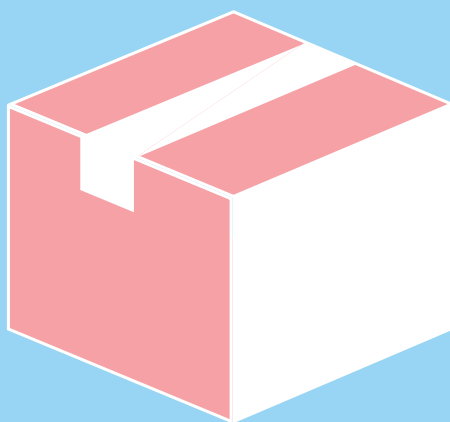


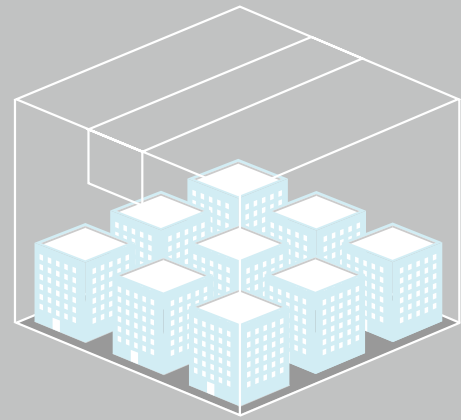
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## FOREWORD

In an era of globalization, it is perhaps not surprising that displacement has become normalized. The Call for Papers for this volume of the Berkeley Planning Journal referenced the United Nations estimate of 65 million refugees globally, a staggering total that does not even include the internal displacement totals of the most affluent countries in the world. Many heroic efforts have emerged to assist refugees from nation-states — as well as victims of the affordable housing crises of advanced capitalism. Yet, there seems to be little movement towards addressing the root causes of displacement, or even taking preventive action to stabilize communities.

Our tiny world of urban planners should take this failure to heart. Since the mid-twentieth century, the biggest shock to planning practice has been the traumatic impact of urban renewal, which displaced hundreds of thousands of residents, the vast majority communities of color, for new development and highways. In the wake of resident revolts and new social movements, planning entered a new era of reflective or critical practice that increasingly acknowledged the multiplicity of views and complexity of institutions (Forester 1989, Innes and Booher 2010, Sandercock 2004). Still, planners continue to support infrastructure and real estate developments that displace residents either directly or indirectly, by accelerating processes of neighborhood change. We continue to plan for the jobs and residents to come, rather than for existing communities — particularly those with disadvantaged residents.

Abetting practicing planners is a world of scholarship that has fallen short in theorizing about and even describing displacement. Critical geographers and sociologists have crafted rich narratives about gentrification processes around the world, but offer almost nothing other than speculation about the displacement that is occurring (see, for instance, Lees, Shin, and López-Mo-

rales 2016; Smith 1996). Economists and planners have struggled to operationalize displacement and neighborhood context, have examined only a small selection of potential causes, and have modeled neighborhood change only over short timeframes that cannot possibly capture the entirety of change (for more detail, see Zuk *et al.* 2018). Existing methodologies and data fail to track much of the displacement that is occurring, and the more rigorous and thoughtful definitions (Grier & Grier, 1978; Marcuse, 1986) remain largely ignored.

Given this vacuum, a BPJ volume dedicated to displacement is a welcome addition. These articles deploy a variety of methodologies, conceptual frameworks, and definitions to deepen our understanding of displacement. Expanding on our US-centric definitions and narratives of displacement are Bhattachajee's examination of the gendered governance of mobility and Shelby's grounded, annotated storytelling about eviction pressures in Bangkok. Back to California, the authors deconstruct the housing crisis and its proposed solutions, from the racist epistemologies underlying both NIMBY and YIMBY arguments (McElroy and Szeto), to the failure of a social movement confronted by politics (Lin, Lindheim and Smith), to the glib readiness to blame labor costs for the inability to build enough housing at modest cost (Littlehale).

Taken together, these articles help build the case for new frameworks to understand displacement. Yet, they also point to ongoing challenges: the need to combine different ways of knowing, to couple deconstruction with vision, and to tell compelling stories in order to effect change. The next generation of scholarship will need to build such bridges if it is to reach our reflective practitioners.

Karen Chapple

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## THE RACIAL CONTOURS OF YIMBY/NIMBY BAY AREA GENTRIFICATION

Erin McElroy  
Andrew Szeto

At the height of San Francisco's hyper-gentrification in 2014, capitalist development groups began coopting anti-displacement grammar, thereby promulgating market-driven solutions for rising rents and eviction rates. Despite the historic roots of pro-development, this new form of San Francisco pro-growth activism emerged as a reaction to a renewed housing justice movement. It was during this time that over a dozen tenant's rights and nonprofit housing development organizations consolidated the Anti-Displacement Coalition, collectively framing the "housing crisis" as increased eviction and homelessness rates. Coalition members called for specific policies such as eviction moratoriums, taxation on real estate speculation, and enforcement of short-term vacation rentals to stop the displacement of long-term working class communities. Through direct action and strong anti-displacement policy advocacy the Coalition united a renewed movement against gentrification. In reaction, pro-development groups that were amplified by the Bay Area Renters Federation (BARF) initiated a surge of what they called "YIMBYism" against housing justice groups' putative "NIMBYism" (Yes in My Backyard versus Not in My Backyard). While NIMBYism has long been understood as linked to racist and wealthy neighborhood preservation, in this article we assert that despite YIMBYism's framing of housing justice activists as NIMBY, both YIMBYism and NIMBYism shelter similar racist onto-epistemologies.

