girls.

Entering Incarceration

The nature of girls’ criminal offending makes them disproportionately “high need” and “low risk.”⁴ Research shows that girls are more likely than boys to be detained for misdemeanors, technical violations, outstanding warrants, and a category of crimes known as status offenses.⁵ Status offenses are acts only deemed criminal if their perpetrators are children and include truancy, curfew violations, and possession of liquor. A census of children in custody in the United States in 2010 showed that girls comprise 16 percent of all detained children but 40 percent of children detained for status offenses.⁶ Many girls are being incarcerated for acts deemed criminal due to their young age, ironically via a juvenile justice system designed for rehabilitation—rather than punishment—of young people.⁷

Girls are also more likely than boys to be detained in contempt for violating court-imposed rules.⁸ Girls have a lower recidivism rate than boys, yet they are more likely to return to detention due to a probation violation rather than the commission of a new crime.⁹ A 2006 study of Washoe County, Nevada, found that 90 percent of girls detained in the county were confined for technical violations of probation and not for new crimes.¹⁰ Of those girls, 50 percent had been on probation for misdemeanor offenses such as shoplifting, possession of al-

Girls are effectively punished for violating conventional stereotypes and socially acceptable standards of feminine behavior, rather than for threatening public safety.

cohol and marijuana, and domestic battery.

Interestingly, that same Washoe County study found that these misdemeanor offenses were unlikely to have triggered a probation sentence for boys, based on the county's sentencing data.¹¹ Commentators have suggested that this kind of sentencing bias can be explained by institutionalized gender norms that wrongly define socially acceptable and unacceptable behavior for girls. Like all institutions, the juvenile justice system is not immune from society's intolerance of girls who are non-cooperative and non-compliant,¹² or the expectation that girls behave "obediently, modestly, and cautiously."¹³ As a result, girls are effectively punished for violating conventional stereotypes and socially acceptable standards of feminine behavior, rather than for threatening public safety.

Detaining girls for status offenses and misdemeanors also fails to acknowledge and address the underlying causes of such behavior. The courts view running away, breaking curfew, and truancy as acts of rebellion, but

for many girls these acts are attempts to protect themselves from an abusive situation. By treating girls as perpetrators rather than victims in such situations, the juvenile justice system not only leaves the trauma underlying the girls' behavior unresolved but also shields the girls' abusers from accountability.¹⁴ The UN Committee on the Rights of the Child has expressed concern that girls are too often sentenced for crimes with roots in psychological or socioeconomic stress and recommends that status offenses be abolished for this reason.¹⁵

For many girls, the commission of status offenses and misdemeanors stem from a history of sexual abuse and unaddressed trauma. The extent to which incarcerated girls experience sexual violence prior to entering the juvenile justice system has led experts to label the phenomenon the "sexual abuse to prison pipeline."¹⁶ For example, a 2006 study of girls involved in Oregon's juvenile justice system found that 93 percent had experienced prior sexual or physical abuse, including 76 percent having experienced at least one incident of sexual abuse by the age of 13.¹⁷ Not only is sexual abuse one of the primary predictors of girls' entry into the juvenile justice system,¹⁸ it is also one of the strongest predictors of whether a girl will re-enter the system after release—even more determinative than the risk factors of prior justice

involvement or behavioral problems.¹⁹ Girls experience sexual abuse at a rate five times higher than boys,²⁰ making them particularly vulnerable to criminal offending as a result of unaddressed trauma.

Incarceration Conditions

The combination of high rates of prior abuse and overly punitive responses to low-level offending leads too many girls to incarceration, where the system offers more harm than help. Because the stereotypical juvenile offender is “a violent, young male,” theories about delinquent behavior are often based on adolescent boys. In turn, programming within the juvenile justice system has been developed to meet the needs of male offenders,²¹ such as learning how to self-regulate aggression, rather than developing self-esteem and resiliency. Gender norms also continue to impact the treatment of girls in detention; one study found that girls in a detention facility were penalized more harshly with legal sanctions rather than verbal reprimands when acting “unladylike” (for example, acting aggressively toward other girls).²²

Girls are also particularly vulnerable to the fact that detention facilities are ill equipped to address and manage prior violence and victimization. Incarcerated girls with a history of abuse require sensitive and tailored responses. A Florida study of 64,000

children in juvenile detention noted that exposure to abuse and trauma in childhood prior to detention manifests differently among girls and boys. Girls were found to have more internalizing behaviors, disordered eating, self-mutilation, and mental health symptoms.²³ This is consistent with research finding that within detention facilities 29 percent of girls experience depression, compared to 11 percent of boys.²⁴

Such figures become even more alarming when considering the severely limited access to mental health services within juvenile detention facilities. A US Department of Justice nationwide census found that only half the youth in the juvenile justice system are placed in a facility that provides mental evaluations for all youth in the facility, and 88 percent of youth in juvenile justice facilities reside in facilities where the mental health counselors are not licensed professionals.²⁵ One might argue that detaining girls who suffer from mental health disorders or trauma from prior abuse is desirable on the grounds that the system can provide protection from abusers and services for rehabilitation. The reality is that mental health services are sparse, and incarceration takes its own psychological toll.

Living in an isolating, punitive environment with harsh disciplinary practices is particularly harmful to

victims of trauma and can trigger traumatic stress symptoms.²⁶ Routine practices, including use of restraints, solitary confinement, isolation, and strip searches, can be drastically detrimental to already traumatized youth.²⁷ Unsurprisingly, researchers have found that even short periods of isolation can elicit symptoms of paranoia, anxiety, and depression in juveniles, and those who spend extended periods in isolation are among the most likely to attempt suicide.²⁸ In addition, the social isolation in secure institutional settings does not allow girls opportunities to develop healthy peer relationships, which are critical to their development and recovery.²⁹

New incidents of sexual assault within the detention facilities also compound the impact of any initial abuse. The Department of Justice's Review Panel on Prison Rape released a 2016 report on sexual victimization in prisons, jails, and juvenile correctional facilities, finding that 9.5 percent of adjudicated youth surveyed for the study had experienced sexual violence in custody.³⁰ The constant threat of sexual violence in an institution intended to keep already traumatized children safe is among the most concerning aspects of the juvenile justice system. In 2003, Congress attempted to address this issue with the Prison Rape Elimination Act, intended to be a zero-tolerance policy for sexual violence in custodial settings.³¹

However, the legislation has proved hard to enforce and has also had an unintended consequence of further criminalizing institutionalized girls' sexual behavior amongst each other, resulting in an increase in the female juvenile sex offender population.³²

Addressing the needs of girls in detention is urgent as girls make up an increasing proportion of incarcerated children. In 2010, girls represented 13 percent of juveniles in detention; by 2015, girls accounted for 15 percent.³³ Additionally, girls who identify as African American, Native American, lesbian, gay, bisexual, transgender, or gender nonconforming are increasingly overrepresented.³⁴ Girls in the juvenile justice system and the child welfare system (known as the dual-system) are also overrepresented³⁵ and particularly vulnerable to the impact of detention. Having multiple child-serving institutions and systems fail these girls breaches children's trust.³⁶ The National Child Traumatic Stress Network has rightly argued that such a breach of trust in the social contract around child protection can profoundly damage children's post-trauma adjustment.³⁷

Incarceration Alternatives

When the first juvenile justice system was introduced in Illinois in 1899,³⁸ it was intended to be an individualized, needs-based alternative to the adult system. However, the vision for a

system that meets children's unique developmental needs has failed to materialize, with the continued practice of incarcerating children the clearest failure of all. For girls who engage in trauma-induced offending, incarceration has been used as a punitive and damaging substitute for the care and protection system. It appears that the courts, while perhaps well intentioned, have responded to girls' delinquent behavior with incarceration as a protective measure, without understanding the further damage caused by incarcerating girls with histories of trauma, abuse, and deprivation.

"Girls' Courts" are one mechanism for better educating judges and the courts on this issue. An estimated 20 specialty Girls' Courts have emerged across the United States in the past two decades.³⁹ The model seeks to promote relationship continuity, safety, and empowerment when responding to girls' criminal offending.⁴⁰ Typically, one judge oversees all girl cases to provide continuity, which in some cases extends to consistency among court personnel, prosecutors, and public defenders.⁴¹ Evidence of their effectiveness is forthcoming. Girls' Courts are currently under evaluation by the Office of Juvenile Justice and Delinquency Prevention,⁴² catalyzed by concerns that Girls' Courts may actually "widen the net," causing more girls to have contact with the

Ten percent of children placed in community-based alternatives are re-arrested within two years, compared to 50–70 percent of children sentenced to juvenile detention facilities.

juvenile justice system where minor offenses would otherwise not have led to court involvement.⁴³ Evaluations of the Hawaii Girls' Court from 2005 to 2011 show that participants are less likely to offend but more likely to be admitted to detention than their non-Girls' Court peers.⁴⁴ For the Girls' Court model to be effective, it must be driven by an overriding mission to divert girls from incarceration wherever possible and accompanied by effective and accessible alternatives to incarceration.

Establishing high-quality, community-based alternatives is arguably the most effective means of reducing the incarceration of girls. The 2012 Report of the Attorney General's National Task Force on Children Exposed to Violence found that most youth, and most girls in particular, do not pose a significant public safety threat and would be better served in non-residential treatment facilities close to their own homes.⁴⁵ For example, using outreach and family engagement services with girls who

have run away from home to escape family conflict is a more effective response than detention in addressing the root cause.⁴⁶ Short-term respite care, which provides temporary, supervised accommodation for girls, is also useful for diffusing family conflict by providing a “cooling-off” period and a plan for family reunification.⁴⁷ In addition, short-term shelters can also be an effective alternative to detention for girls who lack family willing to keep them at home while court cases are being resolved. The use of short-term shelters avoids the damage caused by pulling girls out of their communities and creating further disruption in their lives.⁴⁸

Better coordination and collaboration across the juvenile justice, child welfare, and public health systems is also necessary in order to prevent judges from incarcerating girls because they feel they have no alternatives available.⁴⁹ Often, alternatives do exist in the community but require better interagency communication and planning. For example, Wraparound Milwaukee, introduced in 1995, has reduced the use of incarceration by using an individualized and holistic care model that addresses all aspects of the child’s well-being.⁵⁰ Children are referred to the program by the courts, where a care coordinator then works with the child and his or her family to access an expansive network of services such as mental health

therapy, substance abuse treatment, crisis intervention, in-home therapy, family and parental supports, and life skills development. Wraparound Milwaukee’s recidivism rate within a two-year time period is 14 percent.⁵¹ This is consistent with other studies demonstrating that approximately 10 percent of children placed in community-based alternatives are re-arrested within two years, compared to 50–70 percent of children sentenced to juvenile detention facilities.⁵²

Another promising alternative is the PACE Center for Girls in Florida, which similarly prioritizes a holistic approach to mitigate the underlying issues that girls involved in the juvenile justice system often face.⁵³ The program has 19 non-residential facilities across the state, providing academic classes, individual assessment and counseling, gender-specific life-management training, and college and career planning services.⁵⁴ Prior to entering PACE, 26 percent of girls had criminal involvement; after PACE, just 9 percent of girls did.⁵⁵ The program is offered to girls aged 11–18 who have been referred by the Florida Department of Children and Family Services, school personnel, community-service agencies, and parents.⁵⁶ For such programs to operate as true alternatives to detention, the courts must be aware of the options available and be given the authority and discretion to refer cases.

Conclusion

As Angel's tragic case and the research demonstrates, incarceration is particularly harmful for girls, exacerbating the abuse and trauma that likely led to their entry into the criminal justice system in the first place. By continuing the practice of imprisoning girls, the United States is criminalizing the same children it failed to protect from harm.

The success of community-based alternatives like Wraparound Milwaukee and the PACE Center for Girls in Florida provides a hopeful path forward for reducing girls' incarceration. The individual successes of these programs are supported by a growing body of research demonstrating that for many juvenile offenders, lengthy placements in detention fail to produce better outcomes than the alternatives available.⁵⁷ Establishing more high-quality, community-based alternatives; educating the courts; and improving interagency coordination will help girls like Angel receive the treatment, rather than punishment, they deserve.

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An Interview with North Korean Defector Grace Jo

Jenie Son and Andrew Hong

When Americans think of North Korea, they tend to focus on the country's dictatorial leader and the threat of nuclear war. It can be easy to forget that there are ordinary people living there, continuously suffering under the most repressive regime in the modern world. More than 200 of these ordinary people have defected to the United States, and their experience offers us insights that go well beyond the headlines.

One of these defectors agreed to be interviewed by the *Kennedy School Review*. Grace Jo, 26, works as a certified dental assistant and radiology technician at a clinic in Rockville, Maryland. She first escaped from North Korea to China in 1998 and finally resettled in the United States in 2008. This interview, originally conducted in Korean, has been translated to English and edited for length and clarity.¹

KSR: Why did you escape from North Korea?

JO: In the mid-1990s, there was a devastating famine in North Korea called the "Arduous March." Millions of people starved to death mainly due to the failure of the public rationing

system. My two younger brothers died from starvation, and my father, who went to China in search of food for my family, was caught and tortured to death by North Korean security agents.

My mother realized that the rest of my family had nothing to expect but death if we stayed in North Korea. In 1998, we escaped to China but were caught by the Chinese government and were deported back to North Korea. We escaped two more times afterward and finally settled down in China in our third attempt.

What happened in North Korea after you were repatriated?

We were deported back to North Korea by bus and were investigated by the State Political Security Department (SPSD) for several months. The interviewers are well trained in interpreting psychology and emotions of people by their verbal and non-verbal cues. Through numerous interviews and torture, they determine whether you should go to the labor camp or the political prisoners' camp.

For example, if you are caught just living in China, you would go to the labor camp, where you work in factories or farms for several months.

However, if you are caught trying to get into South Korea or exchanging information with foreigners, you would be sent to a political prisoners' camp, where the chances of getting out alive are only 2 percent. Due to all kinds of torture and malnutrition, even people who manage to use bribes to leave prison are usually not in a normal mental state.

In my case, I was "luckily" sent to labor camp both times I was repatriated. One notable thing was that we, the laborers, were given food from rice bags labeled "UN." It struck me in the camp that there had been a lot of humanitarian aid from outside intended for ordinary North Korean citizens' use, which we never got to see in our daily lives.

Did you or any of your family experience torture during these repatriations?

Of course. I was only 12 when I was first repatriated, so I just faced interviews and slaps in the face. However, my mother and my older sister were beaten up much more harshly; my mother had one of her eardrums torn, one of her ribs cracked, and one of her eyes swollen so much that it permanently damaged her eyesight.

The second time, I was 14. I was taller than my peers then, and the security agents beat me more because they thought I was lying about my age. They did not have a proper system to record births like in the United States

or South Korea.

What had been your image of the United States and South Korea back in North Korea?

From kindergarten, the government instills ideas into our heads that Americans are our biggest enemy and that we should destroy them. Through all kinds of drawing and writing activities, they make us think that Americans ruined us and that Americans are the ones preventing the reunification of North and South Korea.

The government has always emphasized that North Korea is the only paradise on Earth and that South Korea is a poor country full of beggars. Because the North Korean government is very meticulous in brainwashing its people from childhood, I would say it takes at least three to five years for defectors to change their mentality, if they ever actually manage to.

What made your family look past what you had been taught about the outside world to think that escaping could be a good idea?

Despite all the propaganda, people react to the simplest fact: that the government does not give them anything in the end. The government claims that North Korea is the best country in the world, but in reality, we are starving, and families are dying all around us. Human beings have the basic instinct to survive and therefore are eventually lured more by food

and money rather than enforcement measures to believe something that is not true. That is why my parents, who used to be some of the most loyal citizens in North Korea, ended up changing their minds about the government.

In particular, inflow of information through media like movies and TV shows from South Korea and Western countries including the US is playing a big role in disillusioning the North Korean people. Such media show a different reality of the outside world from what people are told by the North Korean government. In the 1990s, people left North Korea in order to survive the famine, like I did, but now, more of them escape because they are disillusioned with the government.

What made you choose to come to the United States?

When I was living in China, American pastors told my family that the United States was a country of freedom of choice, which attracted us. After President George W. Bush signed North Korean Human Rights Act in 2004 and claimed that he would officially accept refugees to the United States, my mother decided to change our destination from South Korea to the United States.

We were lucky enough to come directly to the United States from China with the help of UNHCR in 2008, which is a very rare case. From

what I heard, the Chinese government rushed to send out refugees before the Beijing Olympics started, so our process was expedited. However, normally North Korean refugees have to go to the third countries, like Thailand or Laos, and wait there for several years before being accepted in the United States.

