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The Millennials Initiative 2018

New Voices and Ideas on Care, Community, Technology, and Civic Engagement

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Millennials Initiative

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Acknowledgments

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About New America

We are dedicated to renewing America by continuing the quest to realize our nation's highest ideals, honestly confronting the challenges caused by rapid technological and social change, and seizing the opportunities those changes create.

About Millennials Initiative

The Millennials Initiative at New America will examine the challenges facing this generation of young adults (born between 1980 and 2000) as they aspire to assemble the basic building blocks of success—getting an education, finding a job, managing finances, buying a home, raising a family, and engaging socially and politically in a community.

Contents

Contents Cont'd

Introduction

This volume, edited by Reid Cramer and S. Melody Frierson, is the product of the collective efforts of the 2017-18 Millennial Public Policy Fellows and their colleagues in the Millennials Initiative and throughout New America. It begins with an article making the case for crafting a public policy agenda informed by the experience of those coming of age in the wake of the Great Recession. Part I presents material from the one-day **April 2018 symposium** focused on the cross-cutting issues of care, community, technology, and civic engagement, including summaries of the proceedings and panel discussions. Part II features the policy research of the Millennial Fellows, with each paper highlighting a pressing national issue, analysis of prevailing dynamics, and a set of policy recommendations. Finally, Part III includes short biographical sketches of each fellow and selections from **The Direct Message**, the blog of the Millennial Initiative.

The Case for Crafting a Millennial Public Policy Agenda

by Reid Cramer

Millennials have come of age in a time of economic uncertainty. Even though they bear no responsibility for the financial crisis and subsequent Great Recession, which began over a decade ago, they have to live with its consequences. The precariousness unleashed by stagnant incomes, rising debts, and eroded assets has complicated life decisions, reordered aspirations, and made navigating the road to adulthood more arduous. Dramatically altered prospects for an entire cohort of young Americans is setting up a generational reckoning that may eventually rewrite the social contract.

Crucially, Millennials' issues are everyone's issues. Millennials are not just the future—they're already here and poised to exert their influence as the largest generation. They're the young adults powering our workforce. They're the consumers and, increasingly, the producers steering our economy. They're the people deciding if, when, and how to start families, and assuming responsibility for raising the country's most prized resource: the children of the next generation.

Dramatically altered prospects for an entire cohort of young Americans is setting up a generational reckoning that may eventually rewrite the social contract.

Despite this outsized role, there's a growing disconnect between the conditions facing Millennials and prevailing public policy. Individuals are increasingly saddled with risks that had previously been collectivized, and the economy is seemingly erecting more roadblocks to financial security rather than opportunities to build wealth. This misalignment between social policy and lived experience threatens to undermine the potential of an entire generation. Consequently, there's a growing imperative to develop a set of policy ideas that can respond to current conditions, align with prevailing attitudes and behaviors, and create new pathways of progress for the rising generations.

Insights and Obfuscations of a Generational Lens

Looking at the world through the perspective of birth cohorts has both value and inherent limitations, especially as a basis for crafting public policy. The Pew Research Center has taken a data-driven approach to exploring the generational experience, defining Millennials as those born between 1981 and 1996, making the youngest 21 and the oldest 37.[1] Even though this is a large spread capturing different parts of the life course, it facilitates a comparative analysis. From a number of perspectives, it's apparent that Millennials are outpacing their elders. Today, Millennials make up 22 percent of the total population, 30 percent of potential voters, and 38 percent of working-age adults.[2] By 2025 they will comprise 75 percent of the workforce.[3] They're not just going to make their mark; they will re-paint the canvas.

Shared formative experiences shape priorities and opinions in ways that distinguish generations from one another. For Millennials, there were early memories of confusing social disruption, such as the Oklahoma City Bombing in 1995 and Columbine School Shooting in 1999 as well as political disputes associated with sharpening political polarization, memorialized by the impeachment and acquittal of President Clinton in 1998. Most Millennials were between 5 and 20 years old when the 9/11 terrorists attacks occurred, followed by the extended wars in Iraq and Afghanistan. Seven years later, they were between 12 and 27 years old during the 2008 election campaign, when the force of the youth vote helped elect Barack Obama, the first Black president. Their subsequent adolescence and early adulthood was spent in the shadow of the Great Recession, with an economy wracked by job losses, business failures, wage stagnation, and a slow recovery. The unexpected results of the 2016 election were relatively unpopular among Millennials, creating a new political landscape they are collectively navigating to this day.

In designing policies that meet the moment, it matters what those who are impacted think about current affairs and how they participate in the political process. In the years ahead, Millennials will lead shifts in public opinion, creating opportunities for large-scale policy change. They are already having an impact on a number of social-issue policy debates—such as marijuana legalization, gun control, and gay rights—as they express their preferences in ways that diverge from older Americans. As a cohort, Millennials remain skeptical of political parties; 44 percent identified as political independents in 2017, far exceeding GenX-ers (39 percent) and Baby Boomers (32 percent).[4] Yet, as a group, they tilt toward the liberal side of the political spectrum. When "lean" is considered in survey answers, more Millennials associate themselves with the Democratic Party (59 percent) than the Republican Party (32 percent); the 27 percent spread exceeds GenX (6 percent) and Boomers (2 percent), as of 2017.[5] Still, only 49

percent of Americans ages 18 to 35 voted in the last presidential election, compared to about 70 percent of Boomers.[6]

In designing policies that meet the moment, it matters what those who are impacted think about current affairs and how they participate in the political process.

While Millennials share cultural touchstones that distinguish them from older generations, broad generalizations about their preferences and behaviors will miss their diverse experiences. In fact, the Millennial generation is defined by its diversity. Forty-four percent of Millennials identify as something other than non-Hispanic white, greatly exceeding the minority share of previous generations.[7]

Specifically, the Hispanic slice of the population pie is dramatically increasing. While 9 percent of Boomers identify as of Hispanic, 19 percent of Millennials identify as being of Hispanic (or Latinx) origin.[8] Given demographic trends, this transition to a country with more color will continue. In fact, without the growth of Hispanic children, the nation's child population would have declined from 2000 to 2010.[9] In 2011, the majority of babies born in the United States had parents who were traditionally seen as minorities, and in only a few more years, most children in the United States will identify as non-white.[10] By many metrics, Millennials are serving as the bridge to a more diverse America.

Though 75 percent of older Americans—those over age 55—are white, this percentage drops to half for children under the age of 5.[11] In the near term, the working population will increasingly be made up of people of color and the nonworking population will be overwhelmingly white Baby Boomers, widening an already existing cultural gap. In the long term, this new demography will undermine generalizations, remake institutions, and change the country.

Rising Inequality and Growing Divides

Unfortunately, this diversity has become a foundation for rising generational inequality, with the reality of an older, whiter America contrasted with more diverse rising generations. To acknowledge this diversity is to acknowledge that the experiences of Millennials of color are particularly distinct—and perilous.

According to the Black Youth Project, unemployment rates are substantially higher, living in poverty is more prevalent, experiencing violent crime is more likely, and being involved in the criminal justice system is much more likely for Black and Latinx youth than for their white counterparts.[12]

In this light, examining differences among demographic groups must be an essential component of any generational analysis. The GenForward Survey, directed by political scientist Cathy Cohen at the University of Chicago, is facilitating this type of analysis through a nationally representative sample of young adults that applies an intersectional lens and pays special attention to how race, gender, and sexuality influence their view of the world.[13] Their survey findings offer an opportunity to break down monolithic explanations of universal experience and heed the diversity of the Millennial generation. Their data clarify when and how race and ethnicity are associated with different beliefs or experiences. For example, when probing the contours of a persistent economic opportunity gap, they dig deeper than reporting relative levels of employment and ask about the ability to pay bills, cover an unexpected expense, or ask family for financial support. The GenForward Survey approach prompts us to examine disparities and identify places where policy is not adequately responding to changing conditions in a variety of consequential areas.

A Remade Socio-Economic Landscape

Consider how dramatically the educational landscape has changed, and its pernicious consequences. Among Millennials, there are more degrees and credentials—having tripled since the 1960s—but also higher tuition and more student debt.[14] Students have taken on at least 300 percent more debt than their parents, but, unfortunately, it hasn't always led to a degree.[15] Among college graduates with a bachelor's degree, student loans average almost $30,000, triple the figure for the same group in 1993.[16] This debt, the state of their finances generally, and other factors are changing Millennials' behavior over the life course. Fifty-six percent of Millennials with student loans report having delayed a major life event because of their debt.[17]

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The data shows that the milestones of adulthood are indeed changing. Millennials are less likely to marry than their parents. When they do, they do so later. The median age for a first marriage today is about five years older than it was in the 1950s and 1960s.[18] Cohabitation with a committed partner among 18 to 29 year olds is increasingly common, rising to over 9 percent today from around 6 percent in 1997.[19] Regardless of marital status, having children has become less prevalent. Although teen pregnancy and childbirth have declined significantly, so too has the overall birth rate, which was at a record low in 2017 after dropping for the sixth straight year.[20] Today, only 29 percent of women ages 18 to 29 have ever had children, down from 41 percent in 1998.[21]

Entering adulthood in the wake of the Great Recession has been economically devastating. In 2007, more than 50 percent of college graduates had a job offer lined up; yet for the class of 2009, fewer than 20 percent did.[22] The large-scale loss of jobs in the years following the recession and the slow recovery have depressed incomes and undermined workforce attachment. Even as the recession recedes from vivid memory, its effects linger. Over half of the unemployed today are young adults, greatly exceeding their share of the workforce. While unemployment rates have come down in recent years, the labor force participation rate for those between the ages of 18 and 34, remains near its lowest level in four decades.[23] The labor market consequences of entering the workforce during a downturn are large, negative, and long lasting.[24]

In the aggregate, Millennials currently earn 20 percent less than Boomers did at the same stage of life, despite being better educated.[25] Specifically, the median earnings today for 18- to 34-year-olds are lower than they were in 1980 and income flows are more volatile.[26] Between 1970 and 2002, the probability that a working-age American would unexpectedly lose at least half her family income more than doubled.[27] A rise in freelance and contract work associated with employers' drive for flexibility has shortened employment tenure and contributed to an overall decline in income. Poverty remains pervasive, with one in five Millennials officially classified as poor.[28] From 1979 to 2014, the poverty rate among young workers with only a high school diploma more than tripled to 22 percent.[29]

Since the Great Recession, the number of young people who own homes has plummeted. Young adults today are half as likely to own a home as young adults were in 1975. Since 2005, the decline has been dramatic. The homeownership rate for the under-35 households fell from 43 percent in 2005 to a historic low of 31 percent in 2015.[30] More people are renting homes now than at any other time since the late 1960s. But rents are up, and the number of households spending over half their income on rent has grown by more than 50 percent over the last 15 years.[31]

Growing Gaps of Wealth and Opportunity

Without home equity to bolster their balance sheets, younger Americans are *significantly* behind older generations in terms of wealth accumulation. In 2016, after years of decline, the median household net worth for all families—the difference between families' gross assets and their liabilities—rose to $97,300 in 2016, which, when adjusted for inflation, is 16 percent higher than the 2013 figure of $83,600 (although still 30 percent below the 2007 peak).[32] Young families didn't fare as well: The median net worth for families headed by a person under the age of 35 is $10,900, which is a 2 percent rise over the last three years but still $8,000 less than it was in 1995, a 41 percent decline (in 2016 dollars).[33] In contrast, households over age 75 have seen their wealth dramatically rebound, rising 32 percent in the last three years to $264,000.[34] This is the Millennial wealth gap, and its emergence should be alarming.

Even though we expect wealth to rise with age before plateauing as people leave the workforce, the impact of sustained low wealth holdings over time can be severe. Not only does it amplify financial insecurity, but also it corrodes the ability to plan for the future. Clearly, the prevailing economic realities in America today are complicating how young people assemble the traditional building blocks of success.

Without home equity to bolster their balance sheets, younger Americans are significantly behind older generations in terms of wealth accumulation.

The Millennial wealth gap is even more devastating when combined with our historic racial wealth gap. Throughout U.S. history, almost every means of wealth creation—higher education, homeownership, access to credit—has been systematically denied to minorities. The Great Recession has amplified previous disparities. In 2016, the median net worth of non-Hispanic white households was approximately nine times the net worth of Black and Latinx households— $171,000 versus $19,000, according to the Federal Reserve Board's Survey of Consumer Finances.[35] This makes the racial wealth gap larger today than it was in the early 2000s, when the average non-Hispanic white household had "only" six to seven times the wealth of the average African American household.

Divergent experiences with homeownership are among the key drivers of these disparities. For decades, homeownership was how the majority of (white) American families traditionally built their wealth. Discrimination by banks and early federal homeownership programs that began in the 1930s prevented minorities from accessing mortgage financing that enabled white families to build their wealth through housing equity. The Fair Housing Act of 1968, passed in the days following the assassination of Martin Luther King, Jr., made this discrimination illegal, and modest gains in homeownership for families of color eventually followed. Unfortunately, less attention was paid to policing the financial services marketplace, which allowed predatory lending practices and poor mortgage underwriting to spread without oversight. The housing boom burst with the advent of the Great Recession, wiping out significant assets on the family balance sheet.

As the housing market collapsed, Black homeownership rates fell more than non-Hispanic whites', and their houses lost more value. Last year, the homeownership for Black American households was 28 percent lower than it was for non-Hispanic whites, and many of the gains in Black homeownership since the Fair Housing Act was passed have been erased.[36] Additionally, declines in homeownership have been most pronounced for younger Black households. According to the Urban Institute, the homeownership rate for families headed by Black Americans between the ages of 35 and 44 fell from 45 percent in 1990 to 33 percent in 2015, lower than the Black homeownership rate in 1960.[37] On top of that, in recent years, only 22 percent of younger Black Americans aged 24 to 34 were homeowners.[38]

If the rising cohort of young adults, especially those from historically disadvantaged groups, can't improve their financial balance sheets by earning more, increasing their assets, and lowering their liabilities, their climb up the economic ladder won't be delayed but rather won't occur at all. The diminishing prospects for economic mobility have made financial security itself a primary goal for many young adults, rather than the more aspirational features of the American Dream. Absent a concerted policy response, the troubling disparities in wealth and opportunity will persist for years to come.

Constructing a Millennial Policy Response

There's little doubt that the current political moment presents major challenges in crafting a Millennial public policy agenda. The weakening of norms during a period of entrenched political polarization is undermining our system of governance. Still, there is value in the task of identifying durable policy solutions that respond to current conditions and can be effective when implemented at scale.

As society attempts to grapple with the present and future of this generation, it must bring any social policy ambitions in line with the reality of unprecedented diversity. Policies explicitly designed to create these avenues of economic opportunity for Millennials will be as diverse as the generation. These policies should be expected to increase economic security by creating the means to access educational and training opportunities, grow incomes, and build wealth; additional policies will be needed to support raising healthy families and facilitating civic engagement. This agenda should be ambitious.

We must find more successful ways to support, care, and educate our diverse populations. Given changes in the economy, evolving gender roles, expectations of families and employers, we have new insights into what it takes to build communities of care. There will be challenges and opportunities associated with technological innovation and change. Political engagement will be required to make policy change happen. We'll need to find better ways to govern the civic spaces where policy and politics meet, especially by including new and diverse voices to help drive this ideas-generation process. For this process to be successful, it will be essential for the young and diverse generation of Millennials to have a seat at the policy-making table. Their time has come, and we all must ensure that it is not too late.

Reid Cramer Signature

Part I: Millennial Public Policy Symposium

Part I features session summaries and proceedings from the April 2018 Millennial Public Policy Symposium at New America. Joined by an esteemed group of activists, academics, and policy makers, the Millennial Fellows used their one-day symposium to elevate new voices and crosscutting policy ideas.

A Note from the Director

The aim for our April 26, 2018 Millennial Public Policy Symposium: New Voices and Ideas on Care, Community, Technology, and Civic Engagement was to elevate some of the most consequential issues facing the rising generations by promoting cross-cutting conversations that advance policy solutions with the potential to make a difference in the lives of young adults.

This convening was designed to raise big questions and make the case for meaningful change by asking:

- What are the collective responsibilities for care given changes in the economy, evolving gender roles, and expectations of families, employers, and educators?
- How can we implement technological solutions in an era of big data that don't undermine individual rights or public goods?
- How do we expand the policymaking table to include new voices and the underrepresented and foster the political engagement necessary to make policy change happen?

These questions are posed at a time when new economic realities are complicating how young people assemble the traditional building blocks of success. The prevailing public policy framework is increasingly out of step with the experience of Millennials, creating a social and economic precariousness that is undermining the potential of an entire generation. This is a problem for us all. We know our economy can do better to share prosperity, and our society can be more just, but we will need a new set of forward-looking policy ideas to meet the moment.

Because effective policy should align with prevailing attitudes, preferences, and behaviors, we need the engagement of Millennials to help drive this ideas-generation process. This was part of thinking behind creating a Millennial Public Policy Fellowship at New America. Since their arrival in August 2017, our ten Millennial Fellows have been engaged in focused policy research. They are outstanding individually and as a group. It has been my pleasure to work with them throughout this year, and this program is the fruit of their seeding.

I'm extremely thankful to the Citi Foundation for their financial support of this fellowship program and their substantive engagement in promoting pathways to progress for a diverse set of opportunity youth. Their President Brandee McHale and her team are leaders in the field and truly committed to supporting a new generation of leaders.

In that spirit, this symposium was an opportunity to explore how the world and our society are changing and to think harder about how a policy response can create new pathways to progress for the rising generations.

Thank you for your engagement.

Reid Cramer, Ph.D.

Director, Millennials Initiative, New America

New Perspectives on Communities of Care

Consisting of a pair of short conversations facilitated by Millennial Fellows **Myacah Sampson**, **Roselyn Miller**, and **Jenny Muñiz**, this session advanced past justifying why inclusive care and education policies matter and toward implementing solutions that address the needs and aspirations of low-income communities of color. Speakers from New America's Family-Centered Social Policy program, Better Life Lab, and Education Policy teams strategized best practices for how to reduce systemic barriers, build robust programs that encourage engagement, and lay the groundwork for equitable policy.

Part I:

- **Myacah Sampson,** Millennial Fellow, Family-Centered Social Policy, New America
- **Roselyn Miller,** Millennial Fellow, Better Life Lab, New America
- **Alieza Durana,** Senior Policy Analyst, Better Life Lab, New America

Alleviating or Exacerbating Inequality?

Jenny Muñiz

#HandsOffSNAP is among this month's most notable Twitter hashtags. Those using it are giving Republican lawmakers considerable flak for proposing a **Farm Bill** that would gut the country's premier anti-hunger program, the Supplemental Nutrition Assistance Program, or SNAP. This assault on SNAP is the latest in a series of attempts to scrap vital safety net programs that Americans use in times

of need, including **after-school meals for students**, **home-delivered meals for incapacitated recipients**, and health care for seniors.

In light of the alarming resurgence of so-called "entitlement reform" it seems an odd time to have conversations about *expanding* the social safety net. But such a conversation is possible, at least in the case of paid family leave—a traditionally Democrat-backed program that recently won a surprising endorsement from Marco Rubio and the First Daughter, Ivanka Trump. This rare move toward consensus about the value of paid family leave allows us to sidestep the usual debate about justification of safety net programs and, instead, delve into the weeds of program design. Although it remains unclear whether Marco Rubio or Ivanka Trump will be effective backers, it is important to begin considering what an effective federal paid family leave program should look like.

As part of the **Millennial Public Policy Symposium: New Voices and Ideas on Care, Community, Technology, and Civic Engagement**, Roselyn Miller and Alieza Durana, members of New America's **Better Life Lab**, along with Myacah Sampson, Millennial Fellow with New America's **Family-Centered Social Policy** program, led this very conversation. As Durana explained, despite the bipartisan support for paid family leave, lawmakers on both sides of the aisle remain widely divided about the program's design. While the Democrats' **FAMILY Act** would create a social insurance fund that allows workers to pool money that they can later access after the birth of a child or during family illness, the **Republican plan** would allow new parents to borrow from Social Security after the birth of a child, delaying their retirement.

Despite the bipartisan support for paid family leave, lawmakers on both sides of the aisle remain widely divided about the program's design.

Not only is Rubio and the Republicans' plan troublesome because it blunts the Social Security program, as Durana **explained**, it is particularly nefarious because of who it leaves out. Their plan would only allow parents to take time off for a new child and would not cover those who need to take time off for other family-related issues including sickness. Their proposal would also be an unfair burden for low-wage workers and for those who work physically demanding jobs. These workers, too, need to take time off and may be especially hurt by a delayed retirement. What's more, the panelists pointed out that the proposal leaves little

room for non-traditional families and could potentially exacerbate the gender wage gap.

The conversation between Durana, Miller, and Sampson also shed light on a broader question of how well-intentioned policies run the risk of overlooked negative consequences. To this end, history can be instructive. The Family Medical Leave Act, for instance, allowed affluent white families to take unpaid time off, which further exacerbated inequality. To avoid replicating programs that leave out communities by design, or worse, cause undue harm, Durana suggested asking: "How would this policy affect marginalized communities? By gender? By Race? At the intersection of those two?"

Part II:

- **Jenny Muñiz,** Millennial Fellow, Education Policy, New America
- **Abigail Swisher,** Program Associate, Education Policy, New America
- **Ernest Ezeugo,** Program Associate, Education Policy, New America

Intervening with Care: Why Inclusive Education Policies Matter

Dillon Roseen

As policymakers and researchers look to optimize outcomes for innovative social and educational policies, they must be mindful of whether their policies equitably meet the needs of affected communities. To that end, thoughtful policy leadership starts and ends with the following questions:

How do you intervene with care? And, how do you design policies with different communities in mind to minimize unintended consequences that could actually lead to inequitable outcomes?

At the **Millennial Public Policy Symposium** in April, Millennial Public Policy Fellow Jenny Muñiz tackled these questions as they relate to education policy alongside two of her colleagues from the education program at New America— Abigail Swisher, whose work centers on college and career readiness through youth apprenticeship, and Ernest Ezeugo, whose research explores the use of predictive analytics and algorithms in higher education. Specifically, they presented a powerful argument as to why inclusive education policies matter and, building off this argument, offered strategies and solutions for addressing the needs and aspirations of low-income communities of color.

Youth apprenticeship, Swisher explained, is a partnership between a high school, a post-secondary partner, and an industry player that provides students with paid, on-the-job mentorship in combination with early access to post-secondary, for-credit classroom training. Apprenticeship programs, if done right, should

provide individuals with a family-sustaining wage and a clear path forward in a specific industry. But as Swisher **explicated** when describing the equity dimensions of youth apprenticeship, there is a pernicious history surrounding vocational programs in the United States. This history is rife with discrimination. As Jeannie Oakes writes in her book **Keeping Track**, "An underlying function of vocational education has been to segregate poor and minority students into occupational training programs in order to preserve the academic curriculum for middle- and upper-class students."

How do you design policies with different communities in mind to minimize unintended consequences that could actually lead to inequitable outcomes?

Given this history, proposals for expanding apprenticeship opportunities that lead toward vocational occupations are rightfully met with increased scrutiny, even if the overarching intention behind such programs is good and these programs show great promise. Muñiz summarized these quandaries by describing the thin line that can cause even well-intentioned policies to reinforce deficit perspectives and stereotypes that track low-income and minority communities. Similarly, Ezeugo warned of the potential unintended consequences of using algorithms and predictive analytics to forecast expected behaviors, a system that often disproportionately targets and tracks underserved populations.

Building on **Virginia Eubanks** and **Cathy O'Neil**'s research on the destructive power of algorithms, Ezeugo made the case that algorithms have historically tended to benefit richer and whiter communities, while being forced onto lower-income communities and communities of color. Specific examples illustrate how algorithms can **propagate racist stereotypes** around Black criminality, **exclude job applicants** based on gender, race, age, disability, or military service, and, ultimately, **perpetuate poverty**.

Despite these legitimate warnings, there is still incredible promise if strategies are approached thoughtfully and data is used both ethically and effectively. Critically, human interventions are needed to understand how data is unfairly deployed and interpreted, such that inequity-reinforcing biases are mitigated before being scaled across entire systems.

Swisher offered an equitable framework to achieve this goal. She emphasized, first, being able to articulate who programs are designed for, then making sure those individuals' voices are at the table while creating programs. Throughout a program's development, policymakers must take care to fully understand the scope of data being collected, quickly report the impacts of using this data, and adjust approaches before programs are scaled.

Ezeugo gave a specific example of a program at Georgia State University that has successfully implemented such an equity framework. The university created a program that uses predictive analytics to provide key insights on early interventions that can support struggling students. Rather than relying on entrenched, black-box algorithms to make decisions, the program continues to emphasize human interaction and iteration based on in-person feedback from students directly impacted by the program. Part of this strategy led Georgia State to invest in a robust counseling system, reducing the student-to-counselor ratio from 700 students per counselor to 300 students per counselor.

A key theme from this conversation is that innovations in education policy, founded on the ethical and effective use of data, can be used to teach us more about student success than we have ever known. This introduces new possibilities for promising interventions that would support individuals throughout their education. Being mindful of the risks, policymakers should embrace equitable and targeted frameworks that better deliver education outcomes to historically underserved communities.

Promises and Perils of Technology and Big Data

How can data and technology be used to strengthen policy? What are the benefits, risks, and challenges associated with data and technology-driven policymaking? This session sought to answer these questions within the context of CVE (Countering Violent Extremism), health care, and the role of technologists in decision-making processes by having Millennial Fellows **Emma Coleman**, **Spandana Singh**, and **Dillon Roseen** each facilitate distinct conversations with their fields' leading experts.

Introduction

- **Braxton Bridgers**, Millennial Fellow, Resource Security, New America
- **Cecilia Muñoz**, Vice President, Public Interest Technology and Public Interests, New America

Big Data, Bigger Challenges

Myacah Sampson & Aaron Noffke

It's a question we ask frequently at New America: How can we leverage technology and data to better solve public problems? It's also a question gaining more urgency as we rapidly reconsider the role of technology in public life. From **Facebook's data misuse** to the proliferation of **high-tech surveillance on marginalized communities**, it has become apparent that we must transition away from the mindset that data collection and technological development turned loose in the world will bring about the changes we'd like to see in public policy.

In addition to serving as New America's vice president of Public Interest Technology and Public Interest, Cecilia Muñoz has been at the helm of a new era where tech and policy experts come together to address inequities exacerbated by technology while developing effective tools to build a more connected and equitable world. It was only fitting that she introduce the second portion of the **Millennial Public Policy Symposium**, titled "Promises and Perils of Technology and Big Data," a series of short conversations facilitated Millennial Fellows across the Public Interest Technology, Cybersecurity Initiative and Open Technology Institute programs.

Muñoz emphasized the need to place a greater value on collaboration across skill sets, especially policy analysis and tech product development. Policy experts and elected officials alike might have a great deal of expertise on how a particular public service operates, but because of a lack of digital literacy may not possess the *full* skill set needed to effectively design legislation that pushes tech to work for the public interest. As Muñoz spoke, we could not help but think of how evident this was last month as senators grilled Facebook CEO Mark Zuckerberg with a series of **non-starter questions** like, "Is Twitter the same as what you do?" or whether Facebook is capable of deploying targeted advertising based on what one might say in WhatsApp. It is apparent that our current policymakers need to better acquaint themselves with digital tools.

Tech experts on the other hand, might possess a trove of knowledge about gaps in public services and infrastructure, but lack the perspective of a policymaker on the implications a new technological tool may have on existing government services. An example that comes to mind is when ride-sharing company Lyft announced a pilot service called **Lyft Shuttle**—a fixed-route van that arrives at optimal meeting points in a city. If this sounds like a public bus to you, you're not alone. Twitter users quickly **derided Lyft Shuttle** as a pompous Silicon Valley reinvention. Without mindful collaboration, tech might not only duplicate public services but create additional public policy challenges as well.

It is apparent that our current policymakers need to better acquaint themselves with digital tools.

Muñoz's past work demonstrates that tech and policy experts do not need to be enemies. When they come together under effective management, useful tools that foster transparency and equity emerge. She recounted how programmers were brought in from the private sector to assist in the creation of tech policy during her tenure as Director of Intergovernmental Affairs, and later as Director of the Domestic Policy Council under President Obama. Bringing together policy experts with engineers and product developers, Muñoz spearheaded the creation of the **College Scorecard**, a digital college rating tool, and the **Opportunity Project**, an agency dedicated to bringing in tech to solve big and small public problems alike. To grow this transformative work, Muñoz said that organizations working for the public good "must operate with the same technological capacity as the private sector."

To be frank, we haven't quite figured out how this will work yet. Instead, we see the perils of big data—from racialized, **predictive policing in Los Angeles to automated welfare programs in Indiana** that kick our most vulnerable community members off public assistance. No doubt, technology does not inherently make our political systems more just. On their own, they can only reflect or exacerbate our established ways of running government. But, as Muñoz emphasized, in collaboration with those that truly know the impacts and outcomes of our public and civil institutions, we can better identify when disparities are happening and better understand what to do about them.

And so thinking about technology as another tool for the public interest is essential. "The way we protect voting rights in America is primarily through litigation...it's never been a perfect tool, and it's not going to become one. That's why we need additional tools." As technology transforms more aspects of daily life, how technology can address public problems becomes a question that can't be ignored.

Why We Need Technologists at the Policy Table

- **Emma Coleman,** Millennial Fellow, Public Interest Technology, New America

- **Dipayan Ghosh,** Fellow, Public Interest Technology and Open Technology Institute, New America

Why Policymakers Need Technologists

Spandana Singh

In early April, following the onset of the Cambridge Analytica controversy, Facebook CEO Mark Zuckerberg **testified** in front of Congress. Many heralded Zuckerberg's rare appearance in Washington, D.C., as an opportunity for lawmakers in the United States to get answers from Facebook on important issues such as consumer privacy, information manipulation, election integrity, and its supposed commitment to its users. However, following the two-day marathon of hearings, it became clear that policymakers had **failed** to elicit useful information from Zuckerberg, as they lacked the appropriate technical knowledge and expertise to do so.

Aside from sparking the creation of a number of noteworthy **memes** that highlight the derelict technical education most of America's policymakers have, the Zuckerberg hearings also revived a long-standing discussion on why it is important to have technologists involved in the policymaking process.

At New America's **Millennial Public Policy Symposium**, Millennial Fellow Emma Coleman and Dipayan Ghosh, a fellow at New America and the Shorenstein Center at Harvard Kennedy School, dove into this issue further. Ghosh, a technologist who has worked for both Facebook and the White House, explained that as technology has become an integral aspect of our daily lives, it has created a number of opportunities for economic growth and access. Simultaneously, however, it has also given rise to a number of tensions and inequalities that need to be appropriately navigated. Without technologists who are capable of explaining these opportunities and resolving these tensions in the room when decisions are made, resulting technology policies cannot and will not be successful.

There are currently a handful of organizations that are working to remedy this gap in technology expertise in the United States. One of them is **TechCongress**, which has been working since 2016 to provide talented technologists with one-year Congressional Innovation Fellowships with Members of Congress or Congressional Committees. These fellowships provide technologists with the opportunity to gain policymaking experience and to shape the future of technology policy in Washington, D.C., while also offering much-needed tech expertise to congressional offices.

But, as Ghosh pointed out, in order for tangible change to be made in this space in the long term, policymakers need to recognize the importance of having

technologists at the decision-making table. Currently, technical expertise is not considered one of the primary specialties needed on the Hill, and with limited budgets, this often means that members of Congress end up lacking staffers with the expertise to guide them through the increasingly complex world of technology policy. In addition, as outlined in a **report** on the flow of technology talent into the public sector commissioned by the Ford Foundation, as salaries and employment benefits in the traditional technology sector continue to grow and expand, it is also becoming increasingly difficult to convince technologists to join government or other policymaking spaces, where salaries and benefits are more moderate.

In order for tangible change to be made in this space in the long term, policymakers need to recognize the importance of having technologists at the decision-making table.

As we head into the latter half of 2018, a number of technology policy issues are at the forefront of public attention, including the Honest Ads Act on online political advertising, discussions on intermediary liability for online platforms and fake news, and the FCC's alterations to the Lifeline program. There is a critical need for technologists in the policymaking space. The onus now falls on both lawmakers and technologists to come together to educate each other and collaborate in order to ensure that the next time a major technology sector executive comes to town or the next time major technology legislation is proposed, lawmakers are ready.

Countering Violent Extremism Online: How We Can Leverage Data, Transparency and Metrics to Build a Safer Internet

- **Spandana Singh,** Millennial Fellow, Open Technology Institute, New America
- **Evanna Hu,** Partner and CEO, Omelas; and Fellow, International Security, New America

Building Metrics for Success When Combating Extremism Online

Braxton Bridgers

In January, representatives from the nation's most influential tech companies convened on Capitol Hill to discuss methods for combating the publication of violent and extremist content on their respective platforms. Leaders of Companies such as Facebook, Twitter, and YouTube highlighted their work in Countering Violence and Extremism (CVE)—a term that encompasses campaigns meant to counter extremist rhetoric—online. During the hearing aptly titled "#IsBigTechDoingEnough," high-level business officials were **quick to shine a spotlight** on various statistics as metrics for success, citing an increase in workers to scan extremist content, as well as the large amount of extremist content their companies have taken down. But do these numbers truly illustrate the effectiveness of Silicon Valley's campaign to combat the presence of such content online?

During New America's **Millennial Public Policy Symposium**, **Spandi Singh**, a Millennial Fellow with the Open Technology Institute, hosted a discussion with New America International Security Fellow **Evanna Hu** that explored the role of data in enhancing the field of CVE, as well as the validity of content takedown statistics that are often referred to by tech companies as metrics for success. Both Singh and Hu began the conversation by establishing that it is extremely difficult to equate actions pertaining to CVE as a direct cause for the disruption of extremist activity. For this reason, legislators are eager to consume data—such as click-through rates, shares, and likes—that may seem impressive on the surface, but does not necessarily represent progress in countering extremist narratives.

It is extremely difficult to equate actions pertaining to CVE as a direct cause for the disruption of extremist activity.

The discussion also drew attention to the disconnect between the threshold for success established by legislators on Capitol Hill and their understanding of the technologies companies use to engage in CVE. Last month, Facebook co-founder and CEO Mark Zuckerberg attended a heavily publicized congressional hearing following the company's **data-breach scandal**. While the focus of the hearing revolved around Facebook's capabilities to protect the data of it users, Zuckerberg was also questioned about the company's practices regarding the censorship of violent and extremist content. Facebook's CEO proudly illustrated

the company's capabilities to address such content by highlighting the fact that **99 percent of ISIS and Al Qaida content** taken down from the platform is identified by Artificial Intelligence (AI).

However, research conducted by Omelas, an advisory firm co-founded by Hu that maps the online information environment for security assessments, revealed that **large swaths of extremist content** can go undetected for a significant span of time, even under the watchful eye of AI programs. Unfortunately, legislators have traditionally found a false sense of comfort in surface-level metrics provided by tech companies, stifling their ability to truly measure the success of CVE campaigns. What's more, the technical illiteracy of legislators at the highest level of government drives the creation of insufficient indicators of success in the CVE space.

Singh and Hu also explored the consequences of tech companies operating unproven CVE programs. Not only do unproven CVE methods have the potential to further marginalize legitimate voices through censorship, they can also further radicalize target audiences. Additionally, CVE programs tend to emphasize content takedown of larger extremist organizations, such ISIS and Al Qaida, creating an avenue for smaller organizations to increase their presence online.

The discussion closed by identifying steps that can be taken to strengthen the field of CVE. While tech companies are moving in the right direction by providing transparency reporting on actions associated with CVE, a neutral party functioning as an independent auditor has the potential to illustrate the state of online information environments beyond non-descriptive statistics. Lastly, Hu highlighted the potential of civil society organizations in developing strong metrics for success in the CVE space, by educating organizations to become literate in CVE terminology and breaking the current threshold established by legislators lacking sufficient knowledge of the field.

The Rise of Health Care Data: Why We Should Be Both Excited and Concerned

- **Dillon Roseen,** Millennial Fellow, Cybersecurity Initiative, New America
- **Robert Lord,** Co-Founder and President, Protenus; and Fellow, Cybersecurity Initiative, New America
- **Sonia Sarkar,** Chief Policy and Engagement Officer, Baltimore City Health Department; and Fellow, Public Interest Technology, New America

Patient Care, Security, and Equity: Toward a More Holistic Framework for Health Care

Becky Chao

Whenever I walk into a new doctor's office for the first time, the receptionist hands me a stack of paperwork to complete. I've learned to anticipate these forms and their thorough questions now; they list questions about my medical history, current medication, insurance information, and emergency contact. Usually at the bottom of the stack are pages about the office's privacy practices and a request for authorizing the release of identifying health information, with dotted lines for my signature. I sign away—the potential that I may be, in the words of New America's Cybersecurity Initiative Fellow Robert Lord, "essentially giving all the rights away to every one of the most sensitive pieces of data that might be in [my] life" isn't exactly top of mind for me as a patient seeking care. I've given little thought to who has access to my health care records, and what they could possibly be doing with this data.

Other patients and stakeholders, however, have raised these very questions to health care providers. Lord and Sonia Sarkar, New America's Public Interest Technology Fellow, spoke about the questions they heard while working in Baltimore, Maryland, with Millennial Public Policy Fellow Dillon Roseen at New America's **Millennial Public Policy Symposium** in April. As a first-year medical student working at an HIV clinic, Lord was shocked that he had access to this sensitive patient data—in fact, in most hospitals across the nation, it may be the case that even volunteers would have access. Understandably, patients were hesitant to share information that would then be recorded in their health records. Similarly, in her former role as the chief policy and engagement officer for the Baltimore City Health Department, Sarkar participated in a coalition of health care and social program providers in which a representative from House of Ruth Maryland, an organization that does work around domestic violence, raised questions about the extent of data collection and the mechanisms in place to ensure that the right level of data was getting to the right people.

I've given little thought to who has access to my health care records, and what they could possibly be doing with this data.

Unfortunately, these issues of consent and security do not appear to be a top priority within the health care industry. Lord pointed out that while most comparable industries dedicate about 8 percent of their budgets to addressing

basic cybersecurity hygiene and protection, the health care industry dedicates only about half a percentage. Despite these risks to patient privacy, the move from paper to electronic health records (EHR) has been transformative, with increased opportunities for collaboration that make a critical difference in patients' health.

With much of what impacts health outcomes—things like diet, work, and transportation—lying outside the medical care system, the opportunities for leveraging technology and data to provide more holistic care are certainly exciting. Through programs like Accountable Health Communities implemented by the Baltimore City Health Department, EHR can increase collaboration between the health care network and social services to more comprehensively address individuals' health-related social needs. For a patient at a clinic in East Baltimore, a community where there are significant health disparities, having a module in the EHR for food needs helps identify a patient's social needs, enabling the clinic to refer them to government programs and resources in the community such as a local food bank or an urban garden program. By addressing an individual's overall health as a person and not just as a patient, Sarkar noted, we can link health care issues to food advocacy efforts around food deserts and disparities that send individuals struggling to put food on the table at the end of the month to the emergency room, integrating information about social programs into health care providers' standard of care.

Similarly, community organizations are interested in this data as well. Health issues may also be related to housing access, and using technology in the health care system may be one way to track the number of referrals to housing assistance programs that are being met. This holistic approach to health care, Sarkar said, may also inspire unlikely allies at hospitals and clinics who may not be actively involved in housing advocacy work.

By addressing an individual's overall health as a person and not just as a patient, we can link health care issues to food advocacy efforts around food deserts and disparities that send individuals struggling to put food on the table at the end of the month to the emergency room.

Lord pointed to this culture of open collaboration in health care as being responsible in part for the prevalence of security risks in the field. The lack of protections can also be contributed to the urgency of some health care scenarios; the medical team may need access to a patient's EHR to check for allergies to certain medications before administering it. In other words, health care systems would prefer the risk of an insider threat to patient privacy and security over a patient's death—especially one that would've been easily avoidable.

The question that remains is: How do we manage these risks while still leveraging the benefits of technology and data in health care? One problem, Lord noted, is that the usual security protocols for protecting data in institutions do not apply to the health care setting because of the complex nature of health care workflows. In other sectors, it might make sense to grant permission settings according to an employee's role and the level of access needed to complete his or her job effectively. This segmenting is called role-based access control (RBAC). In health care, nurses and doctors work across a variety of practices, from inpatient care to outpatient care, in oncology wards and operating rooms, each dealing with different contexts and different types of patients. These differentiated roles might seem like the perfect opportunity to implement the traditional RBACs that are used in other sectors. However, this doesn't work in health care given the legitimate need to keep patient records readily available in case of emergency.

Nonetheless, the ways that the health care industry already uses data to improve outcomes and perform clinically-focused analytics could also be leveraged to protect data. In this vein, Lord is working on using artificial intelligence to defend health care institutions with his company, Protenus.

Just as importantly, Sarkar reminded us of the importance of listening to both patients and subject-matter experts. Technology can be a force for good by lifting up patient voices. In collecting data on health and social services, the health care system can also provide patients with the opportunity to voice opinions on whether those services are or are not meeting their needs. Technologists must join the conversation in a mode of learning instead of a mode of designing technological solutions. Lord echoed this sentiment and warned entrepreneurs to be mindful of cultural norms, challenges, and, especially, nomenclature—no surgeon wants to hear that someone is going to "disrupt" their hospital, after all.

Policy Engagement and Political Activism

This panel discussion focused on the political and historical context, myths and realities, and political possibilities surrounding youth activism. Featuring Millennial Fellows **Christian Hosam** and **Aaron Noffke** in conversation with Georgetown Professor and New America National Fellow Marcia Chatelain and Split This Rock Youth Coordinator Joseph Green, this panel addressed the

contemporary challenges and unforeseen strengths of centering young people in political activism.

- **Aaron Noffke,** Millennial Fellow, New America
- **Christian Hosam,** Millennial Fellow, Political Reform, New America
- **Dr. Marcia Chatelain,** Associate Professor, Georgetown University; and Wendy and Eric Schmidt Fellow, New America
- **Joseph Green,** Director of Youth Programs, Split this Rock

What Happens When Young People are Centered in Political Activism?

Roselyn Miller

From the establishment of the Black Panther Party at Merritt College in 1966 to the recent March for Our Lives activism displayed by the Parkland students, youth activism serves as an important tool for political change. Young people participating in social change leads to new perspectives gaining traction, as well as new models for political organizing. However, it is important to take a broader historical view on youth activism to ensure that youth-led movements maintain momentum and remain grounded in tangible change.

During the "Policy Engagement and Political Activism" panel at the **Millennial Public Policy Symposium** in April, Millennial Public Policy Fellows Christian Hosam and Aaron Noffke were in conversation with Marcia Chatelain, a professor and historian at Georgetown University and a New America National Fellow, and Joseph Green, a nationally recognized poet and director of youth programs for Split This Rock, to discuss how political organizations could serve and empower young people.

Young people participating in social change leads to new perspectives gaining traction, as well as new models for political organizing.

Noffke framed the conversation by emphasizing the impact of lived experience on social movements, stating "rather than approach the concept of youth activism as an inherently progressive or transformative force, it is perhaps more valuable to think of young people as a cohort shaped by laws, institutions, and

political events that have transpired in their lifetimes." From the LA riots of the early 90s to today's Black Lives Matter movement, young people's experiences continue to shape discussions and policies on race, income, and inequality in America.

Centering young people in political activism comes with opportunities and challenges; moving from lived experience to action requires education on social movements as well as a platform to market and leverage ideas. Chatelain noted how people today put so much faith in sponsors, like private corporations, or institutions, like the church, that often when communities fail to meet their own needs they start to blame the community, and not a larger structural or institutional failure. This idea limits the amount of individual agency young people think they can take. Green added that youth activism is most successful when young people can create a space for themselves to push continuously for the change they care about, even without institutional permission.

Hosam pointed out that the financial aspirations, rather than foundations, that young people have lead to different approaches to political activism in determining what areas of change might be the most interesting, impactful, and timely. Because of this financial insecurity, seemingly non-political factors, like access to secure housing, lead young people to engage with political activism because of the individual impact these experiences have had on their lives. Chatelain noted the importance of acknowledging this financial insecurity as a generational divide, and warned against turning social change into a leisure-class activity. In order for youth activism to have an impact, people must move beyond applauding young people's energy and initiative to listening to their concerns, educating themselves on the historical political landscape, and recognizing their position in a broader progressive social movement. Green found that in order to reignite a historically rooted campaign, such as Dr. Martin Luther King Jr.'s Poor People's Campaign, then "it has to be reinvigorated with the problems and the issues and the blood of the people who are trying to deal with the issues that are happening to them right now."

In order for youth activism to have an impact, people must move beyond applauding young people's energy and initiative to listening to their concerns and recognizing their position in a broader progressive social movement.

In that sense, youth-led movements should be understood as both deeply personal and community-driven actions, as well as historically rooted and influenced. To better serve the political education of young people, older generations must lead by example, broadcast better decisions by explaining their reasoning, and change ideas of what security means in terms of finances, success, and vulnerability in spaces. By allowing youth to take initiative not only in leading movements but also determining and then fighting for the causes that affect them most, historically impacted issues can continue to gain traction.

Expanding the Table: Intergenerational Activism and Policy Change

This interactive panel highlighted the work of youth activists around some of the most critical issues that affect both contemporary and future public policy. In particular, this panel focused specifically on immigration and gun control from often underreported perspectives and engaged with the audience on how to practically build movements of change. NAKASEC community organizer Sumi Yi, University of Maryland American Studies PhD candidate Tatiana Benjamin, and youth poet and activist Asha Gardner from Split This Rock were in conversation with Better Life Lab's Millennial Fellow **Roselyn Miller**.

- **Roselyn Miller,** Millennial Fellow, Better Life Lab, New America
- **Tatiana Benjamin,** American Studies PhD Candidate, University of Maryland - College Park
- **Sumi Yi,** Community Organizer, National Korean American Service & Education Consortium, Virginia (NAKASEC-VA)
- **Asha Gardner,** Poet-Activist, Split This Rock

Expanding the Table: Millennials Aren't Just Asking for a Seat at the Table--They're Expanding It

Christian Hosam

Though the massacre at Marjory Stoneman Douglas High School in Parkland, Florida, took place in February, it is already receding into the past. There is a near irresistibility of our media landscape to move on to the next calamity or the next development within the ongoing sagas of our current political moment. However, it might be instructive to realize that while the media coverage might have waned, the activism sparked and led by Marjory Stoneman Douglas High School students has only just begun.

There are national marches planned for the month of June as a follow-up to the March for Our Lives that took place in April. The Marjory Stoneman Douglas High School students have begun conducting voter registration drives

themselves to realize a formal kind of political power at the ballot box that has, at least up until now, remained informal. And beyond the direct politicization of the Parkland students, there is a slowly growing, yet unmistakable, shift for young people's political engagement.

Indeed, over a year before Parkland, the 2016 presidential election served as an inflection point for young people, with the **GenForward** reporting that a majority of young adults in every major racial and ethnic group claimed to have participated in at least one political activity since the election.

While the media coverage might have waned, the activism sparked and led by Marjory Stoneman Douglas High School students has only just begun.

It was in this spirit that the final session at New America's **Millennial Public Policy Symposium**, "Expanding the Table: Intergenerational Activism and Policy Change," was held. By highlighting the work of activists on the ground, "Expanding the Table" was designed to show that young people aren't waiting for permission to engage with politics. As a result of this more unrepentant activism, the cast of characters that enters into the ever-expanding "political" space is more diverse and more unapologetic than ever.

As the session progressed, each panelist touched on the tension between self-advocacy and the needs of those with more social power and influence to also step in and stand up for the issues critical to young people. Tatiana Benjamin, an American Studies PhD from the University of Maryland, identified the fact that the burden of social justice cannot completely be borne by those who are the most marginalized. She shared the story of deportation within her own family and community, and how having access to nationalistic privilege spurred her to organize around issues of undocumented Black communities. Similarly, panelist Sumi Yi from the National Korean American Service & Education Consortium, or NAKASEC, recounted a story about the struggles of living with Deferred Action immigration status from a close friend that led her to join the organization.

It is important to note that the event was crafted out of a desire to think about what kinds of voices would be necessary to even begin to capture the activist orientations of young people at this political moment. Elevating the voices of three women of color all representing issues that highlight the intersections of issues that cut across various populations of young people is instructive. As Split

this Rock poet-activist Asha Gardner remarked, it was having her voice centered by those that she looked up to as poets that both inspired her and gave her the efficacy to step into leadership and support the development of other young people's critical consciousness.

The burden of social justice cannot completely be borne by those who are the most marginalized.

The key points of political contention that activate the young electorate are shifting and expanding over time. Issues such as immigration, racism, net neutrality, and environmental degradation, and, even more specifically, how the consequences of those issues are meted out to different marginalized populations are creating the raw material for organizing young people. While no generation is ever single-issue, the activists on stage argued that all issues are intersectional and cross-cutting.