In 2014, BARF came to fruition after its founder, Sonja Trauss, read a slow-growth critique by then *TechCrunch* reporter Kim-Mai Cutler (2014), which amplified a pro-growth solution to San Francisco's housing crisis. Since its formation, BARF has grown into a larger YIMBY movement. Galvanizing momentum on state and national scales, YIMBYism enjoys support from technocapitalists, developers, politicians, and urban think tanks (Bay Area Renters Federation 2014; Swan 2016; Szeto and Meronek 2017; YIMBYtown 2017), trumpeting new development, luxury or otherwise, as the only remedy. According to Trauss, those opposing new luxury developments in working-class neighborhoods "just got confused" (Hammill 2016). YIMBYs blame slow-growth advocates for the reduction of available housing stock, a cutback that they assert drives up property values. As such, YIMBYism grows by mobilizing a common enemy — resisters of new luxury and market-rate housing development. While these resisters are largely rooted in anti-racist politics, YIMBYism renders them racist "NIMBYs." This discursive strategy conflates wealthy NIMBY property owners who are determined to maintain the "traditional character and culture of their backyards" with housing justice advocates who are fighting evictions and prioritizing affordable housing construction (HoSang 2010).

"YIMBYs" disseminate their free market remedy into discursive geographies far and wide, participating in national annual conferences such as YIMBYtown, as well as in lobbying efforts in Washington DC and Sacramento. In San Francisco, however, BARF and its fellow YIMBY cohort endeavor, more than anything, to impact policy. In a January 2016 Planning Commission hearing around the deceptively titled "Affordable Housing Density Bonus" program, BARF pushed for the implementation of

a citywide up-zoning measure. This would facilitate the razing of homes and businesses for the development of market-rate and luxury buildings, eventually offering low-income tenants below market-rate dwellings elsewhere. During the hearing, the San Francisco YIMBY Party's Policy Director, Brian Hanlon (a white man), proclaimed,

While I'm angry at many so called affordable housing leaders for consistently failing their constituents, I am also angry that by not allowing sufficient housing to be built in San Francisco they're going to make me complicit in displacing even more vulnerable populations... When I move to East Oakland, I will most likely be replacing someone who does not look like me.

Hanlon's ultimatum to poor communities of color — to accept luxury housing construction or else be displaced by this white YIMBY man — echoes the paternalism of pro-development forces during previous waves of dispossession. In this article, we unravel YIMBYism's racist logic to reveal an underpinning genealogy of NIMBYism. In doing so, we argue that when it comes to racialized housing dynamics, the dialectic between YIMBYism and NIMBYism is fictive.

In what follows, we trace the emergence of this false YIMBY/NIMBY dialectic, studying its constitution and material effects. Specifically, we investigate how racial capitalism is constitutive of YIMBYism, drawing upon Cedric Robinson's argument that racialization has always been constitutive of capitalism, and racism is requisite for capitalism's endurance (1983). We make our argument by drawing upon empirical research conducted by the Anti-Eviction Mapping Project (AEMP) — a data analysis, oral history, and critical cartography collective that we are both part of.<sup>1</sup> As a project committed to producing data *with* and *not* for impacted communities (Tallbear 2014), the AEMP endeavors for its work to be useful in thwarting Bay Area racialized dispossession. This paper also draws upon collaborative research between AEMP and community-based housing rights nonprofits and local housing justice organizing efforts, as well as literary

and cultural analysis. Such a methodological approach facilitates the unearthing of the racial logics undergirding YIMBYism, pointing to the need for alternative analytics to theorize and mobilize against heightened forms of racialized dispossession.

We begin by outlining San Francisco's YIMBY and NIMBY genealogies, and then proceed to unravel the basic statistical logic underpinning YIMBYism. In doing so, we introduce an additional analytic that we argue is requisite for deconstructing YIMBY algorithms: aesthetic desires of wealthy newcomers. In doing so, we suggest that the YIMBY "build, baby, build" housing solution fails when architectural and neighborhood fantasies are taken into account. We then study how racialized surveillance informs not only the NIMBY but also the YIMBY gaze, arguing that both camps are ultimately tethered to racial capitalism's liberal legacies.