Was the United States really a country of freedom when you arrived?

It was not the kind of freedom that birds in the sky have, of course. There were so many decisions to make about living and constraints that followed those decisions, which was quite difficult for me to handle at first. However, I think the most significant difference is that, here, you are given according to how much you work. It is definitely not the case in North Korea, where the government never distributed fairly according to your labor and took away most of your earnings for government maintenance.

Are you satisfied with the current refugee aid program in the United States?

Currently, we are provided \$200 worth of food stamps and \$250 in cash for up to eight months after arrival. With that, we have to cover all the living expenses, including rent, which far exceeds what we receive. It is easier for young people to adapt to new culture and language, but for older people, it is not so easy. As for me, I spent nine months in ENOK's Empower House,

which provided me with housing and food and, through its volunteers, helped me improve my English and finish the equivalent of American high school to go on to start college.

People like Ms. Jo are living histories of this silenced nation. And she says it is important for people to remember that the North Korean government is not only threatening the world with its nuclear power but also the lives of its own people every day. Ms. Jo believes that today, many North Koreans would choose to die striving for change rather than continuing to live under this oppressive regime.

Jenie Son is a first-year master in public policy student at the John F. Kennedy School of Government at Harvard University. Before pursuing her master's degree, she worked at the Ministry of Foreign Affairs in South Korea.

Andrew Hong is a second-year master in public policy student at the John F. Kennedy School of Government at Harvard University. He has been working in North Korean refugee resettlement since before coming to Harvard and plans to continue doing so after graduation.

Grace Jo and her family fled North Korea three times beginning in 1998, finally resettling in the United States in 2008. Grace now lives in Rockville, Maryland, and works as a certified dental assistant and radiology technician.

Endnote

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How Machines Think and Why It Matters

Brendan Roach

In 1950, British mathematician Alan Turing took to the pages of the philosophical journal *Mind* to pose a question that has flummoxed philosophers and scientists ever since: can machines think?¹ At the time of writing, the question was almost preposterously optimistic: the world's first computer, the ENIAC, was barely five years old and relied upon cardboard punch cards to process information.² These early computers may have tackled highly complex mathematical problems through brute force and speed, but the notion of “thought” itself was a different matter.

Today, computer programs have long surpassed human beings in playing chess, predicting stock performance, and modeling consumer preferences. And now that the rise of so-called intelligent machinery is taken as a *fait accompli*, this intelligence and opportunity has captured the anxieties and hopes of governments across the globe. Today, complicated algorithms can advise us on how to commute to work in the morning, what to watch on Netflix when we get home at night, and whom we should date. But they can also advise governments on which neighborhoods to surveil and which defendants to jail. As these algorithms become increasingly inscrutable to human minds, societies face the very real prospect of handing over power to an unknowable sovereign. Figuring out

how to supervise these algorithms and subject them to informed oversight is an imperative for policy makers.

States have already seen the broad application of artificial intelligence to policy problems. In hundreds of courts across the United States, machine algorithms are used to predict the likelihood of recidivism, guiding judges' decisions on which criminal defendants can safely be released to their homes pending trial and which must be held in jail.³ In Boston, a machine learning algorithm suggested a revised school day to Boston Public Schools administrators—and the tool's too-early start times were met with anger by Boston residents.⁴ And in China, an ambitious “social credit” system will aggregate data from activities as diverse as spending habits and traffic violations to potentially help Chinese leadership identify problem citizens and prioritize public services for high-scoring Chinese nationals.⁵ These three cases point toward the larger concerns of government by machine intelligence: by offloading important decisions to computer algorithms, policy makers sacrifice transparency and autonomy for efficient decision-making.

These concerns have already begun informing regulations regarding the use of artificial intelligence and machine learning. The most ambitious of these regulations comes into effect in May 2018, with the implementation of

the European Union's General Data Protection Regulation (GDPR).⁶ The GDPR represents an attempt by the EU to enforce the Organization for Economic Cooperation and Development (OECD) Guidelines on the Protection of Privacy and Transborder Flows of Personal Data.⁷ Adopted by the EU in 1980, these guidelines enshrine principles including limited collection of personal data, limited scope of use, security safeguards, and data accountability.⁸ The GDPR seeks to reinforce these protections by mandating notice to users when their personal data has been breached, granting a right to access and control personal data already collected, and imposing a controversial "right to be forgotten," allowing individuals to mandate a data controller to delete and cease dissemination of their personal information. The bill represents one of the most ambitious policy regimes yet conceived to respond to the challenges of civil rights in a digital, automated age.

But does the law's "right to explanation" actually exist? The United Kingdom Information Commissioner's Office has issued guidance stipulating that automated decision-making systems are covered under the GDPR and that these systems must provide individuals with information about the automated decision system being used, allow individuals to request human supervision of these automated

As these algorithms become increasingly inscrutable to human minds, societies face the very real prospect of handing over power to an unknowable sovereign.

systems, provide an opportunity to challenge the automated decision output, and be subject to routine auditing.⁹ Oxford University professors Sandra Wachter, Brent Mittelstadt, and Luciano Floridi, meanwhile, reject the existence of the right to explanation and suggest that current language only entails a "right to be informed" when an automated decision is being made about an individual.¹⁰ Providing a complete accounting of how a given automated decision was reached, they argue, remains technically unfeasible.¹¹ The debate continues, and the question of whether a right to explanation actually exists will likely need to be settled in the European judiciary after the GDPR's implementation.

Yet the GDPR's proposed expansion of consumer rights, particularly its mandates for informing consumers and empowering individuals to control their data, reflects the larger concern that big data and the systems that rely upon it are slipping beyond our control. How could this happen?

Early artificial intelligence work

focused instead on “expert systems,” which sought to encode the processes of human experts. In consultation with human experts, engineers would produce a simple, but comprehensive, list of if-then statements that could be easily automated and run on a computer. If these systems were limited and expensive to produce, they nevertheless offered predictability and transparency: these were machines designed to specifically mirror simple human rules of decision-making.

The prevalence of massive datasets and powerful processors has enabled researchers to develop software programs using machine learning, in which the computer calculates correlations among data points from a sample training set of data, allowing the program to develop its own rules of categorization and prediction. At their most complex, these applications explicitly mimic the inductive reasoning of the human mind through so-called deep-learning neural networks. Just over five years ago, Google had only two deep-learning projects that used massive learning neural networks that worked from individual data elements to reach higher levels of abstraction and pattern recognition. Today, its parent company Alphabet is pursuing more than 1,000 deep-learning projects.¹² Alan Turing would surely be amused by this attempt to answer his 1950 question in the affirmative.

But as the rise of algorithmic

modes of governance takes advantage of the incredible speed and computing power of modern machines, it also risks disrupting basic notions of transparency. As neural networks are built to mirror the processing of brain neurons, the resulting decision-making processes can be just as inscrutable as human thought.

The story of Deep Patient, a software program developed in 2015 by doctors and software engineers at Mount Sinai Hospital in New York City, represents an apocryphal narrative of the power of machine-learning tools.¹³ Feeding the program sample data from 700,000 patients, including hundreds of health variables per patient entry, the Deep Patient algorithm developed its own classification methods to predict health outcomes for patients. The results yielded much more accurate predictions for the emergence of ailments such as liver cancer.¹⁴ But other results were much more puzzling to the Mount Sinai staff; the resulting program had, for example, proved surprisingly adept at predicting the emergence of psychiatric disorders like schizophrenia. These disorders had long proven difficult for doctors to forecast—yet somehow the computer had trained itself to anticipate these illnesses.¹⁵ How does the computer spot soon-to-be schizophrenics? The leaders of the Deep Patient team could not begin to explain this.

It's one thing to offer a mysteriously accurate medical diagnosis, but in policy applications of artificial intelligence, this opacity cannot be tolerated. In the use of predictive models in the criminal justice system, artificial intelligence informs whether a given defendant may return home pending trial or whether they instead pose a risk to their community. In the Chinese "social credit" system, a machine-learning model determines, at least in part, how your own government treats you. These are tremendous powers that can easily be abused.

Historically, transparency has offered a safeguard against these abuses: knowing that these decisions are reached according to a shared and public set of rules and norms lends the government legitimacy to exercise its powers—and increases normative pressure on companies and users to comply and build better "translation" tools. This isn't a new notion: as philosopher Jeremy Waldron notes, the link between legitimacy and public transparency emerges in Thomas Hobbes' *Leviathan*, one of the seminal works of secular modern statecraft.¹⁶ Without public accountability and transparency, the actions of governments can look like illegitimate caprice rather than the legitimate exercise of agreed-upon powers.¹⁷

So what does transparency look like in a machine age? How can we wrench explanations from electronic circuits?

As policy makers have begun to fix their attention on ensuring transparent decisions in the machine-learning age, several solutions have begun to take shape. The GDPR, with its provisions for (at least) informing consumers when an automated decision system is being used, is one approach. Another more intensive approach is set to be implemented in New York City. A bill passed in December 2017 by the City Council will establish an algorithmic task force to examine how city agencies use automated decision systems in making operational decisions.¹⁸ This task force will be the first city-led initiative of its kind in the United States and may provide a template for other jurisdictions, especially after the projected release of its findings in 2019.¹⁹

The development of the New York City ordinance offers insights for policy makers into the limitations of efforts to ensure interpretable machines. One ultimately discarded provision of the New York City bill would have required the city to release the source code for any automated decision systems used by public agencies. At first blush, this solution seems to provide a measure of transparency, similar to publishing the rules by which, for instance, a judge may decide whether to hold a defendant in jail pending trial. But experts warned of possible security risks if source code was made publicly available, and companies

developing algorithms objected to the enforced disclosure of proprietary information, making the provision politically unfeasible.²⁰ As the case of Deep Patient illustrates, such a requirement may not even achieve the goal of providing comprehensible reasons for automated decisions—if the Mount Sinai team could itself not explain the outputs of the system it designed, then the program’s source code would clearly not provide sufficient explanation.

A recent working paper from Harvard’s Berkman Klein Center for Internet and Society offers prospective paths for ensuring accountability and interpretability in automated decision systems.²¹ The authors point out that engineers of automated decision systems can readily ensure two key components of any legally robust explanation: local explanation—that explanation for an AI system’s specific decision is available beyond an explanation for overall system behavior—and counterfactual faithfulness—the notion that an AI system’s specific decisions can be explained by causality. These two criteria, in brief, would allow for the identification of the relevant factors influencing a final output and the testing of how changes to these relevant factors would affect that output. Crucially, the authors note that these conditions can easily be assessed without requiring the disclosure of source code, mitigat-

ing concerns around trade secrets protection.²²

But perhaps a new lexicon is in order. The now-common phrase “automated decisions” is misleading and implies a machine is both reaching a conclusion and making some choice. Were that the case, policy makers should focus their efforts on machines, using policy to mandate the implementation of engineering features.

This is not, however, how the vast majority of these tools work. Think of criminal risk scoring systems: these tools don’t actually make a decision about whether a defendant is released pending trial or held in detention but rather offer a prediction intended to inform a final, human-made decision. Better human guidance could be the key to fairer, more transparent algorithmic tools. Computer scientist Ben Shneiderman of the University of Maryland has proposed several human-centered oversight mechanisms to better capture the potential of automated systems. A review board, analogous to the National Transportation Safety Board, could mandate the review of logs of algorithmic performance to reconstruct failures in the programs’ impartiality and transparency. A monitoring body along the lines of the Food and Drug Administration could provide oversight over the use and development of governmental automated systems. And transparency can be baked into

the system from the beginning, with mandatory “algorithmic impact statements” requiring software developers to publicly disclose the data that feeds into their systems and their expected outputs, making it easier for government regulators to identify erratic and inexplicable outputs.²³

Powerful computing offers governments tools to use its resources to greater effect. Well-designed risk scoring systems, for instance, allow defendants who otherwise would have spent months in detention during a criminal trial to instead spend time with their families. But these systems should never be thought of as supplanting human judgment.

Ensuring that these tools serve the public good is not only a software engineering problem — it is a democratic problem. Through better institutional design, governments can provide the safeguards necessary to assure citizens that automated decision systems are subject to the same pre-emptive and post facto oversight as previous new technologies like pharmaceuticals and air travel. The machines may seem to be thinking — but only under our watch.

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A Fairer Playing Field in the New Economy: Creating New Rules for 21st-Century Corporate Might

Matthew E. Spector

The first year of the Trump administration coincided with dizzying shifts in American commercial institutions. Consolidation of consumer-facing businesses from AT&T and Aetna to Amazon and Disney brought new and increasingly pressing attention to market power—the consolidation of a well-defined market among a few firms, yielding anticompetitive prices that reduce consumer welfare.

Washington has increased public scrutiny into whether Facebook, Google, and other dominant platform companies foreclose competitors, limit avenues to growth, and leverage incumbency to shortchange rivals. However, the concentration and velocity of the social, mobile, and digital media-driven attention economy have exceeded legislators' oversight capabilities. The Federal Communications Commission (FCC)'s 2017 reversal of net neutrality protections highlighted how market consolidation and regulatory capture have centralized power among the few dominant firms that deliver the connectivity now essential to daily life. In eroding net neutrality—defined as the nondiscrimination of network usage and users by wireline and wireless broadband service providers—the FCC has enabled a market edging closer to a model that watchdogs call the “cable-ization of the Internet.”^{1, 2}

The economic and social transformations of 2017 reveal legislative

and regulatory structures increasingly ill equipped to measure and marshal the power of the private entities they oversee. The regulatory principles that govern vast swaths of the American economy—the consumer welfare doctrine of the Federal Trade Commission (FTC) and the public interest mandates that govern the FCC—require a reset.

The Disappearing Federal Communications Commission

The Communications Act of 1934 designated power to oversee broadcast licensees and ensure broadcasters operate in the “public interest, convenience and necessity.” Establishing the FCC and centralizing regulatory authority, the Act’s “public interest” principle democratized access to the era’s near-instantaneous connectivity through a “common carrier” designation, obligating licensees to transmit all legal content crossing wires and telegraph lines without discrimination to source or interest.^{3, 4} Given the scarcity of the broadcast spectrum, privileged licensees were granted commercial power conditioned on the expectation that licensees would serve as “trustees” of the public interest, maintaining diversity and protecting forums for discourse.⁵

Nearly a century later, the 2015 “reclassification” of Internet service providers (ISPs) as “telecommunications services” and utility-esque com-

mon carriers sought to extend these same nondiscrimination principles to the Internet. In designating ISPs as subject to the trusteeship mandate, the designation sought to protect vulnerable industries and citizens from internet throttling, blocking, and paid prioritization through “bright line rules.” After nearly a decade of legal jostling over the designation of Internet providers, the Open Internet Order harmonized the regulator’s authority over ISPs in an era when consumers without reliable internet access are left behind.⁶

The harmony would not last. In 2017, the Republican-led FCC affirmed “Restoring Internet Freedom” in a party-line vote, erasing the 2015 designation and reclassifying broadband access as an “information service.”⁷ The shift offered ISPs new commercial freedom: a lack of oversight could permit providers to shutter content they don’t want users to see or undermine political and social movements if the companies disagree with the use of their tools.⁸ The order might allow cable companies to limit Internet-dependent Main Street innovation, preference platform hegemony, and privilege those who pay for faster commercial connectivity. If it withstands court challenges, FCC Chairman Ajit Pai’s order could allow Comcast and AT&T to limit competition in the buildout of critical next-generation 5G broad-

band capabilities, protect their market duopolies, and act against the public interest to foreclose competition.

Some free-market advocates cheered the removal of costly regulations that they believe chill broadband investment and threaten next-generation connectivity.⁹ Observers like Tyler Cowen argue that banning zero-rating—Internet and wireless company policies that preference certain content providers with “free” data while charging data fees for competitors’ content—and limiting ISPs’ pricing power, for example, unfairly constrain behavior and imbue the FCC with prescriptive powers it cannot manage.¹⁰

Yet Pai’s decision-making echoes a continued erosion of the public interest principles—diversity, consumer protection, and access—that govern the FCC. The Republican-dominated 115th Congress reversed the Obama-era 2016 Broadband Privacy Order last year, removing barriers against the monetization of user data.¹¹ The hasty turnaround ended regulations that forced companies to secure “opt-ins” before disclosing data and prevented corporations from unfairly discriminating against those who do not surrender their privacy. The 2017 law even hamstrung the FCC’s ability to create future rules protecting consumer privacy.

With dwindling options for online access—and digital now critical for

social, civic, and economic opportunity—the FCC remains in breach of its statutory mandate to ensure broadcasters offer access “in a reasonable and timely fashion.”¹² In adjusting rules to favor media monopolists, the FCC has ignored its “broadcast localism” mandate—that broadcasters serve the interests and local needs of their communities of license—and the “fairness” dimension of the public interest.^{13, 14} The commission no longer defines the public interest as its own core interest.