This foregrounding of multifaceted issues speaks to a larger critical point that they all spoke to in one way or another and was described explicitly by the moderator, Millennial Public Policy Fellow Roselyn Miller: Culture change is not separate from policy change, but in fact emerges in tandem with it. That young people are not waiting or asking permission is important because it speaks to cultural shifts. The role of public policy is to facilitate that agency and to help develop it.

How do we, as the session description stated, practically build movements of change? An answer gleaned from the event's powerful conversation is that we must understand and remember that lasting change and purposeful, impactful movements are loud, inconvenient, and insistent on their righteousness. Millennials (and younger folk) are showing this more and more.

Beyond the Symposium: What Now?

Emma Coleman

D.C. is full of exciting and interesting events. Every week, I get invited to at least a dozen workshops, panels, and public forums at nearby think tanks, universities, and nonprofits. In my opinion, it's one of the best parts of living in D.C.—the

chance to hear from and meet so many fascinating people who are pushing their respective policy fields forward.

But what often accompanies the excitement of these opportunities is an element of frustration. After listening to someone outline their vision for a better world, I always want to know: What now?

As the Millennial Fellows designed our symposium, "New Voices and Ideas on Care, Community, Technology, and Civic Engagement," we were conscious of this itch to get further involved with what we heard on stage from our panelists. So, in order to expand the work we saw represented at our symposium to our audience, we put together a list of action items for anyone looking to get involved. These options are meant to suit whatever you have to give—time, money, or even just a follow on social media. The title of our symposium reflects the engagement we want to see, and we welcome all new voices and ideas on the topics presented last month.

For those with time to read and do both personal online activism, or for those who want to speak with their Congressperson about ad tech policy, we recommend perusing **Dipayan Ghosh's** recent report, *Digital Deceit: The Technologies Behind Precision Propaganda on the Internet*. In addition to covering why we need technologists in policy, as he did during our panel "Promises and Perils of Technology and Big Data," Ghosh also notes in the report how to recognize when you might be seeing biased content online and what you can urge politicians to do to regulate it.

After listening to someone outline their vision for a better world, I always want to know: What now?

For those looking to become involved with community activism, our panel "Expanding the Table: Intergenerational Activism and Policy Change" provided three fantastic options for nonprofit work the D.C. area. The **Southeast Asia Resource Action Center** (SEARAC) is a civil rights organization that empowers Cambodian, Laotian, and Vietnamese American communities to create a socially just and equitable society. Their **Take Action** resources make it clear how you can become involved. You can also become involved with the campaign for immigrant rights of the **National Korean American Service & Education Consortium** (NAKASEC) by filling out their **volunteer form**. For those who like to combine activism with art, our last panel also featured a poet from **Split**

This Rock, D.C.'s youth poetry organization that holds public events you can attend.

For those interested in policy work, our panel "New Perspectives on Communities of Care" brought **Better Life Lab**'s **Alieza Durana** to the stage to discuss U.S. paid family leave policies. For the latest on this subject, follow **PL +US** to learn how you can get involved.

Finally, for those with the financial capability to make a donation, consider **UndocuBlack**, a group of currently and formerly undocumented Black people that organizes within communities to ensure their safety, facilitate resources, and provide support.

Hopefully these resources prove helpful as you take the step beyond the symposium and answer the question "what now?"

Part II: Policy Research Papers

Part II features the policy research of the Millennial Fellows, with each paper highlighting a pressing national issue, analysis of prevailing dynamics, and a set of policy recommendations.

- **Independent, Not Alone: Breaking the Poverty Cycle through Transition-Age Foster Care Reform** by Roselyn Miller

- **Data Sharing as Social Justice: How an Improved Reentry Process Can Smooth the Transition for Formerly Justice-Involved People** by Emma Coleman

- **Making the Case for Culturally Responsive Teaching and Supportive Teaching Standards** by Jenny Muñiz

- **The Context of Tradition: Evolving Challenges in Federal Indian Policy** by Myacah Sampson

- **Public Policy and the Poor People's Campaign: Reducing Inequality through Political Action** by Aaron Noffke

- **A Public Interest Test in Merger Review** by Becky Chao

- **Beyond Access: The Future of Voting Rights in the United States** by Christian Hosam

- **Solutions for the Health Care Cybersecurity Workforce of the Digital Age** by Dillon Roseen

- **Taking Down Terrorism: Strategies for Evaluating the Moderation and Removal of Extremist Content and Accounts** by Spandana Singh

- **Gridlock: Enhancing Disaster Response Efforts Through Data Transparency in the Electric Utility Sector** by Braxton Bridgers

Independent, Not Alone: Breaking the Poverty Cycle through Transition-Age Foster Care Reform

by Roselyn Miller

In recent years, the number of children entering the foster system has steadily increased due to multiple sociocultural and systemic issues, such as the opioid epidemic, mass incarceration, immigration separation, and poverty-based neglect. While there have been some necessary and long-overdue changes to the child welfare system that focus on primary prevention efforts and long-term poverty alleviation, steps need to be taken to mitigate negative outcomes for youth aging out of care immediately in order to ensure more secure and equitable futures for them and their families. In order to design inclusive and effective policy for young adults transitioning from foster care to independent living, we must work to reduce the stigma created by reductivist poverty narratives, center youth with lived experiences authentically as leaders in the design process of policy, reduce program participation requirements to catch more youth in need of services, and structure a guided route toward self-sufficiency as young adults learn to navigate adulthood. In order to do this, policymakers should change descriptive words and language when working with young adults formerly in the foster system, streamline application processes and extend supportive services at least until age 21, and invest in researching and evaluating cash assistance programs to provide youth aging out with more autonomy and flexibility in developing an individualized transition plan for adulthood.

Background

Not all young adults formerly in the foster system know about or have access to programs meant to support them:

> *"I don't really have anyone. From age 18, I've been staying on my own, taking care of myself, feeding myself. I have to do what I have to do to make ends meet. My sister went straight from our foster home to college, and her school let her know all of the different opportunities she had being a foster youth. I went straight to work. They don't keep track of that kind of stuff. I went into survival mode. I didn't know those options were available to me."*
> **Daisha Walls, age 24, Detroit, Michigan. Aged out at 18.**

Even with access to mentors and supportive services, many find difficulty maneuvering through independence as well as complicated eligibility and reporting requirements while in a difficult, stigmatized home environment:

"My friend's family took me in unofficially as an adult at 21. It took me four years to take seriously that they were there for me. I went back to school, worked multiple jobs, I was homeless. But I realized it was my environment that played such a deep part in that. We're required when we age out to become adults like that; we're expected to finish school, to work, to know all of these things when they're not a part of our foundation, at the same time being pushed and shoved everywhere like kids. You have all these negative outcomes just waiting for you, in health and in society."
Tanisha Saunders, age 28, Compton, California. Aged out at 18.

Each year approximately 20,532 musicians, soccer players, videogame lovers, cooks, math prodigies, and creative problem-solvers emancipate, or age out, of the foster system.[39] Many more transition-age youth will be adopted, only to be abandoned at age 18, or run away before aging out because accepting financial, mental, and emotional insecurity is worth immediate independence from traumatic or difficult home environments.[40] Some youth enter care and have a positive experience, but many more do not, and the negative outcomes these young adults face almost immediately after leaving the system speak to the need for a stronger support network.

No two young adults who age out of the foster system share the exact same story, and, as a result, young adults with lived experience sometimes hold contradicting opinions about where to start and what to change, and how much agency youth should have during that process. However, after asking dozens of foster care professionals in policy, education, nonprofits, and social work, and young adults formerly in foster care if the foster system did enough to support transition-age youth, they agreed that while there are some supports for youth in care, and some additional supports for independent youth in college, more could be done to improve the consistency and quality of programs. Too many young adults fall through the cracks and do not qualify for, or ever hear about, supportive services. Young adults leaving care then end up receiving little to no services right as they exit the system and need them most. Early intervention mentorship and evidence-based streamlined services should be complemented with agile services like cash assistance programs in order to produce better outcomes for transition age youth. This combination will give young adults formerly in the foster care system maximum agency and a clear route toward stability.

Many more transition-age youth will be adopted, only to be abandoned at age 18, or run away before aging out because accepting financial, mental, and emotional insecurity is worth immediate independence from traumatic or difficult home environments.

The foster system was designed to take children out of abusive or neglectful homes and place them temporarily in the care of their state under the supervision of trained foster parents. However, the inconsistency of available programs within the system, the cyclical nature of poverty, and the disempowerment of young adults often generates more problems for the youth who were promised a better life and better outcomes.

In general, adults in their 20s face economic instability[41] and many rely on parental support, with about 40 percent of young adults receiving an average of $3,000 in financial assistance from their parents up to ages 22 through 24.[42] Independent young adults aging out of the foster system do not have parents to rely on in case of a financial emergency or for mentorship and coaching as they figure out housing, employment, higher education, and health care. The case for a cash assistance program for those formerly in the foster care system is strong. Since these youth experience worse financial instability than their peers due to lack of parental support, cash assistance programs would serve as a foundational route toward financial stability and independence. While inspiring stories from youth with experience in the foster system show their resilience and strength as individuals,[43] no amount of positivism and individualist spirit overpowers the vastly unequal formative experiences and institutional oppression this population generally experiences. Soon after exiting the government's supportive services, many are pushed back into it, with some studies showing one in five becoming homeless after age 18,[44] more than half unemployed at age 26,[45] and one in four experiencing post-traumatic stress disorder after exiting the system.[46] In addition, almost one in four young adults leaving the foster care system ends up involved in the criminal justice system within two years of exiting care.[47] Compared to the general population in nearly every outcome area, young adults aging out of care face more barriers to secure, stable, and independent lives. Cash assistance paired with mentorship, planning, and programmatic support

would have a significant impact on closing the equity gap between youth formerly in foster care and their peers.

No amount of positivism and individualist spirit overpowers the vastly unequal formative experiences and institutional oppression this population generally experiences.

Aside from personal negative outcomes, each young adult that ages out of the foster system costs taxpayers and communities approximately $300,000 over that individual's lifetime in public assistance needs, incarceration costs, and unemployment.[48] Designing programs and policy that spend tax dollars more efficiently on evidence-based preventative services for individuals rather than reactionary and punitive measures would reduce the costs of aging out and improve each individual's quality of life. The policy design process should include steps for adequate longitudinal evaluation, monitor program utilization rates, and train caseworkers to partner with youth formerly in care to determine a long-term plan for cash assistance as soon as they are identified as at-risk of aging out.

Because the foster care system does not currently provide enough robust support for housing, mental health, and independent-living skills for all independent young adults, people exiting the system often reenter poverty and inadvertently fall into a toxic environment that continues from one generation to the next. While little data exists documenting intergenerational entry into foster care, it is estimated that between 8 to 22 percent of children of foster care alumni spend time in the foster system as well.[49] The negative impacts of the foster system will continue if nothing more is done in both primary poverty-prevention efforts for families and poverty alleviation programs for transition-age adults. There is an urgent and imperative need to improve services for transition-age youth in order to give families caught in the systemic cycle of poverty a chance at equitable outcomes.

The quotes featured were collected from several interviews from young adults with lived experience in the foster system, and they have been condensed and edited for clarity. The research process for this paper included interviewing members of the Foster Care Alumni of America and the National Foster Youth Initiative, reaching out to United Friends of the Children, collecting background information from staff at Casey Family Programs as well as the Illinois'

Department of Children and Family Services, attending Child Welfare and Foster Care events at Brookings and the American Enterprise Institute, and speaking with members of the Congressional Caucus on Foster Youth. While all of these programs and organizations take different approaches to fixing the foster system, they all agree that the process should center children and families. Experts also generally agree reforming child welfare systems must begin with poverty alleviation efforts for families, especially for those experiencing generational poverty, in order to prevent initial entry into the foster system. In order to keep families together, after decades of inaction and underfunding child welfare with fewer families qualifying for help over time,[50] the federal government passed the Family First Prevention Services Act as part of the Bipartisan Budget Act in 2018, allowing states more flexibility with federal reimbursements to fund poverty-prevention services for at-risk families.[51] While this legislation presented an important shift in focus to support families, it is a small, long-overdue step toward breaking the cycle of poverty.

The negative impacts of the foster system will continue if nothing more is done in both primary poverty-prevention efforts for families and poverty alleviation programs for transition-age adults.

With prevention efforts, institutional reform, and poverty alleviation as the long-term goal, governments, child welfare agencies, and members of the media should take steps in the short term to aid the thousands of young adults entering independence now. Young adults from different states and foster families might have vastly different experiences in the foster system. Policy-creation processes will serve this population best if they authentically engage, incorporate, and acknowledge insight from multiple alumni of foster care rather than base policy decisions on assumptions and stigmatized perceptions. By combatting the cultural stigma young adults formerly in care face and using that framework to design empowering and comprehensive policy, foster care will change from a system youth feel lucky to survive through to a structured support system that helps low-income youth thrive.

Identifying the Problem

Problem #1: Youth in foster care deal with stigma and unequal formative environments early in life, which results in negative outcomes as they transition out of care.

> *"There's a stigma. Sometimes people think that because you're a single parent out of foster care that you shouldn't be given the same opportunities that someone who is "single" is given. But everyone wants opportunities; everyone wants to be able to try to improve their lives, not only for them, but especially for their children…*
> *…When I entered the foster system, I ended up getting pregnant and entering a group home. I didn't have any clothing, so my foster family got a stipend so I could get some clothes. But, when I got in, they disbursed the money among all the kids, even though it was for me. When kids get stipends, if there is any way to make sure that could go directly to the child that would be better."*
> **Yolonda Washburn, age 27, Providence, Rhode Island. Aged out at 18, received services until 21.**

The current foster-care policy and research landscape prioritizes prevention efforts, which take a systemic approach to poverty alleviation by starting with early intervention for families in poverty with young children. The important goal of this work is to prevent entry into the foster system by ensuring families have basic needs met, such as food, health care, and housing. Experts looking for long-term solutions for decreasing the number of children that enter the child welfare system have identified several policy reforms that could make an impact over time. These include redefining how social workers measure abuse and neglect,[52] providing additional support for community-based care and prevention efforts like housing vouchers and food benefits, and researching universal child cash assistance benefits[53] or negative income taxes.[54] These efforts and the continuous research and evaluation of them are vital to disrupting the overall cycle of poverty, particularly for achieving equitable outcomes for low-income marginalized communities. However, while experts debate one safety net program over another, each year approximately 273,539 youth enter care,[55] a number that continues to grow due to the opioid epidemic,[56] and only about half will meet the goal of the foster system and reunite with their original families.[57] To provide the best possible outcomes for youth that transition out of the system, inclusive evidence-based supportive services that guide youth should be paired with flexible cash assistance programs that give youth agency as they transition out of foster care.

Problem #2: There are too many programs with different eligibility requirements, so young adults with non-traditional aging out stories fall through the cracks.

"I left the system when I was 14. I was adopted by my foster parents at the time. When I turned 18 they didn't want anything to do with me anymore, and so I actually transitioned to college without a forever family. I felt like I was invisible, and I didn't qualify for a lot of the funding and resources that could have helped me. My mental health took a huge hit. My sister ended up re-entering the foster system, so I stepped up and took care of her until she turned 18 while I was a full-time student."
Angellica Cox, age 23, Lansing, Michigan. Adopted from care at 14.

The U.S. federal government controls funding streams for transitional services but allows states to ascertain what types of programs to offer and how to determine eligibility. Because the funds are often insufficient or the requirements to access funds are too limiting,[58] some states opt to pay into independent-living programs instead of or beyond the matching dollars available through the John H. Chafee Foster Care Independence Program,[59] which offers different levels of funding to youth likely to age out of care, youth who age out of care at 18, and youth who leave care for a kinship guardianship program or adoption.[60]

The federal government identified several key services that link youth transitioning out of care with better outcomes as a direct result of implementing relatively new cohort analysis surveys. Opportunity areas to improve the experience of youth exiting care include:

- extending foster care to age 21,[61]
- post-secondary education support,[62]
- financial coaching,[63]
- housing,[64]
- health and mental health care,[65]
- mentorship,[66] and
- direct youth engagement.[67]

Even in states that have chosen to extend foster care to age 21, youth aging out of the system still often leave at age 18, and programs related to housing, health, and other safety net services are typically underutilized.[68] Programs are underutilized because a lot of youth aging out have difficulty collecting the necessary paperwork, miss an age requirement, move, are unaware of the available programs,[69] or are eager to leave suffocating environments and bureaucratic hoops behind in search of independence.[70]

Problem #3: Because of the complicated landscape of supportive services and their eligibility requirements, youth struggle without mentorship and guidance in developing a transition plan.

"The problem is we have so many different organizations lobbying for contracts and setting rules. Like in Tennessee, the public child welfare agency did not make a policy saying independent-living services could only be given to people who were not juvenile delinquents, but the group who they contracted with made it so juvenile delinquents couldn't access the services. I was someone who was doing AP classes while I was in juvy, yet somehow I am supposed to be ineligible, even though the reason I went into juvy was because foster care was not intervening. Actually juvy was the best weeks of my life, because I had so much trauma and I was living such a toxic lifestyle. I got arrested so I could have more structure."
David Hall, age 22, Oklahoma City, Oklahoma. Aged out at 18.

In 2010, states began collecting data for the National Youth in Transition Database, which collects demographic and outcome information and conducts cohort analysis for youth age 17 and 19 who age out of foster care.[71] This database was implemented to track the effects of programs on the outcomes experienced by youth immediately after exiting care and determine the areas in need of improvement. The federal government also requires caseworkers to establish youth-led transition plans, a personalized document listing goals and available support options like housing and health insurance,[72] when permanency plans, such as paths toward adoption or kinship guardianship, are not an option. However, the reporting requirements for this are unknown, and the level of detail expected from the transition plan varies by state.[73] States offer and develop programs differently, which adds another challenge to evaluating program effectiveness.

State-specific and cross-state comparative studies provide more insight into the youth who access and benefit from transitional supportive services. The state of Virginia became the twenty-fourth state to formally extend foster care services to age 21 in 2016 through Title IV-e funds.[74] Virginia created a wide breadth of new programs available for youth transitioning out of care, but the implementation and availability of these untested programs were inconsistent and varied within the state, with about half of the services, like housing, only available in certain geographic areas.[75] Cross-state and regional surveys, such as the *Northwest Foster Care Alumni Study,* show that evidence-based programs that incorporate feedback from youth with lived experiences and that prioritize developmentally appropriate and concrete transition plans lead to the best outcomes.[76]

Problem #4: Transition-age youth require different supports at different times, and unlike cash assistance programs, inconsistent voucher-based programs are too slow and restrictive to meet individual needs.

"We find ourselves needing immediate support. When it comes to the requirements, no two programs have the same ones. It's hard for us to have our information, such as birth certificates, proof of employment, proof of school; it is hard to coordinate these things each and every time we go in for help. It should already be understood that we need more support than what is given to us. We're not out here trying to scam any systems; we're out here fighting for our most basic needs."
Tanisha Saunders, age 28, Compton, California. Aged out at 18.

The Midwest Evaluation of the Adult Functioning of Former Foster Youth report shows that for the transition-age adults in Illinois, Iowa, and Wisconsin, programs that addressed the main issue areas identified by the federal government—like housing, mentorship, educational training, and supportive services—were not enough.[77] They concluded that expecting youth formerly in care to succeed without the financial and emotional resources their peers receive from their parents, even after the age of 21, is unrealistic.[78] Forty percent of young people in the Midwest leaving foster care experienced homelessness and other unequal outcomes, with many young men experiencing incarceration and many young women raising children alone with limited resources.[79]

Within states and across regions, young adults receive inconsistent services, and the impact of these services on their outcomes is largely unknown. Different states incorporate feedback from young adults with lived experience to different degrees, but access to support and equitable opportunities should not depend on geographic luck. Although youth formerly in care have been identified to have similar needs, whether young adults have access to either very few programs or a wide array of programs, all of which have vastly different eligibility requirements related to work, education, time in care, and social standing, depends on the state in which one enters the child welfare system.[80] While many young adults formerly in foster care rely on different types of voucher programs, there is a near-universal value in increasing access to a cash assistance program where benefits are delivered directly to them. Policies like cash assistance allow young adults exiting foster care to choose which additional services they need and acquire those services much more flexibly.

The Solutions: Addressing cultural stigma and implementing empowering policy

"Exiting foster care was a tough reality check because I had a relatively good time in care. My caseworker made sure I was advocating for myself, and he was also very transparent about what supports were available for me, he help set me up with an independent-living stipend. But I started to learn peers of

mine didn't share those experiences. We shouldn't have to fight so hard. We should create a system that accommodates us, and meets us where we are when we need them, instead of us having to run around. It's challenging, but I'm happy to be part of the advocacy for that."
Scout Hartley, age 26, Jackson, New Jersey. Aged out at 21.

In order to better understand the experiences of young adults exiting care, efficiently meet individual needs through policy, and transparently incorporate feedback from those with lived experience, policymakers must work toward deconstructing the stigma associated with foster care and move toward centering qualitative narratives that show the nuanced needs of individuals with diverse experiences during the design and implementation of policy.

Foster care policy and advocacy workers who interact directly with young adults with lived experiences in care speak about the population very intentionally because words matter. The wrong phrases lead to stereotypes that have long-term effects on the way the public views these young adults and what policy supports gain traction. Rather than referring to the population as *foster youth* or *former foster kids*, it is important to think of the transition-age population as *young adults* or *independent adults* with experience in the foster system. This phrasing better aligns with the intended temporary nature of foster care and credits them for their subject-matter experience. In order to understand the impact of stigma, a study presented the same vignettes of a young child with the same neutral description and changed only one descriptive factor: in one case, the child was in his biological home and, in the other, he was fostered. The study found that participants held negative perceptions against youth with experience in foster care, connecting them with experiencing more negative emotions as children, creating unhealthy relationships and habits as teens, and experiencing poverty, mental health issues, drug abuse problems, and general social insecurity as adults.[81]

The wrong phrases lead to stereotypes that have long-term effects on the way the public views these young adults and what policy supports gain traction.

Oversimplified poverty narratives lead to inaccurate and incomplete understandings of the needs of the population and label individuals in poverty as either: 1) deserving all of the blame for their situation, 2) having no agency as a

helpless victim, or 3) displaying remarkable strength and individual will to achieve the American dream.[82] Youth with experience in foster care do not need to be fixed, nor should their experiences be erased in order to acknowledge their humanity and agency. When people believe poverty is a state of mind and success is just a product of motivation, governments pull back on much-needed assistance programs. And on the other end, when people believe young adults formerly in care are simply traumatized adult-children, the misinformed policy created invalidates the value of their experience, spreads mistrust of their intentions, and patronizes young adults, requiring them to jump through a maze of bureaucratic eligibility requirements to meet their basic needs.

In congruence with changing the cultural understanding of narratives about young adults exiting care, in order to improve outcomes for youth aging out of foster care, policymakers must:

- Collaborate on the federal level to develop best practices for consistent, inclusive, and minimal eligibility requirements for young adults aging out of, or adopted from, the foster system seeking public assistance.
- Increase the capacity of caseworkers to provide more individualized support and guidance to assist youth still in care with developing a transition and mentorship plan earlier in life.
- Provide cash assistance programs that create more autonomy and flexibility for young adults formerly in foster care, refining this intervention with a large-scale research and evaluation program.

The policy recommendations listed above all serve the purpose of creating structures that mentor, guide, and support the autonomy of young adults as they learn independent-living skills and determine structured goals as soon as aging out of the system becomes a possibility. Acknowledging that young adults exiting care seek independence and autonomy is essential to creating accessible programs that more young adults in need will want to utilize. A comprehensive policy agenda that pairs mentorship and early intervention planning with direct cash assistance will help young adults exiting care develop a stable foundation in order to pursue independence with the freedom to choose the services they need to succeed.

Conclusion

> *"When I got my own apartment, I ended up going back to the group home I lived in and becoming staff there. I helped implement some educational things for the pregnant moms because I'd been there. I basically made a binder to help with gathering resources for the girls to get their GED and things like that."*

Yolonda Washburn, age 27, Providence, Rhode Island. Aged out at 18, received services until 21.

"*With my experience in the foster care system and in financial planning, I'm actually going to start my own nonprofit. I want to start a movement in Michigan that's foster-care-alumni run, to empower foster youth to use their voices to make change in policies, to better our foster care system. I want to lead a movement like that, but it doesn't exist so I have to start it myself.*"
Angellica Cox, age 23, Lansing, Michigan. Adopted from care at 14.

Overwhelmingly, youth with lived experience in the foster system seek opportunities to advocate for their peers, to lift up others in tough situations, and to renew and improve the system that intends to provide more secure futures for children with nowhere else to go. Shifting the popular narrative on what it looks like to have been formerly in foster care begins with centering and empowering the individual to live a life they choose, both in spite of and inspired by the situations they were given. That said, in order to understand adulthood and develop a stable foundation, young adults exiting care need guidance and resources to develop an independence plan, just like any other peer their age. A holistic approach will fix the foster system over time and support the immediate needs of young adults now. If policymakers support primary prevention efforts to keep children out of the child welfare system and empower youth already in the system to build positive environments through inclusive and accessible safety net policies, then the benefits will extend well beyond the positive impact on individuals' lives. Young adults exiting care may be independent, but they do not have to be alone.

Data Sharing as Social Justice: How an Improved Reentry Process Can Smooth the Transition for Formerly Justice-Involved People

by Emma Coleman

Bipartisan support for criminal justice reform is evident. Apart from those who benefit from rising incarceration rates, like stakeholders and owners of private prisons, we can unite under the shared goals of reducing the prison and jail populations, diverting justice-involved people away from incarceration when possible, and focusing resources on rehabilitation upon release. The reentry experience is a critical link in reducing the societal and personal effects of mass incarceration and, with closer attention, it can provide a solid path for a safer and more just society.

The initial reentry period is a crucial time in the lives of formerly justice-involved people. Often, there are strict limitations on the jobs that are available, the geographic locations that they are allowed to live in, and the people with whom they are allowed to associate. Hundreds of thousands of people released from prisons and jails each year face these challenges in isolation, leading to a high recidivism rate. Within three years of release, over 65 percent of formerly justice-involved people are rearrested, and, within five years, that figure climbs to 75 percent.[83] In some places, and for some particularly vulnerable groups, the results are even more extreme. Washington, D.C., for example, sends almost 40 percent of its formerly justice-involved population back to prison, a more severe measure than a rearrest, within just 36 months.[84]

The initial reentry period is a crucial time in the lives of formerly justice-involved people.

While many conversations about reentry focus on the tension between individual responsibility and community assistance, this paper will not seek to find a curative solution. Instead, given the magnitude of people affected by this system on a daily basis, we must ask how we can improve current procedures to reduce the number of people who recidivate and legitimize their ability to pursue full lives that build on their past rather than shaming it. One way to do this is through a comprehensive empowerment of reentry service providers, so that they might

better serve their clients' individualized needs and encourage them to leverage their strongest abilities.

Reentry service providers play a critical role in combating the serious logistical concerns of reentry—such as job and housing insecurity, inaccessibility of childcare, drug and alcohol rehabilitation, and adjustment to new technology, among others. Effective nonprofits provide the requisite support for a smooth path to successful reentry, but they often lack the data to appropriately serve their clients' needs immediately after release. In current practice, there are no formalized and universally applied standards for data sharing between correctional facilities and nonprofit reentry organizations. Because of this, nonprofits are largely responsible for collecting all the data they might need about their clients, including vital information like time spent incarcerated, employment history, courses taken while incarcerated, child care responsibilities, and locations in which they are allowed to live. There is no guarantee that nonprofits will receive this information prior to a client arriving at their organization seeking services unless that nonprofit maintains an active and regular presence in a correctional facility and are allowed to do client intakes prior to clients' release.

The process of relaying personal history information manually to a caseworker from a nonprofit can be traumatic and often provides an incomplete picture. Perhaps most concerning, however, when considering the number of people who access services from these nonprofits each day, is the inefficiency of this process; if the data already exists within the criminal justice system and can be transferred to nonprofit case workers so that they have a general understanding of their clients' needs before they arise, the relevant information should be transferred. A process that aims to efficiently and effectively provide client information to case managers could be hugely impactful. Such an improved process could save caseworkers' valuable time, allow for more personal client interactions, and most importantly, ensure clients get the critical services they need immediately upon release.

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In order for such a process to be successful, however, there are several structural changes needed from both correctional facilities and nonprofits. Establishing a comprehensive data-sharing system will require process reengineering for the release procedure of justice-involved people, signing data agreements between specific nonprofits and the correctional facilities around them, the implementation of sophisticated data-management systems within these nonprofits, and the creation of privacy terms and conditions to ensure client security. By completing these steps, reentry coordinators and case managers can better assess client needs, provide faster and stronger targeted support, and set an actionable, individualized path forward for each person.

Notes on Terminology

Since the objective of reentry is to encourage rehabilitation and forward progress from past wrongs, there is value in abstaining from passing judgment on crimes committed by those reentering society, unless it is directly relevant to their rehabilitation. Therefore, in order to avoid the intense stigmatization of crime and incarceration, this paper avoids use of the term "felon" and "ex-felon" to refer to those currently serving time in a correctional facility and those who have left them, respectively. Instead, the terms **justice-involved** and **formerly justice-involved** take the place of felon and ex-felon.

It is also necessary to understand the difference between the various types of correctional facilities. A **jail** is a small, community-operated holding place usually meant for those with short sentences (less than a year) or those being held as they await trial. These are run by sheriffs or county governments, which is why they are often referred to as "county jails." Jails are occasionally called **detention centers**.

A **prison** is a facility run by either the state or federal government, which usually holds those serving longer sentences. Within prisons, there exist two types: federal and state. **Federal prisons** are institutions run by the Federal Bureau of Prisons (BOP), leaving them under the jurisdiction of the federal government. People in these prisons are "awaiting trial for violating federal laws or those who have already been convicted of committing a federal crime."[85] Federal prisons tend to house those who have committed "white collar crimes," because the most commonly prosecuted federal crimes are conspiracy and fraud. **State prisons** function similarly to federal prisons, but are run at the state level for state crimes, which vary in severity and sentencing across the country. Prisons are referred to by varying names, such as **correctional treatment facilities**, **correctional centers**, and **penitentiaries.**

Both federal and state prisons can be either government-run or private. **Private prisons** are facilities run by a for-profit company that has been contracted by the

federal or state government to oversee all day-to-day operations. Technically, these prisons are bound by the same regulations that the state and federal government enforce in all their other facilities. As of 2015, private prisons are responsible for 7 percent of state prisoners and 18 percent of federal prisoners, along with a handful of local jails.[86]

As people transition from being justice-involved (held in a correctional facility) to formerly justice-involved, they go through a process called **reentry.** Reentry processes vary from state to state and from facility to facility. Some states employ **parole**, during which a person can serve the remainder of their sentence in the community. **Recidivism** is the process of rearrest, reconviction, and potentially a return to prison after a person has been released.

Reentry service providers are organizations that help with formerly justice-involved people's adjustment upon their release. These are most often nonprofits, religious organizations, or government-sponsored programs. **Residential reentry centers**, commonly referred to as RRCs and previously referred to as "halfway houses," are BOP-contracted reentry service providers that specifically provide housing. They may also offer other services like job training and child care programming, or they may focus solely on providing beds.

Challenges of Reentry and Promises of Rehabilitation

Every year, more than 600,000 people return to society after time spent in prison—averaging out to more than 1,600 people per day across the country.[87] The challenges faced upon reentry are staggering. As of March 2018, the National Inventory of the Collateral Consequences of Conviction had amassed over 48,000 restrictions placed on formerly justice-involved people by federal and state laws.[88] These restrictions vary in severity and by state or district, but all represent major logistical challenges to the process of reentry and rehabilitation. For example, someone returning to D.C. is ineligible to serve as a live-in aide, gain or reinstate a real estate license, qualify for medical marijuana, and reside in an adoptive family home, amongst hundreds of other extremely specific regulations.[89]

The greatest challenges that are applied nearly universally to justice-involved people include ineligibility for public benefits like housing and food stamps, curtailed civil liberties for things like voting, restrictions on where and with whom they can live, and an inability to apply for student loans, certain grants, and lines of credit.[90] Above all this, there also hangs an intense cultural stigma that leads to discrimination against formerly justice-involved people by landlords, employers, and the general public.

The challenges faced upon reentry are staggering.

While the odds against a successful reentry may seem difficult to overcome, strong rehabilitation efforts have produced promising results, especially amongst those coming from federal prisons. In a study conducted over four years with 262,000 recently released people, it was found that 93 percent of those who found employment during the period of their supervised release did not recidivate; by contrast, 50 percent of those who struggled to find housing returned to prison shortly after release.[91] The importance of support services that help formerly justice-involved find housing and employment specifically cannot be overstated. The benefits of coordinated rehabilitation and supportive reentry are clear: they prevent recidivism and promote healthier lives for formerly incarcerated people.

Mapping the reentry landscape

Figure: Immediate reentry needs provided by caseworkers

Re-entry Process

Though restrictions vary state by state, formerly justice-involved people are often prevented from living in certain areas, are rejected from public benefit programs, cannot easily access proper medical care, and face stigmatization when seeking employment.

Get out of prison or jail

Meet with case manager from nonprofit

Recieve specific services and referrals to other nonprofits for opportunities not provided in-house

Identification Documents
Housing
Employment
Public Benefits
Healthcare
Childcare
Drug/Alcohol Rehab
Mental Health Services

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In order to understand why reforms to the reentry system are necessary, it is important to understand the current landscape of the reentry process and its inherent inefficiencies. As a person prepares to exit a correctional facility, they will often consult with a case manager from a visiting nonprofit. Depending on the type of facility, individuals may already be familiar with these case managers. In jails that are located in centralized areas, nonprofit case managers may visit several times a month in order to present on the services they offer and meet with potential future clients to screen them for eligibility or complete intake forms before they are formally released. In more isolated facilities like federal and state prisons, which are often located far from the city centers or towns that most of their residents will return to, case managers may only visit once every few months and will mainly interact with those slotted for imminent release.

Upon release, people have the opportunity to reconnect with these nonprofits for a variety of immediate needs, like housing and health care, as well as long-term services, like job training and child care. Most often, one nonprofit will not offer every service that a client needs, so they refer out to other nonprofits that may provide that type of support. Many nonprofits maintain strong working relationships with one another; in fact, in Washington, D.C., there is a coalition of nonprofits in the reentry space who share clients regularly and use a common data-sharing platform, called Efforts to Outcomes, for client- and grant-tracking purposes.

In more isolated facilities like federal and state prisons, case managers may only visit once every few months and will mainly interact with those slotted for imminent release.

Residential Reentry Centers (RRCs) are distinct from direct service nonprofits in the BOP space. Specifically, RRCs are locations where those returning from prison can serve the remainder of their sentence in a setting that helps them transition back into society. There are currently 161 RRCs nationwide that are contracted with the BOP.[92] While most states have between three and five houses, states with a larger population of those in federal prisons may have up to ten. In Washington, D.C., where between 1,400-2,000 people return from a federal prison every year,[93] there are two contracted RRCS—Fairview and Hope Village—with a combined total of 420 beds.[94][95] Not all of these beds are available

to those returning from federal prison, however, as many RRCs contract with both the BOP and their local state jails. BOP contracts with these RRCs are massive. Hope Village, for example, has two contracts with the BOP that total about $5.5 million annually, or roughly $100 per bed, per day.[96]

It is not uncommon for data sharing between the BOP and RRCs to be much more advanced than data sharing with other nonprofit services, even those that provide housing. Since RRCs have federal contracts, some also have established memorandums of understanding (MOUs) with the BOP facilities from which most of their clients return. This distinctly disadvantages nonprofits that provide housing but are not RRCs because there is no guarantee they will receive the information they need. One affordable housing nonprofit in Washington, D.C., for example, is not an RRC, but owns and operates two apartment buildings for formerly justice-involved people to live in immediately upon their release. Their case managers often struggle to get the information they need from BOP facilities, such as up-to-date psychological evaluations, medication records, and similarly vital data.

The poor coordination between reentry service providers and the BOP is born of many factors, but one of the most obvious challenges is the lack of information sharing as justice-involved people approach release. Without a strong precedent for and agreements to data share, the reentry process will continue to be a frustrating experience of tracking down needed information for both case managers and justice-involved people alike.

Create a Data-sharing Protocol for the Federal Bureau of Prisons and Beyond

For a pilot of standardized data sharing agreements, the Federal Bureau of Prisons (BOP) is the most obvious first choice. Though it is geographically sparse, the BOP has a centralized system that is more closely monitored than most states, and has been taking significant steps to reevaluate their reentry protocol since 2016. During this time of improvement, it would be prudent to incorporate all possible technological advancements, with data-sharing lying at the center of them.

As of December 2017, the BOP holds about 184,000 justice-involved people in 122 prisons across the country.[97] The BOP has a responsibility to ensure that these people successfully transition back into society and avoid repeat behavior that could lead to recidivism. Starting with a pilot in one city and then scaling to the rest of the BOP's locations, data-sharing agreements should be the norm for correctional facilities and nonprofit service agencies. Agreements should expand beyond the typical laissez-faire approach that currently exists between certain BOP facilities and RRCs. Those involved in the process of creating new protocols should be the leaders of local nonprofits, the reentry affairs coordinators that sit

at individual BOP locations, the National Reentry Service Division of the BOP located in D.C., and a technical team made up of either U.S. Digital Service employees or consultants familiar with the reentry space.

The BOP has a centralized system that is more closely monitored than most states, and has been taking significant steps to reevaluate their reentry protocol since 2016.

The BOP should work collaboratively with a nonprofit reentry network in one city to complete a research sprint that would identify the full scope of services that these organizations provide. After classifying these organizations into buckets based on what information they need to provide services effectively and efficiently, the BOP should map where this information is stored, how long it takes to access, and the federal guidelines around information privacy for each piece of information. For example, nonprofits that provide housing need information about their clients' medications but those who provide job training do not. It is important to only share the minimum amount of information necessary to protect the privacy of formerly justice-involved people, so bucketing services will make data agreements safer and more manageable. With this knowledge in hand, the BOP can create a set of standardized MOUs for distribution to its correctional facilities, each one correlating to a type of service provided. Standardization will make partnering with local nonprofits infinitely easier for federal prisons; but, beyond this, it should also become a requirement for every nonprofit with which the prison currently has an informal partnership and the standard of practice going forward for new partnerships.

Washington, D.C., would be an excellent pilot location because the BOP's headquarters are located there, and the reentry service nonprofits in the city already have the capacity to share data between agencies and meet frequently to discuss policy issues. The BOP also has a current data-management tool called R3M, which streamlines the referral process to RRCs, and integrating this tool with the Washington, D.C., reentry network system could create a better case-management protocol.[98] Washington, D.C., is also an ideal location because many national nonprofits that provide reentry services are headquartered here as well. The BOP should establish national MOUs as much as possible and then create individual task orders for the local offices.

It is incredibly important to pilot these protocols before spreading them across the BOP. Learnings generated from a pilot program can help the BOP identify best practices, understand where the work needs to pivot, and have their progress reviewed by the Federal Interagency Reentry Council (FIRC). Once the initial pilot is completed, the standardized MOUs and requirements for data sharing can be rolled out throughout the BOP. The progress represented by this policy change fits well into the BOP's plans for future success. The BOP went through an intense period of scrutiny in 2016 in order to reduce the recidivism rates amongst formerly justice-involved people who were once in BOP custody. From this, one of the recommendations was to make the BOP's model for reentry more effective by creating new partnerships, testing new operating models, and providing the resources necessary to sustain successful models in the future.[99] Given that the BOP has already taken steps to do this with RRCs by creating better pathways for data interoperability, expanding the initiatives to other service agencies should be an easier process. Establishing data-sharing protocols and agreements would align well with the BOP's organizational goals and current projects.

Learnings generated from a pilot program can help the BOP identify best practices, understand where the work needs to pivot, and have their progress reviewed by the Federal Interagency Reentry Council.

The BOP's progress should be continuously monitored and the outcomes of individual formerly justice-involved people tracked. If the program is showing success, it would be beneficial to create an explanatory review so that states and localities can begin to implement similar programs in their individual corrections departments. It may not be as difficult a task as it seems to spread this practice from the BOP, should the pilot prove successful. There are a plethora of resources for organizations trying to partner with correctional facilities, and many outline how to approach the topic of information sharing. As noted in The Urban Institute's guide for community organizations attempting to establish partnerships with local jails, "Information sharing with correctional staff, though often neglected, is a key point of the partnership-building process."[100] They suggest developing clear protocols and using them to provide discharge planning

services, allowing organizations to better serve their target population "by engaging them sooner and knowing who most warrants scarce resources."[101]

There also exist examples of successful programs at the county and city level, which can serve as informative foundations for other localities implementing similar methods. In Montgomery County, Maryland, there are biweekly meetings of the Re-Entry Collaborative Case Management group, which develops comprehensive plans for people from the Montgomery County Correctional Facility who are considered "high risk" for recidivating. The group represents a wide variety of stakeholders, including correctional staff (case managers, social workers, and treatment staff), local law enforcement, parole and probation offers, human service agency officials, and community service providers. By coordinating services and openly sharing information, the group is able to much more effectively provide a continuum of services during reentry.[102]

An additional element that may be helpful for the dissemination of these policies from the BOP to states and counties is the recent renewal of the Federal Interagency Reentry Council (FIRC). It has been moved from where it previously stood in the Department of Justice (DOJ) to the White House and staffed with the heads of eleven government departments and agencies.[103] While it is currently co-chaired by the senior advisor in charge of the White House Office of American Innovation, the committee lacks a strong technical perspective. In order to remedy this, it would be advisable to add a representative from the Office of Science and Technology Policy (OSTP) and potentially create a U.S. Digital Service team dedicated to helping the Council layout implementation plans for their technological projects. It is within the mandate of the council to engage with key stakeholders in order to "improve collaboration between federal, state, local, and tribal governments through dissemination of evidence-based best practices to reduce the rate of recidivism" by considering "available partnerships with...community organizations."[104] From this mandate, it would be appropriate for the Council to more fully investigate the role of technology in partnerships with community organizations, with standardized data transfer agreements playing a pivotal role.

There are a plethora of resources for organizations trying to partner with correctional facilities, and many outline how to approach the topic of information sharing.

It is important to remember that the benefits of lowered recidivism cannot be undervalued. As noted by FIRC, "The high cost of incarceration directly impacts states' abilities to fund other needed services and programs in the community, creating a cycle of community disinvestment."[105] If a pilot of data-sharing and cooperation agreements works well at the BOP level, it could be implemented at the state level. These changes may, in fact, end up paying for themselves; although the initial funding to change the system would represent an increase in budget, the overall savings of lowered recidivism could fund the continuation and updates needed to maintain a well-functioning data transfer system.

Precedence for Data Sharing

Data sharing within other government agencies has seen positive results. The Department of Health and Human Services (HHS) recently piloted an increased data-sharing protocol with state and local human services agencies that provide access to various federal programs. The program had great success improving administrative efficiency and client services and, most relevant to any potential partnership between the BOP and local nonprofits, increased data sharing made the work of individual case managers much easier. Case managers from New York City and Allegheny County, Pennsylvania, noted that data sharing made obtaining client information much quicker and helped them make decisions that were better informed by their clients' needs.[106]

The main concern over data sharing, understandably, was privacy, which they mitigated through an extensive process for determining who would be granted access to information that they needed to perform their jobs. New York City's data-sharing initiative worked with program officials, department attorneys, and other relevant stakeholders to define 34 different user groups and then segmented data access under these categories to ensure only those who needed the information had the legal authority to do so. They also employed security measures individualized to their organizations, including user training, password protection, and audit trails. Additionally, all the sites in the HHS study created multiple data-sharing agreements to define exactly what information was shared, with whom, how, and for what purpose. These data-sharing agreements were between service agencies and also were in place with external government entities.

Data sharing made obtaining client information much quicker and helped them make decisions that were better informed by their clients' needs.

The pilot additionally provided an interesting funding model. Allegheny County, instead of relying on support from HHS, worked with 12 local funders to form a coalition that provided the funding required to start a data warehouse and long-term support for improvements and requisite updates. The success of this pilot experience proves not only that data sharing can be done but also that service provision clearly benefited from its establishment while taking the necessary measures to consider long-term success.

Implementation Challenges

The challenges to a comprehensive data-sharing plan are substantial, but not insurmountable. Primarily, such an adjustment requires an unprecedented synchronization between correctional facilities and nonprofits, most of which use different data-management tools. In order for this to happen most rapidly, the data may have to at first come via the system that the correctional facility has in place, which would most likely be paper records that they have on hand. For more sensitive data, like psychological evaluations and medical information, which are required by most residential reentry nonprofits, it is possible that this information is stored at a central office but not at the correctional facility itself, presenting another challenge to implementation. In order to adjust for this, creating protocols that require all records for returning people be automatically delivered to and accumulated in their facility three months prior to their release could give ample time for transfer of that information to the relevant service nonprofits.

In an ideal world, records that the correctional facility collects would be entirely electronic, and the information relevant to nonprofit case managers, including specific medical information, history of courses taken or degrees earned during incarceration, and whether or not the individual is being released on parole, would be sent to them with the individual's consent before their release. This would allow nonprofits to take additional time to prepare for each client's arrival. This would require correctional facilities and nonprofits to use similar data-management systems, so as to ease the transfer of data in accessible formats on both sides. Many reentry nonprofits in D.C. use different case management systems, such as **Penelope** and **Apricot**, for their in-house needs, and use **Efforts to Outcomes** when communicating with other nonprofits about shared clients. Transferring data to nonprofits through Efforts to Outcomes in D.C., and in similar coalition-based data-management systems throughout the country, could be a proactive step for uniting correctional facilities and nonprofits.

Perhaps the greatest concern of all, however, is the issue of data privacy and dignity. Data breaches are relatively common, and both government agencies and nonprofit organizations often lack the capacity to upgrade to the most up-to-date security features. Formerly justice-involved people are particularly vulnerable, and therefore their data requires an additional element of security

that will be difficult to manage at scale. It is therefore necessary for both correctional facilities and nonprofits to take relatively simple steps to minimize data abuse and potential harm for returning individuals. First, each nonprofit should compile a list of the data they require from their potential clients for their given services. They should receive only this information and nothing more. For example, if an individual is working with one nonprofit for housing and one nonprofit for job training, the psychological evaluation required for housing should only be given to the former nonprofit, and the history of courses taken during incarceration should only be given to the latter. By employing this approach, the spread of sensitive information is minimized to only those on a need-to-know basis. This also protects client dignity, allowing them to disclose information only to those they trust with sensitive services. In addition to limiting what information is shared, nonprofits can integrate tools like two-factor authentication into their data-management systems, increasing digital security at little to no cost for the organization.

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Furthermore, when correctional facilities and nonprofits enter into data-sharing agreements with one another, it must be a stipulation that nonprofits cannot share any information outside their organization without the written consent of the individual. When an organization refers a client to another nonprofit for particular services, basic intake information should be shared freely to quickly get the client what they need, but anything given by the correctional facility should be approved by the client themselves. Here is where examples from New York City and Allegheny County become particularly relevant, as the nonprofits who established data-sharing agreements with HHS were all able to upgrade their data security with minimal cost and were able to identify funders who helped them establish a data warehouse. By sharing knowledge across fields, nonprofits and coalitions in the reentry space could employ the same strategies seen in other places around the country to safeguard their data.

Benefits of this Approach

The benefits of data-sharing agreements between correctional facilities and nonprofits can be summarized into three major categories. First, this process can smooth the path from incarceration to services to independent living. When case managers can spend less time gathering information from clients, they are instead able to devote themselves to more intensive case management and other tasks that they may not currently have the capacity to undertake. It also means that case managers can be more prepared to help their clients upon arrival, instead of having to do time-consuming intakes and information gathering from various sources to verify that a client is eligible for and accepted into a given benefits program.

By standardizing the data that they receive from correctional facilities, case managers will be able to more effectively target their programming. When orally retelling personal histories, it is common for people to forget things or accidentally omit information that could be helpful for their reentry. For example, if a case manager is able to know in advance a client's history of courses, degrees, and job training programs that they may have engaged with during incarceration, they can adequately prepare programming that will benefit the maximum number of clients.

This process can smooth the path from incarceration to services to independent living.

Finally, by transferring this data in advance of a client's arrival, their experience with the nonprofit can feel more like a benefits program and less like a transition out of incarceration. Having to retell personal history details of time spent incarcerated can be a traumatic experience, one which is easily prevented by a data transfer system. Empowering clients to move forward can be a powerful tool in the reentry process.

It is important to acknowledge that this solution represents a palliative, not curative, approach. Implementing such a system does not solve the problem of mass incarceration, and supporting the current system by making it more streamlined can be seen as a detriment to progress. With that said, there are thousands of people who return home each month who need support now. There are thousands of case managers trying their best to help them but struggling with an inefficient system that requires a great deal of time and energy to navigate. We

have potential opportunities to support them, and data sharing can play a small, but significant, role in that.