## GENEALOGIES

The neoliberal analytics embraced by YIMBY and NIMBY groups have precursors in the San Francisco Bay Area's development history. The United States urban crises of the 1960s and 1970s, popularly discoursed as the growth of metropolitan decay and blight, were informed by the restructuring of urban and suburban landscapes in the prior era, which generated white flight from urban centers (Sugrue 1996). In the Bay Area, white flight was a response to the Great Migration of African Americans from the South, along with other transnational migrations into urban spaces. During this era, while urban spaces experienced divestment and were rendered racialized ghettos, the "white noose" of the surrounding suburbs became valorized, leading to new forms of exclusionary and racialized space (Self 2003). As Richard Walker and Alex Schafran suggest, "The Bay Area's liberal reputation belies the degree to which blacks lived in segregated neighborhoods, especially during the first wave of postwar suburbanization" (2015, 24). It was against this racialized and exclusionary spatiality that San Francisco's slow- and anti-growth movements emerged, opposing what Walker calls the suburban "spatial fix" (2004).

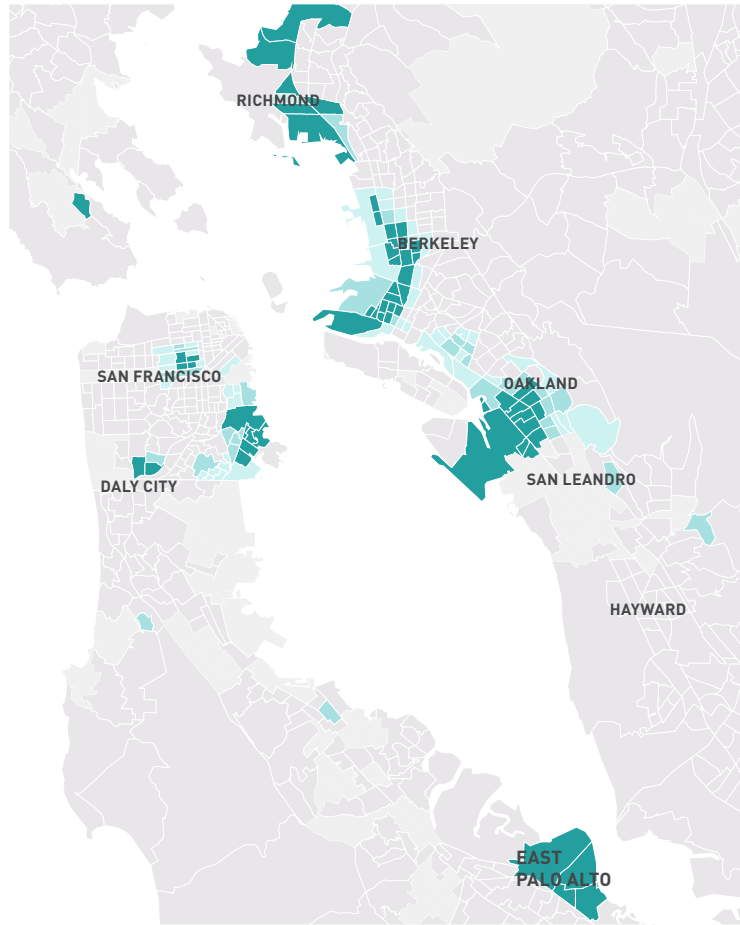
While at first opposition to the construction of wealthy surrounding enclaves made sense according to anti-racist ethics, it began to make less sense as twentieth-century exurbanization changed forms, and as parts of cities became newly desirable and invested in (Schafran 2013, 666). This reinvestment in some urban spaces was paralleled by height-

1. The Anti-Eviction Mapping Project is an activist data visualization, data analysis, and digital narrative project founded in 2013 and currently working in San Francisco, Alameda, San Mateo, and Los Angeles Counties, as well as New York City. For more on the project, see Maharawal and McElroy 2017a.



FIGURE 1

BLACK OR AFRICAN AMERICAN POPULATION, 1970



PERCENTAGE

20%

>80%



By the AEMP

(For an interactive map, see <http://www.antievictionmappingproject.net/black.html>)

FIGURE 1

BLACK OR AFRICAN AMERICAN POPULATION, 2015



PERCENTAGE

20%

>80%



By the AEMP

(For an interactive map, see <http://www.antievictionmappingproject.net/black.html>)

ened forms of divestment in others — not to mention failed redevelopment and displacement projects — and led to new forms of racialized exurbanization, pushing poor and working-class communities of color into the suburbs through its racialized practices of increasing mortgages, subprime lending, and carrying out foreclosures (Wyly *et al.* 2012). Therefore, San Francisco’s Black population began to dramatically decline in the 1980s (see figure 1), diminishing the 1970s 13 percent population to 2015s 5.5 percent figure (Anti-Eviction Mapping Project 2016a). In fact, since the 1980s, of all US cities, San Francisco has experienced the fastest declining Black population (Brahinsky 2012).