New Market Power

Consolidations and new expressions of market power have scrambled decades-old consumer welfare standards. Amazon’s 2017 takeover of Whole Foods gave the data-rich platform a brick-and-mortar foothold in the nation’s highest-income zip codes, expanding a business already “enabled and protected” by scale.¹⁵ Google’s acquisition of the digital advertising services AdMob and DoubleClick cemented its data dominance.¹⁶ Other less-visible anticompetitive structures are more threatening to democracy, like Amazon’s single-source web services contract for the Department of Defense and the “highly oligopolistic market structure for elections machinery.”^{17, 18}

Concentrated industries, in which “the four largest firms control between one-third and two-thirds of the mar-

ket,” grew their share of their sector’s revenue from nearly one-quarter in 1997 to approximately one-third in 2012.¹⁹ In 2017, Google and Facebook were responsible for 60 percent of US digital advertising market revenue and nearly half of all digital advertising revenue worldwide.²⁰ The challenge has drawn executive branch attention. In 2016, the Obama White House underscored these concerns, including trends toward decreasing competition and business dynamism as well as high barriers to market entry, and directed agencies to protect more competitive markets and informed consumers.^{21, 22}

“The economic recovery has been stagnant in this era where corporate profits are at record highs; the companies are sitting on this cash—they’re not investing,” said Open Markets Institute’s Lina Khan when we spoke in person.²³

These economic conditions were what Khan called “weird dynamics,” and they are driving economists to more closely examine how excessive market power is governing the economy and “waking up to a phenomenon that is now a systemic feature of our economy.”

While platform companies and the new era of consolidation have led to confusion, economic theory is evolving. In recent years, academic work on oligopolies and competition has shed light on lawmakers’ options as they appraise these “weird dynamics”

and norms. In studies of competition, Nobel Prize-winning economist Jean Tirole defined these two-sided platforms as technology-based exchanges in which the power of “free” can attract customers while also allowing platforms to attract advertisers and define a market. Tirole’s formulation of the new dimensions of competition attempts to explain why classic competition policy fails to explain the appeal of Amazon; buyers or users of these services are not often aware of the cost of “free”—often a loss of privacy, personal tracking, and an implicit opt-in with personal data leveraged for targeted advertising. Regulators too are ill equipped to measure these exchanges through traditional means.^{24, 25}

Amazon-Whole Foods illustrated the emergent problems of two-sided markets to a growing antimonopoly crowd. Detailing Amazon’s anti-trust paradox, Khan addressed difficult-to-regulate rent-seeking behavior, concluding that new measures must supplant the consumer welfare provision “oriented around preserving a competitive process and market structure.” Khan’s solution would limit further vertical integration by platforms and refocus beyond welfare and pricing to the “ills and hazards” anticompetitive markets create.²⁶

Khan told me, “[the platform companies] have done a phenomenal job of being perceived [as] uniformly

beneficial and uniformly benign.”²⁷ For Amazon, this has meant horizontal concentration of data through its dominant Amazon Web Services platform and threatening sector after sector by recycling profits, and often losing money, to offer consumer products at below-market rates. Amazon’s near-perfect price discrimination and data dominance, Khan argues, advance beyond antitrust’s consumer welfare provisions. How do antitrust and competition enforcers measure unfair price effects when the impacts are almost uniformly beneficial to consumers?

Interventions

During the Great Depression, libertarian Henry Calvert Simons argued “the great enemy of democracy is monopoly, in all its forms.”²⁸ Today, unconstrained market power, as well as the FTC and the FCC’s complexity and political capture, risk shortchanging intervention, opportunity, and innovation. As New York Magazine writer and Facebook observer Max Read shared, “the government needs to take a long, hard look at its relationship to the mega-platforms of the Internet.”²⁹

The Consumer Financial Protection Bureau (CFPB) might serve a useful policy model constraining excessive market power.³⁰ The CFPB balanced the need for reform with visible change and market certainty. A

similar legislative intervention could empower a watchdog to protect and enforce consumer and citizen “public interest” and “consumer welfare” mandates.

As Senator Elizabeth Warren, the architect of the CFPB, argued in 2016, “competitive markets generate so many benefits on their own that the government’s only role in those markets should be simple and structural—prevent cheating, protect taxpayers, and maintain competition.”³¹ The idea appears to be taking root; the Democrats’ 2018 policy platform proposes a “21st-century ‘trust buster’ to stop abusive corporate conduct.”³²

“[Lawmakers] haven’t yet figured out a moral framing that monopolization and these concentrations of power are a threat to our democracy and our way of life,” Matt Stoller, a fellow at the Open Markets Institute, said. “Public institutions need to step up to structure private power.”³³

Given its guidance around norms, Stoller said, the FTC could release new merger guidelines that reflect these market structure risks. These guidelines could harmonize with the original intent of antimonopoly doctrine—reflecting the social impacts of anticompetitive market concentration—to bring enforcement into alignment with the multisided platforms of the 21st century.

Legislative action can affirm bright line rules and build oversight capacity

Legislators must synchronize and modernize consumer welfare and public interest standards or risk further alienating the electorate.

that would keep pace with the new economy by bridging network and platform regulators. With new tools to assess anticompetitive behavior and ultimately enforce interventions, regulators could adopt a hypothesis-driven, “agile” approach akin to the “regulatory sandboxes” and “stress tests” that the Obama administration used to monitor the financial sector. With stress tests for platform companies, regulators could disclose assessments of market concentration and consumer options, empowering advocates and citizens to publicly marshal market behavior.

Legislators have signaled growing bipartisan support for challenging the Pai FCC’s net neutrality reversal but must bring a substantive and politically feasible replacement to the table.³⁴ Movement on standards is also underway: in December 2017, Rep. Keith Ellison (D-MN) introduced the Merger Retrospective Act to empower the FTC and US Department of Justice to legibly “report on their overall enforcement record” to consumers and constituents. In countering the effects of a “new Gilded Age,” the bill would also compel the agencies

to assess and make publicly available data on price, product quality, and availability changes as a result of the mergers.³⁵

Legislators must act quickly and in a bipartisan manner. Given the political economy of corporate power, a legislative solution might face the same challenge as regulatory solutions—including moneyed interests leveraging PAC funding to co-opt stakeholders. Google spent a record sum influencing the federal government in 2017, and the technology sector itself reached a new advocacy record of \$50 million last year.³⁶

Bottom Line

Legislators must synchronize and modernize consumer welfare and public interest standards or risk further alienating the electorate. Indeed, interest in antimonopoly protections is unlikely to ebb, nor will arguments toward constraining the new networks and the companies that leverage them.

Policy makers can no longer afford to overlook the economic effects of excessive market power and the real costs of ignoring the public interest. Concentrations of wealth and market power in the hands of a few Americans and corporations continue to drive political will, action, and attention. In a regulation-averse administration, policy makers and watchdogs must become fluent in competition doctrine and seize the moment to generate a

new definition of consumer welfare. Students of policy will need to become accustomed to the intricacies of competition and telecommunications jurisprudence and novel guidance that might be necessary to protect constituents and consumers in the evolution of industries to come.

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Toward a Critical Analysis Framework of Digital Algorithms for Policy Makers

Hannah Masuga

Data-driven policymaking is widely touted as the best way to improve government, but it also poses a threat to our fundamental freedoms. It's true that research intended to drive more efficient and effective programming provides important insights into how society functions. The danger comes from leveraging technology to implement our findings. This automation of services can lock in our current understanding of human behavior and limit individual liberty. As we bring digital and algorithmic solutions to policy, the role of human judgment will become more, not less, important in assessing the fairness and justice of these tools.

Algorithmic tools use data and advanced computational techniques to augment or automate human judgment. These techniques have created massive efficiencies across sectors, driving widespread adoption. The McKinsey Global Institute projects that further automation could increase productivity growth by 0.8–1.4 percent globally.¹ However, scholars have increasingly raised concerns over algorithms' negative effects. Recently, *WIRED* declared 2017 “the year

we fell out of love with algorithms,” citing the destructive outcomes of Facebook's algorithmically driven News Feed on the American election.²

This conflict appears most acute when deploying algorithms to aid in the traditional functions of government. For example, Boston Public Schools recently held a competition to develop an algorithm aimed at optimizing a seemingly straightforward logistical problem: transportation schedules and school start times. The resulting recommendation would save the school system an estimated \$5 million but generated an outcry among parents whose children would start school as early as 7:15 a.m.³ Policy makers and administrators arguably lost sight of constituents' concerns in pursuit of algorithmic efficiency.

While many assume math is an objective abstraction, the application of algorithmic systems to solve policy issues is inherently political. An increasing number of investigative reports have demonstrated that algorithms are not free from existing biases. Without the proper framing and application of their subject matter expertise to these tools, policy mak-

ers run the risk of reinforcing and obscuring discrimination under the assumption that math and associated computation are inherently objective exercises.

These biases are often embedded in services, functions, and technology contexts themselves. StreetBump, a mobile application that automatically reports potholes to cities based on motion-sensor data, leverages algorithms to guide its alerts and interventions. Though it is seemingly neutral in creating data and providing recommendations, the context around the resources necessary for the app (users require both a car and cell phone with a data plan) suggests that those using the platform will need to be relatively resourced, potentially reinforcing disparate spending on city services in wealthier neighborhoods.⁴

Government officials have demonstrated significant interest in moving to data-driven decision-making but have not yet expressed a pairwise understanding of the opportunities and risks that the widespread adoption of algorithms poses. Rather than attempt to catch up to the private sector or avoid algorithms altogether, policy makers have a unique opportunity to lead the conversation on fairness and transparency. In late 2017, the New York City Council established the first oversight body to review the ways in which algorithms were being used by city agencies.⁵ This is an excellent first

step toward bringing accountability to the automated deployment of city services. Additionally, by leveraging a standardized framework to analyze the context and application of particular algorithms, policy makers can make more educated decisions around the potential benefits and risks the technologies create.

Policy makers should create simple heuristics, including identifying the origin and content of the data used to develop the algorithm. Critical considerations include knowing how the data were collected, what data elements are included, and whether the algorithm has been enriched through mergers with additional outside data.

Policy makers must ask the critical question of what study generated the data. In Cathy O’Neil’s *Weapons of Math Destruction*, a UK medical school developed a test for assessing candidates based on the performance of previous students. However, as time passed, it was discovered that during the hiring period used to develop the algorithm, the staff discriminated against female candidates. The test outcomes subsequently reflected the bias inherent in the data set.⁶

In cases where the model is built on many variables and the relationships between the data are unclear, policy makers and their staffers should dig deeper before deploying the model to make real-life decisions. For example, an investigation into Chicago’s

Strategic Subject List, an algorithmic model used to predict potential criminal offenders, uncovered that a major contributing factor to the resulting risk score was having been a victim of assault or gun violence, more so than being arrested for violent crime or gang affiliation.⁷

This kind of insight not only serves to better allocate services but also has the potential to highlight an important reality in the broader policy conversation on crime. The perceived complexity of algorithms often obscures important details. Policy makers can and should step into this gap to inform and help guide constituents and experts.

Policy makers must additionally develop processes for evaluating the quality and fairness of algorithmic decisions. Most algorithms do not have mechanisms for interpretation and auditing their output. As a result, there is little recourse for individuals who are subject to adverse decisions.⁸ Consumer credit scoring in the United States provides some guidance. Not only can individuals receive an explanation of the factors leading to their score, but the explanatory output gives the individual a course of action to improve their score. Without the opportunity to understand or challenge automated decisions, we are creating an automated tyranny.

Algorithm developers have begun to establish technical recommen-

While many assume math is an objective abstraction, the application of algorithmic systems to solve policy issues is inherently political.

dations aimed at creating baselines for accountability. The organization Fairness, Accountability, and Transparency in Machine Learning (FAT/ML) recommends a number of practical steps to proactively address output concerns, including communicating uncertainty, sharing explanations in output, and allowing subjects to challenge determinations. Short of those embedded features, nontechnical policy makers should seek to evaluate an algorithm's output more broadly at both the aggregate and individual levels.

Lawmakers deploying algorithmic systems should request full exports or samples of the processed data where possible. At the very least, these samples can both aid in the evaluation of the impact of the algorithms and create additional insights into long-standing policy considerations. This was the hope for the Boston-Uber data-sharing agreement, which was a partnership aimed at aiding public transit planning by assessing Uber ride patterns.⁹ A growing number of cities are recognizing that ride-sharing networks can offer important insights to transit policymaking. In the absence

of data from the major ridesharing companies, many cities have begun utilizing ancillary information, such as vehicle location data, to measure the impact.¹⁰

At the individual level, policy makers' considerations and decision rules should focus on justification and the information available to the subject. Algorithms are often used because they are less expensive for governments; more troubling, they are often brought first to issues that affect marginalized or less powerful groups. Emerging best practices suggest that clearly demonstrating to subjects why certain decisions were made is an important component of applying algorithms fairly and empowering those who are adversely affected to file objections.¹¹

To check algorithms' treatment of individual cases, Cathy O'Neil recommends randomly selecting records for manual review and performing a qualitative assessment of an algorithm's decision-making, an exercise that ensures human judgment still supervises computer algorithms.¹² Manual review of individual records is one of the most powerful tactics in a rapidly emerging field, as human intelligence in this area often outshines that of computers. There may come a time when artificially intelligent systems can replicate all human faculties, from empathy to engineering, but in the immediate

future, algorithms must be augmented by human intelligence and ethical judgment.

In summary, public concerns should not stop policy makers from seeking to benefit from the efficiencies of algorithms. But they should take special care to incorporate their values, check algorithms' outputs, and provide easy-to-understand rationales for their use. Without these elements, policy makers run the risk of further obscuring their decision-making behind tools that are opaque to their constituents. The legitimacy of government institutions and services is at stake.

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To Fix the Safety Net, Listen to People with Disabilities

Colin Killick

Disability rights advocates and allies protest Medicaid cuts in Washington, DC, in June 2017.

Photo courtesy of Colin Killick

People with disabilities know, firsthand, that America's current social safety net is unsustainable. Wage stagnation,¹ automation, and outsourcing threaten jobs,² meaning more and more people will find themselves unable to make ends meet through full-time work. This next generation of unemployed workers will need government programs to help them get back on their feet—the same programs that have entrapped people with disabilities in cycles of poverty for years.

As inequality and structural unemployment threaten to grow, policy makers should learn from the problems of the existing social safety net. As both a disabled person and a disability-rights organizer, I have seen the human costs of its failures and inefficiencies firsthand—but I have also seen the power that ordinary people can have to change the system when they assert their rights to a decent standard of living. The experiences of disabled people can teach America the vital importance of abandoning the status quo and re-envisioning how the nation provides for the needs of all.

America's social safety net programs for people with disabilities have several major problems that programs of the future should avoid. Supplemental Security Income (SSI) is the primary program supporting Americans with disabilities. SSI provides cash benefits

that are both meager and have a “cliff phase-out.” Individuals with verified disabilities and no substantial employment history can receive up to \$735 per month. However, these funds are cut off completely if they earn more than \$1,180 in any given month, or accumulate more than \$2,000 in assets.³ Recipients are discouraged from saving money to guard against misfortune, and even a momentary windfall can actually leave a recipient worse off.⁴

This problem is exacerbated because Medicaid is essentially the only insurer, public or private, that covers key benefits on which many disabled individuals depend. Before the Affordable Care Act (ACA)'s Medicaid expansion, being on SSI was the only option for many disabled adults to receive health coverage through Medicaid. As a result, many disabled people were forced to remain poor and reliant on cash benefits indefinitely to keep their health care. The passage of the ACA demonstrated just how large this effect is. In states that expanded Medicaid, the workforce participation of disabled people jumped more than 8 percentage points as individuals who were willing and able to work were finally allowed to do so.⁵

Aside from the policy specifics, there is also an ideological problem that the safety net of the future must address. Existing programs assume, in their very definitions of disability,



Disability rights advocates and allies protest Medicaid cuts in Washington, DC, in June 2017.

Photo courtesy of Colin Killick

that disabled people are biologically incapable of work.⁶ Instead of thinking creatively about ways to address the serious structural factors that contribute to high disability unemployment—like pervasive discrimination in hiring and firing⁷—our policies give up on an entire segment of the population and assume they will always be poor. This problem is in no way limited to disability. Just look to the myth of the “welfare queen” to see the effect that this kind of stereotype can have on policy.⁸ If policy makers assume that biology or culture is keeping a specific population poor, they will be much less likely to build policy structures in ways that enable them to escape

poverty. Therefore, if unemployment substantially increases, we must beware of easy explanations that fault individuals and let our government off the hook.