Making the Case for Culturally Responsive Teaching and Supportive Teaching Standards

by Jenny Muñiz

For the first time, students of color account for the majority of students in U.S. public schools.[107] There is growing recognition that the unique experiences and perspectives these students bring to learning can benefit everyone in the classroom.[108] Taking advantage of this opportunity, however, requires that schools meet these students' unique needs. It is of chief importance that all students have access to well-resourced schools where they can enjoy positive school climates, high expectations, and meaningful relationships with quality educators with whom they can relate. Of equal importance, schools must usher in new instructional approaches, curricula, and communication styles that better reflect students' experiences, backgrounds, and strengths. Unfortunately, preparing teachers to serve increasingly diverse populations of students has proven to be one of the most formidable challenges facing our education system.

Enduring opportunity gaps in the education system have been widely documented, but they are worth emphasizing: African American, Latino, and Native American students are more likely to attend racially segregated schools, where they receive vastly inferior learning experiences compared to their white and high-income peers.[109] They are more likely to experience hostile school environments, rigid instructional approaches, and narrow curricula that often do not reflect their background and culture.[110] Additionally, students of color are overwhelmingly taught by the least-experienced teachers and often have limited access to teachers of color who can serve as valuable role models.[111] Indeed, most recent federal government data suggest that about 80 percent of public school teachers are white. These gaps contribute to the many disparities between students of color and their white peers on a range of academic success indicators.[112]

To improve the learning outcomes for students of color, future reform efforts should have a core focus on cultivating a culturally responsive teaching workforce. It is critical to revisit teacher quality reform efforts to ensure they embed a racial equity lens that pays credence to the ways race and ethnicity shape the learning and life experiences of students of color. This brief aims to provide a rationale for culturally responsive teaching by outlining current blind spots in teacher education and offering a definition of culturally responsive teaching. The brief ends with a call for states to leverage their statewide professional teaching standards to embed a focus on culturally relevant competency throughout teachers' careers.

Preparing teachers to serve increasingly diverse populations of students has proven to be one of the most formidable challenges facing our education system.

The intent is not to present a comprehensive account of states' efforts to adopt culturally responsive teaching, nor to provide a detailed account of the ways states are currently embedding culturally responsive teaching into their statewide standards for teachers. Rather, this brief should serve as a catalyst for further discussion about how one policy lever—professional teaching standards—can be utilized to ensure all students have access to teaching that meets their needs.

Developing Teachers to Thrive in Diverse Classrooms

Teachers have little control over many of the in-school factors (e.g., district funding, school leaders, work climates) and out-of-school factors (e.g., poverty, housing segregation, a dearth of health care access) that directly and indirectly shape the learning environments of many minority students. Nevertheless, many of the changes needed to address opportunity gaps *are* within the purview of teachers. Teachers play a central role in selecting and supplementing curriculum, implementing instructional strategies, and fostering positive learning environments, caring relationships, and high expectations for their students. Increasingly, their role extends beyond the classroom, as they participate in professional learning communities, nurture partnerships with the community, and take on advocacy activities that support students and the teaching profession.

Although teacher development has long been a critical focus of education reform efforts, these endeavors have traditionally paid insufficient attention to preparing teachers to affirm and respond to cultural diversity in the classroom. In particular, there has been little focus on preparing, coaching, and assessing teachers in ways that spur critical reflection about their own intentional and unintentional biases toward students of color. Less attention has also been paid to vital, if uncomfortable, discussions about how the education system privileges white students over their peers. Indeed, scholars maintain teacher education systems

are far from achieving the "ideological shift" necessary to yield a teaching workforce that is genuinely able to excel in working with students of color.[113]

Current Gaps in Teacher Education

Over recent decades, many changes have been made to the way teachers are prepared, supported, and evaluated in an effort to redress racial achievement gaps. These efforts to improve teacher quality have been laser-focused on preparing teachers to raise student achievement on a narrow set of measures for student performance.[114] As a result, issues related to race, ethnicity, multiculturalism, socio-emotional health, and school climate have been sidelined.[115] The result of this long-standing gap in teacher education is that many teachers are not prepared to affirm racial diversity or address the racial opportunity gap head on.[116]

Educators report feeling unprepared to work with racially diverse students, even after taking coursework in multicultural education.[117] Many educators also have little understanding of how individual and larger social structures drive the unparalleled treatment of minority students in and out of school.[118] It is particularly troubling that educators can actively reject information about social inequality by becoming emotional, avoidant, and defensive.[119] Without knowledge of structural barriers and an understanding of how their own experiences and identity shape the learning experiences they create for students of color, well-intentioned teachers can adopt practices that range from ineffective to damaging.

Unexamined teacher beliefs can help sustain stereotypes and deficit preconceptions about students of color. If a teacher is never prompted to ask critical questions of themselves—such as: Am I giving harsher consequences to some students for the same behavior as other students? They shouldn't be expected to change their behavior. Evidence of enduring implicit biases can be found in the disparities between students of color and their white peers when it comes to teacher expectations[120] and discipline choices.[121] These biases are also reflected in the markup of the special education population, where students of color are overrepresented,[122] and in the gifted-and-talented programs, where students of color are underrepresented.[123]

Without knowledge of structural barriers and an understanding of how their own experiences and identity shape the learning experiences they create for students of color, well-intentioned teachers can adopt practices that range from ineffective to damaging.

When teachers are presented with these racial equity gaps, rather than reflect on their own beliefs and practices, teachers may say that they treat all students equally because they "don't see color."[124] The problem with the colorblind strategy, however, is that it often leads teachers to silence conversations about skin color and inequality when students bring them up. This conveys to students that they, too, should be cautious to notice skin color and that bringing up difference is inappropriate for the classroom. For students of color, the consequences can be worse. These students may experience unfair treatment because of how they look, and ignoring this reality fails to prepare them to overcome these challenges. Being taught that "color" has no bearing, but later experiencing challenges due to the color of their skin, can have long-term consequences for young people of color, including lower self-esteem,[125] decreased academic outcomes,[126] and a higher likelihood of engaging in risky behavior.[127]

The reality is that kids notice racial differences from a young age.[128] Young people also see, if not experience, prejudice and discrimination. Rather than dismiss this reality, teachers should foster students' natural curiosity to learn about race and the experience of people from different cultural backgrounds. This is a valuable part of the educational process and should be a foundation for learning in the United States today. Transforming educator practices to be more in line with what historically underserved students need will require states and teacher preparation programs to maintain an unflinching commitment to transparency about these existing biases that are endemic to our education system.

By ensuring teachers are equipped with the necessary skills, competencies, and dispositions essential to working with students of color, culturally responsive teaching has the potential to help meet this commitment. Unfortunately, despite the recent uptick in the number of available and required courses on culturally responsive teaching for prospective and practicing teachers, the approach is still

regarded as auxiliary.[129] Seldom is culturally responsive teaching included as part of a long-term effort to improve school culture and climate. Teachers are also rarely afforded the opportunity to practice or receive critical feedback and mentoring to enhance their expertise in culturally responsive practices.

Many steps are needed to ensure culturally responsive teaching has a central role in teacher development. To be most effective, the focus on culturally responsive teaching should carry over at every step in a teacher's career. This means that aspiring teachers should have access to relevant coursework and receive proper coaching in culturally responsive teaching approaches during their student teaching; new teachers should receive ongoing mentoring in culturally responsive teaching during their induction years; experienced teachers should be able to extend their skills through professional learning and have opportunities to advance along the career ladder when they demonstrate high levels of competency.

Teachers are rarely afforded the opportunity to practice or receive critical feedback and mentoring to enhance their expertise in culturally responsive practices.

No one policy solution will produce the cohesive system necessary; instead, ensuring that the focus on culturally responsive teaching is embedded across teachers' career continuum requires state policymakers to make improvements in multiple related policy areas, including certification requirements, educator evaluation, professional learning, compensation, and career ladders. This is no easy feat, especially considering the numerous institutions that play a role in teacher effectiveness, which often function in a siloed fashion. Nonetheless, it is imperative that the numerous institutions involved in educating, training, and supporting teachers throughout their careers share a common vision for culturally responsive teaching. Continuing to sidestep culturally responsive education in teacher development, or relegating it to only a few courses and professional development sessions throughout a teacher's career, will not engender the systemic change necessary to confront the racial opportunity gap.

Defining Culturally Responsive Teaching

Even as the term "culturally responsive teaching" has gained popularity in recent years, interpretations of this approach vary widely. It is perhaps easiest to begin defining culturally responsive teaching by describing what it is not. Culturally responsive teaching is not simply a curricular change that aims to incorporate the culture of students. It is not a "check-the-box" activity whereby teachers devise a one-off lesson on Black History Month but never engage in an examination of their own potential biases and prejudices as they relate to Black students. Instead, culturally responsive teaching is a comprehensive set of practices that allows teachers to reflect on questions of power, ask critical questions about race and identity, and uncover their own unconscious biases while simultaneously supporting students' social, emotional, and academic growth.

This definition of culturally responsive teaching draws on the work of several innovative scholars, including Gloria Ladson-Billings, Geneva Gay, Sonia Nieto, and Tara Yosso. While their emphasis may vary, they collectively contribute to a valuable framework that could help guide teacher development and classroom practice. Given the long-standing racial disparities in education, the focus of these scholars is on improving teachers' capacity to work with students of color, but culturally responsive teaching can benefit all students,[130] and the approach has been broadened to consider the many other social identifiers that can define students, including gender, socioeconomic status, sexual orientation, language, and ability.[131]

Culturally responsive teaching is a comprehensive set of practices that allows teachers to reflect on questions of power, ask critical questions about race and identity, and uncover their own unconscious biases while simultaneously supporting students' social, emotional, and academic growth.

Currently, culturally responsive teaching is most commonly understood as a strategy for improving curriculum and instructional choices. This is true, in part. Gay defines culturally responsive teaching as "using the cultural knowledge, prior experiences, frames of reference, and performance styles of ethnically diverse students to make learning encounters more relevant to and effective for them."[132] In short, Gay purports that teachers use their knowledge of students to bridge and facilitate learning. She maintains that teachers should select books,

instructional materials, and assessments that validate students' interests and existing funds of knowledge, and suggests that teachers build on student's existing connections to their home and community life when they design and deliver lessons. Yosso makes the case that teachers who make these informed instructional decisions have the core belief that students of color bring different assets to learning, including community cultural wealth.[133]

Culturally responsive teaching also calls for supportive classroom environments and meaningful student-teacher relationships.[134] The need for stronger student-teacher relationships has taken on particular importance recently in light of mounting evidence that students of color do not experience the same relationships with their teachers that their white peers do.[135] Emerging research also points to an uptick in race-related bullying in schools, a sign that teachers are facing new challenges as they try to promote a sense of safety and belonging among all of their students.[136]

One of the most overlooked elements of culturally responsive teaching is self-reflection. Culturally responsive teachers analyze their beliefs, personal and family histories, and their membership in different groups. Critical self-reflection is an essential step in helping teachers begin to reconcile deficit conceptions, prejudices, or racial assumptions they may have toward specific groups.[137] In addition to self-reflection, culturally responsive teachers question existing unequal policies and practices that deter student success. Teachers, Nieto argues, should continuously scrutinize "school policies and practices—the curriculum, textbooks and materials, instructional strategies, tracking, recruitment and hiring of staff, and parent involvement strategies—that devalue the identities of some students while overvaluing others."[138] Nieto also contends that a core purpose of teacher education should be to support teachers to "undergo a process of personal transformation based on their own identities and experiences."[139] Only by undergoing this personal development can teachers indeed begin to develop trusting relationships with all students and create learning environments where *all* students can thrive.

Although more evidence of the positive impact of culturally responsive teaching is needed, existing research evidence is promising.[140] Encouragingly, high expectations from teachers have been linked to positive student academic outcomes,[141] and higher multicultural awareness from teachers has been shown to promote more nurturing classroom environments.[142] Research is also increasingly demonstrating that building on students' prior knowledge and experiences can spark future motivation for learning.[143] Additionally, among other evidence-based culturally responsive practices,[144] the use of relevant learning materials has been shown to increase comprehension.[145]

Critical self-reflection is an essential step in helping teachers begin to reconcile deficit conceptions, prejudices, or racial assumptions they may have toward specific groups.

Far too often, culturally responsive teaching is espoused by states, districts, schools, and teacher preparation programs, but little is done to outline the day-to-day practices that it requires. Only a few states stand out for synthesizing research findings into guides for their teachers. Wisconsin, for example, developed *Wisconsin's Model to Inform Culturally Responsive Practices,* which outlines eight actions for culturally responsive teachers to consider, such as becoming self-aware, examining the system's impact on families and students, and adopting the belief that all students can learn.[146]

Education leaders should continue to draw from existing research to develop a clearer picture of what culturally responsive teaching looks like in practice.[147] They should seek to develop a framework that outlines a continuum of teaching behavior, ideally across a multi-level continuum, that enables teachers to identify areas for growth throughout their careers. Ultimately, teachers can only become competent in culturally responsive teaching if they have clear a measuring stick and multiple opportunities to improve their competencies throughout their careers.

Professional Teaching Standards

A first step state education leaders can take to support culturally responsive teaching is to integrate this approach into their statewide standards for teaching. Statewide professional teaching standards broadly outline states' conceptions of what knowledge, skills, and dispositions they value in a competent teacher. Nearly every state in the country has adopted teaching standards; however, the exact purpose of each state's teaching standards varies significantly.[148] In a number of states, teaching standards are only used as the basis for teacher preparation and licensure (called "licensure standards"). Other states have developed performance standards that define not just what teacher should know and be able to do but also what performance looks like across different levels. Such standards can be used as tools for self-reflection and ongoing mentoring

during early induction years, or as the basis for evaluation systems, professional growth plans, and ongoing professional learning.[149]

Several states have revised their policies to ensure that teaching standards address these purposes in a more integrated, coherent way.[150] In a few states, teacher preparation programs and school districts share standards, ensuring that teachers are prepared and coached using the same expectations by which they will be evaluated and supported as practicing teachers. In Massachusetts, for example, the *Massachusetts Professional Standards (PSTs) for Teachers* help shape the program design and course offerings of teacher preparation programs. They help teacher candidates receive purposeful feedback and set growth goals. Additionally, the PSTs are aligned to Massachusetts' educator evaluation system, which allows in-service teachers to grow throughout their careers.[151]

New Mexico's standards are a core part of the state's three-tiered licensure system, which incentivizes educators to develop and improve their performance as they advance in the career ladder from "Provisional" to "Professional" to "Master." Progress through each tier hinges on teachers' demonstrated mastery on the annual evaluation system, the Professional Development Dossier (PPD), which is partly based on the state's teacher performance framework, the *NM Teacher Competencies*. The state stands out as one of the few where multi-tiered licensure is tied to compensation.[152]

A first step state education leaders can take to support culturally responsive teaching is to integrate this approach into their statewide standards for teaching.

Although some states have made headway in aligning the teacher-career continuum, there is room to improve, especially in ways that will support advances in culturally responsive teaching. In many states, the various components of the teacher career continuum are uncoordinated, often requiring similar, but unaligned, expectations. The most common missed opportunity involves states adopting rigorous standards for teacher preparation and licensure, but not using or aligning these standards to requirements across a teacher's career. States should seek to identify areas for alignment or, at the very least, adopt alignment documents that clarify how expectations for teachers remain consistent throughout their career. Ultimately, teaching standards will only raise

the bar of teaching–and culturally responsive teaching in particular–if they are embedded within a cohesive and aligned system of teacher preparation and ongoing learning.

The national standards developed by the Interstate Teacher and Assessment Support Consortium (InTASC),[153] provide a model for how to integrate culturally relevant practices into state teaching standards.[154] Notably, this national model takes into account the need for teachers to have the appropriate dispositions to work with diverse student populations. The InTASC standards contain one standard explicitly dedicated to outlining the knowledge and skills needed to work with diverse learners. The standards, titled "Learner Differences," suggest teachers should use their "understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards."[155] These standards also encourage inquiry into potential teacher biases: "The teacher reflects on his/her personal biases and accesses resources to deepen his/her own understanding of cultural, ethnic, gender, and learning differences to build stronger relationships and create more relevant learning experiences."[156]

The extent to which states' standards currently incorporate culturally responsive teaching should be further explored. A 2005 analysis found that only 16 states explicitly referred to cultural competencies in their teaching standards. Additionally, 28 states addressed *culture,* while 11 referred to *race* and *ethnicity* in some way.[157] Most recently, states have worked to better incorporate issues of student diversity in teaching standards. The CEEDAR Center found that most states included some language about supporting diverse students through quality instruction and positive learning environments, but the way states addressed student diversity was not directly defined.[158]

Despite the influence of promising models, states' standards currently vary in the way they incorporate issues related to culturally responsive teaching. Further, there are gaps in knowledge as to whether existing state standards include key references to potential individual and institutional biases. In response, states should analyze their current standards and begin work to ensure these standards place value on the various aspects of culturally responsive teaching.

Conclusion

Ensuring students of color succeed is crucial to the United States' future prosperity. Culturally responsive teaching offers one opportunity to better support these students by ushering greater racial equity to teacher attitudes, teacher practices, and learning environments. While educational leaders and practitioners are increasingly recognizing the value of culturally responsive teaching, a range of policy changes are needed to ensure that a focus on

culturally responsive teaching is endemic to every teacher preparation program, district, school, and classroom.

To propel this vision, state education leaders can begin by coming to a consensus on what culturally responsive teaching looks like in practice and developing relevant teaching standards. State education leaders should undertake an analysis of their current statewide teaching standards to determine how well they integrate culturally responsive teaching and whether their standards currently form part of an aligned, cohesive system of continuous professional growth. This assessment can serve as a foundation for reform recommendations, which may include revising teaching standards, piloting a stand-alone set of culturally responsive standards, or developing metrics, rubrics, and guidance documents.

More urgency is needed around implementing culturally responsive teaching. Due to the vast chasm between students of color and their white peers, states should get serious about helping teachers strengthen their knowledge, skills, and dispositions so that they can be in a better position to support minority students. Investing in culturally responsive teaching can be an important step in bridging the opportunity gap and ensuring students of color have a fair opportunity to succeed.

The Context of Tradition: Evolving Challenges in Federal Indian Policy

by Myacah Sampson

"Tradition is not without a political context."[159]

- Jennifer Denetdale, Associate Professor of American Studies at the University of New Mexico

In 2014, then-Navajo Nation President Ben Shelly spoke to a crowd of tribal leaders and community members in an annual public acknowledgement of the signing of the 1868 Treaty of Bosque Redondo—the treaty that allowed the Navajo people to return to a reduced portion of their homeland following an attempted genocide led by the government of the United States.[160] Shelly offered his reflections on the ways in which the attempted genocide, which involved American military officials deporting and marching Navajo people more than 300 miles and containing the survivors in an internment camp for four years, shaped Navajo identity and their life philosophy. According to the president, prior to the forced removal, the Navajo people lived in accordance with a mindset of *t'áá hwó ájít' éego* or "self-reliance," which then shifted "into one of dependence upon the federal government" following their return.[161] Shelly called upon the Navajo people to return to the concept of *t'áá hwó ájít' éego* as a principle for Navajo self-determination, and this idea served as a core component of his administration's State of the Navajo Nation address delivered earlier in the year.[162] [163]

Though Shelly claimed *t'áá hwó ájít' éego* was a traditional, non-Western philosophy that Navajo elders had passed down since the attempted genocide, the phrase and philosophy is of more recent origin in the Navajo Nation. It was developed during welfare reform in the 1990s and used as the guiding philosophy for the Navajo Nation's Temporary Assistance for Needy Families cash transfer program—the Navajo Nation Program for Self-Reliance.[164] Both in Shelly's speech and in the Office for Self-Reliance, *t'áá hwó ájít' éego* is deployed as a shared, long-standing value among the Navajo people. In reality, *t'áá hwó ájít' éego* is merely a translation of the rhetoric that informed the Personal Responsibility and Work-Opportunity Reconciliation Act (PRWORA) of 1996 and is an example of the ways in which federal Indian policy has embedded the neoliberal value of "personal responsibility" behind a culturally affirming veneer.

According to the president, prior to the forced removal, the Navajo people lived in accordance with a mindset of t'áá hwó ájít' éego or "self-reliance," which then shifted "into one of dependence upon the federal government" following their return.

In this paper, I aim to examine how the rhetoric of tradition is deployed in the Navajo Nation Program for Self-Reliance. When exploring the design of the Navajo social safety net programs, I contrast the *t'áá hwó ájít' éego,* a contrived, politically motivated idea premised on the pathologization of poverty, with the principle of *k'é*, a historically verified Navajo value of interdependence. I outline the trajectory of historical and political changes that allowed for the burial of *k'é* to occur, characterized by the federal government's shift away from overtly genocidal and assimilative policies to the establishment of federally recognized tribal governments and rhetoric of cultural affirmation set forth by the *Meriam Report* and the Indian Reorganization Act of 1934. I propose that the Navajo Nation's social safety net of the future be guided by the Navajo concept of interdependence, or *k'é*—a component of Navajo philosophy that predates American arrival—rather than the recently developed *t'áá hwó ájít' éego*.

Contemporary Economic Conditions of the Navajo Nation and Their Origins in Federal Indian Policy

The Navajo Nation is roughly the size of West Virginia, crossing portions of Utah, New Mexico, and Arizona. It is the second-largest tribe in the country, with a population of 332,129 enrolled members as of the 2010 Census.[165] One hundred and forty-five thousand Navajo people reside on the reservation, 80,000 live in towns that border the reservation, and the remainder live in a variety of urban and rural settings in different parts of the United States and abroad.[166] Forty-three percent of Navajo people live below the federal government's official poverty line and the average per-capita income is $7,300.[167] Fifty-six percent of Navajo adults over the age of 25 possess a high school diploma or equivalency, and 7 percent have a college degree.[168]

Unemployment in the Navajo Nation remains over 50 percent, with most employment opportunities being seasonal or associated with tourism.[169] Major

employers include the Navajo Nation Government, Indian Health Services, and the Bureau of Indian Affairs. Private sector employment includes work in coal mines, power plants, economic development projects, and a handful of small retail businesses. Nearly 51 percent of the Navajo Nation's annual revenue comes from mining, but many of its mines and power-generating stations are slated to cease operations within the next few years as they have been outpaced by the rapid development of cheaper and more abundant natural gas and oil fracking enterprises.[170]

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The current economic condition of the Navajo Nation can be traced directly to the U.S. invasion of Navajo lands in 1846, attempted genocide during 1864 through 1868, and subsequent management of Navajo government affairs since the Indian Reorganization Act of 1934. Navajo historian Jennifer Denetdale has outlined how contemporary ventures to develop natural resources, including naturally occurring uranium, coal, and waterways on Navajo land have "not only physically displaced Navajo people," but "forcibly removed them from participating in an agricultural and livestock-based economy to a wage economy."[171] After two decades of resistance to U.S. colonial forces in the mid-nineteenth century, being forcibly removed to a reservation nearly 300 miles away from their homeland, and eventually negotiating a return to a significantly diminished homeland base, the Navajo established lifestyles based on raising livestock, primarily sheep, until the 1930s. This economy provided more than half of Navajo people's cash incomes and structured Navajo society in a manner that created an "elite" group of Navajo, who allocated agricultural resources and sponsored community ceremonies.[172]

By 1933, near the start of the U.S. recovery from the Great Depression and the height of the Dust Bowl, federal officials reported that Navajos owned more than 1 million head of livestock, prompting concerns about overgrazing and the potential for soil erosion in the Southwest. Bureau of Indian Affairs Commissioner John Collier ordered the Navajo to reduce their herds by 45 percent by the 1950s, overseen by the federal Livestock Reduction Program.[173]

This program was similar to the crop reduction programs enacted during the Great Depression, but instead was motivated by environmental rather than

economic concerns and was carried out in a manner with disparate racial impacts. Though federal officials recognized the economic significance crops bore to white farmers during the Great Depression and provided monetary compensation to them for crop reduction to manage price-depressing surpluses, the Navajo were not given the same consideration. Navajo livestock was as foundational to their wealth as crops were to white farmers; yet, a double standard was applied, and Navajos were not adequately compensated when their livestock was destroyed.[174] Range riders often took livestock by force, slaughtered them without notice, and burned carcasses in front of their owners; families were unable to shear the wool that could be woven into rugs and sold.[175] Given this, Navajo livestock reduction might be thought of as a federally initiated asset-stripping program, as it destroyed Navajo people's means of income and provided no adequate compensation.

Since the implementation of the Livestock Reduction Program, Navajo peoples' primary economic options have been either wage labor in off-reservation border towns—where employment discrimination and harassment by the police and non-Native residents are common—jobs in coal mining, energy production, or tribal government positions, or through public assistance programs. The destruction of sheep herds fundamentally altered the social and political organization of Navajo society. This impacted both subsistence populations and of the influential class of "elite" Navajo, who played pivotal roles in the community's organization of resources and gatherings.[176]

The *Meriam Report* and Indian Reorganization Act of 1934

When this program was implemented on Navajo land, larger shifts in federal approaches to Indian policy that gave little consideration to the economic histories of American Indian communities were already underway. The *Meriam Report*, commissioned by the Institute for Government Research (later renamed the Brookings Institution) and published in 1928, summarized the ways in which the Bureau of Indian Affairs and federal Indian policy had fostered abject conditions in Native communities across the United States. Yet its analysis grouped all Indian tribes together, citing high English illiteracy rates, rampant abuse at the hands of Christian missionaries in boarding schools, low participation in wage labor, a lack of sanitation infrastructure, and high rates of infectious diseases.[177] Despite its lack of analysis of individual tribes—apart from occasionally distinguishing between "more primitive" and "less primitive" tribes —The *Meriam Report* findings and recommendations were used to guide the Indian Reorganization Act of 1934, colloquially known as President Roosevelt's "Indian New Deal," and consequently shaped federal policy toward the Navajo.

Summarized broadly, the report proposed restructuring the Bureau of Indian Affairs to focus less on an abstract goal of "civilizing" Native peoples through

Christian missionaries and more on measurable policy goals developed by social scientists to make the transition "from primitive to modern life."[178] Like the *Moynihan Report* decades later, which sought to explain the persistence of poverty in Black communities using pseudo-sociological and economic explanations, the *Meriam Report* found the conditions present in Native communities to be the result of U.S. policies and perpetuated by what researchers observed to be dysfunctional family structures.[179] Its recommendations included restricting per-capita cash distributions for ordinary living expenses. One section of the report sounds strikingly similar to the motivating ethos behind PRWORA:

> The policy of the government should be deliberately directed toward reducing the amount of unearned income available to the able bodied Indian for living expenses. It is a stimulus of idleness and permits of a low standard existence without work. Unearned income should be utilized to increase the economic productivity of the Indians.[180]

The *Meriam Report* promoted the notion that American Indian tribes were simultaneously inept, prone to idleness, and primitive—yet capable to some degree of self-governance. This attitude materialized in the final version of the Indian Reorganization Act, which provided a means for tribes to establish their own forms of government that reflected elements of their cultures. For the Navajo Nation specifically, the form of governance that emerged was nearly identical to the U.S. federal government—that of a three-branch system.[181] Federal agents introduced chapters, which were similar to counties or townships, with elected officers who followed parliamentary procedures, and Navajo land was separated into geographic jurisdictions similar to that of states, called agencies.[182] Each of the five agencies, split into chapters where citizens would participate in parliamentary procedures. In the development of this new government, Navajo ideals and traditions were redefined to suit Western norms, while claiming to operate under traditional Navajo philosophy.[183] As political theorist David Wilkins points out, the only traditional elements present in contemporary Navajo political institutions are the peacemaker's court, a forum for conflict resolution premised on restoring *k'é*, the mutual respect and kinship between human beings and natural resources, so that hozho, or harmony, can be achieved. It now operates now as a diversion program under the judiciary branch. [184]

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This reorganization of Navajo government has led to contested understandings of Navajo traditions and cultural elements. Navajo historian Jennifer Denetdale offers a useful framework for interpreting Navajo traditions within the context of Navajo governance. She writes, "the Navajo Nation's claims to practice many of the traditions of their ancestors as they administer government must be seen in the light of transformations under colonialism" and that we should recognize the ways in which tradition is claimed "and for what purposes."[185] Denetdale has extensively examined, for example, the ways gender roles have been reinterpreted through different periods of colonization. She notes that while Native and non-Native scholars alike have noted that Navajo women enjoyed a significant amount of economic and political power prior to Euro-American colonization, when LeNora Fulton announced her candidacy for Navajo Nation president in 1998, she received backlash from Navajo citizens who argued female leadership ran contradictory to Navajo traditions and would lead to chaos in society. She writes that "American notions of gender roles have been integral in the formation of the Navajo Nation where women are symbolized as the culture bearers and mothers of the Nation, yet at the same time, do not have access to all sectors of society, particularly the political realm." The backlash to Navajo female leadership can be traced back to the Indian Reorganization Act, wherein federal officials looked to Navajo men to fill leadership roles in its new government and to the educational goals outlined in the *Meriam Report* to train Native women as homemakers.[186]

Similarly, the meaning of "self-reliance" as a longstanding Navajo tradition should be examined within the context of "transformations under colonialism," as "tradition is not without a political context."[187]

In summary, *Meriam Report* and the legislation it informed—the Indian Reorganization Act—developed a new federal relationship to Native communities in the United States, one that preserved not also the assumptions that Indigenous peoples were primitive and had grown prone to laziness due to federal paternalism also that they achieve Native self-sufficiency in a culturally-

affirmative manner. These practices included establishing Native governments recognizable by federal agencies as a means to encourage Native peoples' participation in the wage economy. These Native governments were erected with the aim to incorporate Indigenous peoples' cultural values and practices into governance. However, in the case of the Navajo, the resulting government instead mimicked the structure of the American federal government and helped to redefine Navajo traditions as being similar to prevailing American ones.

The Navajo Nation Office for Self-Reliance

The Navajo Nation Office for Self-Reliance is one of the tribal Temporary Assistance for Needy Families (TANF) programs established after the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. Its key characteristics included imposing time limits on how long people are allowed to receive cash assistance and requiring that adults in the program engage in a minimum amount of work activities. The Navajo Nation Program for Self-Reliance requires that all adults in a participating family engage in at least 24 hours of work per week and that no adult can receive assistance for more than "60 countable months, whether or not consecutive."[188] In the 2015 fiscal year, an average of 5,936 Navajo children and adults received assistance through the Program for Self-Reliance.[189] These 5,936 children and adults comprised 1,821 family units total.[190]

A full survey of all 70 tribal TANF programs that includes data on average benefit amounts, client experiences, and fluctuations in enrollments over time has yet to be completed. However, research conducted by Heather Hahn and her colleagues at the Urban Institute demonstrate that tribes can and often do incorporate aspects of their cultures into program administration.[191] In their study of the Navajo Nation Program for Self-Reliance (NNPSR), they found that NNPSR was founded on the belief that only a program led by Navajo people could "attempt to reform welfare dependence by establishing a program that gives responsibility, decision making, and self-reliance back to tribal members." [192] According to program administrators, "The weak job market and historical legacy of U.S. government and Navajo Nation support have resulted in multigenerational reliance on welfare for a small portion of the Navajo population."[193] The NNPSR aims to "dismantle this mindset through intensive casework" and the development of personal responsibility. *T'áá hwó ájít'éego*, the program's core principle of "self-reliance," captures the concept of exercising personal discipline and taking responsibility for one's life."[194]

A family seeking cash assistance in the Navajo Nation would have likely heard about the program through a Navajo radio ad or flyer and would have had to find transportation or hitchhike to one of ten offices located on the 27,000-square-mile reservation to fill out a paper TANF application in person.[195] Many Navajo

TANF clients and applicants lack access to a personal vehicle, making the verification process arduous. In some instances, caseworkers might take personal time to assist their clients with transportation, but this is left to their discretion.[196] In focus groups, clients complained that the verification process was difficult given transportation barriers on the Navajo reservation.[197]
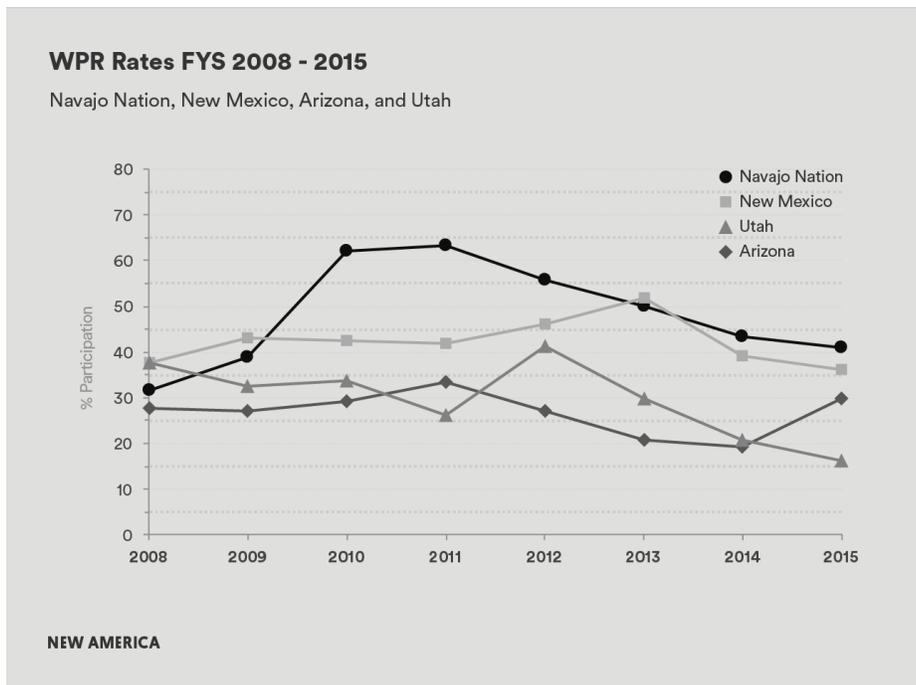

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Families are required to also supply the social security cards of all members of their household, birth certificates, photo I.D., income statements and documents verifying their assets, and school enrollment verification documents for children. If a child in the family is eligible for child support, a parent of that child is responsible for verifying that he/she has made an attempt to solicit child support payments from the absent parent.[198] Information about eligibility documents is not clearly displayed on the NNPSR website, and currently there is no way for applicants to submit their documents electronically, so it is likely that some clients would have to make multiple trips to an office to submit a completed application.[199]

Clients and potential clients of the Office for Self-Reliance might read through a brochure with phrases that translate *t'áá hwó ájít'éego* to: "It's up to you;" "Nobody's going to do it for you;" "Taking responsibility;" "Be a hard worker;" or "Don't be lazy."

Case managers might introduce themselves to new clients in a traditional Navajo fashion by naming the clans of their parents and grandparents before consulting with a family to develop a personal responsibility plan (PRP).[200] Each adult in the household is required to adhere to the PRP and spend at least 24 hours per week on activities the caseworker has decided contribute toward the family's goals of self-sufficiency. These activities might include education or classes at a community college. Unlike state-administered programs, the Navajo Nation

TANF program caseworkers might also allow their clients to count participation in counseling or engaging in traditional subsistence activities as valid work activities.[201] Flexibility in determining what qualifies as a valid work activity may be the reason why Navajo tribal TANF clients have consistently outperformed the TANF clients of neighboring states and exceeded their own participation rate goal of 25 percent from the years of 2008 to 2015, as reflected in the accompanying figure.

WPR Rates FYS 2008 - 2015

Navajo Nation, New Mexico, Arizona, and Utah

Source: "Tribal TANF FY Work Participation Rates (WPR)" (Administration for Children and Families Office of Family AssistanceDivision of Tribal TANF Management, 2014 - 2008), https://www.acf.hhs.gov/ofa/programs/tribal/data-reports.

Navajo TANF client experiences with caseworkers varied in focus groups; some emphasized the significance of developing personal relationships with their caseworkers to give special consideration to their circumstances, whether they were barriers to transportation or domestic abuse. Other focus group participants voiced that they did not have the opportunity to have personal conversations with their caseworkers and instead received "training focused around money management and personal finance."[202]

In summary, the Navajo Nation Program for Self-Reliance, relative to other tribal TANF programs, places an emphasis on integrating cultural elements into the implementation of the program. It intends to target a group of people in the Navajo community who are presumed to have become intergenerationally

dependent on public assistance programs and aims to restructure their orientation towards work with some supports and considerations granted to clients on a discretionary basis. In the next section of this paper, I will demonstrate that the program exemplifies a mode of tribal policy that has emerged since the 1930s that replaced overt attempts at genocide and assimilation with policies that appear to affirm Indigenous cultural values while advancing assimilative goals.

New Modes of Assimilation

Several defining factors of the Navajo Nation Program for Self-Reliance demonstrate that it carries out long-standing federal goals of Native assimilation while appearing to affirm Navajo culture, but which are premised on notions that Indigenous peoples are primitive and in need to guidance to integrate themselves into American culture. These long-standing federal goals include practices that encourage Native peoples to enter the wage economy as a means to end a cycle of poverty and maladjustment. The Program for Self-Reliance targets a group of Navajo people who have been presumed to intergenerationally rely on public assistance and thus are in need of guidance to break them away from dependent mindsets and toward self-sufficiency. This pathologization of persistent poverty on the Navajo Nation finds fault in individuals for historically and systemically produced issues rather than examining the ways the federal seizure of Navajo lands, livestock, and means of living have produced intergenerational trauma and geographic isolation from economic opportunities. Designing a social assistance program around these assumptions results in a program that presumes the worst of its clients and that fails to take full consideration of the causes of intergenerational poverty.

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On the other hand, aspects of the Program for Self-Reliance that assume good intentions from clients and are not directly premised on the notion that poverty is pathological are some of the program's most effective and culturally affirmative components. Expanded definitions of valid work activities grant families the flexibility to stay enrolled in the program for lengths of time they may otherwise not have been able to through a state-administered program. Expanded definitions of work presume that families do not intend to game the public assistance system to subsidize their lifestyles, but rather that each family has its own timeline and unique needs that may not be met through engaging in strict definitions of "work." Some clients' praise for caseworker discretion, especially with regards to overcoming transportation barriers, demonstrates that the delivery of social assistance programs from compassionate social workers rather than strict, automated decisions can more effectively meet clients' needs.

K'é as a Core Social Assistance Philosophy

The Program for Self-Reliance's core philosophy of *t'áá hwó ájít' éego,* or "self-reliance," was developed specifically for its tribal TANF program in the 1990s, but is promoted as a culturally relevant, long-standing value among the Navajo. In reality, it is a translation of the guiding rhetoric of welfare reform, which presumed there was a national problem of welfare dependency and a need to encourage parents to move from "welfare to work."[203] A core component of Navajo philosophy that predates American arrival is that of *k'é*. Roughly translated, *k'é* is the interdependence between living beings, including that between humans, as well as the natural environment and animals.[204]

Some aspects of the Program for Self-Reliance affirm principles of *k'é*, including the program's expanded definitions of valid work activities. The program's affirmation that work can take on forms beyond that of wage labor, including counseling or subsistence agricultural activities, allows clients to maintain the interdependent relationships which sustain them personally while materially supporting cultural practices.

Explicitly designing a social safety net in accordance with the Navajo principles of *k'é* might elevate a different set of policies that emphasize unconditional support programs, like that of universal basic income, paid leave for family and non-family members alike, and universal health care. These policies assume good motivations on the part of the recipients and affirm recipients' identities as members of the community *through* their use of the program rather than stigmatizing them for needing assistance. Promoting the goals and philosophies of PRWORA with the Navajo language may seem like a noble attempt at promoting shared cultural values between the United States and the Navajo Nation, but the incommensurability between PRWORA and *k'é* demonstrate that a more thorough interrogation of our shared histories is needed to develop policy

that truly affirms Indigenous cultural values and practices and to bring an end to assimilative policies.

Public Policy and the Poor People's Campaign: Reducing Inequality through Political Action

by Aaron Noffke

This paper examines the work of progressive, grassroots organizations across America in order to generate a set of policy recommendations for reducing poverty and inequality. Using a case study approach and an assessment of recent poverty statistics, the paper describes the experience of the Poor People's Campaign: A National Call for Moral Revival and its implications for future policy efforts. In the second section, campaign interviews and written testimony are summarized into four key points, which in turn support three sets of policy recommendations outlined in the final section.

The Poor People's Campaign: A National Call for Moral Revival is a movement-based organization that aims to challenge policies related to poverty, systemic racism, militarism, and ecological devastation in America, as well as the structures that enable them. On May 14, 2018, the campaign began a six-week period of direct, nonviolent action at over forty state legislative buildings across the country.[205] The campaign is a product of a partnership between Repairers of the Breach and the Kairos Center, both faith-based organizations that emphasize coordinated civil protest, political education, and religious and cultural expression as a means for social change. Repairers of the Breach was organized by Reverend William Barber, former president of the NAACP North Carolina chapter and founding member of the Moral Mondays campaign. The Kairos Center is co-directed by Reverend Liz Theoharis, who founded its anti-poverty initiative.

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In 2016, Repairers of the Breach organized a "Moral Revival" tour with the Kairos Center and other key organizations. Through the tour, they identified a network of organizational partners across the United States that was committed to participating in a national campaign. In May 2017, Repairers of the Breach and the Kairos Center announced the formation of a new Poor People's Campaign,

and began a series of mass meetings and political organizing trainings. The leadership team of the Poor People's Campaign is made up of co-chairs Reverend Theoharis and Reverend Barber, as well as the director of organizing Roz Pelles.

The campaign is a state-based initiative, with each state organizing coordinated actions on a weekly basis. Each state operates with a tri-chair made up of one impacted person, one organizer, and one faith leader. Individuals who work on state campaigns do so voluntarily, with assistance from a national organizing staff. Various labor unions, faith-based groups, anti-war groups, civil rights groups, and environmental justice organizations have publicly endorsed and/or partnered with state chapters of the campaign in preparation for direct actions. The campaign does not endorse or collaborate with any elected officials from either political party, and does not participate in electoral politics.

Poverty, systemic racism, militarism, and ecological devastation are articulated as interlocking issues by the campaign, and current conditions are a source of both moral outrage and political injustice. The campaign employs an expansive concept of poverty, describing it as an economic and political position where individuals are relegated rather than defined by a specific income threshold at a moment in time. Poverty is understood as being produced by prevailing economic structures, and explanations for poverty as a byproduct of cultural habits or norms should be challenged. The campaign rejects the argument that America lacks the necessary resources to meet the basic needs of everyone.

Measuring Poverty

Given its distinct conception of poverty, it was essential for the campaign to offer a more realistic measure of poverty's reach than currently provided by the federal government's official poverty measure (OPM). Produced annually, the OPM uses a set of pre-tax income thresholds that vary by household size and composition; it is calculated by multiplying the cost of a minimum food diet in 1955 by three and then adjusting for inflation.[206] This anachronistic approach undercounts the extent of poverty because it fails to account for the current cost of goods and services essential for a family to meet their basic needs.

Acknowledging limitations in the OPM, the Census Bureau developed an alternative poverty measure to more accurately reflect the level of resources associated with a minimum level of economic well-being. The supplemental policy measure, or SPM, has been reported since 2010 and is widely considered by researchers to be a more precise measure of poverty. While the SPM still uses income thresholds, these estimates are based on an assessment of what people currently spend on food, clothing, shelter, and utilities rather than just their spending on food. SPM thresholds differ by family size, renter/homeowner status, and geographic location. Unlike the OPM, the SPM takes into account non-cash government benefits, such as tax credits and public assistance, and

additionally factors in necessary costs of living, which includes taxes as well as out-of-pocket medical, child care, and transportation expenses.

The campaign rejects the argument that America lacks the necessary resources to meet the basic needs of everyone.

Despite improvements in the SPM over the OPM, researchers have identified circumstances when the SPM underestimates poverty levels by failing to account for the prevailing costs of housing, transportation, health care, and other necessary goods and services. For example, the Economic Policy Institute's Family Budget Calculator estimates that a two-adult, two-child family living in the Washington, D.C., metro area would need over $105,000 in family income to achieve an adequate standard of living.[207] In comparison, the SPM poverty threshold for a two-adult, two-child family renting in the Washington-Arlington-Alexandria area is $33,382.[208] Reliable assessments have found that doubling the SPM is a minimum benchmark for meeting a family's basic needs. Below this amount, families and individuals are forced to make trade-offs between basic needs. As such, the term "low-income" is often used to refer to individuals whose income is below 200 percent of the poverty threshold. This paper uses the term "poor or low-income" to refer to all people living in families with incomes below 200 percent of the SPM poverty threshold.

Based on census recommendations for state-level calculations, which include using five-year averages from 2012 to 2016 for additional statistical reliability, the tables in the appendix present the empirical results.[209] Forty-six percent of Americans—140 million people—live in families with incomes that are insufficient to meet their basic needs. In each of the five states with the highest poverty levels, over 51 percent of their populations are poor or low income. The highest rate is in California, where 55.4 percent of people are poor or low-income, accounting for 22.4 million people.

Poor or low-income rates differ significantly by race. As shown in Table 2, white people make up the largest percentage of poor or low-income people, at 49 percent. Yet only 38 percent of white people are poor or low-income. In comparison, Table 3 reveals that 62 percent of people of color (POC) are poor or low-income, and 18 states feature a greater number of poor or low-income people of color compared to white people, despite have a majority white population. Washington, D.C., Arizona, Rhode Island, Wisconsin, and Minnesota have the

highest disparity between white and POC poor or low-income rates. Gender disparities exist as well, as reflected in Table 4. Forty-eight percent of women and girls are poor or low-income, with rates in the top quintile over 52 percent; and 56 percent of children are poor or low-income.[210]

These numbers demonstrate that poverty is a widespread experience in America. In some states, the majority of people are poor or low-income. Disparities by race, gender, and age are evident in every state, with racial differences particularly stark. Poverty statistics themselves, however, do not reveal the full extent of economic suffering, much less the causes and potential solutions. While disparities in poor or low-income rates are important to recognize, simple cross tabulations do not explain the relationship between poverty, systemic racism, militarism, and ecological devastation. A singular focus on disparities reveals little about how patterns of inequality are institutionally structured. To advance an understanding of these relationships, it is valuable to elevate the perspectives of political organizers and activists working in the field to address poverty and inequality in America. In the following section, SPM numbers are augmented with insights from people engaged in grassroots political activism and anti-poverty work.

Evidence from the Field

In April 2018, The Poor People's Campaign and the Institute for Policy Studies published *The Souls of Poor Folk: Auditing America's History 50 years after the Poor People's Campaign Challenged Racism, Poverty, The War Economy/Militarism, and Our National Morality,* tracing policy trajectories from 1968 onward that have exacerbated poverty and inequality.[211] As part of this project, individuals from over a dozen political organizations were interviewed, some of whom had participated in the original 1968 Poor People's Campaign. Their backgrounds include work in welfare, organizing, immigrant rights, water rights, health care, housing, civil rights, workers' rights, ecological justice, and anti-war activism. Additional written testimony was acquired from seventeen other individuals. Nearly all of these individuals were from organizations and communities made up of poor people and represented conditions and experiences of millions in America. Interviews took place over the phone and lasted approximately one hour. An analysis of these interviews and written testimony reveal four key themes/conclusions about prevailing trends about poverty and inequality in America.

Cuts in Social Safety Net Spending Have Increased the Number of People Unable to Meet Basic Needs.

Interviewees described the effects of federal and state social safety net cuts since the 1970s. For example, from 1978 to 1989, funding for housing assistance

delivered by the Department of Housing and Urban Development (HUD) dropped from $57 billion to $9 billion, with similar cuts made to education, health, transportation, and various urban aid programs.[212] Paul Boden, director of the Western Regional Advocacy Program, highlights housing, saying, "there was a direct connection between the people that were living in subsidized housing, the massive cuts to affordable housing, and the need to open emergency shelter programs. The correlation is unmistakable." Similar statements were made by welfare rights organizers who witnessed the impact of Welfare Reform legislation passed in 1996. Mary Grant, campaign director for Food and Water Watch, observed that since public infrastructure funding began to decline in 1977, water rates and cut-offs have increased, with a greater number of individuals at risk of losing access to water.

From 1978 to 1989, funding for housing assistance delivered by the Department of Housing and Urban Development (HUD) dropped from $57 billion to $9 billion, with similar cuts made to education, health, transportation, and various urban aid programs.

Decreases in public welfare spending were put into context alongside other economic policies, such as The North American Free Trade Act, the proliferation of tax increment financing and public-private partnerships for economic development, privatization of public services, sectoral shifts in the economy, and federal income and corporate tax cuts. These policies were identified as sources of rising poverty and inequality. In contrast, increases in military, law enforcement, and mass incarceration spending were described as factors that reinforced poverty and inequality.