For instance, the Western Addition and Fillmore, which boasted a 60 percent Black population in the 1940s, were racialized and declared blight in 1948, leading to an “urban renewal” redevelopment project in 1964. Utilizing eminent domain, 60 square blocks were effectively destroyed, displacing 883 businesses, forcing out 4,729 households, and demolishing roughly 2,500 homes (Fulbright 2008). Although people were promised by Justin Herman’s Redevelopment Agency the right to return, the promise was never fulfilled. As the Reverend Amos Brown of the city’s branch of the National Association for the Advancement of Colored People explained, “They wiped out our community, weakened our institutional base and never carried out their promise to bring people back” (Fulbright 2008). Later, in the 1990s, deteriorating towers were demolished across the country for “mixed-income,” low-density buildings in the name of redevelopment. In effect, countless tenants were evicted in areas previously targeted during urban renewal (Howard 2012; Pattillo 2007; Tracy 2014). Those exurbanized and forced out of San Francisco and other cities, which were now driven by valorized “creative capital,” have been disproportionately low-income communities of color, and it is no coincidence that they later bore the brunt of the subprime mortgage crisis. As research by Elvin Wyly *et al.* has revealed, foreclosure and delinquency rates in largely minority neighborhoods across the country have been twice as severe as those in white neighborhoods, thereby establishing new “racial meanings of housing in America” (2013, 577).

In San Francisco, each wave of development and displacement that has followed Black communities and communities of color — whether through state abandonment and divestment, redevelopment and gentrification, or exurbanization and foreclosures — demonstrates how racial capitalism underpins these forced dislocations and crises. Yet, as YIMBYs advocate for up-zoning across the city (Clark 2017; Florida 2016; Lens and Monk-

konen 2016), they mistakenly argue that redlining and segregation are the result of low-density housing policies rather than those predicated upon technologies of speculation and dispossession. YIMBYism’s demands for up-zoning liberalization as a remedy to contemporary urban segregation neglect these racialized histories, failing to acknowledge how capitalist urbanization has created crises for communities of color in every iteration. By projecting NIMBYism onto these histories, YIMBYism disavows its inherent racism.

It is true that slow- and anti-growth Bay Area histories have contributed to structures of racialized exurbanization by opposing the earlier suburban spatial fix, and by attaching to a liberal imaginary of a perfect, quaint city. However, the movement has been more heterogeneous and nuanced than simply that (Hartman and Carnochan 2002). From opposition to Proposition 13<sup>2</sup> to dissent against lofts of the 1990s and towers of the 2000s, which were developed to meet the housing needs of Silicon Valley venture capital, there have been different iterations of opposition that responded specifically to racialized uneven development (Smith 1982). The International Hotel eviction struggle challenged the mass eviction of Filipino seniors as well as forces of urban redevelopment and “monopoly capitalism” that sought to demolish low-income housing for downtown pro-growth interests (Habal 2005). Also, during the Dot Com Boom housing activists successfully opposed the Planning Department’s decision to develop Trinity Plaza apartments, which would have led to the eviction of 360 rent-controlled tenants for the construction of 1400 market-rate condominiums (Corburn and Bhatia, 2007, 329).

As the historic contours of anti- and slow-growth movements illuminate, while it is one thing to oppose all development, it is quite another to oppose the development of luxury housing for the rich, particularly when development induces or forecasts conditions of racialized gentrification. And this is precisely where the NIMBY/YIMBY dialectic falters. Housing justice advocates fighting to curb evictions and the construction of luxury development embrace not a NIMBY ethos, but rather one opposed to the reproduction and endurance of racial capitalism in housing contexts. YIMBY-

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2. Many slow-growth advocates also objected to the 1978 Proposition 13, which standardized property taxation and financialized land use, shifting development planning criteria from traditional planning concerns (e.g., proximity to transportation) to the amount of capital a project would contribute to a municipal body. This exacerbated uneven job/housing equations, incentivizing long commutes (a prelude to the contemporary Bay Area commuting mess of today). Thus, opposition to Proposition 13 was a dissent to the upswing of neoliberalism into urban planning.

ism constructs a NIMBY antagonist who equates public and affordable housing with luxury condos. But this enemy simply does not exist; it has never existed.

Beyond reliance on such enmity fictions, pro-growth supply and demand formulas fall short in their ameliorative attempts. Walker suggests that to understand contemporary drivers of the housing market, rather than buying into the Economics 101 myth of “build, baby, build,” we need to study three other influential conditions: “credit and capital, boom and bust cycles, and the spatial preferences of the elite” (2016). As he argues, housing often requires mortgages and the financial institutions. These incited the country’s most overheated mortgage markets during the housing bubble and have yet to be sufficiently reformed. Further, as much of the venture capital currently penetrating the Bay Area is tied to the global market, a transnational analytic is requisite. Additionally, the Bay Area housing market is dramatically distorted by “the wealthy for exclusive, leafy, space-eating suburbs from Palo Alto to Orinda,” which “reduce overall housing supply by using low-density zoning to block the high-rises and apartments that provide moderate priced homes (not to mention low-income public housing)” (2016). Not all suburbs are equal (Schafran 2013). Today, while some suburbs have become the destination of those expelled from gentrifying metropolises, others are all too eager to maintain their gated communities and cultures of racialized exclusion.