Creating policies that genuinely support poor and unemployed people may well require enormous political will. Fortunately, people with disabilities also can teach Americans how to fight. Decades of tenacious advocacy led to the passage of the Americans with Disabilities Act, arguably the most significant national civil rights law since the Civil Rights Movement. Last summer, Republicans were poised to pass a massive health care law to reverse the ACA and sub-

Instead of thinking creatively about ways to address the serious structural factors that contribute to high disability unemployment—like pervasive discrimination in hiring and firing—our policies give up on an entire segment of the population and assume they will always be poor.

stantially slash Medicaid funding.⁹ However, they did not count on the thousands of disabled protesters who took over their town halls, occupied their offices, and picketed day and

night. We shifted the health care debate from spending to rights. We made it clear that human lives were hanging in the balance. We put a human face on health care, and we defeated the cuts.

Americans must do the same as we fight increasing inequality and the looming transformation of our society. The key lessons of the disability movement are these: every life has value, no one must be written off, and those suffering under the current system have both the right to demand equality and the power to realize it. Disabled people have experienced firsthand what laws can do to change people's lives—expanding opportunities and improving lives, as the ACA



Disability rights advocates and allies protest Medicaid cuts in Washington, DC, in June 2017.

Photo courtesy of Colin Killick

did, or trapping people in poverty. If the next generation of policy makers wants to do the former, then learning from disabled people's perspective can make all the difference.

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Reckoning with Reparations: The Kush Economy Is Our 40 Acres and a Mule

Khadijah Tribble

Brett Levin from Flickr

“The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people. You understand what I’m saying? We knew we couldn’t make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course, we did.” – John Ehrlichman, Assistant to the President for Domestic Affairs under President Richard Nixon¹

The Civil Liberties Act of 1988 paid \$20,000 in compensation to each of the more than 100,000 remaining Japanese Americans incarcerated in internment camps during World War II.² At the same time, President Reagan—responsible for reparations to Japanese Americans—fueled the drug war on African Americans. In 2015, John Ehrlichman, a key advisor to the Nixon administration, confirmed what many had already concluded: the Comprehensive Drug Abuse Prevention and Control Act of 1970 was politically and racially motivated. Tougher sentencing laws such as mandatory minimums and the three strikes rule would lead to the arrest and imprisonment of more than four million African Americans from 2001 to 2015—more than 100 times the number of Japanese Americans

imprisoned during internment.

Of those four million previously incarcerated African Americans, nearly 75 percent of them are among the lowest-income earners in America.³ The staggering level of poverty can be attributed to a long history of state-sanctioned systemic racial terrorism, from slavery to Jim Crow to the war on drugs. An estimated one in three African American males will be incarcerated in their lifetimes, and if current arrest trends hold, more than 80 percent of them will serve time for nonviolent drug offenses. Research by Steven Raphael from the Goldman School of Public Policy at UC Berkeley⁴ shows that these historically and extraordinarily high incarceration rates have interrupted potential careers in legitimate labor markets for all African Americans, both imprisoned and non-imprisoned. Partially as a result of those lost labor-market opportunities, the median wealth of African Americans declined from \$6,800 in 1999 to \$1,233 in 2013, while the median wealth of White Americans increased from \$102,000 to \$122,336.⁵ According to the Institute for Policy Studies, African Americans as a group are headed to zero wealth by 2053 if current trends hold.

The consequence is clear: incarceration robs families, neighborhoods, and entire communities of their most valuable resource—their people. The war on drugs succeeded

in interrupting the dreams of African Americans, enslaving our journey to financial self-sufficiency. Meanwhile, White Americans have gained from mistreatment and criminalization of Black people.

Now White Americans are poised to benefit from an estimated \$100 billion cannabis market whose regulations uniquely disadvantage the very populations centered in the social justice movement to decriminalize marijuana. Deliberate or not, the current state of the industry privileges White people; African Americans and Latinos make up less than 1 percent of cannabis market ownership. We have seen a concerted effort by big marijuana to limit opportunities and support regulations that create barriers to entry for the very people the laws are meant to help. As marijuana makes its mainstream debut, we have a real opportunity to talk about repairing the harm from a failed war on drugs.

African Americans have waited a long time for their “40 acres and a mule.”⁶ The reparations argument has a long history of debate in this country, most recently resurfaced in national discourse by Atlantic writer Ta-Nehisi Coates.⁷ Because Coates so thoroughly elucidated the harm from centuries of systemic and intentional infractions against Africans Americans, I need not pick up the case for slavery restitution here. Instead, my intention is to make the case

for retribution for the war on drugs. Conversations around reparations always die with the mention of the price tag—a nonstarter without a revenue stream. However, the taxation possibilities in marijuana legalization should reopen the debate.

In Oakland and Los Angeles, elected officials are moving toward marijuana restorative justice initiatives such as equity in cannabis programs to help previously incarcerated cannabis entrepreneurs. Other states are expunging records and erasing convictions. These are all steps in the right direction, but they are not enough. Much like how taxpayer-funded programs such as the GI Bill and FHA loans helped pave the way for middle-class White Americans, cannabis tax revenues should support a drug-war-justice reparations fund intended to build and strengthen the African American middle class.

In addition to direct payment to individuals, exclusive cannabis cultivation contracts should be given to institutions with an expressed and deliberate mission to elevate and educate African Americans, like historically Black colleges and universities. For example, the state of Louisiana inked a \$500-million deal with Louisiana State University for exclusive medicinal cannabis cultivation rights.⁸ The \$41-billion savings from Senator Cory Booker's proposed Marijuana Justice Act,⁹ which calls for the immediate

release of all those incarcerated for nonviolent marijuana-related charges, should be invested in the neighborhoods to which these men and women will return.

The US government's conduct during the war on drugs caused severe emotional distress to African Americans and their communities, resulting in collateral consequences that perpetuate an unrelenting cycle of poverty. By the government's own admission, African Americans have been disproportionately targeted, arrested, and incarcerated. It would be unethical for those most harmed by the war on drugs to be left without restitution when new funds are readily available.

Khadijah Tribble founded Marijuana Policy Trust as a mid-career master in public administration candidate and Cheng Fellow at the John F. Kennedy School of Government at Harvard University. At Harvard, Khadijah has focused her time and efforts on fostering economic pathways for those with non-violent criminal offenses related to marijuana possession or trafficking and empowering and elevating these individuals to lead the way for reform at the state and federal levels.

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Centering Women of Color through Intersectional Policymaking: Let's Start with Abortion Access

Amanda R. Matos

Womanhood is not a monolith, and yet policy makers—and the legislation they champion—treat women as if they are all of one race, class, and sexual identity. While political, public rhetoric around women’s empowerment may rally the masses, it also projects a naïve idea that all women’s experiences are the same. True solidarity among women and allies requires a critical analysis of how power and hierarchy impact women differently. Only by achieving this understanding will dismantling patriarchal systems become a real possibility, rather than an abstract vision. Fortunately, there already exists a framework for this type of analysis: intersectionality.

Systemic public-policy issues require an intersectional feminist framework. Without intersectionality, policy makers fail to recognize the complexity of the communities they serve, and their solutions are unsustainable.

Abortion access in the United States today epitomizes both challenges and opportunities in intersectional policymaking. The reproductive rights movement—specifically the role women of color play in that movement—offers a powerful example of how intersectional feminism can pave the way for a new generation of decision makers to topple systemic barriers to equality and empowerment in our society.

Intersectional Feminism and Reproductive Health

Intersectional feminism, as opposed to mainstream feminism, examines how gender, race, ethnicity, sexuality, socioeconomic status, physical and mental ability, and immigration status (among other experiences) overlap. Mainstream feminists of the 1960s and 1970s, who were mostly White, middle-class women, fought tirelessly for anti-discrimination policies in the workplace and for abortion rights. However, their platforms often ignored the experiences of low-income women, transgender and gender non-conforming people, women of color, and disabled women. The legacy of this erasure is embedded in the limits of abortion access today.

The term “intersectionality” was originally coined by lawyer and theorist Kimberlé Crenshaw in 1989 to explain how Black women experience compounded violence based on their race and gender. Crenshaw defines intersectional as “a lens through which you can see where power comes and collides, where it interlocks and intersects. It’s not simply that there’s a race problem here, a gender problem here, and a class or LGBTQ problem there. Many times that framework erases what happens to people who are subject to all of these things.”¹

In the present day, intersectionality has evolved into an analytical framework for addressing the invisibility of

Low-income women who are denied abortion access are more likely to fall deeper into poverty.

marginalized groups within larger populations. The ongoing debate over abortion in the United States exemplifies the consequences of policy that fails to be intersectional. Although the landmark 1973 case *Roe v. Wade* marked a turning point in reproductive rights by legalizing abortion, the Hyde Amendment, which passed only three years later, bars federal funds to cover abortion care. Because the Hyde Amendment prohibits individuals from using federally funded Medicaid for abortion access, it disproportionately affects low-income women, particularly women of color and women in rural communities. If a woman lives in a state with restrictive abortion laws and lacks insurance coverage, she may be forced to pay up to \$2,000 out of pocket—not including the costs of transportation or lodging if she must travel hundreds of miles to the nearest abortion provider.²

Currently, one in six women are on Medicaid insurance. Due to the Hyde Amendment and restrictive state policies, approximately one in four women denied abortion funding through Medicaid carry unintended pregnancies to full term.³ Low-income

women who are denied abortion access are more likely to fall deeper into poverty.⁴ An intersectional abortion policy would allow federal funds to cover abortion costs and would prohibit states from closing clinics or turning away patients seeking reproductive health services, ensuring that all women have access to services they could not otherwise afford.

Reproductive Justice: An Intersectional, Community-Driven Policy Framework

An important manifestation and extension of intersectionality came out of the 1994 UN International Conference on Population and Development. There, Black women, including SisterSong co-founder Loretta Ross, coined the term “reproductive justice” to link sexuality, health, and human rights to the broader well-being of women, families, and communities.⁵ The birth of this framework represents a pivotal moment in feminist history. Reproductive justice prioritizes the leadership of marginalized communities and intentionally combines reproductive health with broader economic and social justice causes. Reproductive justice, as a human-rights framework, further acknowledges that although individuals are guaranteed rights, they do not always have the ability to exercise them. This lens directly maps onto America’s abortion landscape; while *Roe v. Wade* and the Hyde

Amendment grant abortion as a legal right, they make it too costly for many to exercise.

Increasingly, advocates are working with lawmakers to push for policy based on intersectional, community-driven frameworks like reproductive justice. All Above All is one such organization with an exemplary, intersectional feminist mission. All Above All is a national coalition that aims to restore public insurance coverage so that abortion is affordable for every person. The organization's work is informed and led by people of color and low-income people: they co-write legislation with allies in government, and they train local activists and leaders as their most credible spokespeople. Recently, All Above All and the Pro-Choice Coalition of Oregon proposed statewide legislation that resulted in the passage of the Reproductive Health Equity Act (RHEA). RHEA, signed into law by Governor Kate Brown in August 2017, is the nation's most progressive reproductive health policy to address the Hyde Amendment's attack on low-income women. RHEA expands state-funded sexual and reproductive health care coverage for individuals excluded from Medicaid coverage because of immigration status, codifies no-cost abortion coverage, and bans discrimination against trans and gender nonconforming individuals from health services.⁶ It is a powerful policy

“While skills can be taught, this moment calls for someone who feels the urgent threat of racism, sexism, and income inequality in her very bones, as well as the threat to truth, evidence and democracy itself.”

—Loretta Ross, calling for a woman of color to lead Planned Parenthood

guided by intersectional feminism and community leadership, where understanding the diverse experiences of women led to holistic change.

The Responsibility of Intersectional Policymaking

Effective collaboration between lawmakers and community advocates, as seen in Oregon, further underscores that the responsibility of intersectional policymaking should not fall solely on marginalized communities. Author and feminist scholar, bell hooks, explains why intersectional feminism must be everyone's duty. In her critique of *Lean In* by Sheryl Sandberg, hooks argues that, by encouraging women to lean into the corporate world and model the practices that have supported men in their success, Sandberg promotes the view that the burden and responsibility

of advancing feminism should fall to women. hooks writes, “Sandberg’s definition of feminism begins and ends with the notion that it’s all about gender equality within the existing social system It almost seems as if Sandberg sees women’s lack of perseverance as more the problem than systemic inequality” and later states that the book “offers readers no understanding of what men must do to unlearn sexist thinking.”⁷

hooks extrapolates this argument to suggest that the expectation of fighting both racism and sexism typically falls on the backs of Black women and women of color. The problem is that when sole responsibility lands on the disadvantaged and oppressed group, systemic change will never happen; individuals in positions of power can advance their careers without the need to challenge their own internalized racism and sexism. In turn, the structural status quo persists.

Making Intersectionality Our New Policy Reality

Employing an intersectional policy framework requires both an awareness of racism, sexism, and classism, and a personal commitment to act. Yet achieving this deeper awareness and commitment is incredibly difficult work. The Social Transformation Project, a group that helps movement leaders grow their impact, proposes the Wheel of Change tool to effect

progress across systems.⁸ The Wheel is a cyclical model that identifies three domains of human systems that change makers should consider when working to shift culture and policy: hearts and minds, behaviors, and structures.

- **Hearts & Minds:** Our hopes and dreams, thoughts and feelings, what we believe is possible or impossible; the ideas, perceptions, and beliefs that shape our experience.

- **Behavior:** What we do and don’t do, our choices and habits, the norms and unspoken agreements by which we interact with others.

- **Structures:** The external systems in which we live and work: the hierarchies, processes, practices and cultures of our organizations, communities, and society.⁹

The most effective way to build and implement an intersectional policy is to ask to what extent the strategy addresses each human domain. Sustainable progress is only possible when culture and policy shift together. When only one changes, the other may regress.

The Future of Intersectional Policymaking in Reproductive Health and Beyond

In early 2018, Cecile Richard, chief executive officer of Planned Parenthood Federation of America, announced that after a 12-year tenure, she will step down from her

position leading the country's primary reproductive health organization. Because of Planned Parenthood's credibility, size, and branding, its next CEO will shape the future of the reproductive-rights movement and its potential to incorporate intersectional policy and advocacy. In response to Richards's announcement, Loretta Ross issued a call to action that the next president of Planned Parenthood be a woman of color: "While skills can be taught, this moment calls for someone who feels the urgent threat of racism, sexism, and income inequality in her very bones, as well as the threat to truth, evidence and democracy itself."¹⁰

With a woman of color at the helm, Planned Parenthood would demonstrate its commitment to intersectional feminism, strategically shifting structures and behaviors. Since women are not homogenous, diverse representation is an emblematic way to shape the future of the movement.

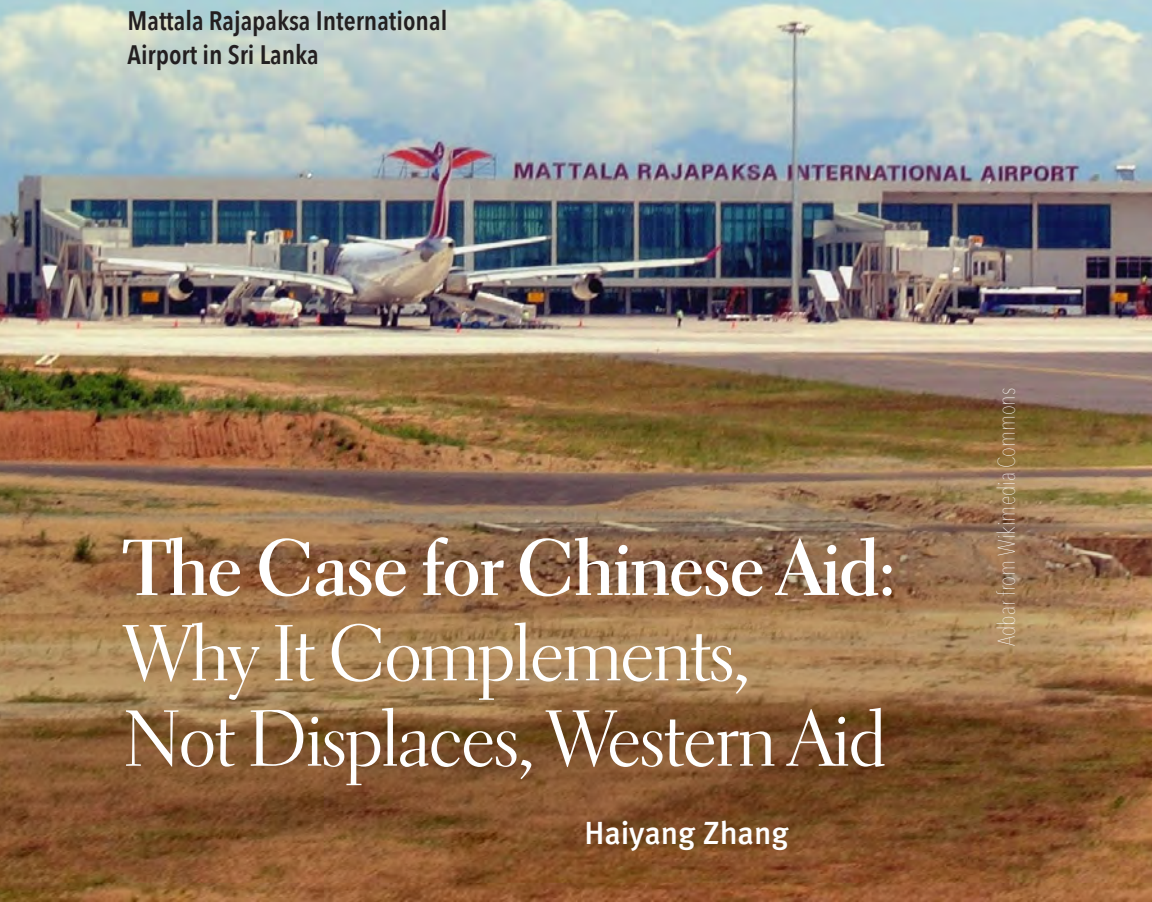
In summary, policymaking that embraces intersectional feminism, concentrates on community-driven change, and is born from diverse leaders is needed to undo oppression and reform institutions.