Federal cuts to the social safety net also hampered political activism. Many improvements to social welfare policies were secured through grassroots political activism in the 1960s.[213] In turn, these organizing efforts provided individuals with more time and resources for political involvement, and a greater sense that political engagement could change policies. As significant cuts were made, the opposite dynamic took hold. Sylvia Orduño states that through the enforcement of workfare requirements, time limits, and funding cuts, the network of welfare rights organizations shrank from over 500 chapters to less than two dozen. The political effects of these cuts have continued, with an upward redistribution of wealth resulting in a weakened working class that faces barriers to political

activity. Simultaneously, political decision-making increasingly favors a smaller set of wealthy and corporate interests.[214]

Race and Gender Help to Structure Patterns of Economic Inequality, With Militarism and Environmental Injustice Multiplying the Effects of These Structures

Every interviewee remarked that race and gender play a role in the structure of economic inequality. Voter suppression laws that target Black and Brown communities result in policies that limit poor or low-income people's ability to participate in electoral politics. Border control and detainment efforts have increased worker exploitation, with average incomes in some border communities ranging from $8,000 to $12,000 dollars. Women are disproportionately represented among the poor, based in large part on the devaluing of care work. The question of how resources are allocated in the economy is negotiated through race and gender, with racism and misogyny deepening the impact and reach of poverty in America.

Interviewees describe how racism and misogyny have historically divided groups with otherwise common political interests. Racism was identified as a common barrier in organizing low-wage workers in the south. Interviewees spoke about how these barriers must be addressed within the work rather than assumed away through victories. Paul Boden observed challenges to organizing around housing rights:

"I don't think we can build power and wait until we have power, and then talk about racism. You're not going to get power unless you address the race and class issues in the organizing that you are doing. I think a lot of groups make that mistake. You have to make sure that's part of the internal work you are doing."

Militarism and ecological devastation are positioned as intensifiers of economic conditions. Jacqui Patterson of the NAACP's Environmental and Climate Justice Program stated that communities that are already facing challenges related to employment opportunities are more vulnerable when natural disasters hit their communities. Women's health and safety were lifted up as an often overlooked natural disaster issue, as rises in domestic violence and sexual assault occur during these periods. Similar statements were made by Jesús Vázquez of Organización Boricuá de Agricultura Ecológica in regards to food security in Puerto Rico, where previous inequalities were exacerbated by Hurricane Maria. Interviewees also linked the relationship between ecological devastation and militarism through the pursuit and extraction of natural resources, a leading cause of war and of environmental harm.

Military violence as a method of social control was highlighted as an intensifier of inequality. Fernando Garcia of the Border Network describes militarization at the

border as a response to the racist narrative of immigrants as a security threat. He states:

> "When the border is portrayed as the opposite of lawful, it becomes especially criminal...over time, we have seen an expanded militarization into the United States...we saw that they learned out of the border experience how to militarize a police department and give them the tools to repress and persecute people in the interior of the United States."

The criminalization of Black, Brown, and low-income communities was equally observed in cities, especially with regard to homeless people. The increase in gender-based violence in the military—both among women in the service and civilians overseas—was also linked with the rise in military spending. In their attempts to organize, some interviewees shared personal experiences of being targeted by law enforcement.

Human Rights Are a Useful Framework for Understanding Poverty—and for Ending It

Most interviewees utilized rights-based frameworks in their work, which provide the opportunity to link people's experiences across issue areas. Nijmie Dzurinko of Put People First! PA describes how an unmet essential need in an individual's life has an impact on a host of other needs. Referring to health care, she states:

People are choosing between paying for medications and paying for utilities. They are stretching out medications, choosing between buying food and getting health care for their kids. This makes life very hard, when you need to choose between one need or another need, when they're really all needs. People are saying they are forced to stay in relationships because of insurance because otherwise they won't have benefits. It's also a real question for workers, who are constantly bargaining away their other rights for their health care.

The question of how resources are allocated in the economy is negotiated through race and gender, with racism and misogyny deepening the impact and reach of poverty in America.

Contrasted with means-tested programs, rights-based approaches are useful in that they ensure that everyone can meet human needs, regardless of income or civil/social status. For these reasons, rights-based claims have been critical in linking together specific needs that poor or low-income people face and in connecting people across regional and demographic differences through shared experience.

Rights-based claims have been used as an alternative to a paradigm of governance that emphasizes profit motives at the expense of human welfare. Decisions to privatize basic infrastructure and health systems, reduce services, and increase fees are primarily made within a set of fiscal incentives that does not necessarily take into account human impact. In other cases, the pursuit of profits has resulted in the restriction of basic rights through unequal enforcement of laws, such as the forced removal of homeless folks from urban city centers. By framing policy issues as human rights issues, interviewees describe a system of governance that ought to be framed around the experiences of people, rather than profit.

Poverty Is Political, and Political Organizing Is Necessary

Rather than a natural outcome of a just economic system, a set of beliefs or attitudes, or a series of unfortunate circumstances, interviewees describe poverty as an explicitly political problem. Laws and institutions uphold an unequal distribution of rights that benefit some at the expense of others. Political organizing—understood as the process in which a constituency builds power by mobilizing members to act—becomes a necessary tool for eliminating poverty. Most often, traditional political infrastructure doesn't engage with poor communities. Interviewees expressed criticism of the Democratic and Republican parties' efforts to take poverty seriously.

Political organizing is essential for reframing poverty as a political issue. Uniting common experiences across demographic differences is a major obstacle for organizations, with perhaps the most emphasized difference being between rural and urban areas. Most nonprofit organizations are located in cities, with rural areas and small towns lacking access to community organizing groups. This imbalance is often credited to the density of urban areas, which makes outreach more efficient. Interviewees articulate real differences in terms of living in an unincorporated area compared to a metropolitan city and named policies designed to benefit one setting over another. Nonetheless, interviewees expressed a need to link impactful economic processes, such as public divestment, unemployment, deindustrialization, and redistribution of wealth, across urban and rural landscapes. These experiences are often mutually shared and can form a basis for solidarity. As Catherine Flowers of the Alabama Center for Rural Enterprise states:

The water issues we see in Standing Rock are connected to the ones we see in places like Flint, in Detroit, and in Lowndes County. Traveling to California, I saw migrant farm communities with poisoned water. In Arizona, people's water has been poisoned by uranium ... they try this in poor communities first, because there is going to be fewer resistance, and they don't have as much of a voice. But ultimately, what these people are talking about is sinister and it's going to impact everybody.

Policy Recommendations

Given the preceding analysis, three strategic approaches can be identified that, if pursued meaningfully and at an appropriate scale, can dramatically reduce the extent of poverty and inequality in America. All three are broad categories of policy recommendations and are meant to operate in tandem.

Reinvest in the Social Safety Net

The Poor People's Campaign has pushed for a set of policies that would expand the social safety net and promote economic security and opportunity through public investment. According to activists interviewed by the project, reinvestment in the social safety net is the number one policy recommendation for reducing poverty and inequality. The Poor People's Campaign has positioned living wage laws, a guaranteed income, and a federal full-employment program as the backbone of an expanded, twenty-first century public policy agenda to address poverty. Free tuition for public higher education, single-payer universal health care, reinvestment and expansion for public housing, and relief from household, consumer, and student debt are additional pillars. Although rarely considered a part of the social safety net, the Poor People's Campaign emphasizes criminal justice reform, immigration reform, military divestment abroad and at home, and a just transition to 100 percent renewable energy as part of a comprehensive agenda for reducing poverty and inequality. Although not exclusively so, funding sources are linked to a redesigned progressive income and wealth and corporate tax plan.

Demands for equal pay for equal work, equal treatment and service for people with disabilities, and equity in public school and community funding are emphasized as a means to address discrimination and exclusion. Additional universal programs that could strengthen the social safety net and reduce racial and gender inequality include a progressively structured "baby bonds" program, universal childcare, and paid family leave. Adopting a set of principles for policy design that are grounded in the interests and capabilities of those who are most in need of assistance is necessary for any universal social welfare program.

Institute a Human Rights Approach for Accessing Poverty in America

While supplemental policy measure data has improved the measurement of poverty, its method is still hampered by the use of income thresholds. Fundamentally, incomes operate as a means for achieving a dignified standard of living at a moment in time. Its instrumental nature limits its effectiveness for assessing the actual fulfillment of people's needs and the quality of their lives over time. As economist Amartya Sen writes, "If life consists of various things that people are able to do or be (such as being able to live long, to be in good health, to be able to read and write, and so on), then it is the capability to function that has to be put at the center stage of assessment."[215] If poverty is understood as the absence of basic human fulfillments, then a human-rights based measurement is needed to assess poverty in the United States. A federally backed initiative to measure the extent to which people in the United States are incapable of accessing basic needs is the second policy recommendation. This recommendation is in line with interviewees who emphasized a human-rights framework for conceptualizing health care, housing, and other basic needs.

Central to the goals of many interviewees, a positivist human-rights framework inherently contains a theory of justice that emphasizes universality, capacity, and human well-being prioritized over private profit. The United Nations Development Program *Human Development Report* represents a prominent capabilities approach for measuring poverty that could be incorporated in the United States.[216] This measurement would serve two functions: First, if properly funded, it would provide a more complete estimate of the extent to which individuals are living in poverty. Second, a human-rights based approach for measuring poverty could provide a new basis for holding relevant actors responsible for decisions that reduce essential human capabilities, such as municipalities and private firms that shut off residents' water.

Promote Policies That Increase Political Power for Poor or Low-Income People.

As emphasized in interviews, poverty is not only an economic circumstance, but a political position, one in which individuals are disproportionately excluded from political decision making. Currently, there are a number of barriers that limit the role of poor or low-income people in electoral politics. The elimination of voter suppression and disenfranchisement laws, comprehensive voter registration, campaign finance reform, and the strengthening of labor unions have all been identified by the Campaign as important policies for increasing political power for people living in poverty.

Research suggests that institutional change and the promotion of social equality are directly linked to the extent to which poor and low-income people are organized or able to engage in collective action.[217] Simultaneously, people's patterns of political engagement are partially shaped by their interactions with public programs.[218] While policies that aim to reduce barriers to participation in electoral politics are essential, so, too, are policies that create opportunities for direct political engagement. Revising and expanding the role of community action programs under a rubric of community organizing would serve as a direct source of political power for individuals who are most marginalized from today's political process.

While policies that aim to reduce barriers to participation in electoral politics are essential, so, too, are policies that create opportunities for direct political engagement.

The work of Community Action Agencies, originally formed in the 1960s, has substantially changed over time.[219] Today, most programs primarily operate as a means for connecting individuals with service providers and for developing new service programs. In addition to this work, a principle of political empowerment that emphasizes leadership development, strategic planning, and network building could be adopted as a means for increasing coordinated political action.[220] Such a principle would harken back to the original "maximum feasible participation" mandate that originally governed the initiative. A reinvigorated Community Action Program approach would fund fully trained community organizers, work across regions to leverage political power at the appropriate level of governance, and use various methods of community outreach to ensure political accountability. Working within the existing network of over a thousand Community Action Agencies, these efforts could serve to bridge divides across geography through an increase in funding for regional coordination.

While all three sets of policy recommendations may be politically infeasible in the current moment, revising Community Action Programs may be the least feasible. This is primarily due to the fact that resources needed for this program would come from a set of structures that would be both targeted for change and also invested in maintaining the political status quo. Nonetheless, anti-poverty

programs have, at certain moments, historically guided resources toward successful political organizing.[221]

Conclusion

This paper has drawn upon the intellectual and field resources informing the Poor People's Campaign: A National Call for Moral Revival in order to generate policy recommendations for reducing poverty and inequality. Poverty is far from a marginal experience in the United States. In fact, it is the extent of this shared experience that may create opportunities for political mobilization. Unemployment, unaffordable health care and housing, rising household and student debt, incarceration, police violence, polluted water, and workplace harassment and sexual assault are just some of the issues that define the struggle of living in poverty. These issues are negotiated through race and gender and are directly related to laws and institutions that perpetuate inequality. Expanding social welfare policies, institutionalizing positivist human rights, and redistributing political power are necessary tasks for reducing poverty and inequality in America.

Appendix: Distribution of Poor and Low Income Population in the U.S.[222]

Table 1: Poor or Low-Income Population per State

State	Poor or Low-Income Population	Margin of Error	Percent of State Population	Margin of Error
AK	290,502	11,968	41.33%	1.71%
AL	2,157,257	79,810	44.88%	1.66%
AR	1,355,195	39,056	46.39%	1.32%
AZ	3,327,938	110,284	49.63%	1.68%
CA	21,392,362	235,786	55.37%	.61%
CO	2,148,696	87,983	40.14%	1.66%
CT	1,480,671	55,629	41.51%	1.59%
DC	327,970	7,679	49.67%	1.16%
DE	416,408	13,724	44.79%	1.45%

State	Poor or Low-Income Population	Margin of Error	Percent of State Population	Margin of Error
FL	10,169,702	180,738	51.37%	.92%
GA	4,849,715	113,671	48.65%	1.11%
HI	758,665	20,342	55.34%	1.49%
IA	1,085,452	40,568	35.29%	1.28%
ID	714,232	31,882	43.87%	1.90%
IL	5,650,292	157,519	44.44%	1.23%
IN	2,858,374	75,831	44.21%	1.20%
KS	1,130,625	36,937	39.79%	1.32%
KY	1,994,136	70,925	45.58%	1.57%
LA	2,261,329	72,445	49.74%	1.58%
MA	2,887,642	91,347	43.15%	1.36%
MD	2,599,713	82,655	43.88%	1.41%
ME	544,847	21,217	41.17%	1.64%
MI	4,056,092	119,369	41.08%	1.19%
MN	1,881,585	65,751	34.77%	1.24%
MO	2,321,027	95,791	39.00%	1.61%
MS	1,510,979	37,541	51.51%	1.34%
MT	411,477	15,771	40.71%	1.60%
NC	4,672,334	111,460	47.56%	1.13%
ND	235,004	12,620	32.15%	1.79%
NE	693,766	24,656	37.20%	1.35%

State	Poor or Low-Income Population	Margin of Error	Percent of State Population	Margin of Error
NH	472,824	17,877	36.09%	1.39%
NJ	3,993,499	115,856	45.13%	1.30%
NM	1,000,799	38,120	48.69%	1.83%
NV	1,440,434	51,945	50.92%	1.81%
NY	9,863,118	162,142	50.50%	.80%
OH	4,705,779	124,073	41.10%	1.08%
OK	1,673,507	56,158	44.06%	1.50%
OR	1,855,818	55,282	46.48%	1.39%
PA	5,061,981	136,076	40.01%	1.08%
RI	428,181	18,439	40.98%	1.75%
SC	2,116,267	68,449	44.43%	1.48%
SD	307,570	16,870	36.56%	2.06%
TN	3,018,828	96,004	46.32%	1.44%
TX	12,751,285	193,167	47.50%	.73%
UT	1,252,681	45,937	42.41%	1.60%
VA	3,523,816	106,372	43.11%	1.31%
VT	236,897	8,986	38.34%	1.47%
WA	2,911,246	94,630	41.21%	1.32%
WI	2,258,975	68,984	39.60%	1.21%
WV	756,669	40,672	41.73%	2.29%
WY	201,248	8,044	34.89%	1.41%

State	Poor or Low-Income Population	Margin of Error	Percent of State Population	Margin of Error
Total	146,000,000	589,618	46.21%	.19%

Table 2: Poor or Low-Income Statistics per State for People of Color[223]

State	Poor or Low-Income Population	Margin of Error	Percent of State Population	Margin of Error
AK	148,074	13,645	54.23%	2.58%
AL	975,512	42,148	59.83%	2.06%
AR	492,551	33,782	62.80%	3.23%
AZ	2,187,624	172,945	66.81%	1.51%
CA	15,471,036	237,468	65.55%	.63%
CO	959,838	66,137	60.33%	2.25%
CT	669,122	45,224	62.09%	2.41%
DC	278,645	7,809	66.84%	1.57%
DE	205,941	9,792	61.27%	2.14%
FL	5,605,323	158,938	64.22%	1.24%
GA	2,884,647	103,948	61.99%	1.50%
HI	636,308	19,923	57.13%	1.68%
IA	253,628	32,823	59.06%	3.11%
ID	184,307	23,815	64.47%	2.86%
IL	2,905,460	127,054	62.40%	1.67%

State	Poor or Low-Income Population	Margin of Error	Percent of State Population	Margin of Error
IN	800,948	61,430	64.31%	2.59%
KS	424,468	35,348	60.83%	2.50%
KY	434,520	38,297	64.87%	3.74%
LA	1,241,047	54,470	67.09%	2.23%
MA	1,107,474	70,004	62.52%	2.65%
MD	1,586,310	73,525	56.43%	2.15%
ME	50,131	7,541	53.13%	6.04%
MI	1,378,165	67,377	57.63%	2.26%
MN	622,621	49,267	60.36%	2.87%
MO	687,906	45,115	59.15%	3.15%
MS	842,910	33,157	67.32%	1.89%
MT	65,205	14,492	59.42%	4.26%
NC	2,296,915	113,087	61.63%	1.73%
ND	64,794	8,416	58.53%	5.01%
NE	241,351	23,607	60.28%	3.22%
NH	57,388	7,202	52.69%	4.27%
NJ	2,180,186	102,927	59.02%	2.03%
NM	722,897	49,525	57.67%	2.27%
NV	870,118	42,248	62.97%	2.26%
NY	5,533,021	143,125	66.67%	1.15%
OH	1,413,238	64,702	60.73%	2.29%

State	Poor or Low-Income Population	Margin of Error	Percent of State Population	Margin of Error
OK	765,941	51,146	57.40%	2.69%
OR	604,977	47,447	62.31%	2.45%
PA	1,805,198	94,503	63.06%	2.07%
RI	176,414	14,062	64.75%	2.98%
SC	1,001,330	45,154	60.51%	2.37%
SD	85,760	21,114	62.54%	3.71%
TN	1,051,644	63,137	60.97%	2.66%
TX	9,034,636	201,845	58.98%	.93%
UT	352,649	35,581	61.41%	3.36%
VA	1,704,578	78,373	57.20%	2.10%
VT	20,183	2,855	54.45%	5.26%
WA	1,167,824	107,390	53.81%	2.76%
WI	704,183	53,749	65.45%	2.71%
WV	64,513	8,312	48.66%	4.72%
WY	41,490	4,230	50.01%	3.34%
Total	75,060,949	348,548	62.26%	.29%

Table 3: Poor or Low-Income Statistics per State for Non-Hispanic Whites

State	Poor or Low-Income Population	Margin of Error	Percent of State Population	Margin of Error
AK	142,428	9,908	33.14%	1.83%
AL	1,181,745	63,830	37.20%	1.97%
AR	862,644	37,402	40.36%	1.54%
AZ	1,140,314	107,992	33.24%	1.71%
CA	5,921,327	148,225	39.39%	0.84%
CO	1,188,858	61,199	31.60%	1.68%
CT	811,549	42,980	32.61%	1.66%
DC	49,326	3,861	20.27%	1.40%
DE	210,467	11,252	35.45%	1.86%
FL	4,564,378	142,962	41.23%	1.14%
GA	1,965,068	89,656	36.97%	1.49%
HI	122,357	9,959	47.60%	2.51%
IA	831,824	41,512	31.44%	1.28%
ID	529,926	22,144	39.49%	1.77%
IL	2,744,832	109,496	34.06%	1.26%
IN	2,057,426	74,478	39.42%	1.31%
KS	706,157	37,129	32.95%	1.53%
KY	1,559,616	60,100	42.09%	1.62%
LA	1,020,282	50,139	37.83%	1.77%
MA	1,780,167	72,490	36.17%	1.43%
MD	1,013,404	54,377	32.55%	1.64%

State	Poor or Low-Income Population	Margin of Error	Percent of State Population	Margin of Error
ME	494,716	18,886	40.25%	1.59%
MI	2,677,927	98,768	35.79%	1.23%
MN	1,258,964	60,611	28.75%	1.32%
MO	1,633,121	90,466	34.11%	1.75%
MS	668,068	32,009	39.74%	1.85%
MT	346,272	17,166	38.43%	1.61%
NC	2,375,419	114,220	38.96%	1.39%
ND	170,210	8,577	27.45%	1.47%
NE	452,415	24,725	30.90%	1.46%
NH	415,436	16,983	34.59%	1.40%
NJ	1,813,314	92,912	35.17%	1.59%
NM	277,902	31,069	34.64%	2.24%
NV	570,316	33,963	39.40%	1.99%
NY	4,330,096	124,521	38.55%	1.00%
OH	3,292,542	103,211	36.09%	1.15%
OK	907,566	40,951	36.84%	1.55%
OR	1,250,841	51,608	41.40%	1.49%
PA	3,256,782	107,073	33.27%	1.09%
RI	251,767	13,963	32.59%	1.78%
SC	1,114,937	54,592	35.87%	1.71%
SD	221,810	18,095	31.50%	1.88%

State	Poor or Low-Income Population	Margin of Error	Percent of State Population	Margin of Error
TN	1,967,184	86,186	41.04%	1.63%
TX	3,716,649	156,873	32.23%	1.13%
UT	900,032	36,741	37.83%	1.54%
VA	1,819,238	77,799	35.02%	1.42%
VT	216,714	8,753	37.32%	1.50%
WA	1,743,422	101,754	35.62%	1.49%
WI	1,554,792	54,263	33.59%	1.15%
WV	692,156	43,734	41.18%	2.51%
WY	159,758	6,807	32.35%	1.40%
Total	70,954,460	454,390	36.31%	0.23%

Table 4: Poor or Low-income Statistics per State for Women & Girls[224]

State	Poor or Low-Income Population	Margin of Error	Percent of State Population	Margin of Error
AK	146,640	6,681	42.34%	1.93%
AL	1,165,625	39,619	46.99%	1.59%
AR	729,037	19,849	48.64%	1.32%
AZ	1,718,627	60,269	50.61%	1.76%
CA	11,025,270	126,041	56.63%	0.65%
CO	1,090,170	51,649	40.82%	1.93%

State	Poor or Low-Income Population	Margin of Error	Percent of State Population	Margin of Error
CT	771,547	30,599	42.39%	1.68%
DC	182,316	4,685	52.44%	1.35%
DE	224,832	7,408	46.71%	1.53%
FL	5,423,423	94,698	53.09%	0.92%
GA	2,600,155	62,255	50.30%	1.21%
HI	387,158	10,775	55.71%	1.55%
IA	574,688	20,792	37.10%	1.34%
ID	370,239	17,059	45.31%	2.09%
IL	2,962,948	83,869	45.71%	1.29%
IN	1,543,032	44,749	46.50%	1.35%
KS	585,427	20,985	40.62%	1.47%
KY	1,032,401	38,128	46.56%	1.72%
LA	1,227,515	36,400	52.03%	1.54%
MA	1,569,986	49,164	45.50%	1.42%
MD	1,384,638	45,745	45.25%	1.49%
ME	287,303	12,377	42.73%	1.84%
MI	2,122,835	63,776	42.37%	1.27%
MN	986,975	37,281	36.17%	1.37%
MO	1,240,922	51,087	40.60%	1.67%
MS	815,807	20,145	53.48%	1.33%
MT	214,531	9,257	42.30%	1.82%

State	Poor or Low-Income Population	Margin of Error	Percent of State Population	Margin of Error
NC	2,500,508	62,114	49.17%	1.22%
ND	123,103	7,152	34.42%	2.00%
NE	364,696	14,638	38.87%	1.56%
NH	249,921	10,018	37.57%	1.50%
NJ	2,082,678	61,905	45.83%	1.36%
NM	510,170	19,983	48.86%	1.91%
NV	744,926	26,716	52.37%	1.88%
NY	5,242,091	90,223	52.02%	0.90%
OH	2,518,824	68,904	42.99%	1.18%
OK	891,464	31,787	45.84%	1.63%
OR	944,914	29,471	46.90%	1.46%
PA	2,704,948	72,514	41.81%	1.12%
RI	227,806	10,184	42.40%	1.89%
SC	1,156,757	36,812	46.64%	1.48%
SD	162,057	9,233	38.66%	2.20%
TN	1,601,651	52,313	47.90%	1.57%
TX	6,666,462	103,735	49.02%	0.76%
UT	630,914	27,337	42.82%	1.86%
VA	1,869,953	60,975	44.49%	1.45%
VT	124,126	5,022	39.52%	1.60%
WA	1,511,274	46,862	42.66%	1.32%

State	Poor or Low-Income Population	Margin of Error	Percent of State Population	Margin of Error
WI	1,192,707	40,713	41.45%	1.41%
WV	399,463	20,512	43.21%	2.21%
WY	102,321	4,566	36.08%	1.61%
Total	76,907,782	335,930	47.71%	0.21%

A Public Interest Test in Merger Review

by Becky Chao

Concern over the effects of increasing corporate consolidation on competition, inequality, and labor has led to calls for U.S. antitrust law and competition policy to do more.[225] The movement to reinvigorate antitrust enforcement includes potential new antitrust laws, including a package of bills introduced in April 2018 that addresses employment-related issues in mergers.[226] Among other things, the bills seek to prohibit the consideration of so-called "spurious" economic efficiencies—namely, corporate layoffs—to justify anti-competitive mergers,[227] and to provide clarification that the antitrust laws apply not just to monopolies but also to monopsonies.[228] These bills could be interpreted as part of the broader call for antitrust to move toward a public interest standard that would be, proponents argue, better equipped to address the effects of consolidation beyond competition.[229]

But, what does the "public interest" mean? The term is used in different settings by government officials, politicians, and advocates alike. It appears almost interchangeable with concepts like the "common good" and "general will," alluding to the conflicting interests between a group, community, or society and an individual—or, in the case of mergers, the interests of corporations and the interests of the general public.[230] In any case, the meaning of the "public interest" remains unclear.[231]

This uncertainty permeates the merger review process at the Federal Communications Commission (FCC), which, unlike the antitrust authorities, is charged with a public interest mandate in its review of telecommunications mergers. But while some are calling for antitrust to move toward a public interest standard, the Commission appears to be moving away from one.

In its approval of CenturyLink's acquisition of Level 3 with conditions in October 2017—the first major transaction approval under Ajit Pai's tenure as chairman—the Commission signaled three major changes: First, it suggested that the inherent ability to transfer licenses is itself a public interest benefit.[232] Second, it stated that the Commission "will not impose conditions to remedy pre-existing harms or harms that are unrelated to the transaction."[233] Third, it suggested a revision to the "balancing test"—the weighing of public interest benefits against public interest harms—it had employed in its merger review up to this point, saying "if the Commission is able to find that narrowly tailored, transaction-specific conditions are able to ameliorate any public interest harms and the transaction is in the public interest, it may approve the transaction as so conditioned."[234] This last statement signaled a departure from the Commission's record of imposing transaction-related conditions on transaction parties.

Together, these three statements suggested a narrowing of the Commission's public interest test to focus on competitive effects analysis and to avoid addressing issues related to its broader policy objectives, as it had done in previous proceedings. The CenturyLink/Level 3 Order, and the response to it, is indicative of the tensions and disagreements in the Commission's implementation of its public interest standard.

While some are calling for antitrust to move toward a public interest standard, the Commission appears to be moving away from one.

The debate at the FCC over its public interest standard may be seen as part of a larger trend in U.S. antitrust toward a focus on competitive effects in the last three decades.[235] The FCC, however, does not have antitrust authority; as a regulatory agency, its authority is broader than of the antitrust enforcement agencies.[236]

A public interest standard in merger review has also been discussed and tested in some international domains. Notably, public interest factors are given considerable weight by competition authorities in South Africa, China, and Canada. While competition policies abroad do not solely encompass antitrust laws (just as the FCC's merger review process does not solely encompass competition nor antitrust), recognizing the international landscape of merger review provides additional context to understanding the implications of a public interest test in merger review generally. In the first section of this report, an examination of public interest approaches to merger review internationally reveals differences in how each country defines the public interest in merger review, and possible mechanisms for preventing the influence of politics on the merger review process.

Next, this report provides an overview of U.S. merger enforcement primarily through antitrust law and explores the application of the public interest standard in the Federal Communications Commission's merger review. An examination of 31 major transactions reviewed by the Commission under two administrations led by chairmen from different political parties, Democratic Chairman Tom Wheeler from 2013 to 2016 and Republican Chairman Kevin Martin from 2005 to 2009, and the noteworthy Comcast/NBCU merger in 2011 reveals the wide range of non-competition factors that the Commission has considered under its public interest mandate. Through case studies demonstrating how the Commission has

addressed three such factors—diversity, universal access, and employment—this paper explores how the evaluation of these factors has led the Commission to exercise significant discretion in its review. Its inconsistent determinations of whether concerns are merger specific and its discretion in imposing conditions on the transaction parties have created much ambiguity in the factors it considers and how it considers them in making decisions.

The FCC does not have antitrust authority; as a regulatory agency, its authority is broader than of the antitrust enforcement agencies.

Finally, this report provides recommendations for how to implement a robust public interest standard in FCC merger review by standardizing its test. Recommendations include identifying factors that should be considered in merger review and codifying the evaluation process. The process can then be institutionalized through guidelines similar to the Department of Justice and Federal Trade Commission's Horizontal Merger Guidelines, or statutory guidance from Congress.

The Public Interest Debate Abroad

Antitrust scholars Harry First and Eleanor Fox have called the United States "somewhat of an outlier in the international community" because of its rejection of public interest factors in antitrust merger policy.[237] A survey of the international landscape, however, calls into question the degree to which this statement holds true. For one, not every country employs a public interest test, and the ones that do tailor their tests to country-specific social, cultural, and political factors. Competition—with its goals of consumer welfare and efficiency—remains the central goal in most jurisdictions, but public interest tests may be carved out to address non-competition factors in specific sectors. Ultimately, the idea of a public interest test in merger control is not standardized in international jurisprudence, and there are significant concerns regarding the susceptibility of a public interest test to political influence.

A Competition Test May Capture Some Public Interest Factors

In some jurisdictions, public interest factors may already be captured in efficiency analysis under a competition framework. South Korea acknowledges the possibility of examining public interest factors as part of efficiency enhancing effects: an increase in employment, regional economy, development of downstream and upstream markets, stable supply of energy, and improvement of environmental pollution.[238] Canada, on the other hand, does not specify any public interest factors in its Competition Act or Merger Enforcement Guidelines.[239] Its courts, however, have provided guidance on how to treat income redistribution in efficiency analysis.[240] The Federal Court of Appeal in *Canada (Commissioner of Competition) v. Superior Propane Inc.,* stated that a "balancing weights" approach that assigns a particular weight to the loss in consumer surplus relative to the gain in producer surplus was better equipped than a total surplus standard to account for income redistribution effects.[241] In 2012, the Competition Tribunal stated in *Canada (Commissioner of Competition) v. Tervita Corp* that it must also "determine whether there are likely to be any *socially adverse* effects associated with a merger" if the Commissioner puts forth arguments in this vein.[242]

South Korea and Canada are therefore two examples of efficiency-centered competition regimes that can account for certain public interest factors. In the absence of an explicit public interest framework, competition regimes may think creatively to argue for the consideration of certain factors to be included in merger review under an efficiencies defense.

A Public Interest Test Reflects Country-Specific Goals

The goals of competition policy are contingent on a country's social, cultural, and political norms. A public interest test in merger review may be structured such that it captures a specific country's broader policy goals. Generally, developed countries have antitrust laws that focus primarily on efficiency and consumer welfare, whereas developing countries have antitrust laws that also address issues of distribution and power.[243]

Competition policy in South Africa, for example, serves a dual role: it stimulates competition toward the goal of market efficiency, but it is also part of a broader suite of policy tools aimed at rectifying structural imbalances and past economic injustices.[244] In this vein, public interest grounds considered by South African competition authorities include a merger's potential effects on a particular industrial sector or region, employment, the ability of businesses controlled or owned by historically disadvantaged persons to become competitive, and the ability of national industries to compete in international markets.[245]

Similarly, China's competition policy is structured such that it reflects the country's broader social and economic goals. Article I of the country's Anti-

Monopoly Law (AML) specifies that the law exists "for the purpose of preventing and restricting monopolistic conduct, protecting fair competition in the market, enhancing economic efficiency, safeguarding the interests of consumers and social public interest, [and] promoting the healthy development of the socialist market economy."[246] Article 15 specifies a non-exhaustive list of public interests exemptions to monopolistic conduct that includes conserving energy, protecting the environment, and relieving disaster victims.[247]

Each nation faces the challenge of designing and implementing a competition regime that addresses both the market dynamics in their country and the unique aspects of broader policy objectives. That is to say, the variety of approaches seen across the international landscape today indicates continuing uncertainty over how best to achieve these goals.

A Public Interest Test Maybe Tailored to Address Non-Competition Factors in Specific Sectors

Where the primary goal of merger control may be competition, jurisdictions may implement a public interest test restricted to specific sectors. A sector-specific approach accounts for specific non-economic factors that are important to the functioning of a healthy market in the sector in question. For instance, a healthy democracy necessarily requires media pluralism, as without access to a diversity of viewpoints, individuals are less likely to come across ideas from multiple perspectives and make their own informed decisions.[248] Sector-specific public interest interests have the advantage of limited reach; they do not apply broadly across industries in which these factors are irrelevant.

The variety of approaches seen across the international landscape today indicates continuing uncertainty over how best to achieve these goals.

In this vein, the European Commission considers the effect of a merger in the media space on the diversity of information sources for the purposes of preserving a plurality of opinion and multiplicity of views.[249] Beyond the media sector, the European Union Merger Regulation also addresses security issues— such as the production of or trade in arms, munitions, and war material, the security of supply necessary for population health, and prudential rules relating to the financial sector in merger control.[250]

In Portugal, the Regulatory Authority for the Media may also overrule the competition-based assessment from the Portuguese Competition Authority on the grounds of protecting the freedom and pluralism of the media.[251] The Competition Act in Canada specifies that while competition law focuses on a merger's effects on economic welfare and efficiency, mergers in the finance, transportation, and telecommunications sectors are subject to a public interest test executed by their respective sector regulator.[252] Regulators overseeing the finance, communications, and broadcasting industries may also consider public interest factors alongside competition elements in South Korea.[253]

Limiting the Susceptibility of a Public Interest Test to Political Influence

A public interest test may exacerbate the chances of undue political influence on regulators' assessment of a deal, leading to unpredictability and inconsistency in merger control. This concern has driven reform of the merger review process in both Norway and the United Kingdom. Other jurisdictions, such as New Zealand and Germany, implement a public interest test secondary to a competition test, which may be a possible mechanism for curtailing the susceptibility of the merger review process to political influence.

From 2004 to 2016, the Norwegian government could overrule its Competition Authority's decision to block a merger if it found that the merger involved "questions of principle or interests of major significance to society"—a public interest clause.[254] These interests included concerns over job loss or competitive effects in local markets.[255] Beginning in 2017, however, the Norwegian Parliament eliminated this public interest exception and established an independent competition complaints board. Policymakers justified the change by arguing that "[p]ublic interest considerations are better served by general regulations than political intervention in specific competition cases where the outcome is subject to the influence of the strongest lobbying interests."[256]

Merger control in the United Kingdom has also moved away from a broad public interest test out of concerns over political influence. U.K. antitrust authorities previously reviewed mergers under the Fair Trading Act 1973, which implemented a broad public interest test that included employment and national competitiveness.[257] The Enterprise Act of 2002, however, codified a competition-based test toward the goal of greater predictability and elimination of "substantial room for the exercise of political preferences."[258] Under current competition policy, the Competition and Markets Authority relies exclusively on economics in its analysis, but it may inform the secretary of state (SoS) when it believes that a merger raises material public interest factors.[259] The SoS may then intervene in mergers on specified public interest grounds of national security, media plurality, and the stability of the financial system.[260] Public interest considerations are carefully vetted by Parliament prior to SoS adoption.[261]

Similarly, other jurisdictions conduct a public interest test secondary to a competition test. In New Zealand, antitrust authorities will consider broader public benefits only if it finds that the merger would be likely to substantially lessen competition in a market.[262] For the public benefit to be given weight in merger review, it must be transaction-specific.[263] The Federal Cartel Office in Germany assesses mergers solely on the basis of competition, but the minister may permit mergers on non-competition grounds in exceptional cases if they outweigh anticompetitive harms, and if doing so does not jeopardize the market economy.[264] This two-stage approach not only limits the ability to consider public interest factors in merger review, it also preserves the autonomy of the Federal Cartel Office and isolates any political pressures to the Ministry.[265]

A two-stage approach involving a competition test before a public interest test may thus be an effective mechanism for curtailing political influence on the merger review process. The current process in the United Kingdom may be the most effective example, as it ensures that public interest factors are properly vetted and specified prior to its adoption in the merger review process.

A two-stage approach involving a competition test before a public interest test may be an effective mechanism for curtailing political influence on the merger review process.

U.S. Sector Regulators Are Charged with a Public Interest Standard in Merger Review

Congress passed the first antitrust law, the Sherman Act, in 1890, followed by the Federal Trade Commission Act and the Clayton Act in 1914.[266] These three core federal antitrust laws prescribe the general conditions under which a merger or certain business practices would be considered unlawful. Courts interpreted these statutes and applied them in decisions based on the merits of each case. The modern interpretation of these statutes is to protect and ensure fair competition and to maximize consumer welfare.[267]

Two federal government agencies enforce these antitrust laws: the Federal Trade Commission (FTC) and the U.S. Department of Justice (DOJ) Antitrust Division. The agencies will consult with each other before launching an investigation into a

proposed merger to avoid duplicating efforts. In their investigations, the agencies focus exclusively on competitive factors. Beyond a public interest in the general sense in the enforcement of the antitrust laws,[268] there are no public interest factors taken into account in the merger review process by the agencies.[269]

Mergers in certain sectors, however, may also be subject to a separate review by other federal agencies charged with a broader public interest mandate that goes beyond the scope of competition. The Committee on Foreign Investment in the United States (CFIUS) may block a merger on national security grounds.[270] Two sector-specific regulators, the Federal Energy Regulatory Commission (FERC) and the Federal Communications Commission (FCC), review mergers in the electricity and telecommunications sectors, respectively, with a broader public interest mandate.

FERC regulates the interstate transmission of electricity, and both FERC and DOJ review mergers in the electricity sector.[271] In accordance with Section 203 of the Federal Power Act, FERC assesses a merger's effects on competition, rates, and regulation and will approve a merger if it will be "consistent with the public interest."[272]

In the telecommunications sector, the FCC and DOJ generally share concurrent jurisdiction over mergers. The FCC is required to review the transfer of telecommunications licenses and authorizations. In accordance with the Communications Act of 1934, as amended, the agency assesses whether a transaction will serve "the public interest, convenience, and necessity."[273] This determination includes an assessment of competitive factors, but whereas the antitrust agencies' standard, set forth by Section 7 of the Clayton Act, is whether the proposed transaction would "substantially lessen competition," the FCC must assess whether approving the transaction would preserve and enhance competition.[274] In addition, the FCC's public interest standard encompasses the "broad aims of the Communications Act,"[275] which include "examin[ing] the likely effects of the transfer on the private sector deployment of advanced services, the diversity of license holders, and the diversity of information sources and services available to the public."[276] The difference in statutory authority and relevant standards has, at times, led to different outcomes in the merger review process when both agencies review a transaction.[277]

After reviewing the evidence and public input, the Commission issues its decision.[278] It may approve the transaction parties' application to transfer licenses as submitted, or with conditions to ensure that the transaction serves the public interest.[279] If the Commission is unable to approve a transaction, it will refer it to an administrative law judge for a hearing.[280]

The Public Interest Debate at the Federal Communications Commission

The specter of political influence has loomed over the Federal Communications Commission not only because of the revolving door between the Commission and the companies they regulate[281] but also because of its broad public interest standard in merger review.[282] The wide scope of this public interest standard has led some to conclude that the agency is more susceptible to political lobbying in its merger review, especially in comparison to the merger review process at the antitrust authorities that looks at competition exclusively.[283]

An examination of recent major transactions reviewed by the Commission reveals several practices that should be clarified and codified to avoid the appearance of arbitrariness and political influence on its merger review process. These practices relate to whether the Commission's purview is limited to merger-specific or merger-related public interest factors, its discretion in imposing conditions even when pre-existing rules and regulations require similar actions from the transaction parties already, and its balancing of public interest factors against public interest harms. What follows is a discussion of several case studies exploring these issues in the Commission's assessment of three commonly cited non-competition public interest factors—diversity, universal access, and employment—in its merger review process. Ultimately, these case studies demonstrate the need for clear and consistent standards in implementing a public interest test in merger review.

Table 1. Sampling of Public Interest Factors in FCC Merger Review

Year	Transaction	Competition	Non-Competition Public Interest Factor: Diversity of Programming	Non-Competition Public Interest Factor: Diversity Practices	Non-Competition Public Interest Factor: Employment	Non-Competition Public Interest Factor: Localism
2016	Charter-TWC/ Bright House	●	●	●	●	
	Altice/ Cablevision	●			●	
2015	Frontier/Verizon	●		●	●	

Year	Transaction	Competition	Non-Competition Public Interest Factor: Diversity of Programming	Non-Competition Public Interest Factor: Diversity Practices	Non-Competition Public Interest Factor: Employment	Non-Competition Public Interest Factor: Localism
	AT&T/DIRECTV	●	●	●	●	
2014	Frontier/AT&T	●			●	
	Sinclair/Allbritton Communications	●	●			
	AT&T/Leap Wireless	●	●	●		
2013	Gannett/Belo	●	●		●	●
	Tribune Broadcasting/LocalTV	●				
	AT&T/Atlantic Tele-Network	●				●
	GCI/ACS	●				●
	SoftBank/Sprint/Clearwire	●			●	
	T-Mobile/MetroPCS	●			●	
2011	Comcast/NBCU	●	●		●	●
2009	AT&T/Centennial	●				●
	CenturyTel/Embarq	●				●

Year	Transaction	Competition	Non-Competition Public Interest Factor: Diversity of Programming	Non-Competition Public Interest Factor: Diversity Practices	Non-Competition Public Interest Factor: Employment	Non-Competition Public Interest Factor: Localism
2008	Verizon Wireless/ALLTEL	●				●
	Sirius/XM Radio	●	●	●	●	●
	Liberty Media/ DIRECTV	●	●			
	Clear Channel	●				
	Fairpoint/ Verizon	●			●	
2007	Zell/Tribune	●	●			●
	Citadel Broadcasting/ Disney (ABC Radio)	●		●		
2006	AT&T/BellSouth	●			●*	
	ALLTEL/ MidWest Wireless	●				
	Time Warner, Comcast/ Adelphia	●	●	●		
	Intelsat/ PanAmSat	●	●			
2005	Verizon/MCI	●				
	SBC/AT&T	●				

Year	Transaction	Competition	Non-Competition Public Interest Factor: Diversity of Programming	Non-Competition Public Interest Factor: Diversity Practices	Non-Competition Public Interest Factor: Employment	Non-Competition Public Interest Factor: Localism
	Alltel Corp/ Western Wireless Corp	●				
	Sprint/Nextel	●			●	

Impact on Low-income Populations	Impact on Rural Populations	Accelerated Deployment	Cybersecurity/ National Security	Public Safety/ Disaster Preparedness	Failing Station
●		●	●		
●			●		
●		●			
●		●	●		
●		●			
					●
●		●			
		●			
		●	●		
●			●		

Impact on Low-income Populations	Impact on Rural Populations	Accelerated Deployment	Cybersecurity/National Security	Public Safety/Disaster Preparedness	Failing Station
●	●	●			
				●	
	●			●	
		●			
					●
		●	●	●	
	●	●			
		●			
	●		●		
	●		●		
			●		
	●	●		●	
		●		●	

Source: Federal Communications Commission Major Transaction Decisions

The Commission Does Not Recognize Workforce Diversity as a Public Interest Factor

The Commission has not recognized workforce diversity as a public interest factor in its merger review for three general reasons: First, it finds that workforce diversity is not a merger-specific benefit—that is, the diversity practices in question do not require the parties to merge. Second, there is a question of jurisdiction; the Commission defers to other government agencies like the National Labor Board Relations and Equal Employment Opportunity Commission to address issues in this regard. Third, the Commission's ability to consider workforce diversity as a public interest factor is limited by relevant case law.

Transaction parties sometimes argue that their diversity practices are a public interest benefit. In Charter-Time Warner Cable/Bright House, the transaction parties attempted to claim their commitment to diversity and inclusion with regards to supplier commitments and corporate governance as a public interest benefit.[284] The companies in AT&T/DIRECTV claimed that the merged company would benefit from the application of AT&T's "best-in-class diversity values."[285] The Commission, however, rejected this argument in both transactions on the basis that the diversity practices described in the parties' application are not specific to the transaction; the parties could, in theory, implement the diversity practices independently as separate entities.[286]

Commenters have also raised concerns over a company's employment practices with respect to workforce diversity. In Comcast/NBCU, commenters expressed concern over the transaction parties' lack of diversity within management, drawing a connection between a media producer's diversity in staff and diversity of programming.[287] The Commission, however, deemed the issue to be both unrelated to the transaction and overseen by other government agencies like the National Labor Relations Board, Equal Employment Opportunity Commission, and relevant state authorities.[288]

In Comcast/NBCU, commenters expressed concern over the transaction parties' lack of diversity within management, drawing a connection between a media producer's diversity in staff and diversity of programming.

The efficacy of workforce diversity as a public interest factor, however, is limited by the courts. While the 1973 decision in *TV 9, Inc. v. FCC* found that the Commission's public interest statutory mandate granted it discretion to expressly consider race and ethnicity in the adjudication of license applications,[289] its ability to consider workforce diversity as a public interest factor, however, was restricted by *Lutheran Church-Missouri Synod v. FCC* in 1998. In the latter case, the court ruled that the Commission's Equal Employment Opportunity requirements for hiring minorities and women were unconstitutional and found that the agency only has authority to pass anti-discriminatory measures in which the discrimination in question relates to programming.[290] There are nuances in what diversity of programming precludes; namely, there is a difference between programming that serves the interests of minorities and programming created by minority-owned stations. Researchers nonetheless have suggested, at least, an imperfect correlation between the two, and—along with a handful of commissioners, including Michael Copps[291]—have called on the agency to "consider whether a marketplace model that has led to a demonstrable drop in the ownership percentages of minorities truly serves the public interest."[292] To fully account for diversity as a public interest factor in the merger review process at the Commission, then, it may be first necessary to undo the repercussions of *Lutheran Church-Missouri Synod v. FCC*. Whereas the Commission has discretion in interpreting its public interest mandate, its discretion is restricted by relevant legal factors, such as current case law.

The Commission's Evaluation of Diversity of Programming as a Public Interest Factor Appears Ambiguous and Inconsistent

The Commission's evaluation of diversity of programming as a public interest factor across transactions contributes to the perception that its review is inconsistent and ambiguous. First, the Commission exercises discretion in deferring to existing rules and regulations that require certain actions from companies in the industry or imposing conditions that require these actions from the specific transaction parties in response to concerns raised by commenters relating to diversity of programming. This discretion, combined with the Commission's inconsistent determinations of whether diversity in programming concerns are merger-specific, has created ambiguity in its merger review process. This ambiguity is further exacerbated when the Commission fails to demonstrate that it has verified the weight of these factors in its analysis and the cost-benefit analysis indicating that the merger as approved is clearly in the public interest.

In Charter-Time Warner/Bright House, the Commission found that many of the concerns raised by commenters relating to program carriage decisions— specifically that these decisions would disproportionately affect diverse, minority-owned, or minority-focused video programmers—lacked merger specificity and supporting evidence.[293] Instead, the Commission found that the

concerns dealt more with industry-wide issues, and relied on economic analysis submitted by the parties that showed a lack of incentive for the merged company to discriminate against these programmers.[294] It therefore deferred to existing program carriage rules to address any allegations of discriminatory conduct that may arise instead of imposing conditions on the transaction parties.[295]

The Commission found that many of the concerns relating to program carriage decisions—that these decisions would disproportionately affect diverse, minority-owned, or minority-focused video programmers—lacked merger specificity and supporting evidence.

In Comcast/NBCU, however, the Commission imposed conditions on the transaction parties to enhance its Spanish language programming in response to "legitimate concerns expressed in the record by commenters concerning the potential impact of the proposed transaction on localism" within Spanish-language-speaking communities.[296] The Commission's diverging decisions to address diversity of programming concerns raised by commenters in Comcast/NBCU and to reject similar concerns on lack of merger-specificity grounds in Charter-Time Warner/Bright House may give rise to the impression that its merger review process is inconsistent.

But there is one critical difference between the two cases: the concerns raised by commenters in Charter-Time Warner Cable/Bright House alleging New Charter's ability to foreclose or discriminate in program carriage decisions were general and not based on any specific evidence or analysis.[297] In Comcast/NBCU, on the other hand, the Commission relied on evidence submitted by commenters demonstrating harm to Spanish-language viewers when NBC acquired Telemundo in 2002 to preempt similar issues of potential harm to diversity of programming in this transaction.[298]

Nonetheless, the Commission did not address whether the concern of potential harm to diversity of programming was merger-specific in the Comcast-NBCU Order.[299] While the imposed conditions would create public interest benefits by protecting what researchers have called "preference externalities,"[300] then-Commissioners Robert M. McDowell and Meredith Attwell Baker objected to

weighing these commitments in the Commission's public interest test on grounds that they were not related to the underlying transaction.[301] The different responses of the Commission to diversity in programming concerns in Comcast/NBCU and Charter-Time Warner/Bright House contribute to the appearance that the Commission is inconsistent in its merger review. These case studies also raise the question of whether the Commission has the authority to evaluate transactions with broader policy goals in mind and address merger-related public interest concerns toward these goals.