While YIMBYs blame opponents of luxury development increased gentrification, Walker argues that the actual “market distortions” fueling the crisis are factors such as speculation, financial excess, tax havens, and inequality. “The day when the runaway privileges of bankers, builders, speculators, wealthy suburbanites, and the rest are reined in,” he writes, “that’s the day the housing crisis will be over” (2016). As his arguments make clear, “build, baby, build” formulas do not remedy displacement and instead contribute to it. Thus, alternate solutions must be considered, from eviction protection to low-income housing construction to community land trust investment. After all, in San Francisco, it has been local community-driven organizing that has historically been most successful at thwarting evictions, not free-market applications.<sup>3</sup> As such, YIMBYism reminds us that the violence of racial capitalism has always been obscured under the liberal

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3. For literature on San Francisco’s long social movement history resisting gentrification and capitalist development see Beitel (2013), Brahinsky (2014), Browne *et al.* (2005), Carlsson (2004), Habal (2005), Hanhardt (2013), Lai (2012), Maharawal (2014), McElroy (2017), and Tracy (2014).

banners of “progress,” sometimes coded as “renewal” or “redevelopment.” Not only does the discourse of the “housing crisis,” championed by city planners and YIMBY activists, fail to reckon with the centrality of dispossession required for growth, but also with the deep history of racialized liberalism.

## ALGORITHMS OF DESIRE

In this section, we unravel the undergirding YIMBY tenets and turn to an analytic often ignored in planning conversations: desire. By desire, we refer to affective predilections that draw renters and owners towards particular neighborhoods and architectures — fantasies that defy traditional planning logics but that nevertheless feed into and co-constitute those of the free market. These structures of desire, we argue, are imbricated within settler culture. We argue that in order to understand current contexts of displacement, one must attend to racialized structures of settler desire and not only neoliberal economics. But first, some basic math to disinter several YIMBY racialized logics.

One of YIMBYism’s primary arguments is that increased development, regardless of the type, will ameliorate the lack of Bay Area housing, and thus mitigate displacement pressures. This presumes that San Francisco has a housing shortage. To the contrary, US Census data shows that between 1960 and 2010 the city’s population increased by 64,561 people. To meet this growing demand, 91,933 net housing units were built, totaling 1.4 new units per new resident (Welch 2017a). However, many of the units are unaffordable, making the problem less about quantity and more about housing type (Redmond 2017). Arguably, building 50 percent affordable housing will only ever keep the ratio of affordable to unaffordable what it currently is, and this presumes that affordable housing is not continually lost to evictions - which is not the case. For instance, between 2016 and 2017, 4,697 units were removed from protected affordable status due to condo conversion, evictions, buy-outs, and demolitions (San Francisco Planning Department 2017; Redmond 2017).

San Francisco’s own General Plan calls for 60 percent affordable development to maintain an equitable housing climate, but on average, the city only builds 21 percent (Redmond 2017). According to the San Francisco Planning Department, by the third quarter of 2016, the City of San Francisco had approved 181 percent of projected market-rate housing

for 2022 (San Francisco Planning Department 2017). Yet, the City only rubber stamped 16 percent of its low-income requirements (San Francisco Planning Department 2016). Even between 2007 and 2014, the City authorized 109 percent of requisite market-rate housing, yet only met 27 percent of its low-income requirements (Welch 2017a). In this way, new market-rate construction creates more of a demand for affordable housing than the market supplies, thereby worsening the crisis. While YIMBYs maintain that high-density development produces cheaper rents as more units can be built per acre, as of 2017, the city's neighborhoods with the highest rents are also the neighborhoods with the most high-rise, high-density buildings. Unlike YIMBYism's "all housing matters" rhetoric, the type of new construction does matter.

YIMBYs also purport that San Francisco progressives and NIMBYs alike have used local zoning and planning laws to keep new and necessary housing from being approved. Calvin Welch reminds us that 50,904 units were approved for development between 1996 and 2015 and 16,000 have been approved since 2010 (San Francisco Planning Department 2015; Welch 2017a). Housing development is clearly being passed. The problem however is that it can take years to build new units, and each year, only a small percentage of total housing stock enters the bottlenecked market — a market that will likely bust, shattering overconfident construction and home prices.<sup>4</sup> Therefore, developing new market-rate units hardly seems productive when, instead, we can make existing vacant units available to low-income tenants and fight displacement. Within free market geographies, the poor will always be outbid; supply and demand logic will continually fail to shelter them.

As research conducted by the University of California, Berkeley's Urban Displacement Project (UDP) has determined when analyzing impacts of market and subsidized housing developed in the 1990s on displacement during the 2000s, there is no evidence that market-rate development is effective mitigation (Zuk and Chappel 2016, 3). Further, the project found subsidized housing to be twice as effective as market-rate development regionally (2016, 10). Miriam Zuk and Karen Chappel of the UDP issued their report after California's Legislative Analyst's Office (LAO) incor-

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4. For instance, in 2014, Calgary experienced an economic boom that excited developers. But the boom busted. As of 2017, 1,500 units were still vacant, 800 of them condos (CBC 2017). While the Bay Area market is not about to bust as Calgary's did, at least not yet, 2016 did witness some possible signs of slowdown (Gumima 2017).

rectly used data from the UDP's website to argue for the effectiveness of market-rate development in combating displacement. Erroneously, the LAO presumed the effectiveness of filtering, or the process by which older market-rate units become affordable as new units are inserted into the housing market. While filtering may work in some cases, it takes generations. Zuk and Chappel argue, "units may not filter at a rate that meets needs at the market's peak, and the property may deteriorate too much to be habitable" (*ibid.*, 3). Filtering, as a stand-in for "trickle down," remains in Welch's words a "Reagan-era supply-side fiction" (2017b). Further, Zuk and Chappel offer, "in many strong-market cities, changes in housing preferences have increased the desirability of older, architecturally significant property, essentially disrupting the filtering process" (2016, 3).