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The Case for Chinese Aid: Why It Complements, Not Displaces, Western Aid

Haiyang Zhang

In China’s recent 19th Party Congress, President Xi Jinping spoke confidently about blazing “a new trail for other developing countries to achieve modernization” and providing “a new option for other countries and nations who want to speed up their development.”¹ China increasingly asserts itself as an important development partner to other developing countries and a formidable rival in the eyes of traditional donors.

China is often portrayed as a “rogue” donor, conducting shady dealings with local governments,

with low labor and environmental standards. Critics also accuse China of imposing “creditor imperialism” through loans that recipient countries cannot repay, giving China excessive control over strategic assets in borrowing countries.² In reality, the picture is much more nuanced.

There are three major concerns about Chinese aid: the lack of safeguarding mechanisms, the potential to crowd out Western aid, and the secrecy of its non-interference approach. While the first claim of inadequate safeguarding is valid, little evidence

supports the latter two claims. Chinese aid supplements, rather than crowds out, Western aid, and no empirical evidence supports the claim that China's non-interference approach is less effective in promoting economic growth in recipient countries.

New Comer, Old World Order

International development has been the hallmark of a post–World War II liberal world order, spearheaded by the Bretton Woods institutions from which multilateral aid flows into developing countries. In parallel, bilateral aid programs from the national governments of industrialized countries play an important role in international development.

China is a long-time recipient of development aid. As of 2017, the World Bank has provided more than \$60 billion in cumulative lending to China since 1980, the beginning of the Bank's operations in China.³ Multilateral and bilateral institutions have only recently started scaling back lending to China given the country's stellar growth for nearly four decades.

China is a newcomer to the club of aid providers. While China continues to receive aid from institutions like the US Agency for International Development (USAID) and the World Bank, it is actively providing financial support to other developing countries. The International Development Association (IDA) is the World

Bank's credit provider to the world's 75 poorest countries. In 2007, China became a contributor to IDA, after only graduating from the "poorest countries" list in 1999. This is a remarkable achievement, considering nine of the 44 graduates slipped back into the category.⁴

China is reshaping the landscape of international development. In terms of bilateral assistance, Chinese aid is similar in scale and scope to that of the United States. Between 2000 and 2014, Chinese bilateral aid amounted to approximately \$350 billion, while the United States contributed approximately \$390 billion over the same period.⁵ Admittedly, Chinese aid is often dispersed together with investment. And its composition is different. Chinese aid usually comes in less concessional terms, compared to that of its Western counterparts. Yet Chinese aid is becoming increasingly visible and vital in the development community.

Meanwhile, China has set up new multilateral institutions like the Asia Infrastructure Investment Bank (AIIB) and the New Development Bank (NDB), each with an initial capital commitment of \$100 billion. Given that the AIIB is authorized to lend up to 2.5 times its capital of \$100 billion, it rivals the World Bank in lending capacity.⁶

Mixed Results, Mixed Feelings

Chinese aid has seen mixed results both in assisting recipient countries and in boosting China's influence abroad. Observers worry about the quality of Chinese aid. For example, while 93 percent of US aid between 2000 and 2014 was in the form of official development assistance (ODA), only 23 percent of Chinese financial support was in the same category.⁷ Recipient countries are anxious about debt repayment, given less than a quarter of Chinese aid qualifies as ODA by the strict OECD definition.⁸ Traditional donors and lenders also worry that Chinese aid does not generate the economic prospects China promised to these recipient countries and that Chinese aid might displace Western aid.

In reality, Chinese aid has seen both success and failures in recipient countries. In Sri Lanka, Chinese aid upgraded infrastructure but failed to deliver the goodwill that China had hoped for. In Venezuela, China arguably supported a rogue regime via lending to its state-owned oil company. Meanwhile, in Myanmar, Chinese aid achieved greater success, forging economic ties that China can leverage to broker peace amid Myanmar's domestic conflicts.

Sri Lanka

In Sri Lanka's Hambantota District stand a port, an airport, and a cricket

stadium. Curiously, they are all named after Mahinda Rajapaksa, Sri Lanka's former president.

The port, airport, and cricket stadium were all financed and built with China's assistance. Yet the under-utilization of these infrastructure projects dampens their recent grand openings. The port constantly operates below capacity. The airport

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won the infamous title as the world's emptiest airport, designed to handle one million passengers per year but currently transporting only about a dozen passengers per day.⁹ And the cricket stadium hosts more wedding ceremonies than cricket matches.¹⁰

The three projects are financially unsustainable and beg the question: why would China foot the bill? Not coincidentally, Hambantota is also the birthplace of the former president Rajapaksa, whose government won the 26-year civil war yet registered multiple complaints at the United

Nations Human Rights Council.¹¹ China's association with Rajapaksa harms its relationship with Sri Lanka's current administration, which is upset with China for helping the former president stay in power by spending on the "Chinese credit card."

If the airport and the stadium fail to earn China good publicity, the port project profoundly damages China's carefully cultivated image as an equal partner for other developing countries. The port's financial failure forced Sri Lanka to sign a 99-year ownership transfer via a debt-equity swap. It is hardly a good bargain for China, unless the port is used for military purposes, which China has long denied. The transaction also

alarms India, which sees the port as a precursor to China's military ambition into the Indian Ocean.¹² Some critics accuse China of "creditor imperialism," arguing that China's 99-year lease of the Hambantota port resembles Britain's 99-year lease of Hong Kong.¹³

The resemblance, however, is a stretch. In the late 19th century, Great Britain "leased" Hong Kong via a series of treaties forced upon China with guns and warships. It is far-fetched to equate China's economic prowess today to Victorian Britain's unjust wars. China's approach to the Hambantota port is largely a market-based transaction rather than a calculated strategy. China could not predict in 2008 that



Former President of Sri Lanka Mahinda Rajapaksa and Chinese President Xi Jinping

the port would be a financial failure and that the new administration, after Rajapaksa's unexpected defeat in the election, would sell the port via a debt-equity swap. China simply made a bad financial decision.

China's success in building physical infrastructure does not exonerate it from all responsibilities. The mixed feelings in Sri Lanka point to two problems: First, Chinese aid falls short of international best practices to limit the burden on the recipient country's public finances. Second, China's non-interference approach of aid-giving is never that simple in practice. Despite its reluctance to get involved in Sri Lanka's domestic politics, China inevitably became the center of political debate. For the current administration, China was the irresponsible lender to the Rajapaksa government. For former president Rajapaksa, attacking China for "impinging on Sri Lanka's sovereign rights" is his ticket to a return to politics.¹⁴ The Sri Lanka case demonstrates that grand infrastructure projects do not always lead to good publicity.

Venezuela

Venezuela, on the verge of a default, desperately needs fresh financing. Recently, the country began publishing its oil price in Chinese yuan and announced plans to issue its own cryptocurrency, the Petro, backed

by its oil reserves. On the surface, these efforts sound like financial innovations. In reality, these measures expose Chinese finance to a strong default risk.

China is an important financier for Venezuela's fragile economy. Between 2007 and 2016, Chinese aid and investment to Venezuela totaled \$62 billion, as estimated by Inter-American Dialogue, a Washington, DC-based think tank.¹⁵ Chinese aid and investment helped the Venezuelan government stay afloat. Yet cash-strapped Venezuela has struggled to repay its debt. Venezuela's largest state-owned oil company, PDVSA, is paying back Chinese loans in oil barrels.

Many critics use Venezuela's financial woes as a culminating example of China's failure to protect the recipient country's public finances. Some even argue China is cornering Venezuela to take advantage of its vast oil reserves.

To be a premeditated move, however, China would have needed to predict persistently low oil prices, which have defied many analysts' expectations. In reality, even China is getting impatient. In December 2017, Sinopec, China's largest state-owned oil company, took PDVSA to court in the United States. The \$23.7 million-plus punitive damages sought by the Chinese conglomerate is just the tip of the iceberg—an insolvent Venezuela will be costly for China.¹⁶

The Venezuela case demonstrates

the reputational risk of lending to commodity-rich countries. The pro-cyclical tendency of fiscal spending in commodity-rich countries often leads to macroeconomic crises later. In the case of a debt default, China has a right to these commodities. However, this profitable business comes with a reputational risk—given current low oil prices, oil shipments to China make China look the part of a villain, robbing a country at its weakest moment and propping up a rogue regime. Once again, China's non-interference approach came under close scrutiny.

Myanmar

Despite these failures, Chinese aid and investment have succeeded elsewhere in using economic influence to create positive impact in a recipient country. In Myanmar, China has proposed a three-stage plan to solve the Rohingya crisis. The plan has won support from both Myanmar and neighboring Bangladesh, to which more than half a million Rohingya refugees have fled.¹⁷ China's strong ties to Myanmar via aid and investment afford China unparalleled influence in the country, while the rest of the international community watches from afar and condemns Aung San Suu Kyi's silence.

Until recently, China strenuously avoided playing a high-profile role in ameliorating the Rohingya crisis, con-

sistent with its long-held principle of non-interference. But that sentiment is changing. The Chinese Embassy in Bangladesh hosted a public ceremony transferring China's humanitarian relief supplies to Rohingya refugees and expressed China's concerns about the Rohingya crisis.¹⁸

In Myanmar's other less publicized crisis, China is effectively brokering a ceasefire between the Myanmar government and its ethnic rebels, the Kachin Independence Army—another case of a positive spillover from China's economic influence.^{19, 20}

China's influence in Myanmar stems from its economic ties via aid and investment. The economic link naturally extends greater political influence from Beijing to Naypyidaw. While the United States considers imposing economic sanctions on Myanmar that diminish its influence in the country, China is channeling its economic influence into political clout.²¹ Admittedly, China's active role in Myanmar primarily aims to create a stable environment for commerce, but the positive spillover effects are helping resolve Myanmar's ethnic conflicts.

Past Lessons, Future Vision

Chinese aid in Sri Lanka, Venezuela, and Myanmar points to three major concerns: the lack of safeguarding mechanisms, the potential to crowd out Western aid, and the lack of con-

ditionality associated with China's non-interference approach.

The first criticism is valid. Chinese aid often falls short of international best practices. As the Sri Lanka and Venezuela examples demonstrated, Chinese aid failed to protect the recipient countries' public finances. These failures arise from two underlying problems. First, Chinese aid rushes into recipient countries without adequate due diligence on public finance consequences. Second, Chinese aid is often based on political ties rather than economic fundamentals. In the cases of the Sri Lankan port and Venezuelan oil, the lack of safeguarding mechanisms created reputational risks for China's image abroad as an equal development partner.

China needs to establish safeguarding mechanisms for aid-giving practices. Traditional donors and lenders should increase their coordination with China. For example, the OECD's Development Assistance Committee (DAC) has well-established mechanisms for coordination in the field but does not include China. Coordination would help propagate international best practices and increase transparency. Bringing China into "the club" can help China adopt at least some of the safeguarding practices and reduce its aid opacity. China's Belt and Road Initiative aims to create a global trade network across countries where traditional donors operate.

Thus, it is crucial to increase policy coordination that could help China improve its safeguarding mechanisms.

The second criticism of China's potential crowding out effect on Western aid, however, is misplaced. There is no evidence that top recipients of Chinese aid receive less support from traditional Western aid institutions. Traditional Western donors did not shy away from Sri Lanka and Myanmar when these countries saw a massive influx of Chinese aid. Furthermore, research shows that Chinese aid is just as effective at promoting economic growth vis-à-vis Western aid in recipient countries.²²

The last criticism—the lack of conditionality due to China's non-interference approach to development—has little theoretical basis for three reasons. First, conditionality as a development concept is on the decline. Development economists have increasingly criticized the "Washington Consensus," which called for conditionality tied to traditional aid. The conditionality assumption—that recipient countries either lack the capability to spend the money effectively or are simply too corrupt to handle money—is at best misleading and at worst condescending. Second, information failure is prevalent in the development field, and only local governments in recipient countries can bridge the information gap. In response to this new insight,

the United States established the Millennium Challenge Corporation in 2004 to give recipient countries maximum ownership of aid projects. The world is increasingly moving in the same direction as China's no-strings-attached approach. Third, conditionality in the past has failed to generate broad-based prosperity. For instance, in post-Soviet Russia, the prevailing ideas of the "Washington Consensus" encouraged wholesale privatization, which enriched oligarchs following the sudden exit of the state from strategic industries. In Latin America, the record of the "Washington Consensus" was abysmal. Growth in the 1990s, the decade when Latin America implemented "Washington Consensus" policies, was just half of that in the 1960s and 1970s.²³ Meanwhile, China's no-strings-attached approach offers an effective alternative for policy experimentation at the very least. It would be unfair to blame Chinese aid for its lack of conditionality when there is no consensus on the "Washington Consensus" itself.

New Trail, Old Wisdom

With the success in its own development experience, China is becoming increasingly assertive about its infrastructure-heavy, non-interference approach to international development. Whether China's development model is sustainable and replicable is still

unclear. Improved safeguarding mechanisms are clearly critical to Chinese aid's future success. In the late 1970s, former Chinese leader Deng Xiaoping asserted the principle that "practice is the sole criterion for examining the truth."²⁴ This brought success to China's own economic development. The principle remains true today for policy experimentation in aid-giving and international development.

China will remain at the center of the international development debate for the foreseeable future. With the world's largest bilateral donor, the United States, scaling back its aid commitments, Chinese aid is increasingly vital in the field of development. Perhaps China's approach to aid-giving will not become the new norm, but it offers an intriguing alternative to the traditional sources of development finance. And that creates healthy competition.

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When Development Isn't Complicated

Grant Tudor and
Justin Warner

“The explanation of the amazingly high standard of rice cultivation in Bali is to be found in Montesquieu’s conclusion that ‘the yield of the soil depends less on its richness than on the degree of freedom enjoyed by those who till it.’”¹ – A. Liefrinck, Dutch Colonial Officer, 1887

In the 1970s, Stephen Lansing stumbled upon a labyrinthine network of water temples. Baroque structures strewn across Bali had long captured the imaginations of outsiders, who had typically explained them as centers of worship. Lansing, a young anthropologist, became convinced of a more mystifying purpose: these ostensibly religious sites were in fact an expansive, decentralized regulatory system governing the island’s irrigation canals.

Each year, Bali faces the prospect of pest outbreaks. Temporarily abstaining from cultivation mitigates that threat by depriving pests of their habitat—and so farmers could, theoretically, all benefit by cooperating to fallow their fields. And yet, if too many fields lie fallow at the same time, the collective demand for water will later peak simultaneously, overwhelming supply and inducing shortages.

The functioning of the system—to both control pests and ensure enough water for all—then requires discovering some optimal fallowing sequence

that minimizes pest damage and maximizes water supply. Remarkably, without any grand blueprint or official directives, Bali’s farmers had done it. The secret to how, Lansing discovered, lay with the temples.