A related issue concerns the Commission's process of measuring public interest factors and the role that quantifying these factors plays in imposing conditions on transactions. In Sirius/XM Radio, commenters raised concerns that the merger would lead to reduced competition that "would diminish the incentive to innovate and provide diverse programming," and that the reduced channel capacity would harm diversity of programming.[302] The Commission did not address whether these concerns were merger specific in this transaction either, and ultimately found that Sirius/XM Radio's voluntary commitments to set aside eight percent of channels on both platforms to qualified entities and non-commercial educational use would mitigate the potential harm from a decrease in diversity.[303]

These case studies raise the question of whether the Commission has the authority to evaluate transactions with broader policy goals in mind and address merger-related public interest concerns toward these goals.

What is noticeably absent, however, is an explanation as to why these commitments would offset the potential public interest harms to diversity in programming created by this transaction. Indeed, in his dissent, then-Commissioner Jonathan S. Adelstein noted that,

Granting the merger under this ['worst-case' scenario] approach [of assuming that the proposed transaction represents a merger to monopoly] should require significant conditions, proportional to the significant public interest harm assumed, in order to mitigate the extreme concentration of market power. Regrettably, the majority's acceptance of the Applicants' 'voluntary

commitments' fails to meet this professed prophylactic public interest standard because of gaping loopholes in them.[304]

One of Adelstein's underlying points is that public interest factors should be measurable. When the Commission fails to verify the weight of these public interest factors in its analysis and demonstrate that the cost-benefit analysis tilts clearly in the public interest, it contributes to the perception that its merger review process is inconsistent.

The Commission Exercises Significant Discretion over Merger-Related Conditions Addressing Universal Access

The Commission exercises significant discretion in assessing—and modifying—transaction parties' proposed broadband offerings for low-income consumers in line with its larger policy objective of promoting universal access by ensuring that "all Americans have access to robust, affordable broadband and voice services."[305] The Commission's assessment of whether this aspect of a merger is merger-specific, however, varies. The Commission also holds significant discretion in imposing conditions around the merging parties' low-income broadband offerings as part of its public interest test, such that it might impose conditions that are deemed to be merger-related.[306] Where it draws the line between merger-specificity and merger-relatedness, however, is a question of its regulatory purview; while the Commission sometimes rejects applicants' proposed broadband offerings for low-income consumers because the transaction parties can independently offer the services without the merger already, it has, at times, modified these services and specified plan requirements in order to deem it a public interest benefit. Whether the Commission can promote the larger goal of universal access in the merger review process insofar as the item is transaction-specific, as opposed to transaction-related, is unclear.

These conditions vary from merger to merger, and have included requirements around plan specifics, including price, program duration, enrollment benchmarks, and enforcement mechanisms;[307] standalone broadband offerings;[308] and eligibility.[309] The variation in plan requirements raises questions about how this public interest benefit is quantified. The Commission's overall discretion over items that relate to its goal of universal access contributes to the perception that its merger review process is inconsistent.

The Commission sometimes accepts discount offerings for low-income consumers as a public interest benefit arising from the transaction, but it also rejects them in other transactions. In Altice/Cablevision, the Commission accepted Altice's low-income broadband package proposal as "firm and definite commitments from Altice and, accordingly, credit[ed] them as a benefit to support a finding that the transaction is in the public interest."[310] The same year, however, in Charter-Time Warner/Bright House, the Commission found

Charter's proposed plan to offer standalone broadband service to low-income households to be a benefit that is not transaction-specific, as "any of the Applicants could offer a low-income broadband program absent the transaction." [311] Instead, the Commission imposed enrollment benchmarks at regular intervals and enforcement mechanisms around the program[312] to "ensure that the public benefits of the transaction outweigh the potential harms."[313] Commissioner Michael P. O'Rielly objected to this specific condition in his statement, saying that "These changes don't make the program any more relevant to the transaction than it was when the applicants made the initial offer, nor does the item even attempt to justify this as a remedy to any transaction-specific 'harm.'" [314]

The Commission's overall discretion over items that relate to its goal of universal access contributes to the perception that its merger review process is inconsistent.

Similarly, in Comcast/NBCU, the Commission relied on imposed conditions and voluntary commitments made by the merging parties to "ensure that the transaction serves the public interest."[315] These conditions included broadband adoption and deployment commitments targeted toward serving low-income households made by Comcast.[316] These commitments toward removing barriers that keep low-income consumers from accessing the internet were in part why then-Commissioner Mignon Clyburn ultimately voted to approve the deal,[317] but they are also among those singled out by McDowell and Baker for lacking merger specificity.[318]

These examples demonstrate the flexibility that the public interest standard grants the Commission so that it may fulfill its policy objectives to ensure that low-income consumers have access to affordable broadband. Whether the Commission can address this larger goal in the merger review process insofar as the item is transaction-specific, as opposed to transaction-related, is unclear. This difference in priorities may be distinguished along party lines, with Democratic commissioners like Clyburn more inclined to prioritize broader policy objectives in fulfilling the Commission's public interest standard in merger review, and Republican commissioners like McDowell and Baker, on the other hand, more inclined to ensure that the Commission's review is limited to merger-specific public interest factors.

The Commission Is Unclear on Whether Employment Is a Public Interest Factor

The Commission has historically considered employment-related issues in its public interest analysis.[319] These issues include job creation, commitments to honor union bargaining contracts, and efficiencies resulting from workforce reduction. The extent to which employment factors into its public interest analysis, however, is ambiguous. While the Commission has generally found that employment-related issues are often not verifiable, it has signaled support for these factors in its merger review. For example, the Commission has not recognized commitments toward job repatriation as public interest benefits, but it has sometimes accepted them as evidence that a public interest harm from employment-related issues is unlikely to arise. The agency's different approaches to evaluating employment under the contexts of potential benefits and harm to the public interest may be attributed to an issue of evidence. Nonetheless, the extent to which it counts employment as a public interest factor remains ambiguous.

Perhaps the most noteworthy example of an employment-related issue in FCC merger review is the transaction parties' voluntary commitment toward job repatriation in AT&T/BellSouth. Though the Order did not evaluate the public interest merits of this commitment—and it clearly noted that while the commitment was enforceable, it was not a "general statement of Commission policy and [did] not alter Commission precedent or bind future Commission policy or rules"—it was well-received by at least one commissioner.[320] In his concurring statement to the Order, then-Commissioner Copps praised this voluntary commitment from the transaction parties:

> Because the loss of jobs is so often the first cost-cutting move of any merger, I am pleased at the company's willingness to repatriate approximately 3,000 jobs from overseas back to the United States, with at least 200 jobs being created in the hurricane-ravaged area of New Orleans. I believe this commitment is the first such job repatriation ever to accompany a telecom merger. While I fear other jobs will be lost, this provides at least some job comfort for the company's employees.[321]

Given this positive reception, transaction parties have attempted to argue that similar intentions to repatriate jobs to the United States were a public interest benefit in subsequent mergers. In Charter-Time Warner Cable/Bright House, the parties held that their commitment to increase customer care through domestic investment and insourced jobs (i.e., by bringing thousands of overseas Time Warner Cable jobs back to the United States) was a public interest benefit.[322] However, the Commission found that the transaction parties failed to articulate

precise actions in this regard.[323] These promises were also unverifiable, given the parties' claims that the merger would bring significant cost-savings efficiencies, specifically by eliminating redundant positions.[324] The Commission therefore concluded that the transaction parties failed to demonstrate the verifiability of their proposed labor practices as a public interest benefit, suggesting that job repatriation under certain contexts could be considered a public interest benefit.[325]

While the Commission has not explicitly recognized commitments toward job repatriation as public interest benefits, it has sometimes accepted them as evidence that a public interest harm from employment-related issues is unlikely to arise. Commenters have argued that a public interest harm exists with the potential loss of employment resulting from a transaction. While the Commission dismissed these concerns as speculative in Altice/Cablevision[326] and T-Mobile/MetroPCS,[327] the Commission took a different approach to similar concerns raised by Communications Workers of America (CWA) in Frontier/Verizon.[328] In separate discussions between Frontier and CWA, Frontier committed to "employment security protections, the addition of 150 jobs in California and 60 jobs in Texas, a commitment to a 100 percent U.S. based workforce, operational flexibility to enhance the service experience for customers, and two-year extension of the collective bargaining agreements."[329] The Commission then accepted these commitments as assurances that the transaction would be unlikely to result in public interest harms related to the loss of employment.[330]

Conclusion and Recommendations

Many competition authorities around the world have adopted a public interest framework in merger review to address non-competition public interest factors, such as preserving employment, protecting national security and defense, and promoting opportunities for populations that have been historically disadvantaged. Each of these competition regimes account for country-specific social, economic, and political goals, and the variety of approaches seen across the international landscape today indicates continuing uncertainty over how best to achieve these goals.

There are also legitimate concerns around the use of a public interest test. Because of its amorphous nature, the public interest test may also be susceptible to political influence. Indeed, the prevalence of this concern in Norway and the U.K. led to the elimination and curtailment of their respective public interest tests. Countries like Germany and New Zealand also have grappled with how to balance competition concerns against public interest ones—after all, without proper checks, public interest factors may easily be used to justify competitively harmful mergers.

Each of these competition regimes account for country-specific social, economic, and political goals, and the variety of approaches seen across the international landscape today indicates continuing uncertainty over how best to achieve these goals.

This concern relates to the Federal Communications Commission's use of its public interest standard. Its statutory mandate is broad and undefined; the Supreme Court has said that it "no doubt leaves wide discretion, and calls for imaginative interpretation."[331] The courts have provided some clarification into how the Commission may apply its public interest mandate toward the interrelated goals of enriching diversity of programming and workforce diversity. The Commission has been less clear, however, on how it considers other public interest factors, such as universal access and employment. The Commission's standard is further complicated by its ad hoc treatment of universal access and employment issues—especially when these factors manifest as voluntary commitments or imposed conditions against the context of anti-competitive concerns or public interest harms.

The Commission should aim to standardize its public interest test. The Commission should first identify the values that are critical to preserving a healthy media sector, including localism and diversity, from the outset. In deciding whether to adopt a public interest factor in merger review, the intended goals of these factors should be weighed against the goals of competition. The Commission should establish whether the specific factor aligns with national social, cultural, and economic objectives relative to the media sector and therefore made a priority in merger review. To minimize the risk of approving competitively harmful mergers, the Commission should perform a competitive analysis prior to performing a public interest test. These public interest factors should be verified, quantified, and weighed to the best of the regulator's ability. The process for evaluating these factors should be transparent, with clear indication that the Commission has confirmed and evaluated the public interest factors and conducted a cost-benefits analysis to indicate that the transaction is in the public interest, in order to minimize the suggestion that its review is inconsistent.

To achieve these goals, the Commission could create a set of guidelines for its public interest test that specifies these factors and the process for weighing them against competition, similar to the Horizontal Merger Guidelines adopted by the Department of Justice Antitrust Division and the Federal Trade Commission, for example. Alternatively, Congress may provide statutory guidance by passing clarifying legislation or enacting a national media policy.

This does not mean, however, that a public interest test should be applied uniformly across *all* merger review in the United States. Each sector is unique, and, therefore, merger review requires greater scrutiny to identify the non-competition values that are critical to that particular sector. As mentioned briefly in this paper, FERC also employs a public interest standard in its review of electricity mergers.[332] But the public interest factors that matter in telecommunications mergers do not necessarily translate to electricity mergers. There may also be other statutes or procedural mechanisms that ensure that its merger review process is clear and consistent. These are areas of potential further research into how a public interest test works in merger review. As the examples from the international landscape of competition policy and the FCC's merger review demonstrate, regulators must exercise caution in implementing a public interest test in merger review.

Beyond Access: The Future of Voting Rights in the United States

by Christian Hosam

> "The Act gives a broad interpretation to the right to vote, recognizing that voting includes 'all action necessary to make a vote effective.'"
>
> - Earl Warren[333]

Supreme Court Chief Justice Earl Warren wrote this in the 1969 decision *Allen v. State Board of Elections*. But what exactly does it mean for a vote to be "effective" and how has this changed over time? The *Allen* decision held that Section 5 of the Voting Rights Act of 1965 (VRA) was designed to help address both the subtle and obvious ways that state regulations took away the vote on the basis of race.[334] This decision extended the logic of the VRA beyond discrimination at the ballot box to the affirmative right of minority voters to have political representation. Today, this remains the terrain upon which many of the thorniest legal battles around voting rights are fought.

Particularly since the 2013 *Shelby County v. Holder* decision, which substantially weakened Section 5 of the VRA, there have been legal challenges to determine the constitutional limits of racial protection that remain without preclearance requirements to serve as guardrails for both sides.[335] While the Supreme Court has adjudicated many cases, especially within the context of Section 2 claims (the part of the legislation that is focused on the dilution of minority votes), there is no intuitive definition, either before or after *Shelby*, for a threshold that clearly defines sufficient minority political participation, nor should there be. The Voting Rights Act was not designed—and therefore not equipped—to take up the challenge of determining the best way to ensure that communities of color around the country are able to best and most effectively exercise their constitutional right to vote.

There is no intuitive definition, either before or after Shelby, for a threshold that clearly defines sufficient minority political participation, nor should there be.

This report reviews how the legal remedies used to address disparities in racial minorities' political representation are ill-equipped to face the realities of current geography and demography, both because they are stuck in a black-white binary and because they depend on a level of geographical segregation that no longer exists. While many of the barriers that make it more difficult for people of color to vote today are similar to those that the VRA was trying to end when it was passed, there are new barriers that are subtler and often poorly discussed by the media, scholars, and policymakers alike.

When the VRA was enacted in 1965, the country had two major racial groups. Consequently, the focus of the legislation was to provide protections for African Americans against disenfranchising voting ID laws and support for the development of majority-minority districts.[336] In the intervening years, the country's demography has changed. Today's America is marked by increasing racial and ethnic diversity and unprecedented levels of partisan polarization, which has heightened disputes over voting rights and changed the underlying political terrain. This is the context to consider the advent of new forms of voter suppression that are taking root in different states and cities. Accordingly, voting rights policy needs to respond, and the VRA needs to shift and expand. Voting rights policy should affirm what the right to an "effective" vote means in a diverse, and often politically polarized, society.

Between Protection and Subversion: The Shifting Role of the VRA in Empowering Voters of Color

The Supreme Court's 2013 ruling on *Shelby County V. Holder* struck down the Section 4(b) coverage formula of the Voting Rights Act, essentially dismantling the preclearance mechanism created in Section 5 that required approval by either the Department of Justice or a federal court to change election laws in jurisdictions of the Jim Crow South. According to the Supreme Court, the formula used to define which states would have probable discriminatory intent was out of date after 50 years and irrelevant to the practical realities of disenfranchisement schemes. Soon after the decision was handed down, states that had previously met federal resistance were able pass new election laws without federal oversight. Immediately, new barriers to enfranchisement, particularly in communities of color, were erected.

Legendary civil rights movement activist, Senator John Lewis, lamented "This is a very sad and dark moment for our democracy."[337] This was a painful decision for civil rights activists. But, it was hardly a surprise. Both the courts and the government agencies that enforce the VRA had been weakening minority protections for decades.

Indeed, an assessment of the Voting Rights Act's impact can be distilled down to the tension between trying to work as a shield for the voting rights of communities of color while simultaneously dealing with the reluctance of American jurisprudence to clearly and explicitly mete out remedies for racial discrimination.

In the decades preceding *Shelby County v. Holder*, Section 2 of the VRA had a number of amendments and addenda that reflected prevailing assumptions about race as a relevant and actionable form of redress for political participation. A short summary of just a few of these cases illustrates the tension between admitting how important race is to political influence and recommending race-neutral solutions to these problems that are produced by racial discrimination.

In the 1986 *Thornburg v. Gingles* case, the Supreme Court set forth three general preconditions for a successful Section 2 case to establish a majority-minority district, namely:[338]

- a minority group is large enough and lives closely enough together so that a relatively compact district in which the group constitutes a majority can be drawn;
- the minority group has a history of political cohesiveness or voting as a group; and
- the white majority has a history of voting as a group sufficient to usually defeat the minority group's preferred candidate.

Once these three preconditions are met, a court then examines whether the minority group has less opportunity than other members of the electorate to influence the electoral process and to elect its candidates of choice under the "totality of circumstances." This effectively means that there is no clear and replicable test for determining whether those preconditions constitute a successful Section 2 claim on their own. The bar may be higher.

In the 1993 *Shaw v. Reno* case, the Supreme Court decided that race could not dominate the logic of redistricting, meaning that if a jurisdiction did not meet the first precondition of *Thornburg*, which is compactness of a racial minority in a geographic area, the Supreme Court would judge the validity of the majority-minority district with strict scrutiny.[339] In 2006, *LULAC v. Perry* determined that the justification for majority-minority districts had to be decided within the context of the jurisdiction itself and not within the context of how that district would affect the overall representation of minorities in the overall state.[340]

There is no clear and replicable test for determining whether those preconditions constitute a successful Section 2 claim on their own.

Taken together, this reflects a significant change in jurisprudence. Specifically, even as the VRA protects communities of color within cases, the admissibility of race narrowed as a factor in determining how fairly drawn a jurisdiction is or is not. This moves the law away from an overall orientation toward seeing the necessity of ensuring that each vote has equal power, regardless of where it's located in a specific state. This reorientation is especially harmful given other trends in the VRA's implementation, which have eroded other previously existing voter protections.

As described by Jessie Rhodes in his path-breaking book *Ballot Blocked,* the power of the Voting Rights Act had been blunted over time.[341] Even as Congressional Republicans reauthorized the Section 4 formula that was overturned by the *Shelby* decision, they consistently advocated for policies within the federal bureaucracy that narrowed the scope of the VRA. Republican presidents, for example, frequently appointed federal judges who had conservative views on voting rights and appointed officers within the Department of Justice and the Civil Rights Division who actively sought to establish bureaucratic processes that made federal statutes harder to enforce.[342] Moreover, many of these changes within the administration of the legislation took place during times when low levels of national media attention were being directed toward voting rights. Clearly, the shrinking protections afforded to racial minorities is a culmination of a years-long campaign to erode the guarantees afforded by the VRA when it was first enacted.

In spite of all of this, the VRA has still been critical in terms of protecting the right to vote, even as it is intended to govern contested policy space. Since its inception, over 200 election schemes were rejected under the preclearance rules, and many more cases were adjudicated in favor of marginalized communities under the auspices of Section 2.[343] The problem with the contemporary focus on Section 2 since *Shelby* is that it places the burden of proof on the claimant rather than the jurisdiction in question. While this has negative effects for all potential claimants, it has particularly deleterious consequences for those who are new to communities. They, sadly, learn that the political rights to which they are entitled require far more of a fight than they imagined.

What the Voting Rights Act Tells Us About the Black-White Binary in Public Policymaking

A measure on the ballot in the city of Santa Clara, California, seeks to move the city from at-large to district-level elections that would be decided using ranked choice voting.[344] The suit arose from frustration due to the Santa Clara City Council having no Asian American representation, despite the city population being almost 40 percent Asian American. The challenges of creating equitable representation for Asian Americans are seen around the country in various forms. Ming Hsu Chen and Taeku Lee write in their UC Irvine Law Review article "Reimagining Democratic Inclusion: Asian Americans and the Voting Rights Act" that Asian Americans remain stubbornly and acutely underrepresented as both voters and as elected officials, well below what would be proportional for their population in the country.[345] Relatedly, Latinx voters are subject to significant underrepresentation at the polls and in public office as well.[346]

Worse still, contemporary jurisprudence around the Voting Rights Act is counter-effective at helping remedy this underrepresentation. As significant media coverage is granted to the notion that we are moving toward becoming a "majority-minority" nation, the configuration of civic power shows the potential limits of there being a concomitant rise in the influence of voters of color.

As previously noted, the ability to consider race as a salient factor in the creation of voting districts is still allowed, but now under more narrowly prescribed conditions. While this approach has harmed Black political power in places where there was a high level of mobility into jurisdictions, this dictum also has severe impacts in Latinx and Asian American communities as well. This is because even as there are rapidly increasing proportions of these communities in the aggregate nationwide, they rarely constitute the majority of currently defined districts. In addition, unlike African American communities, even when there is critical mass, many of the people in these communities are immigrants and often face additional obstacles to secure their rights, especially as new arrivals who are learning the basics of voting eligibility and the terms of civic engagement.

For non-Black people of color, the current American legal infrastructure around voting actually disempowers them from reaching their full political potential. This raises a number of foundational questions that go to the heart of the Voting Rights Act's purpose. Is the VRA designed simply to protect access to the vote itself? Or, is the VRA supposed to ensure that voters, no matter the community that they are a part of, have an equitable chance of their vote affecting their political preferences? How should VRA jurisprudence consider race, particularly in the cases of non-Black people of color for whom race does not necessarily serve as pretext for political solidarity? More to the point, with such severe

underrepresentation of these groups, what type of remedy should the VRA be expected to provide in the future?

The ability to consider race as a salient factor in the creation of voting districts is still allowed, but now under more narrowly prescribed conditions.

We have evidence that the previous answers delivered by the courts have been contradictory at best and deleterious at worse to the promotion of fair political participation. *LULAC v. Perry* establishes that even as race is something that could be considered in the development of jurisdictions, it must not be assumed that people with similar racial backgrounds have similar cultural backgrounds. This extended the logic that was enacted in *Miller v. Johnson* (and also *Shaw v. Reno*), which ruled that majority-minority districts that used race as the "predominant" factor would be judged with strict scrutiny.[347]

This is troublesome because it shows that while there might be legal protection for racial minority groups that have the potential to develop majorities within a jurisdiction, there is far less in the way of protections for those communities that have substantial populations of minorities. This is because even when they are concentrated, they do not necessarily constitute the compactness prong of the Gingles test that establishes that minority communities are "communities of common interest."[348] So for communities that are rapidly growing, such as Latinx and Asian American communities, any potential gerrymandering schemes that divide up these populations are unlikely to be subject to Section 2 vote dilution claims. This has already been seen in the few Section 2 claims that Asian Americans and Latinx have filed with respect to their political influence in specific areas.

This lack of legal success highlights a deeper problem with American jurisprudence surrounding race. The claims that are successful are those that have a mandate to address issues of explicit racial discrimination. However, as the Court has ruled, racial discrimination is only legible within the context of a black-white paradigm. Those claims that hold merit are almost always in districts with an obvious scheme designed either to shrink access to the ballot box or to dilute the voting power of a critical mass of voters—and within the context of the Supreme Court, African American communities are almost exclusively the communities that have concentration rates high enough to have critical mass). Simultaneously, the Supreme Court is skeptical of making that subtext text

because even as it acknowledges that the VRA was enacted in part to address historical legacies of discrimination, cases in subsequent decades have gotten further away from this mandate. With the erosion of the implementation of the law paired with the Supreme Court's hesitation to clearly state if or how the purpose of the VRA has changed, the validity of using race as a factor in either the legitimacy or illegitimacy of electoral models is always up for grabs depending on the current composition of the Supreme Court.

This tension between the spirit of the law and how it has been implemented over time has direct and ruinous effects for Latinxs, Asian Americans, and other people of color around the country who are still in the process of growing and developing civic capacity and voice. However, as the next section shows, this tension has specific negative effects for African Americans, who in many ways are still the group that benefits most from the VRA.

As the Court has ruled, racial discrimination is only legible within the context of a black-white paradigm.

The Political Geography of VRA Enforcement

When the Voting Rights Act was passed in 1965, there was an understanding that simply protecting access to the ballot would be insufficient to ensure minority voting rights. As a corollary, Congress passed the 1967 Uniform Congressional District Act to mandate the use of single-member districts for all states with more than two seats in the House of Representatives.[349] Even though most states already had single-member districts by this time, the legislation was designed to ensure that minority representation could not be undercut by at-large elections that would drown out the will of people of color, and instead allow them to live in majority-minority districts that would afford them descriptive representation or the ability to elect someone with a similar racial/cultural background. Fast forward fifty years and there is a litany of scholarship that forcefully argues that state legislatures' attempts to "pack" and "crack" communities of color into or out of these districts reduces the communities' overall ability to enact their will on the state more broadly.[350]

It is stunning that that the same structures that were used to secure the influence of communities of color can now be used to reduce that same influence. While the VRA did a major service in terms of curtailing attempts to disenfranchise

voters from being able to access the ballot box, it didn't (and couldn't) protect against the ways that demographic shifts would make the protections that the VRA installed eventually harder to enforce.

Public policy in the United States has historically operated within the context of a black-white binary and this has undermined the democratic capacity of Asian Americans and Latinxs. However, the tension between laws that were enacted for historical redress and the policies that are used to implement them often disenfranchise the very people they were designed to support. Put another way, the black-white binary is itself anti-Black. Laws intended to alleviate damages against African Americans (as well as other people of color) are susceptible to the negative consequences of interpretation that evacuate the power of the original goal of legal restitution for discrimination in lieu of more cosmetic avenues for policy change (e.g. diversity, descriptive representation).

Shifts in the population concentrations of people of color around the country lead to different types of challenges for organizing and political representation. For African Americans this means that as populations transform and evolve, the strength of legal protections that they might have been granted under the Voting Rights Act are chipped away. The types of litigation that would be successful under a Section 2 Voting Rights Act claim in 1982 were quite broad, taking into account the specific history of a particular jurisdiction as well as using overt discrimination as a major factor in political disenfranchisement. What the standards did not do was protect against spillover effects from shifts in the county's population. Places to which a high number of people are moving should act proactively to ensure the voting rights of new citizen configurations and, yet, the structure of the law often makes it more difficult to do so.

For African Americans this means that as populations transform and evolve, the strength of legal protections that they might have been granted under the Voting Rights Act are chipped away.

This need for nimbleness is brought into focus when thinking about the mobility flows of African Americans. According to the 2010 U.S. Census, the Black population in the South grew from 53.6 percent to 55 percent between 2000 and 2010, while the Black population in both the Northeast and the Midwest shrank to 17 and 18 percent, respectively.[351] Additional evidence suggests that two-thirds

of African Americans moving from one region to another were moving to the South, and, of those African Americans moving from the Northeast, 82 percent of them were moving to the South, often moving to suburbs rather than cities.[352] As noted in a report by Colorlines:

> The increased dispersal of black families across municipal boundaries may also impact the election of politicians most willing to address the unique concerns of black constituents. Black concentration in major cities allowed for the election of black mayors, city council members, and congressional representatives in the 1970s, 80s, and 90s. With the black population spreading beyond central city neighborhoods, will black voting power be weakened? This is of specific concern now as states are redistributing and redrawing political districts based on the Census.[353]

This type of movement has significant political consequences. As Kimberley Johnson notes, increased Black suburbanization leads to higher levels of political fragmentation, meaning that both the political compactness that often occurs as well as the "urban endowment," such as access to national bond markets, a geographically dense network of NGOs and nonprofits, and extensive physical infrastructure, are all lost.[354] Even with a higher overall number of Blacks moving to the South, their increased dispersal decreases their political power.

How does a situation arise in which a greater Black population actually leads to less political representation? The Uniform Congressional District Act determines that when there is more dispersal across a larger geographical area, only the places where there is a significant concentration of Black residents are afforded special consideration. This creates an incentive for partisan legislatures to create barriers to entry for voting because their party may benefit if they disenfranchise enough voters to help their candidate reach a plurality—as in our first-past-the-post system in which candidates are declared winners when they receive the most votes and do not need a majority.

In reality, this means that nascent and developing populations of newly arrived residents have unique challenges in developing political power because they have both the intuitive challenges of developing community as well as tremendous variation in terms of whether their right to vote will be made more or less difficult, depending on the state, and the locality within certain states, in which they reside. N'Tanya Lee, a former director of Coleman Advocates for Children and Youth, a grassroots organizing and policy advocacy organization in San Francisco, illustrates this dynamic in the Colorlines report, stating:

> A black high school student goes to school in San Francisco, stays with an auntie, but their mom lives with her boyfriend in Richmond and

grandma lives in Hayward. She kind of lives here; kind of doesn't," Lee says, painting a hypothetical picture of the instability. "What's the anchor? Where's the 'home' to organize around? Parents move to Sacramento and kids still go to school, crash with friends, or live with grandparents. Families are constantly traveling by BART and highways to visit core members of their families, who are spread out.[355]

While there would be a hope that the Voting Rights Act would help to remedy the situation presented here through legal means, Section 2 actually makes it more difficult. Populations going through shifts have little in the way of legal protections against disenfranchisement schemes because the VRA, as it is applied now, primarily applies to the legality of jurisdictions, not the protection of minority voting power. Indeed, unless there are strong indications that a majority that has partisan cohesiveness as well as racial cohesiveness within a jurisdiction (remember that race cannot, by itself, be seen as the primary determinant for the creation of a majority-minority district), current case law is likely to view those approaches as illegal. This shows that while the VRA might be more effective at protecting against explicit forms of voter discrimination and electioneering, it is a much different story when it comes to supporting the development of political infrastructure (e.g. who the major political officials are, what kinds of local institutions help get out the vote, etc.). It is critical to take these questions of incorporation into account when thinking about the ways in which racial demographic and residential patterns shift and transform communities across the country.

Voting Rights: The Next Generation

How do we create a more equitable society that allows for full and fair citizenship? Through shifts in judicial interpretation and haphazard implementation, the Voting Rights Act has become an obstacle rather than a means to answer this question. That is not to say that there aren't reforms that can strengthen the VRA. For example, some constructive proposals aim to refocus the burden of proof from the claimants back to the jurisdiction that is making a proposal that could disenfranchise a community; other ideas are to reinstate Section 5 protections with a new formula.[356] These would require Congress to amend the law. While certainly worthwhile, these types of reforms suffer from the longer historical trend of legal remedies, which have demonstrated potential to harm as much as they help. As long as jurisprudence does not forcefully state the importance of race in the decision-making process, there is a substantial chance that while it might help in the affected jurisdiction, it can have deleterious externalities in others. Other reforms, which would benefit from greater attention, can be achieved on the local level.

Through shifts in judicial interpretation and haphazard implementation, the Voting Rights Act has become an obstacle rather than a means to answer this question.

Focusing on strengthening civic engagement at the local level in order to empower voters has a number of benefits. There is the immediate impact of having higher levels of civic participation that can create more formal voters and the ancillary impact of making it easier for new community members to be aware of how to navigate disenfranchisement schemes as well as increased collective civic capacity in communities that have often proved successful in overcoming the nefarious aims of electioneering that seeks to weaken political power. Similar to making changes directly to the Voting Rights Act, the following recommendations are not easy, but they have all shown relative success where they have been tried and could have dramatic effects, if implemented at scale, in terms of creating a more diverse, equitable, and accountable electorate nationwide.

Develop Public Engagement Units (PEU) in Cities Around the Country

In 2015, New York City developed an innovative outreach team to make sure that citizens had access to social services that they were entitled to receive, such as rental subsidies, health care enrollment, and free legal assistance if they were at risk of eviction from their homes.[357] The Public Engagement United (PEU) helped develop a level of trust in public assistance, as well as a development of civic infrastructure, that focused specifically on hard-to-reach constituents. In Minnesota, there is a Civic Engagement Committee that has been designed for what they term "meaningful engagement" to empower citizens across the state in ways that have the distinct impact of developing trust and participation in government.[358] By having civic engagement centered within the public policy of cities and municipalities, there are a number of districts that can still develop strong, cogent blocs of power that bring representation of people of color much closer to equity within those locations.

Merge Redistricting Commissions with Community Outreach Programs

Thirteen states have independent redistricting commissions that attempt to get away from the partisan incentives that structure the gerrymandering of state

legislatures around the country. This approach tries to elevate the voices of people who have an objective perspective on how communities and their political jurisdictions are organized.[359] It is designed as an alternative to election commissions, which are split along partisan lines—often in odd-numbered configurations with the majority of seats designated to the party holding a majority of seats in the state legislature). However, in practice, partisan divisions replicate themselves at this level, meaning that while the pace at which gerrymandered districts change is faster, the results are often very similar to states where the legislature have the responsibility for drawing the lines. A way to get closer to the goal of equitable representation would be to center civic equity through actively factoring in the effects of civic participation on the development of these districts. Thinking about how to develop participation for all constituents rather than those who happen to be in the racial and partisan majority would make it more difficult for parties to file claims against communities of color for having "too much" power because parties would then have to address the fact that it was both an independent and bipartisan set of actors that set up the boundaries.

Enact Proportional Representation Around the Country

This is likely the largest change but perhaps the one with the most promise in the contemporary moment. The pending Santa Clara case is instructive because the remedy proposed moves the city to a proportional representation system in which the Asian American residents might be able to control a portion of the seats in the County Council relative to their population density within the city.[360] Alternative voting systems, such as ranked choice voting, have taken root in sporadic, yet impactful, ways around the country. While the merits of using this type of voting system over the first-past-the-post system that we currently have at the federal level will not be discussed here, what is critical to note is how first-past-the-post exacerbates the incentives to disenfranchise communities of color.[361] As noted by Lee Drutman, "Under a proportional system, if you want to live in a big, liberal city in a liberal state, you don't give up the chance to make a difference with your vote. There is also very little possibility for consequential gerrymandering in proportional representation systems, since districts tend to be so big that there's not much to gain from alternative line-drawings."[362]

While Drutman primarily proposes that we have proportional representation at the federal level, it may be best to start at the state and local level. For one, it allows people to take greater ownership over their local communities, which is especially helpful for political incorporation purposes, and it creates an awareness of the system, which is currently stymied by the muscularity of the two parties at the federal level.[363] Starting at the local level is critical because it helps build the civic infrastructure that allows for upstream impacts in terms of political engagement and capacity for organizing. The nationalization of two-

party politics creates the perception that the local level of politics has a smaller and smaller role in the calculation of why people enter politics. Given what we know about geographic inequities and the impact of public policy on political empowerment, this is not the case. It is the case that the protections that are absent from the Voting Rights Act, if they will not be addressed by the courts, are not going to be addressed by Congress either. What can happen is a deeper investment in local communities that seeks to work around these issues in ways that directly and impactfully empower communities of color.

The nationalization of two-party politics creates the perception that the local level of politics has a smaller and smaller role in the calculation of why people enter politics.

The purpose of the Voting Rights Act at the time of its passage was to protect access to the ballot by African Americans. A second generation of rights, established through *Allen V. State Board of Elections* and other subsequent cases, were centered around the right to fair and equal representation and an "undiluted" vote.[364] To be sure, assaults against these first two generations of voting rights are still with us, particularly in a post-*Shelby* world. Election times are being cut, there are new, onerous identification requirements popping up in different parts of the country, and some states (southern states in particular) are being gerrymandered in ways that make it harder for people of color's votes to have the same outcome that they would in other districts that were drawn with equal representation in mind. Because of these enduring struggles, it is important to note just how important the Voting Rights Act still is to this day.

However, there is a new landscape on which the battles for equitable influence and representation are being waged. For those communities that are growing but do not yet have the numbers to establish majority-minority districts around the country, they do not have the legal assurances that their votes will matter in the same ways as their white counterparts'. For those people who are moving back to regions previously covered by Section 5, which should still be covered by Section 2 of the VRA, the increased dispersal associated with American suburbanization actually makes it harder to access the type of civic power that might be expected by moving to states with higher levels of similarly situated residents. One issue not addressed here is how this relates to the displacement caused by gentrification.[365] The "spillover" suburbs that capture those who have been

displaced as a result of rising housing costs in highly concentrated urban areas suffer from the same type of civic disinvestment that is seen by those who actively look for better financial opportunities as a result of reverse migration. The intersection of legal protections and political incorporation of new community arrivals constitutes a new generation of voting rights struggles. Emplacing the local and investing in new generations of communities can lead to new models of policy change designed to meet these struggles and those that will meet generations in the future.

Solutions for the Health Care Cybersecurity Workforce of the Digital Age

by Dillon Roseen

A fundamental principle of medical ethics spanning as far back as the ancient Greek Hippocratic Oath is that it is more essential for a physician *not to harm* a patient than it is to *do them good*. Today, emerging technologies are transforming health care, and, as a result, new threats are emerging that could violate this principle, placing patients directly in harm's way. As our reliance on technology in health care increases, from handling sensitive patient data using electronic health records to receiving vital signals from implanted medical devices, so, too, does the risk inherent in connectivity.

Health data often include the most private and immutable information of our lives, which makes it all the more alarming that the cybersecurity of connected health system is especially vulnerable compared to other sectors. Health care data breaches account for an overwhelming number of the nation's total breaches. In fact, at 53.1 percent of all the publicly reported data breaches, health care is by far the most breached of all sectors.[366] Each of the millions of stolen health records costs health organizations an average of $380, not to mention the time and emotional costs patients must endure following a breach. For comparison, the average cost of a single stolen record for other sectors is $141.[367] The total cost of health care data breaches has been estimated to be $1.2 billion, a number that is probably conservative given underreporting and the additional costs associated with negative PR, breach response, and future investments in prevention.[368]

> **Emerging technologies are transforming health care, and, as a result, new threats are emerging that could violate this principle, placing patients directly in harm's way.**

In addition to the costs associated with stolen health records, cyber-insecure health systems may be unable to deliver life-supporting care. Connected medical devices can carry lethal cybersecurity vulnerabilities—like a pacemaker that was recently recalled[369] by the Food and Drug Administration (FDA)—and become

vectors for life-threatening or system-disrupting attacks, as was the case in a major global cyberattack last summer.[370] If left unmitigated, these cybersecurity threats leave our health care system and the vulnerable patients it supports in danger of suffering from irreversible financial, reputational, and medical harm. That is why it is critical for policymakers to implement a proactive cybersecurity strategy for the health care sector.

This report builds upon ongoing policy research efforts by the New America Cybersecurity Initiative and highlights key points that are especially pertinent to a cohort that will be forced to grapple with future health care cybersecurity threats: Millennials. According to the New America Cybersecurity Initiative's *Do No Harm 2.0* health care report, improvements in health care cybersecurity should be pursued in the following three areas: technology, workforce, and culture. More specifically, health care cybersecurity efforts should seek to identify technological opportunities and challenges facing the health care sector, build the health care cybersecurity workforce of the future, and crystallize a culture of trust between patient and provider by ensuring the privacy and availability—and, therefore, security—of medical information. Together, these efforts will provide solutions for closing the gaps and patching existing problems. They will also, more importantly, articulate a proactive vision for where the health care industry should be in five years. This agenda is more constructive rather than reactive and serves to improve patient health outcomes and protect patient dignity in the long run.

Because Millennials are often looked to fill the gaps in the health care cybersecurity workforce, yet generally lack robust training opportunities and sufficient resources to succeed as health care cybersecurity professionals, the focus of this paper is on the workforce stream of the *Do No Harm 2.0* report. Thus, this report takes a closer look at the workforce recommendations and provides additional context intended for an audience that may not normally focus on cybersecurity policy.

→ BOX 1

Key Terms and Abbreviations

Key Terms

- **Cybersecurity**: This report adopts a broad definition of cybersecurity, first offered in the *Do No Harm 2.0* report:

Cybersecurity is often thought of as an internal-external paradigm, where hackers infiltrate an organization or a system from the outside and then commit a crime. However, as humans become so deeply integrated with technology in every work flow that they have, cybersecurity actually becomes much more about insider behaviors, interaction with technologies, and securing those technologies from (both accidental and intentional) fraud, waste, abuse, and potential safety-related issues.[371]

- **Health care cybersecurity workforce**: The set of individuals in the health care sector whose occupations collectively aim to identify, mitigate, and preempt the exploitation of digital vulnerabilities within the health-IT infrastructure. These individuals include, but are not limited to: Chief Information Officers (CIO), Chief Medical Information Officers (CMIO), Chief Technology Officers (CTO), information security analysts/specialists, cybersecurity professionals,[372] and Health Insurance Portability and Accountability Act (HIPAA) Security Officers.
- **Electronic health records (EHR)**: A digital version of a patient's health chart that includes a complete version of that patient's medical history from all clinics involved in a patient's care. EHRs are designed to be shared across different health providers. EHRs are closely related to electronic medical records (EMRs) and the terms are often used interchangeably.
- **American Recovery and Reinvestment Act of 2009**: A piece of legislation that included incentives for the adoption of EHR in the health system, specifically as part of the provision called the Health Information Technology for Economic and Clinical Health (HITECH) Act. This led to the speedy uptake of EHRs in the health care system, but left many cybersecurity vulnerabilities in the interconnected health record system as a result.
- **Apprenticeship**: As defined by the Department of Labor (DOL), an arrangement that includes a paid-work component and an educational or instructional component, wherein an individual obtains workplace-relevant knowledge and skills.
- **Millennial**: As defined by the Pew Research Center, individuals born between 1981 and 1996.

Abbreviations:

CIO - Chief Information Officer

CTO - Chief Technology Officer

DHS - US Department of Homeland Security

DOL - Department of Labor

EHR - electronic health record

EMR - electronic medical record

HHS - US Department of Health and Human Services

HIPAA - Health Insurance Portability and Accountability Act

IT - information technology

OPM - Office of Personnel Management

NCCoE - National Cybersecurity Center of Excellence

NICE - National Initiative for Cybersecurity Education

NIST - National Institute of Standards and Technology

NSF - National Science Foundation

OPM - US Office of Personnel Management

SBIR - Small Business Innovation Research

Problem Definition

Understanding the challenges facing the health care cybersecurity workforce starts first with a conversation on the broader national and international cybersecurity workforce landscape. Globally, across all sectors, there is a massive gap between the number of open cybersecurity positions and the number of cybersecurity professionals who are hired to fill those positions. This has led to a so-called 'cybersecurity workforce gap' or 'shortage,' terms used interchangeably in this paper and broadly meant to describe the unmet demand for cybersecurity professionals in the workforce. The 2017 Global Information Security Workforce Study found that the cybersecurity workforce gap is expected to reach 1.8 million by 2022.[373] In America, the cybersecurity workforce gap is the result of several key factors.

First, and perhaps most discussed, is the hypothesis that there is an inadequate cybersecurity education pipeline that has led to a skills shortage. Generally speaking, this hypothesis goes on to argue that there are too few people receiving cybersecurity educations, either because there are limited opportunities to receive such an education or because people are not interested in studying

cybersecurity (or some combination of the two). For health care specifically, cybersecurity education and training programs are not tailored to the idiosyncrasies within the health care environment. Health care cybersecurity specialists must possess a highly unique set of competencies that fall at the intersection of cybersecurity, health care privacy, and security regulation, most notably around HIPAA. This blended skill set creates a sort of "hybrid job" (to borrow terminology from labor market analytics company Burning Glass) that is generally not taught in a single education or training program.[374] This makes it difficult to meet baseline competencies required for cybersecurity professionals to succeed in the health care setting.

The 2017 Global Information Security Workforce Study found that the cybersecurity workforce gap is expected to reach 1.8 million by 2022.

Further complicating these issues with training and recruitment, mundane and repetitive tasks occupy much of the time of information security professionals in health care. As a result, retaining cybersecurity talent in health care becomes much more difficult. Policy recommendations aimed at addressing this problem focus on strategies to increase the number of students pursuing a cybersecurity education, including two- and four-year degrees, technical training programs, and apprenticeships, and efforts to create industry-specific tools that would support health care information security professionals.

The second hypothesis regarding the cybersecurity workforce gap suggests that the cybersecurity skills shortage is not actually as bad as it appears. Rather, it argues that there are in fact more qualified individuals with sufficient skills to work in cybersecurity than employers currently appreciate. Put simply, the problem is that there are people in the labor force who have the skills to be employed as cybersecurity professionals, but employers are not hiring them. For instance, many health care providers require applicants to have a specific industry certification, several years' work experience, and a college degree before hiring them. It is common, however, for individuals to teach themselves the basics of cybersecurity outside of a formal education or certification program; the nature of the profession is very much one of learning through independent self-exploration. Policy recommendations aimed at addressing this problem are centered on aligning hiring practices to better measure the skill level of potential

employees and moving away from traditional measures that may underappreciate an individual's actual level of expertise.

The third factor contributing to these workforce challenges is a problem related to the hiring and promotion of minority candidates.[375] Perhaps surprisingly, a recent study found that minority participation in the cybersecurity workforce (26 percent) is actually higher than the workforce participation of minorities in other occupations (21 percent).[376] While this initial observation is promising, there are other more insidious factors to consider. For instance, the same study found that the average pay for a cybersecurity professional is $122,000, but is only $115,000 for minorities. This finding is especially problematic when considering that minorities in the cybersecurity workforce have, on average, obtained a higher level of education (62 percent with master's degrees or higher) than their white counterparts (50 percent with master's degrees or higher). Still, only 23 percent of minorities hold a position at the director level or above, compared to 30 percent of their white peers. The barriers to equal pay and promotion have particularly pronounced negative impacts on women, who comprise a dismal 14 percent of the total cybersecurity workforce, and in particular on women of color.

Beyond the generally accepted understanding that a workforce should reflect the population it serves, the issues related to diversity in the cybersecurity workforce are problematic for three reasons. First, the anemic workforce needs to recruit and retain talent from every part of society or it misses a deep pool of talent that can help fill the gaps. Second, social science research has demonstrated that heterogeneous teams produce higher quality work than homogenous equivalents.[377] Third, from an equity perspective, it is troubling to know that there are systems in place that propagate discriminatory outcomes for minority cybersecurity professionals.

The problem is that there are people in the labor force who have the skills to be employed as cybersecurity professionals, but employers are not hiring them.

A fourth problem contributing to the health care cybersecurity workforce shortage is explicitly linked to the incredibly tight budgets of most health care organizations, especially small- and medium-sized providers. Whereas other industries that handle similarly sensitive information, like financial services,

operate on margins of 15 percent or more, health care operates on margins hovering around 3 percent.[378] This limitation restricts the ability of health care organizations to invest in robust cybersecurity protections and recruit highly sought-after talent. Moreover, given a number of competing hiring priorities, health care managers are often compelled to spend limited budgets on nurses, physicians, or other high-need positions rather than on cybersecurity staff.

→ **BOX 2**

Summary of Health Care Workforce Challenges[379]

- A global cybersecurity workforce gap exists across all sectors.
- Limited budgets and tight profit margins make it difficult to recruit and retain relatively high-paid cybersecurity talent, especially in competition with other higher-paying tech jobs and flashier defense positions.
- In combination with limited budgets, there is an overarching shortage of critical health care employees, including physicians and nurses, that compels hiring managers to make tradeoffs based on the most pressing hiring priorities.
- Health care cybersecurity work is often mundane, time-consuming, and tedious, turning off potential employees and making it difficult to retain current talent.
- Employees must possess a complex set of hybridized cybersecurity and health care competencies, a rare skill set not often taught in traditional education programs.
- A diversity gap in the cybersecurity community writ large limits the pool of available talent, leads to fewer innovations, and introduces troubling social equity concerns.

Complex and multifaceted challenges like the cybersecurity workforce shortage require equally complex solutions. Thus, a comprehensive solution to the cybersecurity workforce shortage must present strategies that address the myriad of issues described above and create solutions that anticipate where the health care sector is headed over the next five years. The following sections lay out a series of policy recommendations that do just that.

Existing Programs & Policies Aimed at Improving the Cybersecurity Workforce

Many efforts that attempt to mitigate the challenges present in the overarching cybersecurity workforce are currently underway, however few are designed to specifically address the pernicious issues unique to the health care sector. As a conversation on the health care cybersecurity workforce is couched within the context of the broader cybersecurity workforce landscape, it is important to first note the programs and policies framing the overarching cybersecurity workforce discussion. In this regard, the following tables act as a non-exhaustive list of some of the most commonly cited cybersecurity workforce development programs and policies.

→ **BOX 3**

Existing Cybersecurity Workforce Programs and Policies[380]

Programs

- CyberCorps Scholarship for Service
- Cybersecurity apprenticeships
- Cybersecurity challenges and competitions
- Cybersecurity certifications
- National Centers of Academic Excellence in Cyber Defense (CAE-CD)
- The National Initiative for Cybersecurity Education (NICE) Cybersecurity Workforce Framework[381]

Government Policies

- Cybersecurity Enhancement Act of 2014
- Federal Cybersecurity Workforce Assessment Act of 2015
- May 11, 2017 Presidential Executive Order on Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure
- June 15, 2017 Presidential Executive Order on Expanding Apprenticeships in America
- (*Pending legislation*) S.754 - Cyber Scholarship Opportunities Act of 2017

Policy Recommendations

Robust workforce development policies often converge around three distinct aspects of the workforce experience: recruitment, retention, and research. Recruitment strategies are intended to both increase the number of individuals pursuing cybersecurity education programs and also better align health care hiring practices to account for skilled experts who may not have traditional education backgrounds. Retention strategies are focused on supporting diverse hires, who exit the cybersecurity profession at higher rates, and mitigating the "brain drain" through payroll tax incentives. Research strategies are centered on the creation and implementation of health care-specific technologies that would make information security work more meaningful, specifically through existing government innovation funding programs.

Recruitment-Specific Policies

1. The CyberCorps Scholarship for Service program should be amended to allow recipients to serve in specific, critical need sectors like health care.