And this brings us to our analytic of desire. We argue that wealthy renters and buyers alike make housing decisions not only based on availability, but also on aesthetic values. For instance, there are speculators such as Zephyr Real Estate's Bonie Spindler who accrue capital by "specializing" in particular architectures — in Spindler's case, Victorians. The AEMP has uncovered nineteen no-fault evictions issued by Spindler, many of them Ellis Act evictions,<sup>5</sup> largely in the Haight. Some of these evictions have displaced senior and disabled tenants. Making a living by "fixing and flipping" Victorians, Spindler caters to homebuyers who are not interested in new condos in South Beach and other areas of new high-density luxury, but rather to those who are interested in living in and capitalizing on Victorian architecture. As part of its crowdsourcing narrative project, a tenant wrote to the AEMP,

Bonnie Spindler may have Ellised 19 units of her own, but she has participated in Ellising hundreds more as a real estate agent at Zephyr. As an example, we were Ellised when she was hired as the agent to sell the building we lived in. She arranged for the fractional financing, sold each condo, and when one unit wouldn't sell because it was not optimal for an owner to live in, she even got her friend and "stager" to purchase the unit and then rent it out exactly two years after the eviction for four times what it was renting for before. She knows the Ellis Act inside out and profits on more than just her 19 units.

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5. In San Francisco, evictions are codified as either "fault" or "no-fault." Fault evictions imply lease-violation, legally giving the landlord cause to evict. No-fault evictions, on the other hand, transpire due to no fault of the tenant, allowing speculators to buy up rent-controlled buildings, evict tenants, flip the buildings, and sell them, as we have seen with numerous Ellis Act Evictions (Tenants Together and the Anti-Eviction Mapping Project 2014). Both fault and no-fault evictions disproportionately impact low-income tenants of color, and both are haunted by racial capitalism's wraiths.

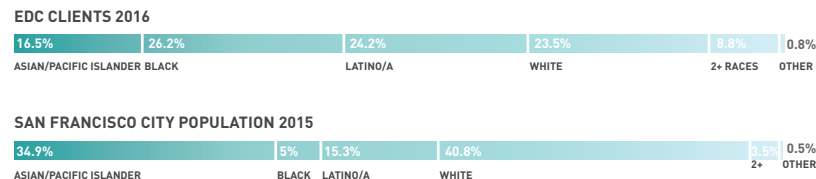
As this story of unregulated capitalism and eviction reveals, Spindler’s business model is contingent upon a market driven by specialized desire and speculative eviction. Even if her units were adjacent to new luxury condos, the tenants in her buildings still would be evicted as part of her “accumulation by dispossession” strategy (Harvey 2004). Because Spindler’s real estate apparatus is undoubtedly bolstered by the free market, the dispossessive techniques that it hinges on will never be thwarted on the market’s accord.

Spindler and Zephyr are far from anomalies within San Francisco’s speculative landscapes. Local cartographies are redesigned by realtors overnight to materialize topographies desirable to wealthy newcomers. For instance, in 2014 realtor Jennifer Rosdail rebranded Mission and Castro geographies as part of her new “meta-hood,” the “Quad” (2014). The Quad, she describes, is home to a new genre of residents, “Quadsters,” or those who “work very hard — mostly in high tech — and make a lot of money.” Further, she describes:

They value time greatly and want to be in a place where they can get to work quickly, meet up with their friends easily, and walk or bike instead of sitting in traffic. They take the Google Bus, the Apple Bus, or another of the reputedly less well [equipped] shuttles like the eBay Bus. They also like to eat really good food, but don’t often have time to cook it. And since they work on “campuses,” and are the millennial version of the Cow Hollow “Triangle” dwellers of the 70s and 80s, the name “The Quad” seems a good fit.

By rebranding Mission and Castro geographies, Rosdail engages in toponymical erasure, spatially and intertextually erasing prior neighborhood histories and nomenclatural practices by overlaying new ones, per a grow-

**FIGURE 2**  
**EDC CLIENTS BY RACE/ETHNICITY**



By the AEMP and EDC (see [http://www.antievictionmappingproject.net/EDC\\_2016.pdf](http://www.antievictionmappingproject.net/EDC_2016.pdf))

ing neoliberal urban trend (Alderman 2008; Rose-Redwood 2008). In doing so, she installs an artificial marketing sieve, drawing the Quad upwards as the most desirous dwelling place for Quadsters, who, according to tech hiring statistics, are 70 percent male and 60 percent white on average (Molla and Lightner 2016). Realtors and developers alike speculate upon this demographic. Why would a Quadster live in a condo elsewhere if the Quad defines and meets its desires?