As Lansing and his colleague James Kremer would later explain, the temple networks serve as a distributed cooperating mechanism.² Representatives from various *subaks* (a kind of farmers’ association) congregate annually at temples to coordinate cropping schedules. Coordination is localized; there is no island-wide conference. Two adjacent subaks might stagger their fallowing by a few weeks. Across the system, the subaks’ seasonal decision-making becomes intimately interdependent.

Instead of some deliberate planning by royal engineers, the managerial functions of temple networks are “the product of trial-and-error adjustments by generations of farmers.”³ Subaks make decentralized decisions, see improvements in yields or not, and use their experience to improve the next time around. What spontaneously emerges is a vast, self-organized, and extraordinarily sophisticated system of water management.

How did an effective regulatory structure emerge absent central planning? Why, as Lansing and Kremer found, is the system so resilient to shocks like droughts and outbreaks? And just how productive is it?

Rather than just a singular story, Bali may offer new views into an old question: how does development happen?

Balinese agriculture typifies a complex adaptive system (CAS), a concept first articulated by physicists and biologists in the mid-20th century. The term evades an exact definition. Researchers studying ant colonies,⁴ the immune system,⁵ language,⁶ the biosphere,⁷ cyberspace,⁸ and financial markets⁹ all describe deep shared structures that suggest these systems operate similarly. John Holland, a leading figure in complexity science, once remarked that the mechanics of economies and embryos are more alike than not.¹⁰

Generally, CASs are networks of adaptive agents—ones that learn and evolve through feedback—which generate distinct macro-behaviors through their interactions. These system-level behaviors appear unrelated to agent-level behaviors; in a CAS, the ways in which various agents interact produce novel, emergent properties.¹¹ Neurons are not conscious, but the ways in which they interact produce consciousness.¹² Ants are not particularly smart, but an ant colony behaves intelligently.¹³ Autonomously, Balinese farmers are not maximally productive, but cooperation generates a yield-maximizing system.

This distinctive feature—emergence—is the hallmark of any CAS.

Emergence confounds any effort to understand a system by breaking it down into its component parts. In the 19th century, John Stuart Mill observed the inability to locate the properties of water—for example, its wetness—in either hydrogen or oxygen.¹⁴ Wetness emerges from their dynamic interactions.¹⁵

These emergent properties are the product of self-organization. James Gleick, a science reporter for the *New York Times*, once remarked how, in the absence of any leader, flocks of birds move “with a seeming intelligence that far transcends the abilities of their members.”¹⁶ Just as a frenetic trading floor self-organizes into a coherent market with global prices, birds self-organize into a coherent flock with global movements. CASs are generative structures free of conscious design.

That a CAS can behave in intelligent ways—entirely unrelated to the intelligence of any individual and without any central commander telling it what to do—in part explains

Just as a frenetic trading floor self-organizes into a coherent market with global prices, birds self-organize into a coherent flock with global movements. CASs are generative structures free of conscious design.

why Lansing was so intrigued. Among Balinese subaks, as with a flock, there were no ingenious rulers and pre-determined strategies. An optimal fallowing pattern across the island emerged from the localized decision-making of interacting farmers.

Complex systems are commonly contrasted with complicated ones.

Complicated systems contain many constituent parts, from a typical electrical grid to the flow of patients through a hospital, but behave predict-

ably. The inner workings may feature numerous interactions, often requiring deep expertise to understand and to shape, but the outputs produced are predictably determined by the inputs, whether it's a flick of a light switch or patient throughput. Improving system performance requires optimizing the performance of constituent parts, typically through centralized control and technical know-how.

This describes some development challenges well.

Key Features of a Complex Adaptive System (CAS)

CASs are composed of agents, each with a collection of evolving and conditional decision-rules, or strategies, that guide behavior. For example, a simple rule for an animal might be "IF (approaching object in visual field) THEN (flee)."¹⁷ Agents adapt their behavior by adjusting these rules given the outcomes they produce. A more advanced set of rules enables an agent to perform more advanced behaviors within a given environment, like surviving in harsh climates.

Feedback operates on decision rules, enhancing agent adaptability, and hence performance, over time. This feedback—in the form of better/worse outcomes—allows an agent to assign a rating to any given strategy. The approach of "flee" with "any approaching object" may work to avoid predators, but the animal will soon also go hungry, so its rules are necessarily modified.¹⁸ *Adaptation* through feedback is a result first of sorting strong and weak strategies and second of trialing new approaches to replace weak ones.¹⁹ As a local environment changes, so will the feedback and so too will the rules: an always-unfolding adaptive process to immediate conditions.

The composition of these agents is *hierarchical*, whereby agents group together to become new kinds of agents. Chromosomes generate proteins and proteins become cells, which combine to form organs and then organisms, species, and ecosystems.²⁰ Aggregates behave distinctly, exhibiting new, emergent properties not found within the underlying agents.²¹ For example, an organ's properties cannot be deduced from studying the properties of chromosomes, proteins, or cells.

How a CAS changes, then—how a species evolves, or how an island comes to regulate water use—is ultimately a function of the adaptive abilities of aggregated agents. How well the parts can learn and adapt is the elemental feature of any CAS.²²

In April 2016, the world replaced one polio vaccine with another, the largest “switch” of its kind in history.²³ Due to concerns that overlapping vaccines could cause an outbreak, the switch was given only a two-week window. The effort spanned the health systems of 155 countries, requiring extraordinary coordination across health ministries, global health agencies, and NGOs.²⁴ Representatives of the Pan-American Health Organization reflected that the switch was “without precedents” and realized “astonishing results.”²⁵ In India alone, synchronization occurred across 27,000 discrete points along the country’s cold chain.²⁶ The feat showcased the striking ability of experts to manage complicated systems on a global scale with sophisticated planning and technical expertise.

In complicated systems, experts can impose control centrally: they can deploy staff to visit warehouses to ensure compliance with vaccine removal and enforce reporting systems from clinics up to regional agencies.²⁷ Designing better inputs, like surveillance protocols, yields better outputs, like decreased outbreak risks. The interactions within complicated systems, and therefore the results, can be known, planned, and managed.

The same cannot be said of complex ones.

In complex systems, nonlinear interactions yield effects that aren’t

the result of any particular cause but of relationships too complex to isolate; this handicaps an expert’s ability to plan for outcomes. Structure in a CAS is generated by the self-organization of adaptive agents; trying to impose order is typically a recipe for disorder. Understanding and controlling the parts does not imply understanding and controlling the whole.

John Miller, a social scientist at the forefront of complexity research, laments that the social sciences treat most systems as if they were complicated. Reductionism underlies this treatment—as if observing individual tiles gives insight into a mosaic.²⁸ “The usual proposition,” he writes, “is that by reducing [social] systems to their constituent parts, and fully understanding each part, we will then be able to understand the world. While it sounds obvious, is this really correct?”²⁹

As an ambitious social science—one that endeavors not just to understand our social worlds but to manipulate them for the better—development concerns itself with this pivotal distinction. Do most social systems in fact tend toward complexity? Or are most simply complicated? In development policymaking and practice, what are the consequences of confusing the two?

In 1979, the Asian Development Bank (ADB) launched the Bali Irrigation Project to maximize agricultural

productivity. Central to the project was a “mandated change to continuous rice cropping for as many subaks as possible.”³⁰ Each farmer was encouraged to increase individual yields and abandon coordination with neighbors; the Ministry of Agriculture handed out rewards to the highest-producing plots. Studies by foreign consultants predicted that eliminating the rotational cropping schemes would generate tens of thousands more tons of rice per year, which could be sold for export, and which in turn would be used to repay the ADB project loan.³¹

Pest outbreaks and severe water shortages ensued almost immediately. Crop losses reached nearly 100 percent.³² Consultants resisted calls from farmers to return to the temple-based irrigation system, interpreting the push-back as “religious conservatism and resistance to change.”³³ Project planners “dismissed these occurrences as coincidence.”³⁴ They encouraged farmers to apply more pesticides and compete harder to maximize productivity. Outbreaks expanded³⁵ and shortages intensified.³⁶

What went wrong?

At the unit-level, farmers could indeed plant more absent cooperative fallowing. Theoretically, productivity increases on each farm would yield an expected proportional increase in island-wide harvests. But this assumed aggregate productivity was a function of individual productivity—an as-

If emergence at the system level is a function of adaptation at the local level, then complexity ultimately directs the focus of development policymaking and practice toward the adaptive capabilities of local agents.

sumption violated by the interdependencies among farmers. A reductionist approach of decomposing the system into its constituent components tells us little about system productivity when the aggregate behaves differently from its parts. Agents may not have been individually yield-maximizing, but the system was.

By calculating productivity at the level of individual plots, the consultants missed the whole for the parts.

The political scientist James Scott, reflecting on the cataclysms of Soviet collectivization and Tanzanian villagization, admonished modern agricultural experimentation as too often “incapable of dealing adequately with certain forms of complexity” because it “tends to ignore, or discount, agricultural practices that are not assimilable to its techniques.”³⁷

In Bali as elsewhere, a complex reality was made to fit techniques designed for a complicated system.

Complexity suggests a way of understanding how much of the world works—one that sits uneasily with

orthodox development theory and practice.

In a complicated world, the whole is the weighted sum of its parts. Total economic output is a function of the output of all firms; literacy rates are a function of how literate each member of a society is. From here, we tend to conclude that to increase economic output, we need only to make individual firms (or farms) more productive.

To echo Miller, while it sounds obvious, is this really correct?

Political economist Owen Barder suggests instead that development phenomena are emergent properties of CAS.³⁸

According to this perspective, development describes the capacity of a system to generate desirable emergent properties like productivity, high life expectancy, or low levels of corruption. These properties are a product of self-organizing complexity: for example, the ways in which firms interact with each other and with their social, political, and economic environments generate macroeconomic phenomena, like output as described by GDP. While this “seems obvious,” Barder writes, “it is a surprising departure from the way most economists have normally described development.”³⁹

This complexity comes about not by deliberate design, as in a complicated system, but through the adaptive behavior of agents that co-evolve with

one another and their environments. For example, a firm makes decisions in response to feedback from other firms and its operating environment, which in turn changes the strategies of other firms and macroeconomic conditions like prices, which in turn shape a firm’s decisions. It’s through this dynamic interaction that agents discover what works—an adaptive process of finding solutions in temporally and spatially specific contexts.

Subaks had no foresight into the design of a yield-maximizing system. But as with any evolutionary process, feedback over time helped to select certain functions that performed well and discard others. Water temples probably won’t work well in California; the mechanism evolved in response to an island’s particular context. Through tiresome trial-and-error, agents searched, selected, and amplified what worked, adjusting as local conditions adjusted. These adaptive strategies gave rise to a complex system with desirable emergent properties.

If emergence at the system level is a function of adaptation at the local level, then complexity ultimately directs the focus of development policymaking and practice toward the adaptive capabilities of local agents. Social safety nets and free mobility, for example, not only support essential capabilities, such as the ability to weather downturns and to trade, but also serve as the foundation for adap-

tive functions like risk-taking and idea dissemination. Democratic norms are not just normatively desirable but also enable decentralized decision-making and stronger feedback loops as agents trial approaches to local problems.

“At the heart of [CAS] are agents searching for better outcomes,”⁴⁰ notes Miller. When development isn’t complicated, solutions rest on them.

After abandoning the ADB’s project in Bali, the Indonesian government searched for solutions to depressed yields. Its answer, the Training & Visit program—modeled after the World Bank’s “technology transfer” programs *en vogue* during the late 1970s—propagated new agricultural methods that were generated by government research and taught to farmers.⁴¹ Financed by the Bank for over a decade, the program “stressed exclusive dedication to technical information dissemination through a single hierarchical line of command,”⁴² from specialists through to field trainers.

Evaluations found that only 25 percent of trainers ever stepped foot into a rice field; training materials could “still be found neatly wrapped in their original plastic containers at provincial training centers” years later; and in some areas, pest outbreaks actually increased.⁴³

In 1989, the government pivoted. Rather than forcing “adoption of external information,”⁴⁴ an Integrated Pest Management (IPM) program

enhanced farmers’ existing capabilities. The government supplied agronomic and ecological concepts in place of directives. It encouraged experimentation with planting times, varieties, and fertilization, and set up select rice fields as “laboratories” for farmers to test concepts. Knowledge spread by way of farmers exchanging experiences with one another.⁴⁵ IPM stipulated that the “farmer remains the central manager and independent decision maker.”⁴⁶

Results were profound: IPM farmers experienced higher yields and lower economic variance than their non-IPM counterparts. By the time the program ended in 1999, BPH, a pest infestation that had once ravaged Indonesia, had all but disappeared.⁴⁷

The contrasting programs’ philosophical distinction was not whether the government had a role to play but what role. IPM forwent a technical approach to a complex agricultural system, putting its resources instead behind farmers’ capabilities to search for and trial solutions.

The mindset leap the program illustrated is perhaps even more profound: a kind of trust in the agents themselves. “Let us not fail to note what kind of experimenters these are,” notes Scott, commenting on the strategies of poor farmers. “Their lives and the lives of their families depend directly on the outcomes.”⁴⁸

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An accessory dwelling
unit in Austin, Texas

Austin Community Design and
Development Center

The Tiny House Solution: Accessory Dwelling Units as a Housing Market Fix

Alyssa Davis

The additional unit in Raneta Pomeroy's backyard had always been a problem. When the Santa Cruz, California, resident bought her house in 1993, she knew that its converted garage apartment—or “flat,” as she calls it—was technically illegal. But it was also typical for this growing coastal community. For several years, her teenagers lived back there, and occasionally she rented the flat out—

the extra income contributed to her mortgage, put her son through college, and helped her keep up with Santa Cruz's rising cost of living. She often tried to let the unit to others who were striving to get by, including public housing assistance recipients: “So many people struggle around here. They work, but it's just tough around here.”¹

The unit in Raneta Pomeroy's back-

yard is an example of an accessory dwelling unit (ADU), or “additional living quarters on single-family lots that are independent of the primary dwelling unit.”² ADUs are essentially tiny houses—usually less than 1,000 square feet—either attached to the main unit or built separately on the same lot. ADUs are often found in moderate-density urban, exurban, and suburban areas that have historically been zoned for single-family homes. Although ADUs are small, they dramatically increase the housing available to residents in an area, essentially doubling the number of housing units on a given lot.

In recent years, ADUs—both legal and illegal—have popped up in several cities in response to increasingly hot housing markets. After all, our country faces an affordable-housing crisis: 32.9 percent of households in America are cost burdened, spending more than the recommended 30 percent of income on housing costs.³ One major reason for this problem is a lack of affordable-housing supply. The National Low-Income Housing Coalition estimates there is a shortage of 7.2 million rental units that low-income people could reasonably afford.⁴

ADUs may seem unique, but they help accommodate the needs of growing populations who want smaller housing. While very few people used to live alone, now almost one-third of American adults do.⁵ By 2035, an

estimated one-third of households will be headed by someone 65 or older, a demographic that often downsizes, needs in-home caregivers, or wants to grow old in their home communities.⁶

ADUs are also a direct response to decades of federal and local housing policies that have shaped the landscape of our cities and suburbs. Although a range of housing choices, such as townhouses, duplexes, and bungalows, characterized pre-World War II America, federal housing policy over the last half-century has focused largely on encouraging the construction of single-family homes.⁷ Zoning laws in several cities and suburbs have purposefully excluded denser housing choices, often to discriminate against people of color.^{8,9}

This focus on single-family homes promoted an inefficient use of land that exacerbated our affordable-housing crisis and ignored the changing needs of our population. In order to create more affordability and meet the needs of these populations, communities historically zoned for single-family homes need denser, smaller, and more diverse housing choices. Enter ADUs.

Raneta Pomeroy did everything in her power to make her ADU safe and wished she could officially legalize the unit with the city. Nevertheless, Santa Cruz had strict rules when it came to additional units: ADUs were only allowed on properties with at least 5,000 square feet, and her property

was only 4,879. Even though her unit was “hiding in plain sight,” she kept quiet about her unit for several years, monitoring changes in city ordinances and property requirements.¹⁰ Then, in 2014, Santa Cruz lowered the allowed-property-size restriction of building an additional unit to 4,500 square feet, and Pomeroy jumped at the chance to permit her flat. But when city inspectors visited, they found the unit still did not meet current code requirements and ordered her to tear it down or bring it up to code. By that time, Pomeroy was retired and could not afford to do either. She had a week to make a decision.