The CyberCorps Scholarship for Service program is a major federal effort to increase the number of trained cybersecurity professionals who enter the federal government. In exchange for tuition and a living stipend while pursuing a cybersecurity education program, recipients agree to serve in a cybersecurity-related position in a federal, state, local, or tribal government. Only about 3,300 students have entered the scholarship program since 2001, which includes several hundred students who are still in their education programs.[382] The placement rate in government for students completing the program is quite high, and about 70 percent of students stay involved in a government position following their service commitment.[383] Still, with nearly 200,000 new openings for cybersecurity-related jobs annually, it is clear that CyberCorps has not even come close to meeting the demand for cybersecurity talent, nor should it be expected to provide the sole source of cybersecurity training.[384] For health care in particular, CyberCorps is an especially unreliable source of talent because recipients are required to fulfill their post-award service obligation in the government.

Most health providers in the United States are privately owned and operated; in total, 80 percent of hospitals are *privately owned*.[385] Thus, most health institutions are ineligible. This is problematic because, in addition to there already being a small number of students completing the scholarship program, they are not offered the opportunity to fill high-need positions in non-governmental critical national infrastructures, like health care.

With that said, there are ways in which the CyberCorps Scholarship program can be amended to better serve the needs of critical sectors that are particularly at risk, such as health care. There is a bill currently in the Senate (S.754) that aims to do just that. Specifically, the bill would loosen the requirements for post-award service to also include non-profit critical national infrastructures, as defined by the Critical Infrastructures Protection Act of 2001.[386] If the post-award service requirement is expanded to include non-profit critical national infrastructures, health care stands to benefit. Nearly 60 percent of community-owned hospitals (or 2,849 total hospitals) would become eligible institutions for the first time, allowing scholarship recipients to enter into the health care cybersecurity workforce upon graduation.[387] Even considering the fact that over 1,000 community hospitals with *for-profit* status would still be ineligible, the move to include *nonprofit* critical infrastructures is a needed improvement.

CyberCorps has not even come close to meeting the demand for cybersecurity talent, nor should it be expected to provide the sole source of cybersecurity training.

Going one step further, policymakers in Congress should consider implementing even stronger incentives to encourage more students to pursue careers in health care cybersecurity. They can do this in the text of any proposed legislation by explicitly naming health care as a high-need critical national infrastructure and providing additional post-scholarship monetary incentives to students who choose to enter "high-need" sectors, like health care. Similar federal programs exist that incent doctors and nurses to serve in high-need rural areas.[388]

2. The DOL, the National Cybersecurity Center of Excellence (NCCoE), and state and local governments should create and subsidize models for cybersecurity-specific apprenticeships in the health care sector.

An apprenticeship, according to the DOL, is "an arrangement that includes a paid-work component and an educational or instructional component, wherein an individual obtains workplace-relevant knowledge and skills."[389] Already, apprenticeships have been used in contemporary industries ranging from manufacturing to hospitality to transportation. Recently, apprenticeships have been heralded as a game-changing training model that can mitigate chronic

workforce shortages in the cybersecurity profession and in health care cybersecurity more specifically.

There are many benefits to adopting apprenticeship models that build the health care cybersecurity workforce. Apprenticeships can be particularly effective at addressing recruitment and retention-related challenges in health care cybersecurity for three reasons. First, there is a clear hiring and promotion schedule that attracts individuals seeking upward mobility throughout their career.[390] Second, health providers are better able to retain talent because of the "earn-while-you-learn" model that fosters a spirit of loyalty amongst their employees. Third, and particularly relevant for retaining diverse hires, apprenticeships have an engrained mentorship component that supports both training and professional development. Health providers that choose to incorporate apprenticeship training models not only create an alternative pathway into the health care cybersecurity profession, they also lay the groundwork for a more diverse and representative workforce.

Despite these clear benefits, implementation of health care-specific cybersecurity apprenticeships is distant. In fact, even the most generalized cybersecurity apprenticeships that don't account for health care-specific idiosyncrasies are still in an early stage of development.[391] There is a tendency for the development of apprenticeship programs to be led by industry players, and for government officials to take a back seat. However, in order to achieve scale, government officials must enact purposeful policy-grounded solutions that encourage a systems-level, public-private approach. To this end, policymakers should develop policies that meet this goal.

Despite these clear benefits, implementation of health care-specific cybersecurity apprenticeships is distant.

First, there needs to be a clear framework that details the requirements of a health care cybersecurity apprenticeship, with guidance on the roles and responsibilities of each relevant actor in the apprenticeship process: intermediaries,[392] health care organizations/employers, apprentices, and educational institutions. A critical piece of this process should be creating a set of competencies required for someone to be considered a "health care cybersecurity expert." NIST's NCCoE may be best equipped to shape such a standard given its ability to convene a range of stakeholders whose input is

critical for success. NCCoE must rely on guidance from a wide range of groups when establishing a standard for health care cybersecurity expertise, including from health care providers, educational institutions, intermediaries, and relevant public-sector entities.

Importantly, there is not a single set of requirements that would be applicable for every apprenticeship across every jurisdiction, and thus these frameworks should largely be viewed as valuable guidance. Policymakers at all levels—federal, state, and local—have an important role to play in shaping the apprenticeship standards that work best for their constituencies, especially considering that around half of these standards are set at the state level. For policymakers looking for a place to start, the DOL's registered apprenticeships program can serve as a strong example.[393]

A second step for creating sustainable health care cybersecurity apprenticeships is providing incentives that would scale successful apprenticeship models. Since health care cybersecurity apprenticeships will be foreign to all but the most progressive health systems, incentives help to ease the transition for employers and intermediaries looking to introduce apprenticeships into their hiring practices and business models. These incentives can be constructed in a number of ways, either by providing subsidies directly to employers to help hire additional talent through an apprenticeship program, through tax breaks for providers or intermediaries who adopt new models, or through some newly constructed public service agreement similar to the CyberCorps Scholarship. A wealth of research has been produced on other effective strategies for scaling apprenticeship capacity, including in the *Youth Apprenticeship in America* and *Connecting Apprenticeship and Higher Education* reports.[394]

Retention-Specific Policies

1. Provide payroll tax incentives to health care providers to address the "brain drain" in health care cybersecurity.

Much of the focus around cybersecurity workforce development is rightly centered on recruitment. This makes sense considering 39 percent of health care hiring managers hope to grow their information security staff by 15 percent or more over the next year, more than any other industry.[395] Filling seats is crucial, but it is not the only aspect of creating a robust health care cybersecurity workforce. Another important consideration is how to retain newly hired talent to ensure there isn't a leaky pipeline, creating a perpetual shortage that leads to increased hiring costs. The so-called health care cybersecurity "brain drain" happens when a health system manager spends a great deal of time and money to train a new cybersecurity professional, only to have them leave quickly for another job, often in a higher-paying industry. This is a very real concern for

many health system managers because they often see staff leave shortly after getting brought up to speed.[396]

Why are health care cybersecurity professionals leaving? Social science research finds that there a number of factors that can affect an employee's decision to leave, regardless of industry. These factors include pay, work conditions, development opportunities, and the expected level of time and effort required for a job. Additional research on tech-specific retention trends finds that a lack of professional development opportunities, burnout, and a non-inclusive cybersecurity culture can lead to especially high turnover in the tech industry— for instance, average tenure is about three years, with over half of women leaving tech altogether.[397]

When these lessons are applied to the health care context, it becomes clear why there is a brain drain of cybersecurity talent. Not only are professional development opportunities few and far between, information security specialists in health care often lack a clear promotional path. Moreover, workflows in health care can be particularly tedious, time consuming, and boring. For instance, information security professionals are often required to manually audit EHR access logs by hand, a process taking countless hours and requiring little higher-level thinking. Because information security teams in health care are generally small and compete for funding with other core non-clinical departments, employees face a lot of pressure that can lead quickly to burnout. Additionally, the overarching cybersecurity sector has a documented culture of harassment that can disproportionately affect women, leading many qualified women to exit the field.[398] On top of all this, higher-paying tech companies and flashier intelligence agencies often actively recruit cybersecurity talent away from health care, presenting an easy exit for those trained specialists who want out.

A lack of professional development opportunities, burnout, and a non-inclusive cybersecurity culture can lead to especially high turnover in the tech industry.

Given these retention challenges affecting the health care cybersecurity workforce, policymakers should embrace methods to mitigate the factors leading to high turnover. Specifically, policymakers at the federal and state levels should create and fund workforce development programs that provide payroll tax

incentives to health care providers who effectively retain cybersecurity talent. Many examples exist that provide models for how to effectively develop these programs, from the 2010 Hiring Incentives to Restore Act to the Tax Cuts and Jobs Act approved by Congress in December 2017. In order to reward health providers who retain cybersecurity talent, payroll tax programs should provide tiered incentives that increase over time. For instance, the longer an individual remains employed in a specific health system, the more money a health system receives as part of the payroll tax program. By creating a tiered model, health providers are incentivized to establish retention programs for their cybersecurity workforce, like professional development or mentorship opportunities. For forward-thinking providers, payroll tax incentives can even be reinvested directly toward the salary of a cybersecurity employee. Reinvesting in this way helps to offset the external pressure from other higher paying industries.

Research-Specific Policies

1. Leverage existing government innovation funding programs to develop next-generation cybersecurity tools specific to the health care sector.

When applications of emerging technologies, like artificial intelligence, quantum computing, blockchain, and natural language processing, are considered in the health care sector, they are most often discussed in terms of how they can help deliver better patient outcomes. It is true that these technologies present incredible opportunities to more accurately diagnose illnesses, empower patients with their own health data, and spot disease outbreaks before they spread. However, the focus on delivering better patient health outcomes misses another equally valuable opportunity for these technologies: better protecting patient data, privacy, and health system cybersecurity. Already, research has demonstrated both theoretical and practical applications of emerging technologies for cybersecurity enhancement. One specific area in the health care sector relates to the tedious and time-consuming task of manually auditing HIPAA access logs, a process that can be largely automated through big data analytics and artificial intelligence. Yet innovations in this space are encumbered by lack of general awareness and limited research funding that enables scaling of promising technological applications across the entire health care ecosystem.

This recommendation assumes health care's continued enhancement of human-computer interactions to augment employee workflows that are tedious, involve large data sets, and/or necessitate speedy responses. For health care cybersecurity professionals, workflows tend to be all three, creating high-pressure situations that fall onto small teams. Stressful environments like this lead quickly to burnout.

To help address burnout while also increasing employee productivity, health systems should look to adopt emerging technologies that can support employee

workflows by automating repetitive tasks and quickly sifting through massive patient data sets. In this way, health care cybersecurity professionals are able to pursue more rewarding security projects, like investigating high-level security incidents, researching best practices from other organizations, and producing strategic organizational security plans on HIPAA compliance and digital hygiene. As a result of this shift away from mundane assignments toward projects that require more high-level thinking, health systems are better able to retain their cybersecurity employees. Health systems must continue to embrace emerging cybersecurity innovations, but government must also encourage continued research into technological innovation and scaling of promising solutions. Government innovation initiatives are common, especially in high-tech industries, and models are easily adapted to spur health care cybersecurity-specific innovation.

The focus on delivering better patient health outcomes misses another equally valuable opportunity for these technologies: better protecting patient data, privacy, and health system cybersecurity.

Government funding initiatives like Small Business Innovation Research (SBIR) programs have proven to be effective at catalyzing innovation and job creation through relatively small government investments, cementing permanent technological advances in critical industries.[399] Broadly speaking, SBIR grants are awarded by federal agencies to small businesses conducting promising early-stage research and development in fields that are viewed as too risky for private investors. While a number of government agencies administer SBIR programs, the largest source of funding currently comes from the U.S. Department of Defense.

Table 4. Examples of SBIR Projects

1. SEMATECH (Semiconductor Manufacturing Technology) Consortium, designed to address unprecedented challenges in the semiconductor industry
2. NIST's Advanced Technology Program, awards funding for high-risk, high-reward research in critical technical areas of national importance
3. Partnership for the Next Generation of Vehicles (i.e. the "Supercare Initiative"), partnered the government with three automobile manufacturers to create a clean, efficient, safe, and affordable vehicle of the future

There are several positive effects of SBIR funding on innovation and workforce development. Evidence shows that government-sponsored SBIR projects are particularly effective at spurring innovations that would not have otherwise happened in the absence of funding.[400] Moreover, receiving even a nominal SBIR award often leads to additional positive outcomes for award recipients; for instance, SBIRs play a certifying role, signaling to private investors that a project is thoroughly vetted by a trusted government actor. Since private sector investors trust the rigorous SBIR assessment process, many choose to invest even more in an SBIR-funded project. In the absence of a certified SBIR grant, private investors are less inclined to provide additional support.

While SBIR-funded projects do not always succeed in the long-run, even those projects that fail or exit the market create positive economic outcomes. For instance, SBIR-funding is often used to support employees in small businesses, and the training and expertise they gain from an SBIR project will follow them throughout their career. This is especially exciting for health care cybersecurity since the human capital expertise developed through an SBIR project can be leveraged to help address chronic workforce shortages.

Another documented benefit of SBIR-funded projects is a spillover effect that benefits all of society, not just one specific industry. According to research from the National Research Council, SBIR-funded projects create an 84 percent social rate of return.[401] This is much higher than the expected 25 percent social rate of return for projects that fail to receive SBIR funding. In other words, SBIR-funded

projects are very likely to provide widespread net benefits to society, well beyond the specific aims of a project.

Despite the fact that SBIRs constitute one of the largest and most effective government-industry partnerships in terms of annual budget, there is not enough focus on critical need areas like health care cybersecurity. The Department of Health and Human Services (HHS) is currently one of 11 federal agencies required to set aside at least 3.2 percent of its research and development budget for SBIR projects; more of these funds should be set aside to specifically research health care cybersecurity innovations.[402] To achieve this goal, there needs to be a supportive policy framework that encourages the creation of welfare-enhancing cybersecurity technologies in health care. HHS has wide discretion to set funding priorities, and, as such, SBIR funding models should be directed toward the expansion of health care cybersecurity projects. Projects should be selected based on, among other criteria, their potential for commercialization. By increasing SBIR funding in health care cybersecurity in this way, additional tools will be developed that can augment existing technological interventions. Moreover, effective cybersecurity platforms and tools will proliferate throughout the health care sector at a faster rate.

Conclusion

This research report explored various dimensions of the health care cybersecurity workforce gap and presented policy solutions aimed at rectifying deleterious issues. It began with a brief introduction describing why the cybersecurity workforce issue is a critical part of protecting patient privacy, dignity, and safety while continuing to deliver the best patient health outcomes. The paper then went on to define the problems surrounding the health care cybersecurity workforce in more detail. Following this problem definition, the paper explored existing high-level cybersecurity workforce initiatives to help frame health care-specific policy recommendations. Next, the substantive policy section of this paper presented recommendations to improve the health care cybersecurity workforce according to a three-pillared framework: recruitment, retention, and research. These recommendations drew heavily from the New America Cybersecurity Initiative's *Do No Harm 2.0* report, which presents a series of recommendations that also encompass technology and cultural issues in the health care cybersecurity space. For forward-thinking policymakers, this report can serve as a useful study on how to bridge the health care cybersecurity workforce gap, an urgent issue facing one of our nation's most vulnerable critical national infrastructures.

invaluable. He thanks Reid and Melody for building the "MPPF ship" and helping the cohort set sail on this incredible journey.

Taking Down Terrorism: Strategies for Evaluating the Moderation and Removal of Extremist Content and Accounts

by Spandana Singh

The rise of the internet and the expansion of information and communication technologies have fundamentally transformed how individuals around the world can communicate, coordinate, and share information. However, the spread of new technologies has also yielded new challenges and threats. Over the past decade, for example, social media and other online platforms have increasingly been used by extremist groups to facilitate the spread of their ideologies and propaganda, engage with and radicalize individuals across the globe, and coordinate acts of terror. Use of these platforms has enabled these groups to connect, organize, and act with greater ease, speed, and breadth than their predecessors.[403]

As technology has become more integral to the operations of extremist groups around the world, major internet companies, such as Facebook, Twitter, and Google, as well as smaller companies, have come under public pressure to prevent these groups from reaping the benefits offered by their platforms.[404] This has resulted in technology companies becoming integrated into the field of countering violent extremism (CVE), which was typically led by government agencies in partnership with civil society. As the use of online platforms by extremist groups has grown, several of these major technology companies have also become valuable actors in the space.

Despite the emergence of a distinct set of CVE activities, the field lacks empirical research, as well as substantive data and metrics, to guide its work. This is especially true for technology company-led CVE approaches. As a result, it has been challenging to identify best practices, and it is often unclear which CVE approaches are most effective and why. This is of significant concern, as without this knowledge, companies could be misallocating valuable resources and instituting programs that have unintended and detrimental consequences (e.g. further marginalizing and harming at-risk communities and individuals rather than disrupting their engagement with online extremism).

Use of these platforms has enabled extremist groups to connect, organize, and act with greater ease, speed, and breadth than their predecessors.

One common approach to CVE that technology companies frequently employ, and that is often scrutinized, is the moderation and removal of extremist content and accounts. Following major terrorist attacks, such as the September 2017 attack on a London Underground train at Parsons Green,[405] it was found that several terrorist recruits had engaged with extremist content and individuals on platforms such as Facebook and Twitter and, subsequently, were radicalized and employed to coordinate acts of terror. As public pressure has mounted on these companies to remove extremist content and accounts, a number of researchers and civil society advocates have questioned whether these moderation and removal efforts are impactful, and whether they are the best use of a company's resources and time.

This report explores how to make content moderation and removal efforts regarding terror-related content more effective and how to make evaluations of these efforts by companies and researchers more strategic. In addition, this report provides a set of recommendations on best practices and quantitative and qualitative data points that companies should collect and disclose, which can facilitate the impact evaluation of terror-related content moderation and removal efforts.

Because this is a growing field of inquiry, this report will focus on efforts that have targeted the Islamic State of Iraq and Syria (ISIS), an extremist organization well-known for their tech savviness and internet use and commonly targeted by content and account moderation and removal efforts. In addition, although content and account moderation are two different types of interventions, research on the effectiveness of moderation and removal practices typically evaluates these approaches together, given that when you moderate or takedown an account, you also moderate or remove its associated content. For the purposes of consistency and comparison, this report will do so as well. Furthermore, given the public nature and importance that social media platforms such as Facebook, Twitter, and YouTube have when it comes to ISIS' online operations, they are typically the most-studied platforms and will therefore be largely featured in this report.

What Is Content Moderation?

Content moderation can be understood as the practice of "monitoring and vetting user-generated content (UGC) for social media platforms of all types in order to ensure that the content complies with legal and regulatory exigencies, site/community guidelines, user agreements, and that it falls within norms of taste and acceptability for that site and its cultural context."[406] On user generated content-based platforms, individual pieces of content, such as a Tweet or Facebook post, that violate a company's content or community standards or local legal frameworks, can be moderated through practices such as temporary

suspension pending further review or geo-blocking. A piece of content that has been found to violate a company's content or community standards can also be removed from the platform permanently. In addition, a user who has violated content or community standards or local legal frameworks by posting prohibited content can also have their account moderated via temporary suspension or deletion.

In the past, companies typically relied on external parties, such as governments, non-governmental organizations (NGOs), and users themselves to flag content that violates platforms' terms of service. YouTube, for example, has established a Trusted Flaggers program, which enables select government agencies and NGOs from around the world that have a track record of accurate content flagging to flag problematic content in bulk, receive reviews for their flags, and to engage directly with the company on its policy enforcement processes.[407]

However, as companies have come under increased pressure to moderate harmful content, they have worked collaboratively to develop tools and technologies that enable them to detect such content on their own. One example of this is PhotoDNA, a technology developed by Microsoft, originally for the purposes of identifying child pornography online.[408] PhotoDNA works by converting existing child porn images online into a grayscale format. It then overlays the images onto a grid and assigns each square a numerical value. The designation of a numerical value converts the square into a hash, or a digital signature, which remains tied to the image and can be used to identify other recreations of the image online.[409] The software has enabled companies to identify and remove child pornography materials at a much faster rate and has been particularly effective in identifying content despite color alterations and resizing of images.[410] In 2016, the Counter Extremism Project developed eGLYPH, an adaption of the PhotoDNA technology that could be applied to extremist content, including still images, video, and audio files.[411] This technology has been widely adopted by internet platforms of all sizes.

As companies have come under increased pressure to moderate harmful content, they have worked collaboratively to develop tools and technologies that enable them to detect such content on their own.

As content moderation efforts have increased, so have concerns about censorship and the stifling of online freedom of speech, often resulting from stringent platform content policies as well as increases in government requests for content moderation and removal.[412] One way to address these concerns is through greater transparency regarding companies' content moderation and removal practices. Such transparency has already become a norm in the context of addressing public concerns about companies' participation in government surveillance programs. Following the Snowden revelations in 2013, many technology companies began publishing transparency reports in order to document the scope and extent of government and legal requests for users' data. [413] As this has gradually become a widely adopted practice by internet platforms, transparency reporting has expanded to include data on government and legal requests for content moderation and removal as well as data on how companies moderate and remove content based on their own terms of service and content policies. However, the practice of reporting such data is still relatively new, and, as a result, only a few companies, such as Google (regarding YouTube), Facebook, Twitter and Automattic do it, with little standardization and several variations in terms of the granularity of data being reported. This lack of consistent metrics and reporting standards poses a number of challenges for those attempting to conduct cross-company comparisons and for those attempting to understand the impact of content moderation and removal efforts on a particular category of content such as extremist content.

The CVE Landscape Today

Social media platforms have increasingly become recognized as integral tools to ISIS' recruitment, engagement, and coordination efforts, as these platforms enable a direct and continuous conversation between the group and its potential recruits. In addition, information shared on these platforms has been found to be perceived by individuals at-risk of becoming extremists as more reliable than news media, as the content is not framed by the perceived biases of these media outlets.[414]

As findings on the increased use and reach of the Islamic State's online network have developed, technology companies have faced increased pressure from governments and institutions around the world to ramp up efforts to combat the group's operations. On June 30, 2017, the German parliament passed a law, known as the Network Enforcement Act ("NetzDG"), which requires social media companies and large third-party content hosts (over 2 million registered users) to remove "obviously illegal" speech, including hate speech and terror content, within 24 hours of it being reported, or be subject to fines of up to €50 million.[415] The law went into full effect at the beginning of 2018 and, within its first few days of enforcement, proved to be problematic. Fearing fines, companies

began broadly censoring user speech, which quickly raised concerns regarding freedom of expression online.[416]

As content moderation efforts have increased, so have concerns about censorship and the stifling of online freedom of speech

This sort of governmental pressure has been seen in other countries. In 2017, internet platforms in the United Kingdom faced threats of taxation if they were unable to remove extremist content at a faster rate.[417] In addition, in countries such as India and Indonesia, platforms and applications held responsible for facilitating radicalization and coordination have been banned, and a handful remain blocked today.[418]

Companies have faced similar pressures from the public and media. In the *New Netwar*, a report produced by British think tank Policy Exchange in 2017, a poll indicated that 65 percent of those surveyed believed that major internet companies were not doing enough to combat online radicalization, and over 70 percent of them believed these companies should be more proactive in locating and deleting extremist content, as this was considered their responsibility.[419]

In response to these pressures from governments and the public, particularly in the European Union, Facebook, Microsoft, Twitter, and YouTube formed the Global Internet Forum to Counter Terrorism (GIFCT) in July 2017.[420] The group aims to share best practices and resources with one another as well as with smaller technology companies facing similar challenges with extremist groups online.

Although the presence of extremist content and individuals online is a problem to address, mandating firms to engage in CVE activities, the effectiveness of which is unproven, is problematic. It prevents companies from engaging in strategic and critical thinking on how to best institute their CVE efforts and approaches and risks resulting in broad censorship by companies to avoid government sanctions. In addition, the lack of meaningful data, clear definitions, and concrete metrics for success, complicate the ability of companies and researchers to evaluate content moderation and removal efforts. It also raises concerns that larger platforms are sharing unproven "best practices" with smaller companies through initiatives such as the GIFCT and creates the risk of steering these platforms away from approaches that could actually have an impact.

As researchers have attempted to assess the effectiveness of content moderation and removal efforts on countering violent extremism and preventing radicalization, the resulting literature has shown mixed results.

In 2017, the British Home Office funded a research project produced by the VOX-Pol Network of Excellence that aimed to assess the impact of the disruption of terror content on Twitter as well as the subsequent effectiveness of the removal of these pieces of content. The researchers monitored and analyzed 722 pro-ISIS accounts, which had collectively posted over 57,000 tweets between February 1 and April 7, 2017. The study found that 65 percent of these pro-ISIS accounts were suspended by Twitter within two and a half months of their creation, and 25 percent of them were immediately taken down after they were created. The researchers concluded that, as a result of these disruption efforts, ISIS' ability to create and maintain strong and influential communities and relationships on the Twitter platform were significantly diminished, and therefore Twitter's moderation and removal efforts were successful in countering the group's operations.[421]

The lack of meaningful data, clear definitions, and concrete metrics for success, complicate the ability of companies and researchers to evaluate content moderation and removal efforts.

Another study, conducted by J.M. Berger and Heather Perez at George Washington University's Program on Extremism, monitored English-speaking ISIS supporters on Twitter. Although the authors note that this group consists of fewer than 1,000 users on the platform at any time, it is one of the most widely studied communities within the ISIS online network, as a large number of researchers primarily conduct English-language research. The study found that users who had to continuously create new accounts following account suspensions or deletions suffered drastic reductions in their follower counts and faced challenges when trying to regain the same level of engagement and support on the platform. On average, an ISIS user on the platform had between 300 and 400 followers. But, during waves of suspensions, this number decreased significantly, thus suggesting moderation and removal efforts were successful in reducing the presence of the group on the platform. In addition, as accounts were

suspended and removed, so was the content they produced, and, as a result, the amount of extremist material on the platform also declined.[422]

Many researchers, however, contend that moderation practices are ineffective when it comes to countering the Islamic State's activities online and that the large press coverage and attention the issue of moderating extremist content receives have resulted in companies and governments exaggerating the decline of the group online as well as the effectiveness of moderation practices.[423] As outlined by Dr. Ali Fisher, a former research fellow at the Center on Public Diplomacy at the University of Southern California, despite sustained suspension and moderation regimes, the Islamic State has continued to generate and share a large amount of extremist content and engage with and radicalize users online. Fisher argues that by aggregating follower numbers, companies and governments have been able to overstate the number of accounts within the group's network. This has subsequently enabled them to exaggerate the decline in the number of accounts in the network and suggest that the group's online presence is being successfully disrupted by moderation and removal efforts.[424] In addition, Fisher has challenged the findings of Berger and Perez's 2016 study, which claimed that moderation and removal efforts were successful in decreasing ISIS follower numbers despite the fact that "suspensions held the size and reach of the overall network flat, while devastating the reach of specific users who had been repeatedly targeted."[425] According to Fisher, if the reach of the overall network remained flat, then even though some accounts suffered significant follower losses, the accounts that remained operational and strong were able to compensate and thus maintain the network's prior reach levels.[426]

Other reports, such as Policy Exchange's the *New Netwar* report have made similar claims regarding the ineffectiveness of moderation and removal efforts. The report stated that the Islamic State has maintained a consistent online presence and output of content since 2014, producing approximately 100 new pieces of content every week despite attempts to stifle the group's operations both online and offline.[427]

Strategic Approaches to CVE Content Moderation and Removal

As companies aim to implement content moderation and removal efforts targeted at terror-related content, and as researchers strive to evaluate the impact of these efforts, a number of factors and variables should be considered in order to enhance the strategicness of these efforts. This will enable companies to have a greater impact, and will permit researchers to develop more nuanced and useful evaluations.

Differentiating Account Roles: Breaking Down the "Swarmcast" in the Islamic State Online Network

One key factor to consider when evaluating the effectiveness of content moderation and removal efforts on terror-related content and accounts is that not all accounts within the ISIS online network play the same role, and, as a result, not all accounts have an equal impact.

In a study examining American ISIS sympathizers on Twitter conducted by Lorenzo Vidino and Seamus Hughes at George Washington University's Program on Extremism, it was found that users could be categorized into three segments—nodes, amplifiers and shout-out accounts—based on the roles and responsibilities they have within the network. Nodes were considered the principal accounts within these networks and were tasked with creating and sharing primary content, including news articles, official Islamic State tweets and content, and memes. Due to their status as first-line content creators and sharers, these accounts typically amassed a large number of followers. Amplifiers, on the other hand, did not exhibit content creation behavior but rather boosted the reach of node-created content via retweeting and favoriting. The study noted that it was often challenging to identify whether these accounts were operated by actual users or whether they were programmed bot accounts, but, regardless, they played an integral role within the American ISIS-sympathizer network on Twitter. Finally, shout-out accounts supported the reintegration of users who had had their accounts suspended or deleted by advertising newly created accounts within the sympathizer network. Despite the fact that these accounts did not generate or share a significant amount of content, they were found to have had the largest number of followers as they were essential to maintaining the resilience of these Twitter communities.[428]

Despite sustained suspension and moderation regimes, the Islamic State has continued to generate and share a large amount of extremist content and engage with and radicalize users online.

In Policy Exchange's the *Net Netwar* report, similar roles were identified in the Islamic State's larger digital network, including on platforms such as Telegram. The report found that there was a small group of channels in the ISIS Telegram network that posted original content and a larger number of channels whose primary role was to collect and share this content further. These differential roles were integral to the creation and maintenance of a resilient online network, as

they ensured that if primary content creators' channels were removed, the content they had produced would live on via amplifying channels, and that if an amplifying channel was removed, interested users could still engage with the organization through primary content creators' channels.[429]

The importance of having different roles within the larger Islamic State online network can also be understood as integral to maintaining the group's "Swarmcast." A Swarmcast is an interconnected network that is constantly reconfiguring itself and is defined by speed, agility, and resilience.[430] Given that the Islamic State operates on a number of platforms, including social media platforms, file-hosting websites, forums, and encrypted messaging applications,[431] it is important to ISIS that users are able to access content[432] within the larger network and that they do not find themselves isolated due to their choice of platform. The Swarmcast is integral for this function. For example, following the November 2015 ISIS attack in Paris, the Islamic State posted a video titled No Respite and translated it into multiple languages. The video was downloaded and viewed approximately 400,000 times on United States-based Archive.org alone despite continued claims by companies such as Facebook and Twitter that the Islamic State's English-language networks for content distribution had been weakened.[433] The Swarmcast is also particularly important for the ISIS strategy because following a number of mass suspension and content moderation waves, ISIS users have begun assigning random names to videos, images, and posts, thus ensuring this content cannot be located through simple internet searches. The Swarmcast, therefore, performs an essential role for the organization, as it directs users to content on a number of platforms and ensures they remain engaged.[434]

Because the Swarmcast plays such an important role in directing and maintaining the group's online networks, moderation and removal efforts should focus on disrupting its system-wide structures and operations such as its resilience and speed.[435] One way of doing this is to focus moderation and removal efforts on accounts that play particular roles, as they are integral to maintaining the Swarmcast's structure. In addition, the fact that different accounts and users play different roles within the ISIS network suggests that the impact of disruption efforts on the overall network is dependent on the type of account disrupted. By disrupting primary content creator channels and accounts, platforms would be able to stifle the entry of new content and information to the larger network. By disrupting the amplifying accounts and channels, platforms would be able to curb the rapid spread of terror propaganda and decrease the reach of the organization. Finally, by disrupting shout-out accounts on platforms such as Twitter, companies would be able to isolate users whose accounts have been previously disrupted and prevent them from reintegrating themselves into the ISIS network, thus decreasing the size and engagement of the group.

As suggested by the *New Netwar* report, this approach of distinguishing account types is likely to be more successful in disrupting the overall ISIS digital network, as it no longer results in the targeting of general members of the group, for whom

suspensions are a mere inconvenience rather than a significant barrier.[436] In addition, this method would enable companies to direct their resources toward an approach that yields greater impact and would prove especially beneficial for resource-strapped companies. Researchers who integrate considerations of the differential roles various accounts play, as well as of the Swarmcast's various operations and characteristics, into their evaluation of account moderation and removal efforts may also be able to achieve a more nuanced understanding and evaluation of these efforts.

By disrupting the amplifying accounts and channels, platforms would be able to curb the rapid spread of terror propaganda and decrease the reach of the organization

However, research on the various roles and responsibilities users have within the Swarmcast is still in its early stages. Further analysis should be conducted to identify other potential roles users may play, characteristics that are most associated with these accounts, and how users interface with one another within the Swarmcast in order to generate resilience and success in the ISIS online network. For example, this could enable the identification of coordinators or recruiters on the platform and could significantly improve the strategy and impact of moderation and removal efforts going forward.

Multi-Platform Moderation Strategies

Although a great deal of attention is focused on the role social media platforms such as Facebook and Twitter play in enabling the operations of the Islamic State, the group has a multiplatform strategy for disseminating content and facilitating recruitment and engagement, and numerous different platforms are often used in tandem.

For example, the 2017 VOX-Pol study found that 12.5 percent of the 57,574 tweets collected from pro-ISIS accounts contained links to 39 other platforms, including Justpaste.it, Archive.org, Sendvid.com, YouTube, Google Drive, and even ISIS' own server.[437] A recent article by researchers from the University of Wollongong in Australia similarly found that Justpaste.it, Sendvid.com, and Dump.to collectively contributed approximately 20 percent of the content and information

disseminated by ISIS on Twitter.[438] On the other hand, Twitter is recognized as hosting 40 percent of the identifiable traffic to jihadist content on the broader internet, while Facebook is recognized as hosting 12 percent of this traffic.[439]

According to the VOX-Pol study, there is recognition by some technology companies of ISIS' multiplatform strategy. Sixty-five percent of the pro-ISIS Twitter accounts that were surveyed in the study and that linked to content on other platforms were suspended within 17 hours of being created, therefore demonstrating that the company's moderation strategy could have prioritized actioning this type of content.[440] The study also found that although the Islamic State utilizes a number of platforms to engage with potential recruits and spread information, Facebook and Twitter are by far the most widely used platforms.[441] The study concluded that removing these accounts stifles access to content, even if it is hosted elsewhere online. However, the removal of these accounts on Twitter and Facebook does not subsequently guarantee the removal of this content from the platforms on which they are being hosted. In addition, given the strength and resilience of the Swarmcast, it is likely that users who are within the network will be able to access this content via links posted on other platforms.

However, as demonstrated by the operations of the Swarmcast, the removal of extremist content from one platform does not guarantee the removal of said content from the broader internet. The removal of content from one platform may, therefore, only be a metric of success for that individual company. In many cases, users who are repeatedly disrupted on sites such as Facebook and Twitter will migrate to smaller platforms with fewer resources to address extremist moderation issues or to private, encrypted applications such as Telegram, Signal, and Threema, where it is much harder to detect and monitor the groups' operations.[442]

The removal of content from one platform may, therefore, only be a metric of success for that individual company.

Future content moderation and removal efforts and the subsequent measurements of the success of these efforts should consider the flows, exchanges, and relationships between users and content on different platforms in order to improve targeting of moderation and removal efforts. This may in turn generate higher-impact approaches to disrupting the Swarmcast's operations.[443]

In addition, companies should come together to ideate and implement multiplatform content moderation and removal approaches and strategies. The GIFCT could be an avenue for facilitating and evaluating such collaborations.

Definitions and Metrics for Success

Defining clear metrics for success is a challenge for researchers, governments, and companies alike, but essential for understanding what constitutes success in CVE efforts.

For example, as outlined in the VOX-Pol study, 65 percent of the monitored pro-ISIS accounts were suspended within 70 days, and over 25 percent of them were taken down within five days of creation.[444] The VOX-Pol study concluded that moderation and removal efforts were successful, based on its findings that most of the extremist content monitored was removed over a period of two-and-a-half months. However, in the view of government representatives in the United Kingdom and Germany, for example, in order for moderation to be successful, it must take place within hours rather than days.[445] Although there has been contention regarding the actual timeline on which companies should be removing and moderating extremist content in order for it to be truly impactful, it is widely agreed that online-produced content is only impactful if it is viewed by users. Therefore, removing it before it is viewed and measuring the rates of content removal along this timeline is a potential metric for measuring the impact of takedowns. However, we currently lack a concrete set of metrics that define a timeline with which extremist content and accounts should be removed and that is widely adopted and accepted by companies, flaggers, governments, and other relevant stakeholders. As a result, any judgments and conclusions made on the CVE takedown efforts are subjective and prevent cross-company and comprehensive analysis.

Because the Islamic State operates using a multiplatform strategy, successful moderation and removal efforts are relative and based on one platform's experiences and operations. These metrics do not account for the ripple effects in the broader internet landscape that result from that company's efforts. These ripple effects include both extremist content migrating to platforms that undergo less moderation or no moderation as well as the Islamic State adapting its own content strategies in response to a large platform's moderation and removal efforts. Accordingly, companies need to find a way to define clear metrics for assessing lasting success both on individual platforms and the broader internet landscape. Further, because extremist groups will continuously adapt their content strategies to changing platform conditions, metrics need to be dynamic and continuously in development. This is an area where the GIFCT can play a significant role, as the company-led collaborative body aims to share best practices and resources for combatting CVE.

The GIFCT could also serve as a valuable source of data reporting on multiplatform content moderation efforts. One year after the Forum was established, the founding members—Facebook, Microsoft, Twitter, and YouTube—released a joint statement outlining the progress they had collectively made. The group reported that they had built a shared database of over 40,000 digital hashes, which enabled the companies to identify and remove content, such as videos and images, that violated their content policies regarding terror groups.[446] However, the Forum failed to report on the impact this database has had, if any. For example, it did not provide additional data on the amount of content that had been removed by its member companies as a result of the hashes in the database.

Because the Islamic State operates using a multiplatform strategy, successful moderation and removal efforts are relative and based on one platform's experiences and operations.

Currently, a small number of companies provide quantitative and qualitative information regarding their CVE content moderation and removal efforts. However, companies often lack concrete metrics to guide this reporting, and, where companies have adopted metrics, they are not consistently applied by all relevant companies, therefore making cross-company comparisons challenging. In recent months some companies have expanded their reporting regarding their content moderation practices, and these new reports provide some helpful models for metrics. However, more companies need to similarly expand their reporting, and further work is needed to create a set of best practices that is adopted across providers and that permits cross-company comparisons.

In July 2017, Automattic, Inc., a web development corporation best known for operating the free blogging platform WordPress.com, began publishing data on its content moderation and removal efforts related to terror content. The company added a new section to its transparency report that highlights notices of terror content on Automattic's services that it received from government Internet Referral Units (IRUs). The report includes the total number of notices the company received, the total number of notices that resulted in suspended sites, and the total percentage of notices that resulted in suspended sites, and also provides monthly breakdowns for each of these categories.[447]

In April 2018, Twitter released a corporate blog post that spotlighted its CVE moderation and removal efforts in conjunction with the release of its July-December 2017 transparency report. In the blog post, the company reported that between August 2015 and December 2017, it suspended over 1.2 million accounts for violations related to the promotion of terrorism. Of the 274,460 accounts suspended in Q4 2017, 93 percent were independently flagged by Twitter's internal tools, and 74 percent of these accounts were removed before they were able to produce their first tweet.[448] In its transparency report, Twitter noted that it received 154 requests from governments around the world to remove content that violates the platform's terms of service guidelines on the promotion of terrorism. These requests covered 597 accounts and resulted in 98 percent of accounts referred being actioned.[449]

In late April 2018, Google released more data and insights regarding YouTube's terror content moderation and removal efforts through its first Community Guidelines Enforcement Report, which covered the October-December 2017 period. The report highlighted that out of the 1,598,308 pieces of YouTube content flagged by human agents, including users, NGOs, trusted flaggers, and governments, 1.6 percent was related to the promotion of terrorism.[450]

Following the release of YouTube's Community Guidelines Enforcement Report, Facebook released its first Community Standards Enforcement Report in May 2018, which covers the period of October 2017-March 2018. The report highlighted that in Q4 2017, the company took action on 1.1 million pieces of terror-related content for violating its community standards. This number rose in Q1 2018 to 1.9 million pieces of content. In addition, in Q4 2017, 96.9 percent of terror-related content was flagged by Facebook's internal tools before users reported it, and this number rose in Q1 2018 to 99.5 percent. Based on a November 2017 corporate blog post, 83 percent of the terror-related content flagged by internal tools at that time was removed within an hour of it being uploaded.[451]

Of the 274,460 accounts suspended in Q4 2017, 93 percent were independently flagged by Twitter's internal tools, and 74 percent of these accounts were removed before they were able to produce their first tweet.

These reports demonstrate a broad range of potential data points that companies can collect and disclose to provide further insight into their CVE moderation and removal efforts. However, they also demonstrate that the absence of well-defined metrics and inconsistent reporting undermine meaningful comparisons.

For example, Twitter's transparency report shared data regarding the number of government notices it received flagging terror-related content that violated Twitter's terms of service. In a separate blog post it shared the number of terror-related accounts it was able to identify independently. Twitter, however, did not report on legal requests (requests based on a country's legal frameworks) to remove terror-related content, an increasingly important data point given that countries around the world have been gravitating toward passing legislation requiring companies to remove such content. Although Twitter has made strides in disclosing government requests pertaining to terror-related content, it only does so in the context of terms of service enforcement, and not on a broader scale. Similarly, Automattic reports on the number and results of governmental IRU notices for terror-related content but does not provide insight into the number of government, legal, and user requests related to terror content that it receives nor the subsequent results of these requests. Because the motivations behind the flags from these different parties often vary, distinguishing who submitted these notices in transparency reports is valuable and important and would enable readers to understand the full scope and nature of requests to take down terror-related content. In addition, Automattic's reporting does not provide any information on the timeline of these takedowns nor on the number of independently identified cases of extremist content.

YouTube's Community Guidelines Enforcement Report indicates the percentage of terror-related content that was flagged by human users, but does not disclose how much of this content was subsequently removed. Further, the report indicates that the vast majority of content that was removed (80 percent of over 8 million items) was flagged by automated tools.[452] Yet, the company does not provide a breakdown of these flags based on content category, such as extremist content, as it does for content flagged by humans. This makes it difficult to assess and understand the impact of its moderation and removal efforts on terror content on its platform and makes it difficult to understand the prevalence of terror content on its platform as well. Similarly, the report indicated that 75.9 percent of automatically flagged content was removed before it was viewed, a metric that could have been helpful in understanding the impact of its moderation and removal efforts had it provided a breakdown by content category.

In terms of defining concrete metrics, Facebook's Community Standards Enforcement Report is the strongest thus far, as it clearly outlines three key metrics which it plans to report on:

- The prevalence of community standard violations on Facebook. This metric is based on the estimated percentage of views that each category of violating content received;[453]
- How much content Facebook took action on; and
- How much violating content Facebook was able to independently identify using internal tools before users flagged it.

The company has committed to developing a fourth metric, which will highlight how quickly it takes action on violations. To account for changes in the content landscape, it has also pledged to refine and develop these metrics continuously. [454] The clear definition of these metrics and why they are important to understanding the moderation of different types of content on the platform is one of the report's strongest aspects. However, Facebook has yet to provide data on the prevalence metric for terror-related content. The company stated:

> Compared to some other violation types such as graphic violence, the number of views of terrorist propaganda content related to ISIS, al-Qaeda, and their affiliates on Facebook is extremely low. That's because there is relatively little of it and because we remove the majority before people see it. Therefore, the sampling methodology we use to calculate prevalence can't reliably estimate how much of this content is viewed on Facebook. We're exploring other methods for estimating this metric. [455]

By providing an explanation of why this metric is not available for terror-related content, the company gives us greater insight into how metrics are generated and what its limitations are. It also demonstrates the need for greater focus on this type of content in order to ensure proper evaluation is possible, both at the individual platform level as well as across platforms.

In order for best practices and impact in moderation and removal efforts to be identified, companies should collaboratively adopt a set of reporting metrics and standards that they consistently report on. Some granular metrics will undoubtedly vary between platforms, as not all platforms engage with the same types of content, but a uniform set of metrics that can be applied is still helpful and necessary for cross-company comparisons and impact evaluation. [456]

Along with more consistent metrics for measurement, companies also need to adopt clearer definitions of extremism and specify these in their reporting. In its Community Standards Enforcement Report, Facebook does this by specifying

that the extremist content the report covered pertains to ISIS, al-Qaeda, and their affiliates. Similarly, in a November 2017 corporate blog post on Facebook's content moderation progress, Facebook highlighted that it was able to remove 99 percent of extremist content produced by the Islamic State and al-Qaeda.[457] Other platforms have failed to specify which particular extremist groups their reporting focuses on, often because companies are hesitant to make these judgment calls; deciding which groups to include amounts to deciding which groups are permitted to speak online and which are not. To remedy this, companies often rely on the delineations of governments from around the world. But, this method is not completely reliably either as, for example, some governments label rival political groups as terrorists.[458] As a starting point, companies could adopt the U.S. State Department's designations of Foreign Terrorist Organizations (FTOs).

Companies are hesitant to make these judgment calls; deciding which groups to include amounts to deciding which groups are permitted to speak online and which are not.

Without clear delineations by companies of what groups their reporting and approaches focus on, it will be difficult to understand who their content moderation and removal efforts are impacting and how. This is an area that needs greater clarity, as research has indicated that there are profound differences in how companies approach different extremist groups and that not all platforms target the same groups equally.

For example, a study conducted by the Middle East Media Research Institute (MEMRI) identified variances in how YouTube approached the moderation of content produced by different extremist groups. In this particular study, MEMRI flagged and monitored videos that celebrated martyrs in jihadi groups on YouTube for a period of two years. They found that videos associated with the Islamic State were removed at a far higher rate than videos associated with other jihadi groups. For example, MEMRI flagged 100 videos that depicted al-Qaeda leader Osama Bin Laden celebrating the 9/11 terrorist attacks. Over the two-year period, 58 of them remained online. Similarly, the group flagged 127 videos featuring al-Qaeda cleric Anwar al-Awlaki and 125 videos of al-Qaeda leader Ayman al-Zawahiri, of which 111 and 57, respectively remained online.[459]

In addition, in the Vox-POL study, in addition to Islamic State content, the researchers also surveyed 62,156 tweets produced by 451 other jihadist groups. They found that these groups were able to produce six times more content and had 13 times more followers than Islamic State accounts on the Twitter platform. [460] Furthermore, whereas 25 percent of pro-Islamic State accounts were suspended within five days of being created, less than 1 percent of these other jihadist accounts were removed within the same timeline.[461]

These findings, in conjunction with the findings of the MEMRI study, suggest that content produced by less prominent extremist groups is less targeted by moderation efforts. Neither YouTube nor Twitter, however, specify which groups the terror-related content data they disclose pertain to. This prevents us from drawing conclusions on the impact of the company's moderation and removal efforts on a particular group and creates the impression that the data disclosed is relevant and applicable to all of these groups despite the presence of nuances in how they are targeted. If the companies provided greater insight into the groups that fall under their definition of extremist groups, this would enable improved and more granular analysis of their moderation and removal efforts, and would also allow for researchers to identify groups that the company needs to allocate more resources towards targeting going forward.

Recommendations

Now that Google, regarding YouTube, and Facebook, have both released somewhat comprehensive transparency reports covering content moderation and removal based on their terms of service, other major platforms such as Twitter are likely to follow suit. As these companies expand their transparency reporting practices, they should strive to standardize the data points they share, where possible, and should aim to provide a more holistic overview of their content moderation and removal efforts by disclosing more meaningful data points related to the amount of terror content flagged and removed, the types of terror content flagged and removed, and how terror content was flagged and removed.

Policy and Research Recommendations

In order to better understand the role of the Islamic State online and subsequently guide content and account moderation and removal efforts aiming to disrupt the group, further research needs to be conducted on:

- How ISIS users utilize platforms within the broader ISIS network, such as Telegram, Ask.fm, Tumblr, and Justpaste.it, and how users of these platforms interface with and influence one another within the Swarmcast;

- The varying roles and responsibilities different ISIS users play on various networks and platforms within the Swarmcast;
- Additional factors that could influence and result in declines of ISIS activity and content production online such as technical security regulations and requirements that ISIS leadership mandates users must follow (e.g. banning usage of certain apps), the death of primary online participants (especially in the English-language supporter network), and the adoption of new communications strategies and platforms;
- The unintended consequences of taking down content (e.g. further isolation of at-risk or radicalized individuals, surges in extremist activity on other platforms, etc.);[462] and
- How non-English ISIS users utilize platforms, such as Facebook and Twitter.

Extremism and radicalization are incredibly complex concepts and processes of which the online experience is only one aspect. Content moderation and removal efforts should not and cannot be considered the single line of defense against radicalization and the expansion of terror groups. As a result, greater research is required on factors that influence radicalization online, such as race, age, social class, education, family background, socio-political contexts and cultural cleavages.[463] In addition, greater research and investment is needed for other online CVE approaches, such as the development of counter-narratives to discredit terrorist propaganda as well as for offline, on-the-ground CVE approaches.