As collaborative work of the AEMP and Eviction Defense Collaborative (EDC) uncovered, Black and Latinx tenants have been overrepresented in the EDC’s eviction clinic (which represents 90 percent of court evictions cases in San Francisco), while white tenants have been underrepresented (figure 2) (Anti-Eviction Mapping Project and Eviction Defense Collaborative 2017, 3).<sup>6</sup> And yet, YIMBYs are more invested in creating housing for, in Trauss’s words, “newcomers who are renters who ended up being white” (Tran 2017). At the time of writing, Trauss is running for District 6 Supervisor – the district that the EDC represented most in 2016 (Anti-Eviction Mapping Project and Eviction Defense Collaborative 2017, 4). This district also contains San Francisco’s most economically and racially diverse neighborhoods - the Tenderloin and Treasure Island, both under immense gentrification pressures. For instance, in upcoming years, the radioactive human-made Treasure Island will replace 675 households with 8,000 new ones as part of a greenwashed development plan, leading to the impended displacement and relocation of many who have long been suffering environmental racism on the island (Dillon 2017; Meronek 2015).<sup>7</sup>

Not only do Black and Latinx tenants face eviction pressures most, but they also must endure new forms of racialized appropriation that accompanies speculation. Essence Harden, a third-generation Black Oaklander who recently was displaced from the Bay Area after pouring in immense amounts of labor into refinishing her former home and creating a garden, poignantly critiques that gentrifiers see her creations and what them, but don’t care who made them. Further, before leaving, she remembers, “My [new] neighbors

6. In this study, Black tenants were overrepresented by 300 percent (Anti-Eviction Mapping Project and Eviction Defense Collaborative 2017).

7. For over a decade, Treasure Island has been a space in which the City of San Francisco sends people it does not know where to put elsewhere, from fire victims to evictees. For instance, in 2015, 100 people were evicted from Yerba Island city-owned housing for the development of 285 luxury units, and then given relocation options on Treasure Island. Many rejected the offer due to known toxicity there. Thus, it is ironic that now that the City is cleaning the island, people are being displaced from it.

would look at me like an alien. That’s one of the worst feelings, especially as a Black person” (quoted in Tran 2017). Thus, not only is Harden displaced, but her labor is appropriated by those who alienate her. Appropriation has long been a settler tool, displacing and capitalizing upon space, people, and culture in the name of *terra nullius*, a boundless and promising frontier (Byrd 2011). The appropriation of Harden’s work, like Rosdail’s appropriation of the Mission, is embedded in settler histories that have long normalized the white inheritance of property.

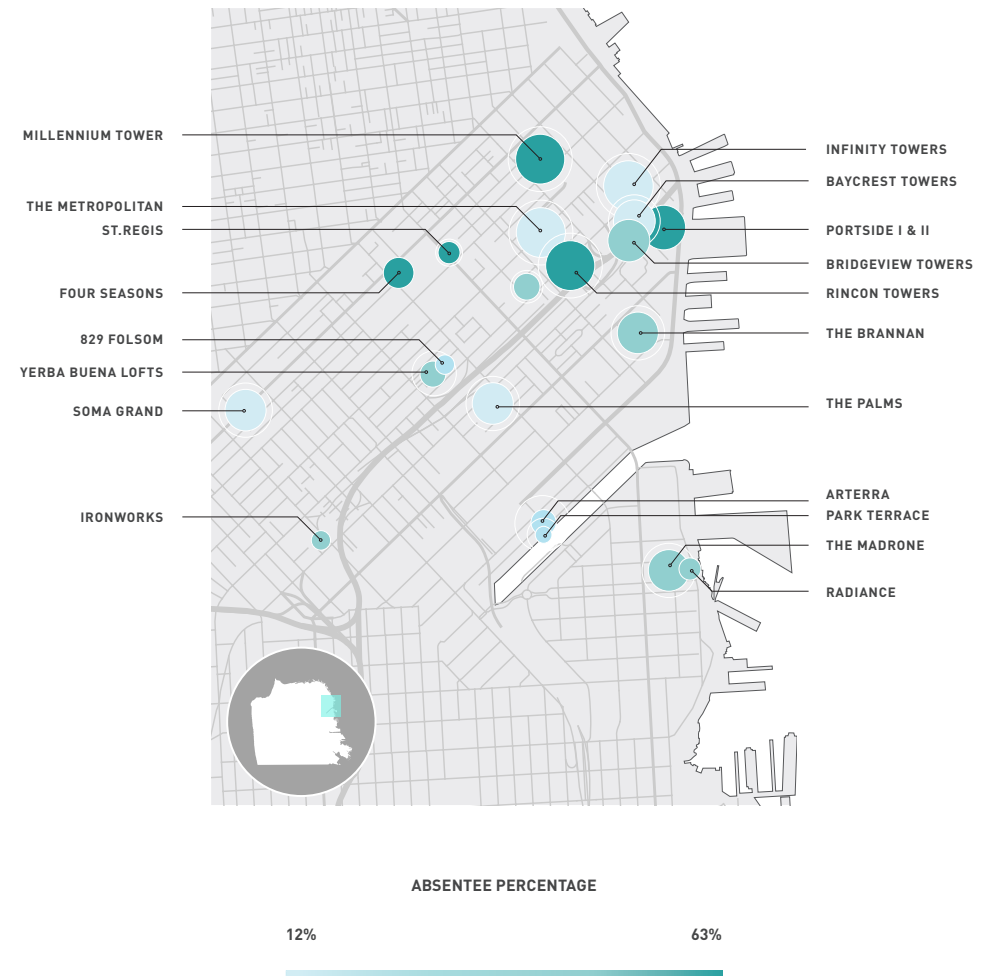
While Quadsters desire Quad/Mission living, and while Spindler and her clients fantasize Victorians, there are others who do desire high density luxury condos. However, of these, not only fantasies of primary residency loom. As investigative research by Darwin BondGraham and Tim Redmond has revealed (see figure 3), 39 percent of 5,212 condos in 23 buildings primarily built after 2000 have been purchased by absentee owners (Anti-Eviction Mapping Project 2017a; Graham and Redmond 2015). In come condos, absentee ownership is over 60 percent, with primary residences concentrated in surrounding suburbs such as Los Altos Hills, Sausalito, and Lafayette. Further, new units were listed on Airbnb for as much as \$6,000 per night, clearly doing little to ameliorate gentrification. As BondGraham and Redmond conclude, “Rather than satisfy some demand for housing at the top of the market and alleviate the city’s affordability crisis, San Francisco’s luxury condos instead are being purchased by wealthy buyers who have a virtually bottomless appetite for super-exclusive real estate” (2015). And yet, high-end towers such as these are advocated for by YIMBYs as a means ameliorating gentrification.