Raneta Pomeroy’s situation is similar to many others’. They own or live in ADUs that are illegal, often because too-tight zoning laws would never have allowed them in the first place, despite the housing market’s clear thirst for them.¹¹ Cities put strict requirements on the types or sizes of

Raneta Pomeroy’s situation is similar to many others’. They own or live in ADUs that are illegal, often because too-tight zoning laws would never have allowed them in the first place, despite the housing market’s clear thirst for them.

lots eligible for ADU construction and the location or square footage of the ADU itself. Cities sometimes put stipulations on the types of residents allowed to live in an ADU, on parking lot setbacks, and on unit entry points. Many cities have completely outlawed the construction of ADUs.¹²

Even owners with properties eligible for ADU construction run into challenges as they start their projects. City permitting processes can be long and cumbersome. ADUs are expensive, with average construction costs upwards of \$100,000.¹³ It is difficult for homeowners who already have significant debt via a mortgage to secure additional loans or pull out equity to finance ADU construction. Many banks have not developed financing packages for ADU construction or fees.¹⁴ The addition of an ADU can increase property values, and therefore property taxes.¹⁵ And in some cities, new construction or development requires the builders to pay high impact fees to finance the increased cost of providing public services such as roads, water, and utilities.

ADUs also continue to be politically controversial in many places. Even though ADUs increase density without changing the look or feel of the street—essentially “preserving” the character of the neighborhood—some people are still opposed to them. In several cities, coalitions of residents with “Not in My Backyard” inclina-

tions have mobilized against proposed changes to ADU regulations, claiming they will change the character of their neighborhoods by increasing density and bringing strangers into the area.¹⁶

However, some cities have embraced ADUs as a potential solution to increase affordable-housing stock and meet the needs of diverse groups of residents, passing reforms starting in the 1990s.

Portland, Oregon, is the leader in the ADU space. In 1997, the Portland City Council passed ordinances that allowed for new kinds of ADU construction, increased lot and building size requirements, and removed owner-occupancy requirements.¹⁷ Then, in 2010, the city waived required fees for ADUs for water and utility hook-ups that usually come with new development, called systems development charges (SDC).¹⁸

Portland's strategy has largely paid off. In 2000, the city issued just 24 new permits for ADU construction. By 2016, that number had jumped to 615, a 2,463 percent increase and a number approaching the count of new permits issued for single-family home construction (867).¹⁹ The number of ADU permits took off after 2010, signaling that waiving the SDCs created a big financial incentive for homeowners to construct ADUs. In total, the city has issued more than 2,200 ADU permits since 2000.²⁰

Austin, Texas, is another example of a city that has recognized the potential of ADUs to add more infill development, passing reforms concerning their construction in recent years. In November 2015, the Austin City Council voted to amend the regulations for ADU construction permits, including reducing the minimum lot size required to house a new ADU, decreasing the required building separation between units on a lot, and removing the previous requirement for a driveway. The new law also eliminated the requirement for a parking space within one-quarter mile of downtown and limited the use of ADUs as short-term rentals.²¹ This ordinance helped lead to an increase in permits for ADUs from 463 over 2010–2015 to more than 577 ADU permits issued during 2016 and 2017.²²

Austin also has the unique advantage of having a community partnership called the Alley Flat Initiative, born out of The University of Texas and now based at the Austin Community Design and Development Center. The Alley Flat Initiative is dedicated to building affordable ADUs in the city. The group helps homeowners throughout the life cycle of ADU construction, serving as the architects, navigating city permits and incentives, and counseling homeowners on how to manage the properties going forward. According to Nicole Joslin, executive director of the center,

the initiative has constructed seven affordable ADUs since 2008, with ten more in development now.²³

Raneta Pomeroy's hometown of Santa Cruz has also been at the forefront of the ADU movement. In 2003, the city passed a new ordinance that modified city regulations around ADUs, including ADU locations, design, and development rules. The ordinance also called for the elimination of prior requirements such as providing covered parking. In addition, the city waived impact or development fees for ADUs that were rented to low-income households.²⁴ They also established an ADU Development Program to "implement the development of well-designed ADUs in the City of Santa Cruz and promote infill development to help preserve the surrounding natural greenbelt."²⁵ The city wanted to make the construction of ADUs feasible, so they created an ADU Manual and ADU Plan Sets Book, which has model ADU layouts and design concepts created by local architects. If homeowners choose a plan from the book, they can receive a permit for ADU construction more quickly.²⁶ The city also created a partnership with the Santa Cruz Community Credit Union to provide pre-approved loans for ADU construction at reasonable interest rates.²⁷ Santa Cruz issues an estimated 40–50 ADU permits each year.²⁸

Although Santa Cruz's liberalization of ADU requirements partially alleviated Raneta Pomeroy's illegal-flat situation, Habitat for Humanity was also a huge help. When she was reading the newspaper one day in 2016, she saw an advertisement for a new Habitat initiative called "My House, My Home." The new program, in partnership with the City of Santa Cruz and Senior Network Services, helped low-income seniors build an ADU on their properties, providing them with stable rental income as they retire so they can "age in place." In return, participants commit to renting the new unit out to other low-income individuals. Raneta applied for the program and was accepted. The Habitat architects decided it was best to tear down her existing, illegal ADU, but they are building another in its place that is ADA accessible and energy efficient. Her new unit is expected to be completed in 2018.

Raneta's ADU will be just one of many constructed in cities around the country this year. But cities and counties will need to do more if they want to realize the potential of ADUs to add diversity, density, and affordability to their housing stock. Specifically, cities need to liberalize zoning requirements to allow for the construction of additional units on single-family lots, as well as open up the regulations governing required lot size, lot coverage, ADU size, and

tenant restrictions. Cities can address financial barriers to ADUs by waiving systems development or impact fees to decrease the cost of new ADU construction as well as reduce or eliminate permitting fees. Cities can partner with local banks or credit unions to encourage the creation of new financing and loan packages for ADUs. They can also pass laws that provide tax incentives or credits to homeowners who would see increased property taxes as a consequence of building an ADU on their property, focusing on homeowners who choose to rent out their ADU to low-income people. Cities can help to clear the bureaucratic hurdles for those seeking to build an ADU on their property by expediting permit approvals for ADUs. Following Santa Cruz’s example, cities can provide several sample “ready-made” blueprints and plans for homeowners to use as they undertake the construction of an ADU.

Raneta Pomeroy is thrilled with her new flat and finally has peace of mind that her extra unit is within city codes.²⁹ She has a renter lined up for the ADU and is grateful to have more long-term financial stability as she grows older. Moreover, she is excited for the potential of ADUs to help other people in her city: “A lot of people in Santa Cruz are fighting against high-density housing. But I’m not the person who is fighting against anything in my backyard. I

see how well it benefits me. It could also benefit so many others.”

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Distant Neighbors: Innovative Approaches to Development across Geographies

Stefan Norgaard

On a cold December afternoon in 2017, I step inside the offices of Women in Informal Employment: Globalizing and Organizing (WIEGO), run by Marty Chen of the John F. Kennedy School of Government at Harvard University. I am immediately transported. Photographs from around the world fill this warm, colorful space. On the walls, I see smiling faces: street vendors in Mumbai; waste pickers in Bogota; laborers organizing in Durban, a sign “decent work for all” clearly visible. “[At WIEGO], we find, and link up, organizations of the working poor where we can,” Chen tells me.¹ “And we do it by sector. We find that street vendors in Mumbai or Milan might have more in common with each other than with waste pickers in their own geography. We’re committed to building the capacity of these organizations, creating networks among them, and fostering their ability for democratic functioning and advocacy.”

The shared concerns of street vendors half a world apart offer perspective on one of the most central questions of our time: how can ordi-

nary individuals, organizations, and networks build power and make their voices heard despite rising global inequality?

Traditional geopolitical structures like municipal governments or rural development nonprofits are not flexible enough to deal with the complex, rapidly changing, and multi-jurisdictional nature of 21st-century inequality. And yet, we cannot invent brand-new public-sector organizations out of thin air or even dramatically change existing ones while maintaining democratic legitimacy. Instead, we can, and should, reinvigorate existing democratic institutions by forming networks across sectors and geopolitical boundaries. Three institutions—WIEGO, Envision Utah, and United Nations Habitat (UN Habitat)—are putting this theory into practice. Each is charting a path of “integrated territorial development,” thinking about urban, rural, and regional development in a comprehensive, multi-sector, and globally connected way. As a result, they are making promising advances in reducing inequality.

We find that street vendors in Mumbai or Milan might have more in common with each other than with waste pickers in their own geography.

Integrated Territorial Development

Two global mega-trends will dominate the 21st century: urbanization and inequality. Although cities occupy only 2 percent of the world's land, they account for 55 percent of the world's population, 70 percent of the world's economic activity, and around 70 percent of the world's greenhouse gas emissions.² Cities are only getting bigger, and growing at a faster pace, in both physical size and population.³ Inequality within cities is also on the rise.⁴ In their current form, cities have greater income inequality than rural areas.⁵

The term “global flows” refers to the ways that capital, labor, natural resources, and ideas move between urban and rural areas. Because wealthy people and organizations can interact more easily, global flows can drive greater inequality.⁶

Accordingly, academics, policy makers, and practitioners are thinking about new ways to address challenges to inequality globally.⁷ An integrated territorial development framework aims to confront inequality and im-

prove service delivery by rethinking cities' and regions' spatially bounded institutions. Integrated territorial development approaches help us replace an “urban-rural binary” that misses various types of interconnectivity. Key to integrated territorial development is viewing development through global flows as opposed to fixed spaces.

Integrated territorial development policies are ambitious. Public-sector institutions might re-constitute themselves to consider, for instance, how to regulate a global process of natural resource extraction rather than just focusing on city polluters at the end stage of a supply chain. Similarly, nonprofit institutions, rather than choosing between urban and rural development, might be better served by connecting small rural producers of agricultural commodities with low-income informal vendors and urban consumers.

Crafting integrated territorial approaches to development globally is difficult today, given waning support for government and multilateralism at the international level. In the near term, organizations and movements must build their own networks across sectors, geographies, and industries.

Women in Informal Employment: Globalizing and Organizing

WIEGO's Marty Chen describes her

organization as “part think tank, part social movement.” WIEGO supports the informal working poor, particularly women, to advocate voice, visibility, and validity for informal workers as they advance new ways of thinking and new solutions to reduce inequality globally.⁸

WIEGO’s mission rejects traditional spatial confines. WIEGO offers support for *local* causes with replication potential in similar local geographies. They also build urban and rural coalitions of workers at the *national* level and advocate informal worker representation in *global* multilateral processes. For example, WIEGO worked in partnership with local waste pickers, the local Trade

Union confederation, and progressive political activist David Harvey to oppose the privatization of waste collection in Montevideo, Uruguay.⁹ Privatization efforts threaten the livelihoods of urban waste pickers in Montevideo and other cities across the Global South.

WIEGO’s mission also connects urban and rural causes within a single nation. WIEGO’s worker-organizers filled an event for Ghanaian government officials on universal occupational health. They helped persuade the head of Ghana’s National Health Insurance System to launch a public campaign to help qualified Ghanaians, including informal workers and others, get registered for health



Participants in WIEGO 20th Anniversary Research Conference at John F. Kennedy School of Government at Harvard University, November 2017

Photo courtesy of WIEGO

care.¹⁰ Internationally, WIEGO brings worker-leaders to events like the World Urban Forum and UN Habitat's Habitat III conference to ensure the voice of informal workers is considered in multilateral processes. Most importantly, WIEGO activists and organizers share best practices and build relationships, constantly connecting issues at the local, national, and international levels.

One concrete example of WIEGO's integrated territorial approach is its organizing for informal workers. "Globally, 60 percent of all workers are informal," Marty tells me. "Yet in our dominant narratives, we stigmatize informal work as 'noncompliant, or illegal.' We're in effect stigmatizing half of the global workforce.

"And too often the state response is punitive, not empowering," Marty adds. Workers live in constant fear, prone to municipal police confiscating their wares, tearing down their homes, or taking them under arrest. "Dominant narratives [about informality] are negative, and existing models inadequate." WIEGO is connecting organizations and networks of the working poor around the world, modeling how to change the rules of the development game for, and with, informal workers. Tangible stories from Montevideo inform WIEGO's advocacy in global multilateral processes like Habitat III, helping make the case for global rules that robustly

defend public goods. WIEGO effectively uses an integrated territorial approach to reduce urban inequality for a massive, yet largely invisible, population: informal workers.

Envision Utah

Just as integrated territorial development can prevent the exclusion of marginalized populations, this approach can help jurisdictions plan for equitable, sustainable growth. Utah is the nation's fastest-growing state, according to the US Census.¹¹ To prevent sprawling, unplanned growth, the nonpartisan convening organization Envision Utah launched a public process in 1997 to discuss the state's future. This effort touched nearly every sector and stakeholder group imaginable, engaging more than 50,000 Utahans.¹²

To this day, Envision Utah centrally engages stakeholders from all sectors and geographies in the state: philanthropic foundations, industry, The Church of Jesus Christ of Latter Day Saints and its associated foundation, and city and county governments up to Governor Gary Herbert's office.

Envision Utah stakeholders understand that the public challenges facing the state are increasingly multi-jurisdictional and require similarly interdisciplinary responses. Working with the City of Provo, business leaders, academic institutions like Brigham Young University (BYU), and civic

groups like Utah Moms for Clean Air, Envision Utah helped pioneer the Provo Clean Air Toolkit. This resource can be used locally in Provo but was also designed to build technical capacity for municipalities and larger jurisdictions across the state.¹³ The organization has helped build a Housing and Opportunity Assessment tool that provides accessible information on demographic, economic, and housing disparities for different jurisdictions, and a Transit Oriented Development guide for the Greater Salt Lake City Wasatch Front.¹⁴

“Among our stakeholders, there’s honestly more pragmatism than tension. Maybe part of it is that it’s the West, it’s Utah, but we find that people of all stripes are willing to sit down at the table and talk about common interests and the common good,” Envision Utah’s Chief Operating Officer Ari Bruening tells me in a phone interview.¹⁵ Recognizing that “how we grow matters,” Envision Utah began not by asking citizens what specific public policies they would like to see passed, but what core values Utahans associate with quality of life and growth issues. “We learned, for example, that climate change, as a term, is not something Utahans are concerned about. But they are worried about air quality The deeper reason why they care is that air quality links to cherished and commonly held values,” Bruening tells

me. Such values include freedom, a desire for quality of life for future generations, and growing sustainably with nature. Though this work spans jurisdictions, Envision Utah’s focus on common values grounds an integrated territorial development approach in the communities it serves.

Travel to Utah today, and you will see new public infrastructure like light rail and high-occupancy vehicle (HOV) lanes in and around Salt Lake City and new investment for high-tech ventures growing in the region’s “Point of the Mountain” area. You may also learn that the state has the nation’s lowest rate of income inequality.¹⁶ A broad-based democratic and participatory development approach, with an eye to multi-sector and multi-jurisdictional coalitions, has allowed Utah to plan for the long term and enact common-sense policies that reduce inequality.

“The fact that we’re not government helps us be successful, I think,” Ari tells me. “It gets politics out of it and takes away any sense of threat. When we survey people, they feel like they can talk to us with total independence. It’s helpful.” A key to Envision Utah’s successes has been their participatory process. In the spirit of direct democracy, the organization engages tens of thousands of Utah residents to find a common language and collectively solve problems across the state.



An interactive game sponsored by Envision Utah helps players “build your Utah” by connecting urban, rural, and regional systems through an integrated approach. Play at <http://envisionutah.org/game/#/play/>.

In a region known for its skepticism of Big Government, Envision Utah has successfully woven together participatory engagement with residents and a multi-sector quilt of actors by centering an integrated territorial development approach on shared values. The end result is smart, democratic problem-solving for the long term, with solutions that span urban and rural to help reduce inequality statewide.

UN Habitat

Given that urban inequality is a globally connected phenomenon, operationalizing integrated territorial development requires decisive action at the global, multilateral level. In October 2016, 30,000 people, including representatives of national governments, civil society stake-

holders, and working women from WIEGO, gathered to debate and sign off on the New Urban Agenda—the global strategy that will guide urban development over the next 20 years.¹⁷ The previous year, nations ratified the United Nations Sustainable Development Goals (SDGs). Taken together, these global processes give rise to commitments surrounding integrated territorial development that seek to legitimize the concept and test new models, formally endorsed by hundreds of UN member states.

Thomas Forster is leading UN Habitat’s work on implementing Guiding Principles, or GPs, for integrated territorial development in both the SDGs and New Urban Agenda. It is an ambitious task, and more challenging yet, one that comes in the context of increasing skepticism

toward multilateral organizations like the UN.