Content moderation and removal efforts will be most effective in decreasing terror content and presence in the broader internet landscape if companies collaborate with one another to counter violent extremism. Companies should continue to collaborate with one another, such as through the GIFCT, but should additionally forge relationships with other platforms in order to expand their shared knowledge base of how extremist content spreads across platforms, and, if possible, coordinate and implement multiplatform moderation strategies.

As part of this work, companies working on CVE should collectively establish clear definitions of the terror groups whose content they are addressing as well as comprehensive metrics for success and data reporting that will enable companies to efficiently allocate their resources and will permit researchers to monitor, assess, and compare moderation and removal efforts.

Transparency Reporting and Data Disclosure Recommendations

Currently, companies who make data disclosures regarding their content and account moderation and removal efforts pertaining to terror-related content disclose a wide variety of data with little standardization and little meaningful granularity. Because of this, evaluation of these content moderation and removal

efforts is challenging. In order for individual company and collaborative industry moderation and removal efforts to be comprehensively understood, evaluated, and compared, companies should aim to regularly and uniformly report on the data points listed below.[464] These data points are based on the frameworks for best practices in transparency reporting put forth by the Transparency Reporting Toolkit, established by New America's Open Technology Institute and the Berkman Klein Center for Internet & Society[465] as well as the Santa Clara Principles on Transparency and Accountability in Content Moderation,[466] which were released in May 2018 by a group of organizations, advocates, and academic experts. These suggested data points should serve as a starting point for the minimum amount of data companies should seek to disclose regarding their efforts to moderate and remove terror-related content. This does not mean that new metrics or data points are not welcome or helpful. As extremist groups continuously adapt their online content strategies, new metrics will undoubtedly be needed to measure and evaluate subsequent approaches.

Individual companies should aim to report on the following data points. Unless otherwise indicated, all quantitative data points can and should be reported in numerical form, percentage form, or, if possible, in both, and should be reported for every reporting period.

→ **BOX 1**

Suggested Data Points for Individual Company Transparency Reporting and Data Disclosure

- The total amount of extremist content the company removed

  - The total number of notices received for extremist content to be removed
  - The total amount of extremist content the company removed in the given reporting period
  - The total amount of extremist content the company removed over the course of all reporting periods

- The total amount of extremist accounts the company removed

  - The total number of notices received for extremist accounts to be removed
  - The total amount of extremist accounts the company removed in the given reporting period

- The total amount of extremist accounts the company removed over the course of all reporting periods

- The amount of extremist content the company was able to independently identify out of the total amount of content removed

- The amount of extremist content the company was able to independently identify before it was viewed
- The average time it took for the company to remove the content (in hours and minutes)
- A breakdown of content removed based on the extremist group it pertains to (e.g. the Islamic State, al-Qaeda, etc.)
- A breakdown of the types of content that were removed for being terror-related (e.g. web pages, photos, videos, text posts)

- The amount of extremist accounts the company was able to independently identify out of the total amount of content removed

- The amount of extremist accounts the company was able to independently identify before they were able share content
- The average time it took for the company to remove the accounts (in hours and minutes)
- A breakdown of accounts removed based on the extremist group it pertains to (e.g. the Islamic State, al-Qaeda, etc.)

- The amount of extremist content that was flagged to the company by the following (where relevant): users, individual trusted flaggers, government agencies and law enforcement, NGOs, and Internet Referral Units

- The total number of notices received from each of these categories of flaggers
- The total number of pieces of content specified by each of these flaggers' requests
- The total number of pieces of content impacted by each of these flaggers' requests
- A breakdown of how the company responded to these flag notices, such as they removed/did not remove the content 50 percent of the time.
- The amount of content that the company removed as a result of these flag notices
- The average time it took for the company to remove the content (in hours and minutes)
- The average number of views flagged content received before being removed

- The amount of extremist accounts that were flagged to the company by the following (where relevant): users, individual trusted flaggers, government agencies and law enforcement, NGOs, and Internet Referral Units

- The total number of notices received from each of these categories of flaggers
- The total number of accounts specified by each of these flaggers' requests
- The total number of accounts impacted by each of these flaggers' requests
- A breakdown of how the company responded to these flag notices, such as they removed/did not remove the accounts 50 percent of the time, they suspended accounts, etc.
- The amount of accounts that the company removed as a result of these flag notices
- The average time it took for the company to remove flagged accounts (in hours and minutes)
- The average number of posts flagged accounts were able to share before being removed

- The average time the company took to remove extremist content (in hours and minutes)

- A breakdown of the average time it took to remove extremist content based on the extremist group it pertains to (e.g. the Islamic State, al-Qaeda) (in hours and minutes)

- The average time the company took to remove extremist accounts (in hours and minutes)

- A breakdown of the average time it took to remove extremist accounts based on the extremist group it pertains to (e.g. the Islamic State, al-Qaeda) (in hours and minutes)

- A breakdown of the types of content that were flagged as terror-related (e.g. web pages, photos, videos, text posts)

- A breakdown of content flagged based on the extremist group it pertains to (e.g. the Islamic State, al-Qaeda, etc.)

- A breakdown of the types of content that were removed for being terror-related (e.g. web pages, photos, videos, text posts)

- A breakdown of accounts flagged based on the extremist group it pertains to (e.g. the Islamic State, al-Qaeda, etc.)

- A breakdown of accounts removed based on the extremist group it pertains to (e.g. the Islamic State, al-Qaeda, etc.)

- A breakdown of content flagged based on the extremist group it pertains to (e.g. the Islamic State, al-Qaeda, etc.)

- A breakdown of content removed based on the extremist group it pertains to (e.g. the Islamic State, al-Qaeda, etc.)

- An overview of the company's terms of service or community standards and of any related terror-content policies

- Clear delineations of which extremist groups the data pertains to

- Clear definitions and explanations of key terms (e.g. Trusted flaggers, actioned content, etc.)

- Narrative explanations of trends. For example, did the amount of extremist content being flagged to the company decrease because the company's internal tools were able to detect a greater portion of extremist content independently?

The GIFCT should also strive to convene and facilitate similar reporting on joint company moderation and removal efforts. Below are suggested data points that the GIFCT should disclose. Once again, these data points serve as a starting point for the minimum amount of data the GIFCT should seek to disclose regarding its members' efforts to moderate and remove terror-related content. This does not mean that new metrics or data points are not welcome or helpful. Unless otherwise indicated, all quantitative data points can and should be reported in numerical form, percentage form, or if possible, in both, and should be reported for every reporting period.

→ **BOX 2**

Suggested Data Points for Global Internet Forum to Counter Terrorism (GIFCT) Disclosure

- The number of digital hashes available to companies through the shared GIFCT hash database

- The total amount of extremist content removed as a result of hashes in the GIFCT database
- The total amount of extremist accounts removed as a result of hashes in the GIFCT database
- The amount of hashes in the database that were actually used to moderate or remove content by companies
- The amount of hashes in the database that were actually used to moderate or remove accounts by companies
- A breakdown of the types of content that were identified by the hash database for removal (e.g. web pages, photos, videos, text posts)
- A breakdown of content removed using the hash database based on the extremist group it pertains to (e.g. the Islamic State, al-Qaeda, etc.)
- A breakdown of accounts removed using the hash database based on the extremist group it pertains to (e.g. the Islamic State, al-Qaeda, etc.)

As more research is conducted on the role of extremist groups operating online as well as on the impact of moderation and removal efforts on extremist groups, reporting should expand to include the amount of different types of accounts (e.g. nodes, amplifiers, shout-out accounts, etc.) that have been disrupted as well as the amount of content that linked to other platforms that was disrupted.

Looking to the Future

Although the Islamic State is today considered to be the most prominent and tech-savvy Islamic extremist group, numerous scholars have predicted the demise of the organization, as despite its robust online presence, the organization has tied its success to physical assets. However, despite its offline decline, the group has built up a large compendium of digital resources that can still serve as sources of ideological inspiration for at-risk individuals, including lone-wolf actors around the world, and foster the coordination and implementation of acts of terror by others.[467]

In addition, this "Ghost Caliphate" can serve as a valuable resource for budding extremist groups such as the Tahrir-al-Sham (also known as the Levant Liberation Committee) that have thus far demonstrated tendencies to root their ideological operations in the digital sphere.[468] This suggests that online counter extremism work is going to remain important in the future. Companies, governments, civil society, and researchers will have to work together to establish clearer definitions and metrics for success within this space, identify and implement impact evaluation methodologies, advocate for increased

multiplatform moderation approaches, and disclose more meaningful and valuable data related to company content moderation and removal efforts. These approaches will enable companies to better strategize their efforts and enable researchers and companies to better evaluate and understand the impact of their programs. This will further benefit companies as it will more intelligently guide their allocation of resources and personnel and aid in delivering stronger and more impactful programs and results going forward.

Gridlock: Enhancing Disaster Response Efforts Through Data Transparency in the Electric Utility Sector

by Braxton Bridgers

Once contested ground, climate change is on the radar of rising generations as an undeniable fact that will require public action. According to the fifth assessment of the Intergovernmental Panel on Climate Change (IPCC), warming temperatures have already contributed to coastal erosion, droughts, wildfires, and negative impacts to health in North America.[469] Recently, the United States has undertaken its own assessment of the current impacts and future projections of climate change for the country. In 2014, the U.S. Global Change Research Program (USGCRP) released the third iteration of its National Climate Assessment, a comprehensive analysis of observed changes and future impacts of climate change in the United States. According to USGCRP, the United States is expected to experience an increase in temperature ranging from two to four degrees Fahrenheit over the next few decades.[470] Moreover, extreme weather events related to climate change—such as droughts and heat waves—are on the rise, creating challenges for the country's electric infrastructure.

According to the U.S. Department of Energy (DOE), weather-related events are the leading cause of power outages in America.[471] As instances of extreme weather events increase, the ability of electric utilities to supply energy to citizens is increasingly at risk of being disrupted, as the nation's grid is outdated and prone to wear and tear. The U.S. electric grid acts as the backbone of America's economy, providing the nation's citizens with the power necessary for ingenuity, progress, and prosperity. Despite the electric grid's critical role in supporting the U.S. economy, it is one of the nation's most vulnerable sectors to climate change, as extreme weather conditions exacerbate the degradation of aging electric infrastructure.[472]

Such stress on America's electric grid will increase the likelihood of Black Sky events, "extraordinary, hazardous event[s] producing power outages of a large, regional scale that last significantly longer than typical weather or operational outages."[473] The possibility of an increase in Black Sky events, in tandem with extreme weather, poses increasing risks. Electricity plays an essential role in disaster response efforts, and organizations tasked with protecting citizens during and after disasters will need to ensure that both they and the public can access this resource. Therefore, there is a strong public purpose for ensuring individuals responding to disasters have access to data regarding electric infrastructure. Data provided by electric utilities allow emergency management professionals—local and federal officials, as well as first responders, involved in emergency response efforts—to assess the scope of a disaster and its impact

throughout their jurisdiction.[474] Additionally, utilities provide power to other types of infrastructure that provide vital services to citizens (e.g. telecommunications and transportation infrastructure). By understanding the impact a loss of electricity has on other vital infrastructure, first responders are able to prioritize their response efforts.

Despite the electric grid's critical role in supporting the U.S. economy, it is one of the nation's most vulnerable sectors to climate change.

Unfortunately, the current data-sharing landscape between emergency managers and the electric utility sector is limited and does not enable efficient and quality decision making during disasters. The field of emergency management currently lacks the capability to conduct real-time analysis of cross-sector critical infrastructure supported by the electricity sector. This lack of capability makes it difficult to conduct comparative impact assessments at a granular level, which stifles the ability to facilitate efficient and productive use of resources. This is an essential requirement of being able to respond to disasters and will become increasingly important, as the incidence of disasters is expected to increase along with climate change and rising temperatures.

When responding to a disaster, emergency managers require a rapid landscape analysis of the impacted area in order to ensure the safety of as many lives as possible. Private sector entities play an essential role in disaster response efforts by providing data that can illustrate risks within hazardous environments. While electric utilities represent only one of many industries that engage with first responders during a disaster, they are arguably the most important partner in addressing major emergencies, providing energy to assets critical in supporting disaster response operations. Addressing gaps in data and strengthening the manner and platform in which it is shared in this space will enhance current capabilities of responding to disasters. America has considerable climate-related severe weather challenges ahead of itself, and improving data sharing between first responders and electric utilities will only strengthen the nation's ability to protect its citizens.

This report provides an analysis of data currently shared by electric utilities to parties that conduct disaster response efforts. It identifies electric utility data that can enhance disaster response capabilities. Lastly, with the hopes of facilitating discussions regarding the proliferation of data shared by electric utilities to

emergency management officials, specific policies are identified to promote a more effective approach.

Methodology

In order to assess the scope and depth of electric utility data readily available to emergency management professionals during disaster response efforts, an acute analysis of data points presented on power outage maps was conducted. Utilizing a database of electric utility outage maps, curated by crowdsourced energy-information platform OpenEI, a sample was created within the following parameters:

- The database was filtered to present 500 utilities per page, resulting in a selection pool of 3,000 utilities.
- Twenty utilities that provided a link to their respective power outage maps were randomly selected per page, based on the following criteria:
- No repeating occurrences of electric utility power outage maps within the OpenEI database were included in the sample.
- Power outage maps were required to have a legend in order to be selected.
- Outage maps must have been public facing, with no login required.

This study analyzes a randomized sample of 100 electric utility power outage maps[475] **from OpenEI's database, including outage maps from investor owned utilities, municipal utilities, and cooperative utilities.**

The Current Data-Sharing Landscape

When an outage occurs, electric utilities will often relay information regarding the status of the incident to the general public in the form of power outage maps. Power outage maps are web-based geographic information system (GIS) tools that visualize data points regarding power outages within an electric utility's jurisdiction. In 2009, the U.S. Department of Energy (DOE) developed an open-source knowledge sharing platform pertaining to the electricity sector, called Open Energy Information (OpenEI), which provides a database of the over 3,000 utilities in the country, along with links to power outage maps in real time when available.[476] The OpenEI platform presents a means to assess performance among utilities, especially with respect to how power outage information is relayed to the public and, in turn, to emergency managers.

An analysis of a randomized sample of power outage maps from OpenEI's database—including outage maps from investor-owned utilities, municipal utilities, and cooperative utilities—reveals commonly occurring data points provided by electric utilities. Each power outage map identified the general geographic vicinity of an outage and an estimate of the number of customers

affected (often tiered and color coded). While these two data points were consistent throughout the sample, most maps contained additional data regarding outages, such as a general depiction of the cause of the outage, status of deployment of utility crew members, and whether an outage was planned or unplanned. Often, power outage maps contained the start time of a particular incident. Additionally, the estimated restoration time for an incident—an indicator that emergency managers rely on when deploying resources during a disaster—was a commonly occurring data point within the sample.

However, while these GIS tools provide general updates concerning outages, an analysis of the platforms reveal significant shortcomings, especially in providing the types of information emergency managers need to make decisions during a disaster, such as the location and status of critical infrastructure. In the event of a disaster, emergency managers must swiftly develop command and control capabilities to engage in life saving tasks, such as warning citizens of hazards within a disaster stricken area, or establishing evacuation routes and sheltering capabilities.

Unfortunately, electric utility data that are currently used to depict the environment in which first responders operate inadequately assist with the facilitation of decisions that mitigate the impact of a disaster. Data must be timely, accurate, and assist emergency managers in identifying areas within their jurisdiction that have been significantly impacted by a disaster. Information currently shared by electric utilities falls short of these requirements in three ways: First, data shared are not automated nor provided in real time; second, data are limited and are not shared with regard to the operational requirements of emergency managers; and, third, the types of data shared vary by utility, limiting attempts to create a standardized analysis of power outages. Additionally, not all electric utilities develop power outage maps, and often times smaller utilities, such as municipal and cooperative utilities, relay information through methods that do not allow for automated integration of data into systems used by first responders (e.g., via spreadsheet).

An analysis of the platforms reveal significant shortcomings, especially in providing the types of information emergency managers need to make decisions during a disaster.

During a disaster, emergency managers, individuals in charge of leading disaster response efforts, will activate an Emergency Operation Center (EOC)—a command and control facility that functions as the center for disaster response decision making. Depending on the extent of the disaster, an EOC will be activated at either the county or state level.[477] At the county level, a popular tool utilized by emergency managers to enhance their situational awareness of a significant incident is Web EOC. Web EOC is a crisis management and incident tracking system that allows users to manually input data from power outage maps into a GIS map with various layers of information from other sectors (e.g., the status of hospitals and water treatment facilities).[478] However, the drawbacks of this method are that the data from power outage maps are not automated and therefore are not shared in real time. This lack of automation creates a Common Operational Picture (COP)—a single display of relevant multidimensional information that supports operational decision making—that does not accurately depict a hazardous environment. Furthermore, the data from electric utilities that is incorporated into the COPs of emergency managers do not contribute to comparative impact assessment capabilities, as there is no current method of automatically differentiating between the status of critical and non-critical infrastructure supported by electric utilities.

At the state level, Web EOC is also used to create a COP in tandem with an application that takes data from power outage maps of various utilities operating within affected regions. In 2014, the DOE's Office of Electricity Delivery and Energy Reliability created an application called the Environment for Analysis of Geo-Located Energy Information (EAGLE-I) system.[479] EAGLE-I tackles the issue of state emergency managers having to incorporate multiple outage maps with multiple data points into their jurisdictional COP by collecting data from various outage maps and creating a single GIS map depicting the status of electric infrastructure. While this tool is certainly a step in the right direction toward creating a more comprehensive COP for emergency managers to respond to disasters, EAGLE-I only covers 75 percent of electric utility customers in the United States and only updates every 15 minutes.[480]

Crisis management and incident tracking tools such as Web EOC, as well DOE's EAGLE-I system, allow for emergency managers to incorporate data currently shared by electric utilities into their COP. However, the underlying issue remains that the data shared by electric utilities are not tailored to the operational requirements of the emergency management community. Power outage maps are used to relay information to customers, with emergency managers collecting publicly available data from these tools in order to enhance their understanding of the environment in which they operate. In order to create a COP that allows emergency managers to make better informed decisions, data regarding critical infrastructure must be incorporated into the standard data-sharing practices of electric utilities. According to the U.S. Department of Homeland Security (DHS), critical infrastructure are "assets... considered so vital to the United States that

their incapacitation or destruction would have a debilitating effect on security, national economic security, national public health or safety, or any combination thereof."[481] Of the 16 critical infrastructure sectors, which range from communications to water systems, four are especially important during disaster response: electricity, water, transportation, and communications.

Unfortunately, another issue currently undermining the data-sharing landscape between electric utilities and emergency managers is the absence of an accepted model for analyzing the interdependencies of critical infrastructure, leading to a limited understanding of the environment in which emergency managers operate during disasters. There is a need for cross-sector prioritized lists of critical infrastructures within the emergency management space as well as real-time tracking regarding the impact of such infrastructure during disasters. Take the interdependency between hospitals and water treatment facilities during disaster response for example. Though hospitals are viewed as an extremely important resource due to their function as medical emergency hubs during disaster response, clean water is required to ensure that hospitals continue operations in a sanitary manner, thus mandating that water treatment facilities take priority in terms of power restoration during a disaster. By identifying the interdependencies of critical infrastructure, prioritizing their restoration based on importance, and tracking their power status in real time, electric utilities will have the capability to disseminate actionable data regarding the status of critical infrastructure to emergency managers.

Operational Requirements During Disasters and Mission Driven Data Sharing

Emergency management officials are tasked with deploying assets in an efficient and organized manner to protect citizens before, during, and after a disaster occurs. Therefore, emergency management activities are organized into four phases: mitigation, preparedness, response, and recovery.[482] This report focuses on data sharing during the response phase of emergency management, as this is when EOCs are activated and officials require data to build COPs.

With data being shared without regard to the operational requirements of those responding to disasters, the current data-sharing landscape between emergency management officials and the electric utility sector remains incomprehensive. This deficiency raises the question: What types of missions are often undertaken during disasters and what data is needed to carry out these missions?

Recent literature from the National Information Sharing Council (NISC) regarding information sharing between emergency management officials and the electric utility sector has identified a list of 13 key categories of information required to make decisions when an emergency occurs. Known as Essential Elements of Information (EEIs), these categories of critical information reflect a

wide range of knowledge that must be incorporated into the COPs of parties tasked with responding to disasters.[483] The need for information pertaining to critical infrastructure is well documented throughout multiple EEIs, and the NISC has created an EEI solely for the electricity sector. However, a closer analysis of the specific data points outlined under the "Electricity Grid" EEI reveals that such data, when collected and analyzed in a GIS format, would nearly resemble the power outage maps used by electric utilities to convey information to the general public. With regard to the electricity sector, the NISC framework for data sharing focuses on data points that could easily be taken from an electric utility's power outage map[484] without tailoring the required data to the specific tasks that are undertaken by emergency management officials during an emergency.

Emergency management activities are organized into four phases: mitigation, preparedness, response, and recovery.

Researchers have identified specific actions, also referred to as "operational mission requirements," that are of the utmost importance during the response phase of a disaster. In their systems-based approach to enhancing the interdisciplinary capabilities of stakeholders during large-scale Black Sky events, Joel Thomas and Ellie Graeden illustrate the connection between operational missions and the data required to carry them out. A mission of note that Thomas and Graeden incorporate into their analysis is "the identification and request of resources that need to be deployed."[485] In order to complete this task, emergency management officials must have an understanding of priorities concerning the restoration of critical infrastructure and key resources (CIKR). An essential data point in recognizing restoration priorities for CIKR, and thus enabling the identification of resources for deployment, is the estimated time of restoration (ETR) of electric power for impacted infrastructure.

The ETR for electric power is a critical piece of information in emergency management, as it allows for parties responding to disasters to obtain a general understanding of the level of impacts throughout a particular jurisdiction. Though power outage maps provide an ETR for customers, this does not include ETR for specific critical infrastructure. Additionally, some electric utilities may provide ETR for critical infrastructure during a disaster, but this behavior is not typical and depends on the strength of the relationship between emergency

management officials in an a particular region and electric utilities operating within their jurisdiction.

With ETRs for critical infrastructure, emergency management officials are able to conduct comparative impact assessments and prioritize the deployment of assets to areas that are in greater need of assistance than others. The importance of ETR for critical infrastructure during disaster response efforts cannot be overstated. While it may seem surprising that this data is not readily provided to first responders, there are legitimate concerns that prevent electric utilities from disclosing the status of critical infrastructure.

One of the most pressing concerns regarding the extension of current data sharing practices is the possibility of aggregated data sets containing classified information. In order for emergency managers to receive the ETR for critical infrastructure, electric utilities must first disclose their location. Electric utilities serve the public, but they also provide energy to facilities owned and operated by the federal government. These facilities may be classified, and disclosing their location has serious national security implications because competitors and adversaries may be able to gain access to such sensitive information. Analyzing data in order to ensure the exclusion of information pertaining to classified assets in aggregated data sets supplied to emergency managers requires resources that electric utilities are unlikely to commit to without some form of monetary incentive.

Additionally, electric utilities resist data sharing opportunities, arguing it can put them at a disadvantage with competitors or be used by public officials seeking to hold companies accountable during disasters. In order to facilitate the secure sharing of electric utility data regarding critical infrastructure, data sharing agreements—formal contracts outlining how data shared by one party can be used by another—must be implemented.

Priority service restoration agreements act as an additional barrier preventing electric utility companies from differentiating between critical and non-critical infrastructure in the information provided to first responders. Utilities often prioritize the restoration of customers during a disaster by focusing on restoring power to emergency and public service facilities first. Assets belonging to federal government agencies are also prioritized through priority service restoration agreements. The provision of restoration priorities of federal assets by electric utilities may compromise these facilities, potentially allowing adversaries to exploit such information.

One of the most pressing concerns regarding the extension of current data sharing practices is the possibility of aggregated data sets containing classified information.

What all three aforementioned points of contention share in common are that utilities need to ensure the sensitive data they share with emergency managers is protected and used solely for the purposes of protecting citizens during emergencies. Therefore, the technology, processes, and protocols that will ensure the secure sharing of sensitive data from electric utilities to emergency managers during disaster response efforts must be constructed before a disaster occurs. Implementing a real-time, comprehensive, data-sharing platform for emergency managers and electric utilities will require resources. Once such a platform is created, utilities themselves will have to dedicate resources to aggregating and formatting data for use in disaster response efforts. Thus, monetary incentives must be put in place in order to moderate the financial concerns of utilities regarding data sharing.

Although there are legitimate concerns regarding the dissemination of critical infrastructure data, this information would enhance the response efforts of emergency management officials during a disaster. The following section explores actions that will allow critical infrastructure data to be shared in an efficient and secure manner while also easily integrated into the common operating pictures of officials responding to disasters.

Policy Recommendations

The most pressing concerns surrounding data sharing between emergency managers and electric utilities are the automation and security of data. In order for electric utility data to be easily integrated into the COPs of emergency management officials, a data-sharing mandate that standardizes data shared by electric utilities must be implemented by a regulating body. Furthermore, a system that would allow the safe transferal of electric utility data to first responders must be adopted by both parties. These reforms will have major ramifications for the effectiveness of disaster response operations. Three policy recommendations should be pursued that, when implemented, have the

potential to strengthen the efforts of emergency management officials when responding to a disaster:

- **Implementation of a data-sharing mandate:** Outside of the information disseminated via power outage maps, electric utilities may also share data by engaging in what is known as an Emergency Support Function (ESF), a grouping of individuals and representatives from federal and local governments as well as the private sector.[486] There are 15 emergency support functions in total, with ESF#12 dedicated to the energy sector. While electric utilities participating in ESF#12 may disclose ETR for critical infrastructure, they are not obliged to do so. A nationwide data-sharing mandate should be implemented in order to ensure that emergency managers receive the data required to carry operational missions to completion. The data mandated to be shared should include the following: a list of critical infrastructure serviced by an electric utility (including locations in order to establish an overlay into GIS analysis), the power status of critical infrastructure, and the estimated time of restoration for critical infrastructure serviced by an electric utility. Conditions of aid are the most popular mechanisms used to carry out mandates in the United States,[487] and a mandate regarding the sharing of critical infrastructure data to first responders should be no different. In order to ensure the implementation of a critical infrastructure data sharing mandate, disaster-related aid administered by the Federal Emergency Management Agency (FEMA) should be contingent upon states requiring electric utility companies to share such information during disaster response efforts.

- **Adoption of a system that automates data collection and integration:** When a disaster occurs, emergency management officials must act quickly to mitigate hazards and ensure the safety of citizens. Therefore, in order for data regarding critical infrastructure to be most useful, it must be rapidly disseminated through a secure channel to EOCs. The Electric Power Research Institute (EPRI) has recently developed a platform that automatically collects data from electric utilities and shares it in real time with emergency management officials. Called the Outage Data Initiative (ODI), the program seeks to standardize the sharing of real-time power outage data to first responders[488]. The data points collected and disseminated under the ODI platform closely resemble those that are published on publicly available power outage maps. However, ODI's system functions as two streams of data sharing: the public-awareness-use case and the first-responder-distribution-use case. With the implementation of a nationwide data-sharing mandate, electric utilities would be required to share the aforementioned data points pertaining to critical infrastructure, and ODI's platform provides a secure channel for the dissemination of such sensitive data solely to first

responders.

- **Monetary incentives for collection and dissemination of data by electric utilities:** Implementing a new system such as ODI requires electric utilities to employ resources for its integration within their current operational framework. Utilities would be tasked with disaggregating data in order to provide data germane to disaster response operations. Too much data can overcomplicate a common operational picture, potentially impairing the capabilities of emergency management officials to respond to disasters. To place the full financial burden of providing specific data through a newly implemented platform solely on electric utilities would be impractical and may have a negative impact on resources overall by limiting a utility's capability of delivering data. Therefore, a monetary incentive should be put in place in order to support data-sharing efforts. Public Utility Commissions (PUC's)—regulatory bodies that manage the rates and services of public utilities—should be in charge of the initial identification of rates in which electric utilities would be reimbursed. Once rates have been submitted, they should be processed by FEMA, which would then advocate for a budget increase based on submitted rates and use granted funding to support the implementation of a system that can securely relay critical infrastructure data to first responders.

Conclusion

The implementation of all three policy proposals will lead to the establishment of an overlay of critical infrastructure in GIS software used by emergency management officials. The identification of critical infrastructure, as well as their status and estimated time of restoration, will provide first responders with a comprehensive common operational picture. Emergency managers will be able to conduct comparative impact assessments at the granular level by identifying communities that are most vulnerable to the damage caused by a natural disaster. Furthermore, EOCs will be able to deploy assets in the most efficient and timely manner through automated real-time data sharing. Such a tool is set to enhance the capabilities of emergency response officials during disaster response operations and create a United States that is well prepared for future natural disasters.

Appendix: Sample of Electric Utility Power Outage Maps

- **4-County Electric Power Assn**
- **AEP Generating Company**
- **Adams Electric Cooperative**
- **Ambit Energy L.P.**

- **Ameren Energy Marketing**
- **Appalachian Electric Cooperative**
- **Appalachian Power Co**
- **Atlantic City Electric Co**
- **Austin Energy**
- **Avista**
- **Barc**
- **Beauregard Electric Coop, Inc.**
- **Big Sandy Rural Electric Cooperative Corp**
- **Black Hills Power**
- **Blue Grass Energy Cooperative Corp**
- **Blue Ridge Energy**
- **Blue Bonnet Electric Cooperative, Inc.**
- **Bowie-Cass Electric Cooperative, Inc.**
- **Brunswick Electric Member Corp**
- **Bryan Texas Utilities**
- **CDE**
- **CenterPoint Energy**
- **Clark Energy**
- **Claverack Rural Electric Cooperative, Inc.**
- **Clay Electric Cooperative**
- **Cleo Power LLC**
- **Clinton Utilities Board**
- **Colorado Springs Utilities**
- **Columbia Water & Light**
- **Commonwealth Edison Co**
- **Concho Valley Electric Cooperative, Inc.**
- **Consumers Energy Outage Map**
- **CPS Energy**
- **Dayton Power & Light Co.**
- **Decatur Utilities**
- **Denton Municipal Electric**
- **Dominion Energy**
- **DTE Energy**
- **Duke Energy**
- **Duquesne Light Co.**
- **Entergy Arkansas Inc.**
- **First Energy Corp**
- **Frontier Power Company**
- **Georgia Power Co**
- **Grady Electric Membership Corp**
- **Grand Valley Power**

- Great Lakes Energy
- Green Mountain Power
- Guadalupe Valley Electric Cooperative, Inc.
- Gulf Coast Electric Cooperative, Inc.
- Gulf Power
- Hancock-Wood Electric Cooperative
- Heartland Rural Electric Cooperative, Inc.
- High West Energy, Inc.
- Huntsville Utilities
- Idaho Power Co
- Illinois Rural Electric Cooperative
- Independence Power and Light
- Iowa Association of Electric Cooperatives
- Itasca-Mantrap Co-op Electrical Association
- Jackson Purchase Energy Corporation
- Kansas City Power & Light Co
- Kentucky Utilities Co
- Kootenai Electric Cooperative
- Laurens Electric Cooperative,
- Liberty Utilities
- Lincoln Electric System
- Louisville Gas & Electric Co
- Lubbock Power & Light
- Madison Gas & Electric Co
- Marquette Board of Light and Power
- MidAmerican Energy Co
- National Grid US
- Nebraska Public Power District
- New York State Electric & Gas Corporation
- Norris Public Power District
- Northern Lights
- North Western Electric Cooperative, Inc.
- NV Energy
- Ocala Electric Utility
- Oklahoma Electric Cooperative
- Oklahoma Gas & Electric Co
- Omaha Public Power District
- Oncor
- Orange & Rockland Utilities Inc.
- Orcus Power & Light Cooperative
- Orlando Utilities Commission
- Owensboro Municipal Utilities

- **Pacific Gas & Electric Co**
- **Paducah Power System**
- **Pascoag Utility District**
- **Pepco Energy Services**
- **Provo City Corporation**
- **Public Service Electric & Gas (PSEG)**
- **Puget Sound Energy**
- **Rochester Gas & Electric Corp**
- **Rock Hill Utilities**
- **Seattle City Light**
- **South Dakota Rural Electric Association**
- **Xcel Energy**

Part III: The Millennial Public Policy Fellows

Braxton Bridgers

Braxton Bridgers is a Millennial Public Policy Fellow in New America's Resource Security program. A Fort Washington, Md., native, Bridgers holds a bachelor's degree in international affairs with a minor in law and public policy from Northeastern University in Boston, Massachusetts. Before joining New America, Bridgers worked as an environmental and energy policy researcher for the New Energy and Industrial Technology Development Organization (NEDO)—Japan's largest public research and development management firm. During his time at NEDO, Bridgers utilized government data to analyze trends in energy consumption, as well as the permeation of low-carbon energy technologies in energy markets throughout the United States. He also interned at the Institute for Sustainable Energy Policies in Tokyo, Japan, conducting research on the state of renewable energy markets across the globe. Braxton's research during the Millennial Public Policy Fellowship investigated ways to strengthen data-sharing practices of electric utilities during disasters. After the fellowship, he will pursue a master's degree in city planning at the Massachusetts Institute of Technology (MIT).

Becky Chao

Becky Chao is a Millennial Public Policy Fellow in New America's Open Technology Institute. Chao is a New Yorker who graduated from Duke University, where she studied public policy, linguistics, and economics. She previously worked in antitrust and merger enforcement as an honors paralegal in the Bureau of Competition at the Federal Trade Commission. Her research at New America explored the application of a public interest test in merger review through a comparison of international jurisprudence and Federal Communications Commission case studies. After the fellowship, Chao will continue thinking about how markets, law, and policy structure society.

Emma Coleman

Emma Coleman is a Millennial Public Policy Fellow in New America's Public Interest Technology initiative. Coleman was born and raised in Chicago, Ill. She holds a Bachelor of Arts from Stanford University in international relations and comparative studies in race and ethnicity. Her thesis, *Sentencing Pregnancy: a legal and humanistic analysis of options for incarcerated women,* focused on the effects of mass incarceration on women and families. She is particularly interested in progressive sentencing reform, with a focus on underrepresented populations. Her research with the fellowship explored the efficacy of data-sharing protocols as an aid to community organizations that work with the formerly justice-

involved population of Washington, D.C. After the fellowship, Coleman will transition to a full-time role with the Public Interest Technology initiative.

Christian Hosam

Christian Hosam is a Millennial Public Policy Fellow in New America's Political Reform program. Born in the country of Trinidad and Tobago, Hosam has called Maryland home for most of his life. Hosam graduated with honors from Wesleyan University in 2015 with a bachelor's degree in African American studies and government. While at Wesleyan, Hosam was a Mellon-Mays Undergraduate Fellow and a chair of the Edgar Beckham Awards Committee, an awards ceremony dedicated to celebrating individuals on campus who were committed to social justice. After college, Hosam was a coordinator for the Center for American Politics and Citizenship at the University of Maryland. During the fellowship, Christian wrote on issues related to Millennial civic engagement, the effects of electoral reform on voting rights for communities of color, and contemporary American social movements such as Black Lives Matter. After the fellowship, Christian will pursue a PhD in political science at the University of California, Berkeley.

Roselyn Miller

Roselyn Miller is a Millennial Public Policy Fellow in New America's Better Life Lab. Miller, a Long Beach, Calif., native with roots in the Bay Area, holds a Bachelor of Arts in anthropology from Stanford University. After graduating, she worked at a community-based organization building connections between community stakeholders and residents on issues such as education, health and wellness, and civic engagement. With a wide breadth of policy interests, Miller is most passionate about family and social policy as well as poverty alleviation in low-income, marginalized communities. After the fellowship, Miller will continue researching the intersection of gender, work, and social policy with the Better Life Lab team.

Jenny Muñiz

Jenny Muñiz is a Millennial Public Policy Fellow for New America's Education Policy program. A native of Compton, Calif., Muñiz has most recently spent time working as a bilingual Teach for America corps member in San Antonio Public Schools. Before her work in the classroom, Muñiz graduated from Pomona College. After the fellowship, Muñiz will be staying at New America as a Program Associate for the Education Policy Program.

Aaron Noffke

Aaron Noffke is a Millennial Public Policy Fellow at New America. He was born in Ann Arbor, Mich., and is a graduate of Occidental College, where he majored in philosophy, politics, and economics. Passionate about creating alternative

methods of economic development, Noffke worked as a student labor organizer and labor research analyst while at Occidental College. Noffke's work at New America focused on political engagement and civic action. Currently, Noffke is the research and editorial assistant for the Poor People's Campaign: A National Call for Moral Revival.

Dillon Roseen

Dillon Roseen is a Millennial Public Policy Fellow in New America's Cybersecurity Initiative. Roseen, from Peachtree City, Ga., was a Fulbright Scholar in Amsterdam, where he earned his LL.M. and conducted research on the intersection of law, politics, and international security. Previously, he graduated with highest honors from the Georgia Institute of Technology, where he studied economics and international affairs and served as student body president. His interests include the international law and national security dimensions of cybersecurity policy. At New America, Roseen led the development of a new strand of policy research on health care cybersecurity and helped deliver a report on frontier technologies to the United Nations Chief Executives Board. Following the fellowship, Roseen will begin his J.D. at the University of Michigan.

Myacah Sampson

Myacah Sampson is a Millennial Public Policy Fellow in New America's Family-Centered Social Policy program. Sampson is from Farmington, N.M. She holds a Bachelor of Arts in public policy and ethnic studies from Brown University. She is interested in working with families to develop a social safety net informed by the complexities of their lives. Her interests include the ways technology can transform the social safety net for better or worse and bolstering harm-reduction services in rural areas. Following the fellowship, she will join the New Mexico Fellowship program at the Institute for Policy Studies.

Spandana Singh

Spandana Singh is a Millennial Public Policy Fellow in New America's Open Technology Institute. Originally from India, she is a graduate of the University of California, Berkeley, where she completed a double major in international development and media. Prior to joining New America, Singh worked at organizations such as Twitter, the World Bank Group and UNICEF. Her work as a Millennial Fellow has centered on technology policy and cybersecurity issues such as content moderation, transparency reporting, countering violent extremism and surveillance. After the fellowship, Singh will transition to a full-time role with New America's Open Technology Institute.

Selected Pieces from the Direct Message Blog

Created to elevate the voices and work of the Millennial Fellows, the **Direct Message Blog** has published more than 80 pieces since its launch in November 2017. Through the blog's monthly "Caffeinated Commentary" series, the fellows have been able to provide candid, personal, and to-the-point policy analysis and insights. Fellows have explored how their personal perspectives influence policies they're interested in; ideas of community and home; why everyone, but, especially Millennials, should care about the specific policy interests the fellows are passionate about; the connections between love and justice; and, the importance of collaboration. The following selected pieces represent the work, policy perspective, and unique voice of each fellow.

Read the Direct Message blog at: **newamerica.org/millennials/dm**

Millennials and the Climate Change Dilemma

Braxton Bridgers, January 18, 2018

Millennials are often bogged down by the inaccurate perceptions of earlier generations. We've all heard it before: we're lazy, vain, entitled hopeless dreamers, and all too weary of responsibility. And, unlike our parents, we don't own a home or have plans of getting married before the age of 25. What's more, we eat too much avocado toast, engage in too many boozy brunches, and often justify our wasteful decisions—for instance, foregoing public transportation in favor of Uber.

While it may be true that some Millennials indulge in these luxuries from time to time—I confess, I once spent $45 on an Asian-fusion brunch for the bottomless mimosas, not the spicy tuna rolls—these behaviors should not solely define us. In fact, we are a generation of innovators and critical thinkers, tasked with solving complex problems earlier generations have not had to contend with. Central among these problems is climate change.

Already the effects of climate change are being felt by communities across the globe. Researchers suggest rising ocean temperatures could have exacerbated recent severe weather events—a shift that may continue into future. Last year's hurricane season in the United States was particularly devastating; estimates suggest that hurricanes Harvey, Irma, Jose, and Maria caused almost $200 billion in damages. What's more, Africa's Sahel Lake Chad Basin region is experiencing food insecurity due to a prolonged period of drought. And, in the Middle East, insurgent groups are exploiting severe weather events to recruit populations in urgent need of resources.

What's even more alarming is the fact that we are likely to face more of these challenges in the coming years. A majority of scientists agree that an increasingly warming climate could raise the global mean sea level by as much as six feet by the year 2100. The impact of this projected rise in sea level will have a disproportionate effect on small island nations. In the Southern Pacific Island region alone, low-lying land masses could become uninhabitable within the next 40 years, displacing hundreds of thousands in the process. Some experts have predicted that long-term increases in temperature in sub-Saharan Africa could increase conflict over critical resources like food and water.

The climate-related challenges that my generation will face are daunting and will require immense effort and innovation to mitigate—and I believe that we are equipped to handle it. Indeed, we're already doing so.

We are actively questioning traditional institutions and power structures that have failed to mitigate greenhouse gas emissions. In doing so, we use innovative platforms to mobilize efforts toward preserving a livable climate for future generations. We also use our voices as consumers, choosing to purchase organic products with less of a carbon footprint than processed foods. And while vanity may get the best of some us at times (I mean, who doesn't want to emulate the style of icons like Rihanna and Jeff Goldblum?), we are increasingly more inclined to purchase the latest fashion trends from environmentally-conscious brands. While there is still room for growth in the adoption of environmentally friendly practices amongst my generational cohort, all signs seem to suggest we are renewing the way we interact with our planet.

If you are willing to look past the misguided and unjust labels affixed to the Millennial ethos, you'll see a generation of innovators pushing themselves to rectify never-before-seen challenges.

The Politics of Antitrust Enforcement

Becky Chao, April 12, 2018

When the news broke that the Department of Justice would be challenging the merger between AT&T and Time Warner Cable in November 2017, speculation that it was politically motivated soon followed. After all, the 45th president had been vocal about rejecting the deal during his campaign: "As an example of the power structure I'm fighting, AT&T is buying Time Warner and thus CNN, a deal we will not approve in my administration because it's too much concentration of power in the hands of too few." With his speculations that "pricing is going to go up" because of the deal, President Trump's campaign promise, on its surface, may seem like it was stemming from legitimate antitrust concerns. At the same time, however, President Trump has also singled out CNN, calling it "Fake News

CNN" and "THE LEAST TRUSTED NAME IN NEWS" in his tweets, casting doubt onto the objectivity of the antitrust case against AT&T and Time Warner.

Though the premise of presidential influence in the merger review process is indeed dangerous in itself, it is important to not lose sight of the significance of the case in setting precedent in enforcement actions against vertical mergers and foreclosure theory generally; the Justice Department's theory of harm in part discusses AT&T's economic incentive to foreclose access to content or to raise costs for competitors.

Given the president's statements, nonetheless, AT&T tried to argue in court that the lawsuit represented "selective enforcement" arising from presidential interference in what should be an objective merger review process. The company relied on this argument to request detailed email and phone logs between the White House and the Department in pretrial proceedings. Judge Richard J. Leon, who is overseeing the trial, blocked the request, stating that "[d]efendants have fallen far short of establishing that this enforcement action was selective."

This isn't the first time that the question of whether antitrust law can be politicized has been raised in U.S. history. In 1971, President Richard M. Nixon considered threatening three major television networks—ABC, NBC, and CBS—with antitrust prosecution in an attempt to sway their negative media coverage of his presidency. White House recordings at the time captured the president discussing the possibility: "If the threat of screwing them is going to help us more with their programming than doing it, then keep the threat ... Our gain is more important than the economic gain. We don't give a goddamn about the economic gain. Our game here is solely political."

The specter of presidential overreach is an extreme example of how politics may jeopardize the impartiality of antitrust law enforcement. Utilizing antitrust enforcement as a political tool is unquestionably a threat to rule of law. Even the appearance of undue political influence is dangerous, as it both distracts us from and makes us doubt the antitrust merits of the case. Antitrust enforcement should be driven by sound theories and objective evidence, not by capricious politics. Yet, U.S. antitrust enforcement nonetheless operates within the constraints of larger political factors, including the appointment of antitrust officials.

With each new administration, the president has the opportunity to appoint new leadership overseeing the antitrust agencies, which has implications for antitrust enforcement. Though these officials operate independently of the president, they are appointed with the expectation that their ideologies are aligned with the president's. With the appointment of Makan Delrahim as the Assistant Attorney for the Antitrust Division at the Department of Justice and the nomination of Joseph Simons to chair the Federal Trade Commission, the Trump Administration seemed to signal an approach to antitrust enforcement that

focuses on economics and disfavors interventions—a marked departure from the Obama Administration, which had been rather active in enforcement actions during its second term. Indeed, Professor Steven C. Salop has found that elections have an impact on antitrust enforcement in terms of the types of cases challenged. The Justice Department under the George W. Bush Administration brought significantly fewer civil non-merger complaints than under the Clinton and Obama Administrations.

Just as importantly, the allocation of resources is another means through which ideology affects antitrust enforcement. Michael Kades, Director of Markets and Competition Policy at Washington Center for Equitable Growth, found that while the level of merger activity has increased by 56 percent between 2010 and 2016, funding to the Department of Justice Antitrust Division and the Federal Trade Commission has remained relatively the same, with just a 3.7 percent increase in nominal appropriations. As such, antitrust enforcers may lack the resources to pursue more vigorous enforcement. The lack of additional funding reflects the administration's priorities and is an uncompromising constraint on antitrust enforcement.

Presidential interference is no doubt an extreme example of how antitrust enforcement may be politicized and rule of law compromised. Other political factors, such as the appointment of political officials and budget allocations, may also affect the political ideologies underlying antitrust enforcement in less nefarious ways. Recognizing their associated constraints enables us to identify ways to move toward more effective antitrust enforcement.

Restorative Justice for the #MeToo Movement?

Emma Coleman, February 20, 2018

The #MeToo movement has galvanized millions of women across the country to speak out about their experiences with sexual harassment, assault, and abuse. Tarana Burke, who coined the term in 2006 to help survivors realize that they aren't alone in their recovery, has been invited to speak on college campuses, attended the Golden Globes, and is writing a highly anticipated memoir. The widespread attention #MeToo has garnered represents a huge shift in how we, as a society, talk about what we—especially, but not solely, as women—have had to deal with throughout our lives. #MeToo has, in other words, ostensibly done "what the law could not."

What it hasn't done, however, is provide common justice—or a measure of closure and reconciliation for the small, everyday moments that led so many women to participate in the movement in the first place. It may have led to repercussions for several high-profile offenders, but for the average woman who typed "#MeToo" and hit enter on a Facebook status or a Tweet, justice was

hardly found in the responses. At the same time, many women might not even know what, exactly, this sort of day-to-day justice would like, or from whom they would get it. How, for instance, do you get justice from a coworker who sent one too many uncomfortable emails, or from a date with whom you haven't spoken since that person tried to take things too far? The notion of "justice," in these situations, is thorny, and all too often it doesn't seem like anything can really be done.

But maybe justice isn't as elusive as it seems.

A friend of mine recently told me that an old hookup of hers texted her to apologize for his behavior three years ago. The #MeToo movement had led him to introspection, she explained, and he said that he remembered one particular night during which he might have pressured her into engaging in things she wasn't comfortable doing. He wanted to apologize. As a result, he asked her if there was anything he could do to make amends, thereby opening a path for her to find her own sort of justice—if she wanted it.

What this man offered isn't all that different from a movement within the criminal justice system: restorative justice. This process, which emphasizes accountability and making amends, seeks to avoid sentencing, instead focusing on bringing victims and offenders together to understand the magnitude of the harm done, the ways in which healing can be achieved, and potential concrete next steps for both parties to take so that they and their community can move forward. At its core, restorative justice attempts to meaningfully shift the balance of power by allowing survivors to define the terms of what justice and closure look like to them.

In the context of the #MeToo movement, there isn't a formalized system for instituting restorative justice. But perhaps there doesn't need to be one. Stories like the one above, of men taking actionable steps to make amends, can serve as an example for others to replicate in their own lives.

When the latest iteration of the #MeToo movement began to pick up viral momentum in October, there was an attendant, though far less popular, hashtag: #HowIWillChange. Via this parallel conversation, men pledged not to stand by idly in the future. But while an honorable notion—and at least in theory a good step for ensuring that people in positions of power hold one another accountable —the hashtag largely lacked the level of introspection that's a key ingredient in effective restorative justice. Put another way, though it's important to wrangle with how to do better in the future, it's equally important to confront what can't be changed but absolutely must be addressed: past actions that made others uncomfortable, or even hurt them.

This isn't to suggest that restorative justice is the ultimate cure for addressing sexual harassment and assault. Because the process can be so intensely personal, it arguably isn't the best model for providing public examples on which to build a

more just future, like, say, by filing a lawsuit. It requires, at a base level, that offenders want to reflect on their own behavior and engage in reconciliation. That's a hard internal battle, and one that requires an elevated appreciation for sincere apologies, the sort of thinking society has yet to fully embrace. Restorative justice also forces survivors to confront their abusers directly in order to chart a course of appropriate justice; that can be a triggering and painful experience, and it shouldn't be done without immense support.