Moving from theory to practice for integrated territorial development requires addressing strategic challenges on a global scale. “There is a lot of discussion on how existing institutions will have to work together in new ways,” Forster tells me in a recent interview, referring to the multi-jurisdictional and geographic nature of the Guiding Principles. “It’s complicated enough with existing institutions, like city governments. People are going to need to become ‘co-managers’ across silos, and you bring in ‘urban-rural’ and you exponentially complicate roles.”¹⁸

Forster’s vision hinges on what he calls an “uber-participatory” process. “With this job, everything I write is based on consultations: with UN Habitat; FAO [the UN Food and Agriculture Organization]; civil society groups; the UN Economic Commission of Africa; Mexico’s new ministry of integrated territorial development; nation-states like Ethiopia, which have now formally drafted wording on urban-rural linkages;¹⁹ the US Conference of Mayors; you name it.”

The key, Forster says, is that “we need to bring all of this stuff to the feet of the UN Agencies” so that they can work with national governments, or in some cases sub-national governments, to implement solutions. In an increasingly global world where

paralysis and division at the national level often impede momentum, bypassing national governments may be a strategic approach.

Forster argues that UN Habitat’s Guiding Principles should “provide useful tools for both urban and rural actors,” should “aim to improve accessibility to services across the urban-rural continuum,” and should “foster context-specific urban-rural partnerships.”²⁰ Tools that bring urban and rural actors together can be exceptionally powerful. They include dialogue; consensus building; and a look at where and how to harness institutional policy, financing, and technical capacity. Useful tools to emulate might include Provo’s Clean Air Toolkit or Envision Utah’s participatory processes itself; those seeking effective partnerships might look to WIEGO’s global organizing networks.

Forster has plenty of work ahead of him. “The UN Habitat study includes a mandala diagram of no fewer than ten branches of global flows. Confronting unjust global food systems, for example, which itself could consume my entire work for years, is only one mandala branch,” he tells me. “Another project will be gathering over 100 case studies. When going from guiding principles to implementation, lifting up examples of what works and analyzing why is the name of the game.”²¹

Conclusion

WIEGO’s Marty Chen, Envision Utah’s Ari Bruening, and UN Habitat’s Thomas Forster are all engaged in titanic projects. They are confronting the dual, global challenges posed by urbanization and inequality. These three practitioners are working in different contexts and jurisdictions, with different rhetoric, and with dif-

ferent approaches. WIEGO connects workers on the ground in myriad contexts to spread awareness about development injustices. Envision Utah uses a participatory approach to engage in statewide long-term problem solving. UN Habitat seeks to operationalize this nascent framework in a way that lifts up promising examples and provides guidance and



UN Habitat’s mandala diagram lays out ten “global flows” on which the UN agency hopes to focus

UN Habitat, Implementing the New Urban Agenda by Strengthening Urban-Rural Linkages (2017)

clarity for a variety of institutions and actors.

UCLA Professor Ananya Roy perhaps frames it best: today's political economy includes vast, and indeed global, "informality at the top."²² Be it bad intent—like developers who make deals with city policy makers and exceptions to democratic rules—or beleaguered and incapable public institutions unable to respond to what Brenner calls "unchecked ecological plunder,"²³ neat, jurisdictionally confined responses are falling short. Adopting an integrated territorial development paradigm will re-constitute democratic problem-solving for a global urban context. The next step is acting on that paradigm in practice, following individuals and organizations of all backgrounds who are organizing and aggregating their voices to respond to global challenges with multi-local solutions. We can begin by looking to WIEGO, Envision Utah, and UN Habitat.

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passionate about good governance, participatory democratic practice, and development that is equal and just.

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David's Journey: A Patient-Centered Approach to Opioid Addiction Treatment

Stephanie Nguyen and Maggie Salinger

David¹ used to sell drugs on a street corner in East Baltimore. His curbside business had offered a glimpse into the life of his customers as they waded in and out of withdrawal. Their oscillation between temporary satisfaction and full-blown suffering didn't seem worth it to David.

But then, one day, David lost a close family member without warning, and not knowing how to cope with this death, he got high on heroin. Soon after, David was hooked and homeless. He tried to quit. He failed. He tried again. And again, he succumbed to substances.

Around this time, David was arrested. The police busted him for drug possession and brought him to Baltimore City Jail twice. During his second round of incarceration, David was fortunate enough to enroll in a meditation and acupuncture program. The program helped him learn positive coping skills in a community of other inmates. While in prison, David was able to separate himself from his former routines and fellow users to start his life anew. Now, several decades later, David is still drug-free.

As we spoke to David and others like him who are working toward sobriety, a few ideas became resoundingly clear. First, recovery is not a state of being but a process—one that requires immense social support as individuals work to continually reconstruct their identities and habits. The second is that, although David's incarceration helped him achieve remission, prison is not the optimal destination for individuals who are struggling with his condition.

Fortunately, the United States is beginning to recognize and treat addiction as a chronic disease rather than a crime. However, as we start to make this shift, we must ensure that the health care system is equipped to meet the broad needs of patients with substance use disorders.

There are 20.5 million people who are addicted to drugs and alcohol in the United States, 2.5 million of whom are addicted to opioids. Opioid-related overdoses have reached epidemic proportions, leading to nearly 91 deaths each day.² Every one of these statistics is tied to a unique personal experience. Yet at present, our health care system

only touches a tiny fragment of the patient journey.

Obstacles

Through interviews with practitioners, policy makers, and people in remission, we aimed to clarify themes in patient barriers to wellness and identify opportunities for the health care system to meet people where they are. We uncovered an array of challenges to providing addiction-related care: time and place, choice architecture, and stigma.

Time and Place

Although David first began using drugs on a street corner, more than a quarter of people who misuse opioids gain access through their own personal prescriptions.³ At present, clinicians do not have the tools to determine which opioid recipients will later suffer from overdose or addiction.⁴ There may be early risk factors that the health care and other social systems fail to capture routinely due to their timing and subjectivity. For instance, our patient interviews revealed that many people who develop opioid use disorder had experienced a feeling during their pain treatment course that they likened to falling in love or lifting a weight from their shoulders. Many of these same patients reported an increased likelihood of relapse during periods of stress. Notably, these experiences and emotions occur outside the purview

of the health care system. We cannot rely on clinical encounters alone to identify the trends in opioid overdose.

Choice Architecture

Biomedical research confirms that addiction is a chronic disease that directly impacts motivation, inhibition, and cognition.⁵ The disease state is distinct from many other chronic illnesses in that it both affects and is affected by choices. This is important because disease-specific behaviors of addiction, such as compulsivity, are incompatible with health-seeking ones. Thus, a health care system that seems relatively accessible to patients with other chronic diseases, like diabetes, may be completely inaccessible to patients with addiction.

Stigma

The role of choice also plays into a third obstacle: stigma. Many struggle with the amount of agency or blame to attribute to addicted persons, which is part of why some regard the condition as a moral failing rather than the chronic disease that it is. Studies

Recovery is not a state of being but a process — one that requires immense social support as individuals work to continually reconstruct their identities and habits.

show that stigma against people with addiction exceeds the levels recorded for other mental illnesses. Continued stigma lowers public support for health-focused programs, decreases patient demand and access to services, and negatively affects attitudes of both providers and community members.⁶

Opportunities

All three of these addiction-specific obstacles are interrelated, adding to their complexity. However, this also means that programmatic improvements can chip away at these challenges simultaneously. We've identified three strategies to incorporate more effective treatment initiatives into our current health care system: foster social support, create sober environments, and expand care networks.

Foster Social Support

Recognizing the significance of social support in his own recovery, David decided to devote his life to helping others put down the needle. His generous act of service has also been beneficial to his own recovery process. In behavioral economics models regarding the psychology of addiction, social activities that promote service and selflessness are actually considered to be direct substitutes for drug use.⁷ In essence, David replaced the “good feelings” that come with the high of drug use with the good feelings we get from helping others.

“Mentoring people gives me meaning,” he observed. “And you know what? I need that, too, to stay clean.”

As we listened to David and others, we realized that the health care system's standard patient-provider interaction is not explicitly designed to help people rebuild networks and restore a sense of purpose. Instead, clinic visits tend to be individualistic and rushed. Our search for solutions led us to an outpatient opioid treatment startup called Groups. In addition to offering behavioral therapy and medications to treat substance abuse disorders in group settings, Groups intentionally fosters a sense of community. It asks patients to exchange phone numbers to coordinate carpools and encourages them to serve as peer mentors. The company, which now has clinics across the country, describes its model as one in which “people at different stages of recovery learn from each other, build collective wisdom, and hold each other accountable.” Groups CEO and

What Narcotics Anonymous and residential recovery homes demonstrate is that medication reconciliation visits and intermittent therapy sessions may not be sufficient for patients in early stages of sobriety.

Co-Founder Dr. Jeff DeFlavio believes this is key to the program's ability to maintain a 95 percent retention rate and 85 percent abstinence rate at the six-month mark.⁸

Create Sober Environments

For David, who had no home and nowhere else to go, it was a jail sentence that shielded him from poor choices. For many others, 12-step programs like Narcotics Anonymous (NA) serve as that safe space. In any given area, there are dozens of local community venues that host NA meetings throughout the day. From interviews and visits, we learned that some members continually bounce from one meeting to the next to protect themselves from “the dope man,” who is just a phone call away. Many of the 12-step participants also spoke highly of their residential recovery homes, alluding to the importance of having sober homes and friends.

Notably, NA has received criticism for being disconnected from the health care system and for advocating against medication-assisted therapy—the gold standard of treatment. While this criticism is valid, we would be remiss to ignore the positive features of a program that people in recovery have created for themselves. What NA and residential recovery homes demonstrate is that medication reconciliation visits and intermittent therapy sessions may not be sufficient for patients in

early stages of sobriety. In order for the health care system to meet these patients' needs, it will need to reach well beyond the walls of a clinic to create and foster sober environments.

Expand Care Networks

If the US health care system is over-reliant on highly trained professionals and clinical encounters, then it will miss opportunities to prevent, identify, and intervene in opioid misuse and overdose.

Highly trained professionals include not only physicians but also physician-extenders, such as nurse care managers who staff doctors' offices to count pills, complete treatment contracts, and screen urine samples for chronic pain in patients taking opioids.⁹ The term even refers to peer recovery coaches, who themselves have firsthand experience with addiction, but who have no prior relationships with patients. In many states, peer recovery coaches undergo extensive coursework, shadowing, and oversight. In fact, following passage of the Caregiver Advise, Record, Enable (CARE) Act in November 2017, Massachusetts launched a commission to review credentialing standards and determine whether peer recovery coaches should be required to register with a licensing board.¹⁰

Even though clinicians and extenders ought to play a central part in opioid-related prevention and

treatment initiatives, there is still a need to enlist unskilled individuals in this effort. If engaged appropriately, family members and friends could make excellent care partners, especially since they have much greater contact with patients, including at high-risk timepoints. Informal peer sponsors and peer referrals (e.g., bring-a-friend-to-treatment programs) are two examples of interventions that would systematically leverage organic relationships.

A Vision for Patient-Centered Addiction Treatment

As we wrapped up our interview with David, he reflected, “I’ve come a long way, and I’ve helped a lot of people.” Indeed, he even helped us by sharing details of his personal journey. His insights illuminated the recent trends in addiction-related policies and the gaps in current treatment programs.

Through this research on patient-centered opioid treatment initiatives, we’ve come to believe that most of the puzzle pieces are within reach but have yet to be arranged into an ideal picture for addiction care. Our vision is that the country will continue to transition from criminalization to medicalization of addiction and that when we do achieve mental health parity, we won’t simply replicate our traditional health care structures. Instead, we hope that ongoing efforts to integrate and coordinate services

will extend beyond the confines of the clinical setting—making treatment an act of community and a part of everyday life. Once addiction care becomes as warm and accessible as our coffee shop gathering with David, we’ll know we have succeeded.

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Karoshi and Japan's Work Style Reform

Yusaku Kawashima

Working conditions in Japan are widely regarded as severely demanding. In fact, there is even a Japanese word, *karoshi*, that means “death from overwork,” with its own Wikipedia entry.¹ However, as someone who has worked in Japan for more than ten years, I wonder how much of the country’s actual working situation is known to those in foreign countries. By learning more about Japan’s history of overwork—and the country’s ambitious efforts to reform work style—other countries’ leaders can forestall this fatal cultural challenge.

Japan’s first case of *karoshi* was reported in 1969, the year Japan recorded a 12 percent real GDP growth rate.² Three physicians coined the term in a book by the same name published in 1982.³ In 1990, the book *Karoshi: When the Corporate Warrior Dies* was published in English. Since then, foreign newspapers and television networks have also reported on *karoshi*, diffusing the term around the globe.⁴

The National Defense Counsel for Victims of *Karoshi* estimates that more than 10,000 people die from cardiovascular disease related to overwork each year.⁵ This is roughly three times more than the number of people killed by traffic accidents in Japan in 2017.⁶ According to the Japanese government, the most important factors leading to *karoshi* are long work hours and a heavy workload.⁷

According to the *White Paper on Death from Overwork Prevention Countermeasure*, more than one in five Japanese employees (20.8 percent) work an average of 49 hours or longer each week, compared to 16.4 percent in the United States, 12.3 percent in England, 10.1 percent in France, and 9.6 percent in Germany.^{8,9} Furthermore, the average weekly work hours for regular workers in Japan is higher today than it was in the 1980s.¹⁰

Some claim that the hierarchical structure of the Japanese work environment could be enabling overwork. For example, in 1991, the Supreme Court ruled that the disciplinary dismissal of a worker refusing overtime was legal.¹¹

Although a general rule on overtime work sets the maximum hours at 45 per month and 360 per year, companies can make their employees work unlimitedly if their unions agree.¹² According to a Tokyo newspaper, 70 percent of the top 100 companies in the Tokyo Stock Exchange allow more than the *karoshi* threshold of 80 hours of overtime per month.¹³ One company even allowed overtime of 200 hours a month, and the average of the 100 companies was 92 hours.¹⁴

Other researchers argue that Japan’s tight job market after the economic downturn in the early 1990s created severe in-house competition due to cost cutting and the reduction of middle managers.¹⁵ These pressures

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motivated employees to work longer and frequently unpaid hours, as work hours were often regarded as the most objective evaluation criteria for workers.

In the meantime, to cut costs, Japanese companies increased the use of non-regular workers, who accounted for 15.3 percent of all workers in 1984 and increased to 37.5 percent of all workers in 2016.¹⁶ Those non-regular workers usually do not work overtime, resulting in stronger pressure on, and higher workloads for, regular workers.¹⁷

Responding to karoshi, Japan implemented the Death from Overwork Prevention Countermeasure Promotion Law in 2014, followed by the release of the *White Paper on Death from Overwork Prevention Countermeasure* in 2016 (mentioned above). On 3 August 2016, Japanese Prime Minister Shinzo Abe gave a speech declaring that “[Japanese government’s] biggest challenge is work style reform. We will improve long working hours.”¹⁸

As part of the reform, the Japanese government committed to legally regulating overtime working hours. Prime

Minister Abe’s commitment to reform is historic in the 70 years of the Labour Standards Law.¹⁹ Under the new rule, companies can no longer make their employees work unlimited hours. The government limits the hours of overtime to a maximum of 60 on average per month and 720 total per year.²⁰ As previously mentioned, the top 100 companies’ average number of allowable overtime hours was 92 per month, so the impact of the work style reform is likely to be significant.

The law reform might create momentum to change Japanese working culture. However, it is not a complete solution to the problem. As stated in the *Action Plan for the Realization of Work Style Reform*, “The practice of working long hours is a structural problem, and will also require the reconsideration of company cultures and transaction customs.”²¹ For example, the simple implementation of an overtime maximum could result in an increase in overtime work without compensation, which makes the situation even worse. As a result, supplementary measures such as easier ways to report illegal working conditions to authorities and protection for those who report are necessary.

Additionally, some have criticized the government for being reluctant to compensate cases of karoshi through the worker’s compensation system. It takes a long time to reach a decision on whether such deaths will be com-

pensated, and the established criteria are stringently applied.²² Although the new movement is likely to reduce work hours, the government should value the importance of supporting those who still suffer from overwork.

Japan's progress on overwork offers important lessons for other countries.²³ Matthew Reiss, a New York-based journalist, has suggested that Americans might also suffer from overwork, but US authorities such as coroners and judges refuse to entertain the notion that inordinate work stress can cause death.²⁴ Additionally, Richard Wokutch from Virginia Tech has pointed out that "India, South Korea, Taiwan, China – the next generation of emerging economies is doing the same thing, they are following the postwar Japanese movements towards long hours."²⁵ Working long hours with the risk of *karoshi* is therefore not unique to Japan, and Japan's targeted approach to reducing overwork could benefit countries and workers around the world.

The article reflects the author's personal belief and is not an official opinion of any organization to which the author belongs.

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