That said, restorative justice—cases like what happened to my friend—would help to bolster the movement and create actionable steps for moving forward. Indeed, society needs more people who are willing to reflect on their past behavior, realize when they might have done something wrong, and try to make amends where they can. The narratives of #MeToo aren't always cut-and-dry; they delve into the murky waters of gender, power, and how we, as individuals, can bring the broader social dynamics of honest reconciliation in line with the past. Restorative justice creates space for people to be unsure. It's a collaborative process, one that, while imperfect, allows people to start somewhere. To truly reach a more just future, it's key to recognize and address the wrongs of the past —something that people can begin to do one reflection, one amend, at a time.

A Generational Take on the Politics of Precarity

Christian Hosam, November 7, 2017

Last year, my life, for lack of a better term, exploded. My mother Cheryl was diagnosed with Stage 4 pancreatic cancer and passed away just four short and agonizing months later. As an only child to a single mother, we were incredibly close. Her passing devastated me, and, as with any major tragedy, the repercussions were imperceptible at first glance and difficult to parse out even upon reflection. In particular, I struggled at work because I had a newfound anxiety over money. What would I do without my job? I had no other close family and was now in a position where if I lost my job, I would have no safety net. That this situation was borne out of such a massive tragedy made it seem personal, as if it was mine and mine alone. And yet, as I shared my fears and frustration in consultation with my close friends, I saw a pattern emerge. While the events that shook the foundations of my world were personal and unique, I began to see how precariousness was increasingly pervasive among my peers.

Not only were my friends and I working jobs that seemed to lack a clear upward trajectory, many of us were in relationships that seemed to have the same "we'll see where this goes" mentality. Moreover, our understandings of politics also seemed to have an ambivalence that made us know that participating was important but couldn't get us to see quite why. There was a deeply held dissatisfaction and a need to do something, even if all avenues for participating (e.g. voting, campaign donations), seemed frustrating and unproductive. In all

avenues of our lives, there was (and there is) an ambivalence that's seen as both normatively wrong but also ensnaring and maddeningly hard to get out of. In a workforce and a society marked by risk, resiliency becomes a different sort of challenge.

The seemingly disparate forms of precarity in the workforce and in intimate settings connect and contribute to the lack of self-efficacy that have led to decline not only in trust of American political institutions but also to a decline in engagement with these institutions. I fear that the high levels of economic, social, and intimate precarity that we Millennials find ourselves in makes us less willing to participate in the formalized, easily understood ways that our generational predecessors did. This is so concerning to me because while the history of American intermediary institutions, such as churches, unions, and political parties, is fraught, they have also served as spaces for their members to develop a self-efficacy that propelled them forward to other, more potent forms of political participation and action.

While there is a surfeit of data and journalism on this generation, most of it is commissioned data from for-profit corporations designed to chart tastes and consumerist tendencies that somehow gets extrapolated to make huge claims about our politics and our personalities. There is much less in the way of rigorous social science, specifically political science research, that attempts to flesh out the relationship between the myriad forms of precarity found amongst Millennials and its impact on political participation.

Empirical data on Millennials, particularly work done by the Pew Research Center, shows that 50 percent of Millennials identify as independents, 36 percent see themselves as religious, and only 6 percent are either members of or are represented by unions. In spite of the normative benefits of these institutions, they are in decline as arbiters of personal political development. How then can we develop a civically engaged population that participates both in times of high-stakes, high-attention federal elections and in times of often higher-stakes but lower-attention state and local elections? Moreover, how do you develop people's propensity to participate in non-election related activities such as taking part in voter registration drives, writing letters to their constituents, or perhaps even running themselves? Put another way, what is the future of civil society?

While my formal entry into this line of thinking was personal, the personal is, as it has always been, deeply political. The politics of precarity will shape this and subsequent generations. The work of understanding Millennial politics and culture is therefore the work of understanding how the nature of risk has shifted in American politics during the last generation. There is a need to separate analyses of civic engagement, romantic and sexual politics, and financial security among young people from prevailing stereotypes of Millennials as apathetic, promiscuous, and fiscally irresponsible. Then the real work of understanding

how to develop sustained political practices that lead to healthier and more fulfilling lives in both this generation and future generations can fully begin.

Meritocracy, the American Dream, and Other Fairy Tales

Roselyn Miller, November 2, 2017

Heat on the pavement rises up in the dark, and with every step I take away from my workplace, it meets me like a warm blanket, telling me it's time to sleep, wake up, and do it all again. Sweaty from the heat or the hard work, I slump into the bench and wait for the Caltrain. Predictably delayed, the train would be another hour. My exhaustion runs out of patience and calls an Uber.

Five minutes later, Frank pulls up in his Chevy listening to some country song about beer and backroads at a polite volume. My eyelids droop a bit and my head hurts, but one glance at my Uber rating ... 4.78, shoot ... and now I have to be polite, or that score's going to plummet. So, I hop in, gently close the door, smile, and ask him if he can queue up "Wagon Wheel."

That wins big points with Frank because now he sees us as kindred spirits joined by country music. He takes this gesture as a fast track to friendship and speaks for minutes, or days, like his words are my words. He assumes that I, too, drink a glass of milk at dinner every night with my family and moved out to the 'burbs after retiring from a cushy tech job because the city was too loud. He says Silicon Valley is a great place for "people like us, you know... hard-working Americans."

What does that even mean to an old white man and a biracial brown girl? I wonder if he ever faced the same issues I worry about in Silicon Valley before he retired while he worked in tech. Like did men constantly talk over him or flirt with him at networking events instead of listening to his business pitches? I wonder if he was ever rent-burdened or looking for cheap dental care, or if he ever had to turn down a promotion to take time off for his kids. I don't feel like asking, so I let him go on.

"So, do you go to high school around here?" Frank swung right then drove up the street at exactly the speed limit.

"Uh, I work here ... for the city kind of." That's what I said, but what I meant was, "Is it socially appropriate for me to put in headphones and surf Facebook yet?" I swear, if this Frank guy hits me with the what-do-you--

"What do you do?" He asked innocently enough, but the question hit me over the head because after a 12-hour day of working, planning, networking, and delivering the same speech over and over again, I could not and would not explain myself to another stranger. So I watered down the elevator pitch and lobbed it over.

"I work on education, health, and engagement programs for the local Spanish-speaking immigrant and long-term resident community," my lips mumbled through as I braced myself for his opinion. Everyone has an opinion on this kind of thing.

"That's important work. It's just such a shame how little Mexican women care about their kid's health and education. What we should be doing is getting them to learn English before letting them spend all our taxes on tacos and tickets to Disneyland." The funny thing was that well-intentioned Frank wasn't the only person who has said this to me.

First of all, tacos are delicious.

But that aside, I am constantly affronted with rhetorical battering rams of how people of color just need to work harder, adjust their priorities, and stop complaining. If they only did this, they'd be well off, a simple fast-food panacea. But, even if we overhauled all of our social and economic policies to be inclusive and supportive of low-income people of color today, there would still be hundreds of years of systemic oppression to counteract.

That's why social policy, gender equality, and economic and racial justice matters: because meritocracy is a total lie. So many people casually use the American Dream™ as an excuse to justify their privilege and de-legitimize the struggles of vulnerable, yet resilient, populations.

If the water is free in America for everyone, then it'd be so easy to tend and grow a money tree, simple. But in reality, success—or even survival—here is definitely about climbing your family's tree. Some people get ladders and others get rope, and it's not always up to you whether you reach the top or hang. But honestly, how am I going to explain structural inequity in the next five minutes to an Uber driver that thinks Disneyland accepts SNAP benefits?

Also, it's not like I was planning on jumping out of the car Michelle-Rodriguez-from-Fast-and-the-Furious style, but part of me had already punched through the window and ran halfway down the street screaming, "Aqui estamos y no nos vamos!" blasting my snowflake sensitivities into the air like a blizzard. Unproductive.

So I sat. And I listened. And I nodded. And I heard him. Still biased, but not dangerous.

And then I responded. Ranted.

"First of all, tacos are delicious." I'm never not going to speak my truth. "Second of all, why do women of color always have to prove to others they care about their lives and their families?"

"And, I don't have an answer for a lot of these things, but I do have a lot of questions. Like, how can a mother participate in her kid's education when all the assignments and meetings are in a foreign tongue? What if she spends half her day underpaid and the other half unpaid, doing work at home or for other's homes, constantly worrying about feeding her kid? Or what if a dad can't be involved because he's working two jobs under the table, and the rent keeps unreasonably going up? What if the kid has no parents and is just trying to survive on their own, holding on to the hope that education might help them establish wealth and security? How come when a white family is poor or uneducated, it's always someone else's fault—America, the economy, immigrants taking jobs— but when any minority family is poor, it's because they don't care? Maybe if—" Frank interrupted, "Nah, I don't care if you're brown, white, or blue; if you can't take care of yourself, you don't deserve help."

So naturally, the only outcome of this conversation is a decrease in my ever-sinking Uber rating. My phone is dead, the child lock is on, and we are still four miles from my house.

What Dreamers Can Teach Us About Civic Education

Jenny Muñiz, January 30, 2018

Heeding a Tweet-invitation from the youth-led organization United We Dream, I headed down to Capitol Hill to join a DACA rally on the eve of this month's government shutdown. When I arrived at the Hart Senate Office Building, the atmosphere was arresting. The building's atriums and balconies were brimming with orange-clad Dreamers and their allies. They raised their fists and laid bare demands through chants and banners: "What do we want?" "Clean Dream Act!" "When do we want it?" "NOW!" Through all this, the symbolic butterfly wings clinging to their backs rustled in the wind of the chants. It was undeniable: for the few hours that they occupied the building, the spirit of democracy was palpable.

Certainly, I thought, lawmakers would draft legislative protections for these young undocumented immigrants. Of course, they would bar them from deportations and protect their ability to work legally—protections they stand to lose (and often have already lost) due to the president's decision last September to strip DACA, or the Deferred Action for Childhood Arrivals, program. Even the lawmakers sitting in their offices, unsure of what to do, would be forced to listen and truly hear the stories of these young people. And while I chanted, I thought, surely, they would appreciate and recognize the ways in which these young people have emerged of as exemplars of civic duty, strengthening our democracy through civic participation.

Unfortunately, my certainty was misguided. Despite 87 percent of the country supporting basic rights for Dreamers and Dreamers' continuous and laudable

efforts on Capitol Hill and across the country, lawmakers failed to craft a legislative fix following the government shutdown. Now, Dreamers' fate hinges on congressional action by next week's February 8 deadline. In the meantime, 122 DACA recipients lose their protected status every day, and by the program's final deadline of March 15, that number will total 22,000.

In the midst of this, Dreamers will continue to defend their rights, but it is time for us to join them—and educators can be among their most powerful allies. Part of strengthening the DACA movement and other civil right movements—now and in the future—rests on educators' commitment to exemplary civic education. Without this, the sad reality involves a generation that doesn't understand civic participation, where young Dreamers are the exception, not the norm.

In fact, by most relevant measures, our country's civic health is waning. Our voter turnout lags behind that of other developed nations; the majority of adults exhibit an alarming dearth of basic civic knowledge; we have lost faith in the effectiveness of contacting our representatives; and, even young people are experiencing difficulties identifying misinformation on the internet. But, perhaps the most alarming sign of our deteriorating civic health is our growing inability to engage in informed debate. The lack of political participation paired with little civic knowledge is calling into question the viability of our experiment in self-governance.

This should come as no surprise considering schools have largely abandoned their civic mission. Gone are the days when high school students had to take three courses in civics and government. Instead, the time public schools spend on civic lessons has been replaced by an emphasis on teaching (and testing) "core subjects". And, when educators do undertake the task of teaching civics, their curriculum can be vastly insufficient. Civic lessons too often end with knowledge building, due to a prioritization of rote memorization over exercises that build active civic participation muscles.

But this system doesn't work because our democracy requires that we have the ability and willingness to participate in it. Take the actions of Dreamers for example. Though their plight has only recently come to national attention, Dreamers have been working for years to secure a path toward citizenship for themselves and their families. They have shouldered a heavy load, burdening themselves with our collective civic responsibility by petitioning, canvassing, testifying, joining advocacy groups, and forging coalitions. Dreamers have shown themselves to be engaged and active members of society, capable of taking effective action. And notably, many of these activities have been spearheaded by the youngest and most vulnerable among us.

In fact, the most active participants in our democracy are currently those who are forced into participation by personal circumstances: Dreamers are standing up for Dreamers; Black Lives Matter activists are standing up for Black men and

women murdered by police; Women are standing up for women. But we need to come together and participate for each other, and that has to start at school.

Our public schools should seek to ensure that every child is developing the capacities requisite for civic participation. And we can only accomplish a more highly democratic and participatory system by re-committing to civics teaching that goes beyond instilling bits of knowledge and instead engenders two more fundamental things: skills and dispositions. All students should learn foundational democratic skills, including the abilities to analyze important information, develop informed positions on contemporary issues, and discuss those positions productively, even with those who disagree.

Equally important, a quality civic education should empower students to exercise their right to vote, to contact their representatives, and to protest when they feel strongly enough. Beyond these basic skills, a quality civic education will give students a sense of efficacy and civic duty, ensuring they have the disposition to utilize their civic skills. Through this, our students can realize our democratic ideals of social justice, unity, equality, and diversity.

We have an opportunity here to ensure a generation of people willing and able to engage in our much cherished practice of democracy. But to do so, we need to undertake two difficult steps: First, we need to acknowledge the value of our most civically engaged—the Dreamers—by ensuring that 700,000 DACA recipients and 3.6 million of other undocumented immigrants brought here as children are fully accepted. Second, we need to implement quality civic education for American youth, so that they might share the Dreamers' tremendous aptitude for self-government. Doing so just might save our democracy.

Intervening in the Economy for Gun Reform

Aaron Noffke, March 15, 2018

President Donald Trump has been in office for just north of a year now, and a broad left-wing coalition has yet to emerge. That's not altogether surprising given the lack of a political infrastructure that could really foster that sort of activity. On top of that, there is no clear indication that the Democratic Party is ready to take part in mobilizing for a social democratic agenda. Still, it's prudent to take stock of emerging progressive forces—such as the groundswell of youth-led pushes for gun reform—and investigate how we might stitch together their different causes.

But as policy proposals under the banner of gun reform are brought forward, progressives must remain committed to a structural analysis of guns in the economy. Without doing so, policy outcomes may not only impede the reduction of gun violence, but also function to buttress an explanatory logic that blames certain populations for the problem itself.

If you rewind to the civil rights movement of the 1960s, you'll notice an important cautionary lesson: policy solutions that forsake the need to substantively regulate the economy implicitly rubber stamp the moment's economic arrangements.

Consider Judith Stein's *Running Steel, Running America,* which traces the historical development of Title VII of the Civil Rights Act of 1964. Her work, broadly, demonstrates how collaborative decisions within movement-building to push inequality out of conversations on the economy shape both the policies advocated for and explains why the issue exists. Title VII, which established the Equal Opportunity Employment Commission in a move to forbid employment discrimination, was negotiated through political means deemed necessary to pass a federal civil rights package. In consequence, what resulted was the Fair Employment Commission, a watered-down version of the commission. Additionally, workers had to file cases under a rubric of individual prejudice. As the structure of the economy changed in the following years, this rubric proved to be ill-equipped to address the fundamental employment concerns of Black workers.

That's a shame because a more robust fair employment law was on the table: Senator Humphrey's S. 1937 bill. The bill not only recognized structural changes taking place in the American economy—automation in the North, mechanization in the South—but it also grappled with the fact that labor policies, without robust intervention, would ultimately perpetuate old inequalities. Instead of relying on individual complaints and remedying them through litigation, S. 1937 had the power, on administrative review, to deploy federal job-training programs and other micro-economic government interventions within industries. As Stein writes: "S. 1937 sent an intellectual message that Black unemployment was not simply a problem of human relations, where morality and democracy demanded the abolition of actions based upon prejudice, but was a function of the changing labor market."

Yet support for the bill became less of a priority as mobilization for a national civil rights law reached its climax. Despite an overwhelming presence of demonstrators offering support for a minimum wage and voicing economic concerns at the 1963 March on Washington for Jobs and Freedom, attempts to insert economic issues into the civil rights agenda undercut the perceived need to create greater public support for a civil rights bill.

Empowered by the courts to take on the issue of employment discrimination, Title VII ultimately failed to articulate Black employment as an issue integral to the changing nature of the labor market. As Stein states, Title VII "could not produce jobs, only distribute them." The lives of Black workers and others also marginalized within the American labor market system needed an employment discrimination bill that could alter basic components of the American economy.

As the 20th century wore on, the changing economic structure would disproportionately impact Black workers. Today, Black-white wage gaps are larger than they were in 1979.

In the years since Title VII, the omission of a structural economic analysis of Black unemployment continued to work against the struggle for racial equality. Mainstream political discourse increasingly relied upon racist explanations for racial disparities. These explanations hinged on a framing of Black culture, tradition, and family structure as fundamentally dysfunctional and pathological. Additionally, without an explanation of racial disparities that directly implicated the U.S. economy, broad swatches of the liberal establishment easily and tacitly accepted this logic, with welfare reform arriving through the office of a democratic president.

This isn't to suggest, of course, that civil rights groups intended for any of these consequences to unfold. Rather, the lack of a structural analysis of unemployment impaired both their effectiveness and analytical approaches.

The historical analysis Stein provides in *Running Steel, Running America* acts as an aid for understanding the mutually constituted and historically contextual relationship between race and class in the United States. Stein's analysis also offers an important lesson for our current gun control push: Market failure must be included in gun control conversations because guns are allowed to be bought and sold to civilians on the private market. A policy intervention that uses the lesson provided by Stein prioritizes disarmament by implementing gun buyback programs and tightly regulating the production of firearms, in addition to investing in harm reduction for violent crimes.

Few of those who advocate for "gun safety" take this stance. Rather, standard initiatives include background checks and, more recently, access to school mental health resources. These initiatives locate the problem within a certain class or race of people, where violence is an implied group quality. And similar to the idea of arming teachers, these policies take shootings for granted while narrowing the problem to high-profile shootings, a small fraction of total firearm deaths. They fit alongside a formula to punish, police, and surveil those who are deemed predisposed for shootings, and look to hold them personally responsible. The dynamics of race, gender, class, and law enforcement dictate who gets labeled a "shooter." In effect, these policies work in tandem with broader inequalities already at play in society.

These piecemeal reforms may alter the process of gun ownership, but their effectiveness for reducing gun violence pales in comparison to intervening in the production and distribution of firearms themselves. Similar to how Black employment has been framed and fought over, failing to recognize the need to alter current economic arrangements opens the door to causal explanations that only deepen inequality.

Crap, I Forgot to Go Incognito!

Dillon Roseen January 23, 2018

What if Google posted your search history online? All of it, I mean—even the stuff you looked at years ago (or perhaps yesterday) in Incognito Mode.

If that question doesn't send a shiver down your spine, my guess is you're probably not a Millennial. And to those Millennials who think that Incognito Mode truly protects your data by fully anonymizing your online browsing, I hate to be the bearer of bad news, but—that isn't really the case. And I'll tell you why that's more concerning than you might think.

For people of a certain age who had regular access to the Internet growing up, our formative years were largely shaped by online activities. All those burning middle-school questions were just a short Yahoo! Answers post away from being cleared up. Now, in our 20s and 30s, we're mostly comfortable "doing life" online —whether that means paying bills via Venmo, sharing our locations on Google Maps, or, yes, even sending nudes over Snapchat. Every click and every search reveal a little more about us, as NPR's Hidden Brain podcast describes, until an unadulterated "map of our collective hopes, fears, and desires" emerges.

How do we make sense of this? Our willingness to share such private information over virtual platforms has a lot to do with our willingness to trust that institutions will protect our data. A Gallup report found that 80 percent of Millennials have "some" or "a lot" of trust in businesses to keep their personal information secure. Compared to other generations, Millennials are much more trusting of institutions across every industry, both off and online, to safeguard their personal data.

More than that, though, Millennials are also more likely to use integrated applications on their devices and often lack the understanding of just how invasive these apps can be. As Lisa Gutermuth describes for Slate, "many apps engage in irresponsible practices" like over collecting user information, sharing and selling data without your permission, and poorly securing data, leaving you vulnerable to attacks. That our entire lives have been documented, shared, tagged, and stored online is a reality that most Millennials accept, even with the awareness of the attendant security risks.

In a paradoxical way, then, Millennials are both the most cyber-secure generation and the most cyber-insecure one. While we generally have better security habits online, such as choosing stronger passwords and avoiding Nigerian Prince phishing emails, we're also more willing to give up our private information in return for a service. As cyber threats become more pervasive and harder to thwart—like the recently disclosed Spectre and Meltdown vulnerabilities—even

the most security-conscious digital natives will have trouble protecting their information. By placing nearly every aspect of our lives in the cloud, Millennials have the most to lose following a cyberattack.

Imagine, for a moment, everything your online profile reveals about you, and what would happen if that information suddenly became public. Beyond the exposure of financial information and medical data stored on your laptop or cell phone, maybe you download the occasional pirated movie. Or, maybe you spend more time on the clock searching for other jobs than completing the work your boss assigned. If you do research to find a nearby abortion clinic or STI testing facility, would you want your family to know? If you're in an abusive relationship, what would happen if your partner found out about the one-way plane ticket you just purchased to get out of town? What if you're a closeted, housing-insecure LGBTQ youth seeking online support and your intolerant family finds out?

Clearly, some things we do online are best kept private.

What do we do about this? There are already some well-established steps individuals can take to protect themselves against these nightmarish scenarios: choosing long and strong passwords (while, surprise, minimizing the number of times you change it), setting up two-factor authentication for emails, and using encrypted browsers like Tor or browsing through a Virtual Private Network (VPN). I've heard too many friends say, "I could never run for office because of this text or that selfie," a statement made under the assumption that little can be done to ensure our personal data is protected. But, as Gregory Michaelidis forcefully describes, users should begin thinking of themselves as the first line of defense against cyberattacks, rather than waiting for a magic blend of technology and policy to "fix" cybersecurity.

One reason waiting is dangerous: Though the federal government often seems to engage with cybersecurity problem solving, progress thus far has been surface-level and painfully slow. As of January 2, The Intercept reported that only four of the 14 cybersecurity reports requested by the White House have been completed on time, and none have been made publicly available for critique or verification. These reports should, first, be completed, and second, to the extent possible, be shared with civil society leaders to strengthen their overall findings. Other weaknesses are apparent in the private sector approach to cybersecurity, as illustrated by Uber's alleged cover-up of a data breach and Deloitte's failure to require two-factor authentication leading to the disclosure of sensitive client information.

Companies like Equifax repeatedly suffer massive data breaches but somehow come out ahead in the end—as Senator Elizabeth Warren uncovered, the company is making "millions of dollars off its own screw up." As former Director of the Consumer Financial Protection Bureau Richard Cordray notes, "it doesn't work to deregulate around cybersecurity. Nobody in the public is going to accept

that. We have to have more accountability, not less, over the safety … and privacy of our information." Smart regulations ought to be enacted that both encourage robust cybersecurity measures and hold repeat offenders, like Equifax, accountable. More research needs to be done to understand the full lifecycle of harm following data breaches, especially since Millennials will be around longer and face prolonged threats beyond the standard two-year identity theft protection offered after a breach.

For Millennials, these events will be a regular occurrence in our cyber-insecure future, and it's at least partly our responsibility to do something about it. So, while this article is a principled stand in favor of online privacy, it's also a call to Millennials to demand more from the businesses we interface with, again and again, and the government we trust to secure our freedom and liberty—and a call to demand more of each other by taking simple, well-established steps to protect ourselves.

Dismantling the Digital Poorhouse

Myacah Sampson, February 13, 2018

Eight years ago I stood in the checkout line of a Walmart in rural New Mexico with my mother. As she swiped her scratched debit card for the third time, a white woman behind us sneered:

"Indian freeloaders. Did her welfare run out?"

The woman had assumed that my mother was using an Electronic Benefits Transfer (EBT) card—the debit card on which welfare recipients receive cash assistance, or SNAP (Supplemental Nutrition Assistance Program, formerly known as food stamps). Introduced in the 1990s, when credit and debit card use picked up, lawmakers hoped that the EBT card would help recipients of food stamps avoid the derision and outright refusal of service they often faced in grocery stores over attempts to purchase groceries with easily identifiable coupons. As well intentioned as it was, the introduction of this new technology didn't end the racialized stigma frequently associated with welfare use. Who would've thought?

Virginia Eubanks, probably. Her new book, *Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor*, is the culmination of years of work examining the ways in which the digital age has shaped social control of the poor. Through three case studies—an automated eligibility system for public assistance in Indiana, an algorithmically coordinated housing entry system in Los Angeles' Skid Row, and a child abuse prediction system in Pennsylvania—Eubanks, who's also a New America National Fellow, demonstrates how introducing new technologies to social assistance programs can disrupt the lives of the poor. Or, put another way, Eubanks investigates how this technology can disconnect the

poor from vital social services and undermine their right to self-determination at unprecedented scales and speeds.

To take just one of these case studies, Indiana's electronic system for public assistance, designed by IBM, often lost its citizens information, a mistake its algorithm blamed on recipients themselves. Eubanks highlights in her book the story of Omega Young, a Medicaid recipient who was ordered to recertify her eligibility in 2008—the same time she was undergoing cancer treatment. Though she notified a call center to let the state know that she'd be missing a recertification appointment for chemotherapy, this information never reached the electronic system. She was flagged for her "failure to cooperate" and was, in turn, cut off from food stamps, health care, and transportation to her appointments.

For a year Young simultaneously battled cancer and the appeals process, not winning back her benefits until March 2, 2009; she'd died the previous day. Indiana had essentially made all of its welfare recipients beholden to one giant digital caseworker—one that wasn't only incompetent, but also incapable of being self-critical and empathetic.

"I think it's important to say I don't think there's anything inherent in this technology that, for lack of a better word, makes it another boot on the neck of the poor. There's nothing specific about automation that does that," Eubanks said at a recent event hosted by New America's Family-Centered Social Policy program, an event centered on the same theme as her book. She was joined by Cheri Honkala, a welfare rights organizing veteran and national organizer of The Poor People's Economic Human Rights Campaign; Rose Afriyie, executive director of mRelief, a web- and text-based platform for families to find out if they qualify for public support; and Mariella Saba, organizer and researcher with the Stop LAPD Spying Coalition and Our Data Bodies project.

"Any time we're talking about data collection, we have to recognize the power dynamic that exists [between] who is managing what system of a human need—whether that human need is housing or food," said Saba, nodding to how algorithms and human caseworkers alike have the power to make life-altering and life-ending decisions about recipients' lives. "In Los Angeles I see a lot of empty buildings that could be used for immediate housing when there's people freezing in the streets. I lift up the name of Barbara [Brown]," a 60-year-old woman who died of exposure on a Skid Row sidewalk in early January. Saba's deeper point was that, before we're ready to introduce automated processes into public assistance, we must interrogate whether this power dynamic—often premised on false narratives of scarce resources and the criminality of the poor—is one we want to replicate.

Yet at the same time, while society works toward a more generous public assistance system, people still need access to the current one to make ends meet.

Indeed, one of the major barriers to assistance is the sheer difficulty of finding out how to apply.

So, how can we extinguish this access gap? Often, people who qualify for social assistance programs "have heard stories about how difficult it is to access services they're entitled to and have just completely decided that it's not worth the trouble," Afriyie said. That's why her organization, mRelief, works to eliminate that trouble by allowing people to determine their eligibility anonymously and without stigma by leveraging technology. Prospective applicants can answer 10 questions via text message or an online form and receive a simple "yes" or "no" as to whether they qualify for assistance and instructions for how to apply.

Honkala, a longtime welfare rights organizer, also weighed in on ways the digital age could move the needle on welfare rights. She explained that incorporating technology into social assistance programs hasn't truly grappled with an underlying assumption: that the poor are to be policed and punished.

"Through this entire journey, there has been an effort to have our voices heard. And through all of these years we've had to take on the battle of being dehumanized—dehumanized and tracked," Honkala said.

Over nearly three decades, she's sought to organize demonstrations that have not only rejected demonizing poor people but also wasted no time in meeting their basic human needs. In the winter of 1994, for instance, the Kensington Welfare Rights Union, recognizing that the local Philadelphia government planned to do nothing about overflowing shelters and vacant homes, broke into and took over U.S. Department of Housing and Urban Development (HUD) housing for homeless families to occupy. We often like to describe technology as facilitating innovation, as being "disruptive," but actions like that of the KWRU demonstrate that disruption can be as low-tech and lifesaving as breaking a lock.

Try as we might, the conditions that allowed my mother and me to be harassed for being poor and brown in public can't be automated out of American society. Technology can only map itself over prevailing social conditions. Until we're ready to address the historically embedded reasons the poor are all too often met with disdain and blame, the dystopia will code itself.

I Couldn't Spot a Fake News Story. Can You?

Spandana Singh, January 23, 2018

A few weeks ago, a friend of mine sent me a screenshot of a supposed book excerpt describing what has now been recognized as a satirical description of President Donald Trump's obsession with the Gorilla Channel. Even though the piece seemed a bit off, a bit exaggerated, and a bit implausible, we both believed

it. Partly because there was some small part of us—no matter how small—that wanted to, and partly because we were raised in a time when trust in media institutions was strong—and the norm.

As millennials, we have been witness to and part of a pivotal turning point in the media landscape. During the earlier stages of our lives, the news media were considered among the strongest arbiters of truth. In a heated debate, grounding your argument on information from a news article was a sure way to legitimize your case. After all, it was expected that the information from major news outlets had been thoroughly investigated, verified, and approved for public consumption and comprehension. But with the rise of the internet, which enabled any user to produce their own content, we suddenly faced a transformed information landscape where the boundaries between truth and opinion were blurred, sometimes even intentionally.

At first, we still relied on print news to verify the conspiracy theories being shared on clunkily designed and Comic Sans-laden "news" blogs. However, news organizations were gradually dethroned as primary content creators; the shift was accompanied by a wave of print newspaper closures as news outlets moved to online-only publications. Additionally, trust in mass media fell drastically, largely due to political polarization. According to a 2016 Gallup poll, only 32 percent of Americans had "a great deal or fair amount of trust" in the media. As a result of these fundamental shifts, the Millennial Generation lost valuable fact-checking and reliable news sources. This may not have mattered as much when the stakes went only as high as knowing "J. Lo's 10 Secrets for Success" or the apparent truth behind "Brangelina's Latest Spat." But as disinformation campaigns have grown more complex and dangerous, threatening everything from the foundations of our democracies (see the United States, EU nations, and Malaysia as examples) to sparking caste- and religion-based violence, it is vital that we equip ourselves to spot and defend against fake news.

As Millennial users who are well-educated and media- and tech-savvy, we may not want to prioritize this issue because we don't think it needs to be prioritized. We, like many of our counterparts, preach the third-person effect. We claim that we are immune to the effects of fake news via mass media influence and believe other, less-astute and less-educated users are instead the ones liable to be tricked by fake news. As the educated elite, we know fake news is out there and we can engage in a 20-minute rant on its latest ills on society. For this we pat ourselves on the back and subsequently fall into a state of narcotizing dysfunction, not realizing that we are just as atrisk as any internet user.

Given the scope and depth of the global disinformation crisis, solving it is not an easy feat. It will require an effective and long-term collaboration between technology companies, government institutions, and media organizations. These initiatives should focus on investing more in digital and media literacy programs embedded in all segments of society including schools, workplaces, and on

media platforms themselves. However, the onus for solving this problem should not fall entirely on external, top-down operating groups. As Millennials, we are regular and influential producers and consumers of digital content, and should therefore share the responsibility for educating ourselves and others on how to identify and combat fake news online.

According to a recent Ipsos Public Affairs study, American adults were fooled by fake news headlines approximately 75 percent of the time. So the next time someone sends you a screenshot or an article that you think is a little bit suspicious, make sure it is from somewhere reputable before you share it on Snapchat, Facebook, or Twitter. Yesterday, it was falsified content about a world leader's obsession with the Gorilla Channel. Tomorrow, it could be something far worse. I couldn't distinguish fake news at first glance. Can you?

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228   Economic Freedom and Financial Security for Working People Act of 2018, HR 5630, 115th Cong., 2d sess., (April 26, 2018). Monopsony refers to a market situation in which there is only one buyer.

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232   In re Applications of Level 3 Communications, Inc. and CenturyLink, Inc. for Consent to Transfer Control of Licenses and Authorizations, Memorandum Opinion and Order, WC Docket No. 16-403, FCC 17-142 (2017) ("CenturyLink-Level 3 Order"), ¶ 10.

233   Ibid., ¶ 9.

234   Ibid., ¶ 11. In a footnote, the Commission suggests that it has not allowed "potential competitive harms to go unremedied nor allowed them to be offset by benefits that are not transaction-specific, i.e., benefits that do not naturally arise from the transaction at issue" in an ostensible contradiction of its balancing test. Then-Commissioner Mignon Clyburn disagreed with this characterization of the Commission's balancing test in practice.

235   The antitrust statutes may in fact cover broader policy goals than modern antitrust law considers. Earlier Supreme Court cases suggest a more expansive standard (see, e.g., Brown Shoe Co., Inc. v. United States, in which the Clayton Act is interpreted to protect small competitors against more efficient rivals, and Appalachian Coals, Inc. v. United States, in which the Court permitted price fixing as a way to avoid excessive competition; the latter is almost certainly bad law today), but these older cases do not represent how U.S. antitrust law works today.

236   See United States v. FCC, 652 F.2d 72, 88 (D.C. Cir. 1980), in which the Court states that the FCC is "entrusted with the responsibility to determine when and to what extent the public interest would be served by competition in the industry."

237   Harry First and Eleanor M. Fox, "Philadelphia National Bank, Globalization, and the Public Interest," Antitrust Law Journal 80, no. 2, (2015), https://ssrn.com/abstract=2574288.

238   "Note by Korea," Public Interest Considerations in Merger Control (123rd Meeting of Organisation for Economic Co-operation and Development Working Party No 3 on Co-operation and Enforcement, June 14-15 2016), https://bit.ly/2KSd5uV.

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241   Ibid. In Canada (Commissioner of Competition) v. Superior Propane Inc. (2001), after the Federal Court of Appeal sent the matter back for redetermination, the Tribunal once again permitted the merger to proceed on the basis of a successful efficiencies defense, but noted that "the Tribunal must accept that redistribution effects can legitimately be considered neutral in some instances, but not in others. Fairness and equity require complete data on socio-economic profiles on consumers and shareholders of producers to know whether the redistributive effects are socially neutral, positive or adverse."

242   Ibid.

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247   Ibid., Article 15.

248   See Petra Bárd and Judit Bayer, A Comparative Analysis of Media Freedom and Pluralism in the EU Member States (Brussels: Policy Department for Citizens' Rights and Constitutional Affairs, 2016), http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571376/IPOL_STU(2016)571376_EN.pdf.

249   European Union Merger Regulation, Article 21.

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253   "Note by Korea," Public Interest Considerations in Merger Control (123rd Meeting of Organisation for Economic Co-operation and Development Working Party No 3 on Co-operation and Enforcement, June 14-15 2016), https://bit.ly/2KSd5uV.

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263   Ibid.

264   "Note by Germany," Public Interest Considerations in Merger Control (123rd Meeting of Organisation for Economic Co-operation and Development Working Party No 3 on Co-operation and Enforcement, June 14-15 2016), https://one.oecd.org/document/DAF/COMP/WP3/WD(2016)3/en/pdf; The Minister has previously considered non-competition factors such as technological progress, international competitiveness, employment (including safeguarding jobs and protecting workers' rights), energy supply, and healthcare access.

265   Ibid.

266   "Guide to Antitrust Laws: The Antitrust Laws," Federal Trade Commission, https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws.

267   See Barak Orbach, "How Antitrust Lost Its Goal," Fordham Law Review 81, no. 5 (2013), https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=4883&context=flr, and Steven C. Salop, "Question: What is the Real and Proper Antitrust Welfare Standard? Answer: The True Consumer Welfare Standard," Loyola Consumer Law Review 22, no. 3 (2010), https://pdfs.semanticscholar.org/445f/a73f90bf1fff03546ec93f90de9d06d22075.pdf.

268   See, e.g., Swedish Match, 131 F. Supp. 2d at 173 (D.D.C. 2000) ("There is a strong public interest in effective enforcement of the antitrust laws."); U.S. v. Ivaco, Inc., 704 F. Supp. 1409, 1430 (W.D. Mich. 1989) ("By enacting Section 7, Congress declared that the preservation of competition is always in the public interest.").

269   "Note by the United States," Public Interest Considerations in Merger Control (123rd Meeting of Organisation for Economic Co-operation and Development Working Party No 3 on Co-operation and Enforcement, June 14-15 2016), https://bit.ly/2KLjSHx.

270   50 U.S.C. §4565.

271   Stuart Chemtob, "The Role of Competition Agencies in Regulated Sectors," (remarks, 5th International Symposium on Competition Policy and Law, Beijing, China, May 11, 2007).

272   16 U.S.C. §824(b).

273   Communications Act of 1934, 47 U.S.C. §214(a), §310(d). The FCC is also authorized to analyze telecommunications mergers under Section 7 of the Clayton Act. 15 U.S.C. §21.

274   "Overview of the FCC's Review of Significant Transactions," Federal Communications Commission, https://www.fcc.gov/reports-research/guides/review-of-significant-transactions.

275   See In re Applications of AT&T and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations, Memorandum Opinion and Order, 30 FCC Rcd 9131 (2015) ("AT&T-DIRECTV Order"), ¶ 19.

276   "Overview of the FCC's Review of Significant Transactions," Federal Communications Commission, https://www.fcc.gov/reports-research/guides/review-of-significant-transactions.

277   See In re Applications for Consent to the Transfer of Control of Licenses, XM Satellite Holdings Inc.,

Transferor, to Sirius Satellite Radio Inc., Transferee, Memorandum Opinion & Order, 23 F.C.C.R. 12348, 12349 (2008) ("Sirius/XM Radio Order"), ¶ 7 (stating that the Commission approves the Sirius/XM Radio transaction with voluntary commitments and imposed conditions), 29 (stating that the Department of Justice closed its investigation of the transaction without taking any enforcement actions).

278   "Overview of the FCC's Review of Significant Transactions," Federal Communications Commission, https://www.fcc.gov/reports-research/guides/review-of-significant-transactions.

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281   Hayley Tsukayama, "FCC commissioner Meredith Baker to join Comcast-NBC," Washington Post, May 12, 2011, https://www.washingtonpost.com/blogs/post-tech/post/fcc-commissioner-meredith-baker-to-join-comcast-nbc/2011/05/11/AFYfI1rG_blog.html?utm_term=.79db95239d83.

282   See, e.g., In re Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses, Memorandum Opinion and Order , 26 FCC Rcd 4238, 4247 (2011) ("Comcast-NBCU Order"), Dissenting Statement of Commissioner Ajit Pai (Pai calls the current merger review process at the Commission, "fact-free, dilatory, politically motivated, non-transparent decision-making"), and Comcast-NBCU Order, Joint Concurring Statement of Commissioners Robert M. McDowell and Meredith Attwell Baker.

283   Jonathan Baker, "Antitrust Enforcement and Sectoral Regulation: The Competition Policy Benefits of Concurrent Enforcement in the Communications Sector," Articles in Law Reviews & Other Academic Journal, (2013), http://digitalcommons.wcl.american.edu/facsch_lawrev/282.

284   In re Applications of Charter Communications, Inc., Time Warner Cable Inc., and Advance/Newhouse Partnership for Consent to Assign or Transfer Control of Licenses and Authorizations, Memorandum Opinion and Order, 31 FCC Rcd 6327, 6479 (2016) ("CharterTWC-Bright House Order"), ¶ 433-436.

285   AT&T-DIRECTV Order, ¶ 389.

286   CharterTWC-Bright House Order, ¶ 438 and AT&T-DIRECTV Order, ¶ 389.

287   Comcast-NBCU Order, ¶ 219.

288   Ibid., ¶ 223.

289   TV 9, Inc. v. FCC, 495 F.2d 929, 938 (D.C. Cir. 1973). The court stated: "To say that the Communications Act, like the Constitution, is color blind, does not fully describe the breadth of the public interest criterion embodied in the Act. Color blindness in the protection of the rights of individuals under the laws does not foreclose consideration of stock ownership by members of a Black minority where the Commission is comparing the qualifications of applicants for broadcasting rights in the Orlando community. The thrust of the public interest opens to the Commission a wise discretion to consider factors which do not find expression in constitutional law."

290   See Lutheran Church-Missouri Synod v. FCC, 141 F.3d 344 (D.C. Cir. 1998).

291   Michael Copps, Transcript: Prepared Statement – FCC Meeting, PBS (Dec. 18, 2007), http://www.pbs.org/moyers/journal/12212007/transcript3_fcc.html.

292   Jason Allen, "Disappearing Diversity? FCC Deregulation and the Effect on Minority Station Ownership," Indiana Journal of Law and Social Equality 2, no. 1, Article 11 (2013), http://www.repository.law.indiana.edu/ijlse/vol2/iss1/11.

293   CharterTWC-Bright House Order, ¶ 273-275.

294   Ibid.

295   Ibid.

296   Comcast-NBCU Order, ¶ 198-202. The Commission required Comcast-NBCU to air original, locally produced and locally oriented news programming to the Spanish language-speaking community for 1,000 hours per year for three years.

297   CharterTWC-Bright House Order, ¶ 274.

298   Comcast-NBCU Order, ¶ 196n514. The Commission cites comments from Free Press attesting to NBC's "gutt[ing]" of local newscasts and jobs at Telemundo despite promises to improve the quality of Spanish language news when NBC acquired Telemundo in 2002.

299   Ibid., ¶ 198-202.

300   Peter Siegelman and Joel Waldfogel, "Race and radio: Preference externalities, minority ownership, and the provision of programming to minorities," in Ad vertising and Differentiated Products (Advances in Applied Microeconomics, Volume 10), ed. Michael R. Baye and Jon P. Nelson (Emerald Group Publishing Limited, 2001), 73 - 107, https://pdfs.semanticscholar.org/ee23/eb8d99089acacc60bb07c6010c3faab42e2f.pdf. Siegelman and Waldfogel calls "preference externalities" social benefits derived by minority consumers from being in the same market as others with similar preferences. They note the substantial differences in white and minority content preferences, concluding that inefficient under-provision may more likely be an issue for small minority populations.

301   Comcast-NBCU Order, Joint Concurring Statement of Commissioners Robert M. McDowell and Meredith Attwell Baker.

302   Sirius/XM Radio Order, ¶ 70,

303   Ibid., ¶ 134, 134n437, 135, 141. The transaction parties voluntarily committed to lease four percent

each of full-time audio channels on both the Sirius and XM platforms to Qualified Entities and another four percent of capacity for noncommercial educational use. A Qualified Entity is any entity that is "majority-owned by persons who are African American, not of Hispanic origin; Asian or Pacific Islanders; American Indians or Alaskan Natives; or Hispanics."

304   Ibid., Dissenting Statement of Commissioner Jonathan S. Adelstein.

305   "Telecommunications Access Policy Division," Federal Communications Commission, https://www.fcc.gov/general/telecommunications-access-policy-division.

306   CharterTWC-Bright House Order, ¶ 452-453.

307   Ibid.

308   Ibid., Appendix B: "Conditions", VI "Discounted Broadband Services Offer". The Commission finds it "in the public interest to ensure that a bundle of video and broadband services is not the consumer's only competitive choice, and this protection may be particularly important for low-income subscribers who may not be able to afford bundled services. Thus, we impose this Condition to ensure an affordable, low-price standalone broadband service is available to low-income consumers in the Company's wireline footprint."

309   Ibid., specifying that "eligible enrollee[s]" are families with at least one child who participates in the National School Lunch Program or seniors age 65 or older receiving Supplemental Security Income (SSI) program benefits.

310   In re Applications Filed by Altice N.V. and Cablevision Sys. Corp. to Transfer Control of Authorizations from Cablevision Sys. Corp. to Altice N.V., Memorandum Opinion and Order, 31 FCC Rcd 4365, 4372-75 (2016) ("Altice-Cablevision Order"), ¶ 47. Altice proposed to offer low-income consumers 30 Mbps for $14.99 a month throughout Cablevision's service territory.

311   CharterTWC-Bright House Order, ¶ 450-452. The standalone broadband plan was for 30/4 Mbps for $14.99 per month.

312   Ibid., Appendix B: "Conditions", VI "Discounted Broadband Services Offer". The merged company must offer this reduced price broadband service within six months of closing the transaction for at least four years, though the company may increase the monthly fee for this product by maximum $3.00 after three years. It must provide this discounted broadband service to at least 25,000 households by the end of the first year of closing the transaction; 100,000 by the end of the one-year-and-a-half; 225,000 by the end of two years; 475,000 by the end of three years; and 525,000 by the end of four years.

313   Ibid., ¶ 453.

314   Ibid., Statement of Commissioner Michael P. O'Rielly, Approving in Part, Concurring in Part, and Dissenting in Part.

315   Comcast-NBCU Order, ¶ 6, 233, Appendix A: "Conditions", XVI. Conditions to Expand Broadband Deployment and Adoption.

316   Ibid. Comcast committed to providing approximately 2.5 million low-income households with high-speed internet access for less than $10 per months for three school years. In addition, the combined company promised to expand its broadband network to reach an additional 400,000 homes in the three years after the transaction closes, provide broadband internet in six additional rural communities, and provide free high-speed internet to 600 new schools and libraries in underserved, low-income areas.

317   Ibid., Statement of Commissioner Mignon L. Clyburn.

318   Ibid., Joint Concurring Statement of Commissioners Robert M. McDowell and Meredith Attwell Baker.

319   CharterTWC-Bright House Order ¶ 443; In re Applications of Nextel Comm., Inc. and Sprint Corp., for Consent to Transfer Control, Memorandum Opinion and Order, 20 FCC Rcd 13967, 13976 (2005) ("Sprint-Nextel Order"), ¶ 168-9; Comcast-NBCU Order, ¶ 224.

320   AT&T Inc. and BellSouth Corporation Application for Transfer of Control, WC Docket No. 06-74, Memorandum Opinion and Order, 22 FCC Rcd 5662, 5672, (2007) ("AT&T-BellSouth Order"), ¶ 222.

321   Ibid., Concurring Statement of Commissioner Michael J. Copps.

322   CharterTWC-Bright House Order, ¶ 439.

323   Ibid., ¶ 444.

324   Ibid.

325   Ibid.

326   Altice-Cablevision Order, ¶ 26-7.

327   In re Applications of Deutsche Telekom AG, T-Mobile USA, Inc., and MetroPCS Communications, Inc. for Consent to Transfer of Control of Licenses and Authorizations, WT Docket No. 12-301, Memorandum Opinion and Order and Declaratory Ruling, 28 FCC Rcd at 2333-34, 2334-5 (2013) ("T-Mobile-MetroPCS Order"), ¶ 76, 80.

328   In re Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for Assignment or Transfer of Control, WC Docket 09-95, Memorandum Opinion and Order, 25 FCC Rcd 5972, 5980-81-83 (2010) ("Verizon/Frontier Order"), ¶ 29-30. CWA sought "concrete commitments [...] to ensure that the transaction [would] not lead to any reduction in employment levels, workers' living standards, and service to customers."

329   Ibid.

330   Ibid.

331   FCC v. RCA Communications, Inc., 346 U.S. 86, 90 (1953).

332   16 U.S.C. §824(b).

333   Berman, Give Us The Ballot.

334   Ibid.

335   Desmond King and Rogers M. Smith, "The Last Stand? Shelby County v. Holder, White Political Power, and America's Racial Policy Alliances."

336   Berman, Give Us The Ballot.

337   Berman.

338   "Thornburg v. Gingles."

339   "Shaw v. Reno."

340   "League of United Latin American Citizens v. Perry."

341   Rhodes, Ballot Blocked: The Political Erosion of the Voting Rights Act.

342   Rhodes.

343   Desmond King and Rogers M. Smith, "The Last Stand? Shelby County v. Holder, White Political Power, and America's Racial Policy Alliances."

344   "Asian Americans Sue City of Santa Clara Over Voting Representation."

345   Ming Hsu Chen and Taeku Lee, "Reimagining Democratic Inclusion: Asian Americans and the Voting Rights Act."

346   Christina Fletes, "Voter Justice: Why Latinos Must Be a Key Part of the New Coverage Formula for the Voting Rights Act."

347   "Miller v. Johnson."

348   "Thornburg v. Gingles."

349   Thomas F. Schaller, "Multi-Member Districts: Just a Thing of the Past?"

350   Desmond King and Rogers M. Smith, "The Last Stand? Shelby County v. Holder, White Political Power, and America's Racial Policy Alliances."

351   Toppo and Overberg, "After Nearly 100 Years, Great Migration Begins Reversal COLLEGE GRADS AND RETIREES ARE LEADING THE RETURN OF BLACKS TO THE SOUTH."

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353   Sullivan, "African Americans Moving South -- and to the Suburbs."

354   Kimberley Johnson, "'Black' Suburbanization: American Dream or the New Banlieue?"

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