**RACIAL GEOGRAPHIES OF THE NIMBY/YIMBY GAZE**

The history of racism, segregation, and pathologization is central to any analysis around NIMBYism, and as we argue, also YIMBYism. Here we delineate NIMBY racialized histories, tracing their contours as they surface in YIMBY spatial/racial imaginaries. Focusing on modes of racialized surveillance that accompany gentrification, we argue that for YIMBYs to narrate their enemy as NIMBY obscures how NIMBYism lays the groundwork for YIMBY spatiality.

NIMBYism originated with mid-century white flight and suburban growth, a response to expanding urban migrations of Black communities where white homeowners began guarding suburban enclaves. In 1982, M. J. Dear and S. Martin Taylor wrote their formative “Not on Our Street,” studying

**FIGURE 3  
ABSENTEE LUXURY OWNERS IN SAN FRANCISCO**



By the AEMP, in collaboration with Darwin BondGraham and Tim Redmond  
(see <http://antievictionmap.com/absentee-owners-san-francisco/>)

community stigmatization of a new mental health care facility. Their analytical scholarship on what then became popularized as NIMBYism reflects “how space inherits, and feeds into, the social production of opposition, conflict and the broader maintenance of socio-spatial exclusion” (DeVerteuil 2013, 599). Since then, NIMBYism has increasingly stood in for white suburban homeowner opposition to in-migrations of racialized poor communities (Hubbard 2009; Pulido 2000).

Central to our argument is that NIMBY racial logics ground those of YIMBYism, particularly in the context of luxury housing development advocacy. For instance, BARF has supported the developer Maximus’s market-rate construction of what would be the largest complex in San Francisco’s Mission District, notoriously referred to as the “Monster in the Mission.” Crucial to 16th Street Plaza development plan is the private contract with Clean Up the Plaza Coalition, intended to rid the plaza of “undesirables.” Led by Jack Davis, a man famous for supporting multiple mayors and development plans, the coalition has overtly characterized plaza occupants as pathogenic and criminal. According to Davis, “When you start mixing it all, then the criminal element can hide within this landscape of poverty. I’m not dissing homeless people, but when you have two to three hundred homeless people, plus the SROs, plus the urine and feces, plus gang violence, it’s unacceptable to me as a person” (quoted in Wong 2014).

In supporting Maximus’s development and efforts to rid poor communities from the area, YIMBYs in fact support NIMBY structures of racialization. That is, YIMBY pro-development requires a racist exclusionary strategy exemplified by NIMBYism. This strategy is tethered to what Christina Hanhardt describes as “two of global capital’s own ‘spatial fixes’: gentrification and mass imprisonment” (Hanhardt 2013, 14). As she writes, “in neighborhoods marked for cycles of disinvestment and then selective reinvestment,” prisons are “built to absorb surpluses of labor, land, and capital” (*ibid.*, 14). Poor communities surrounding the plaza become criminalized to make way for new luxury development.

While eviction and development are racialized technologies, so is policing. Broken windows theory, an alibi for police crackdowns on petty crime, is central to processes of urban devalorization and revalorization (Hanhardt 2016). As a New York University Furman Center study uncovered, decreases in “crime” in low-income and POC neighborhoods incentivize migration by high-income and college-educated households (Ellen, Reed, and Horn 2016). Thus, by ridding areas of “criminal activity,” they become more

marketable. By analyzing EDC and San Francisco police data (see figures 4 and 5), the AEMP has found that neighborhoods experiencing the highest rates of eviction now are the same ones in which “Quality of Life” infractions have been issued over the last decade. These include absurd citations such as “Danger of Leading an Immoral Life,” disproportionately issued to youth of color.

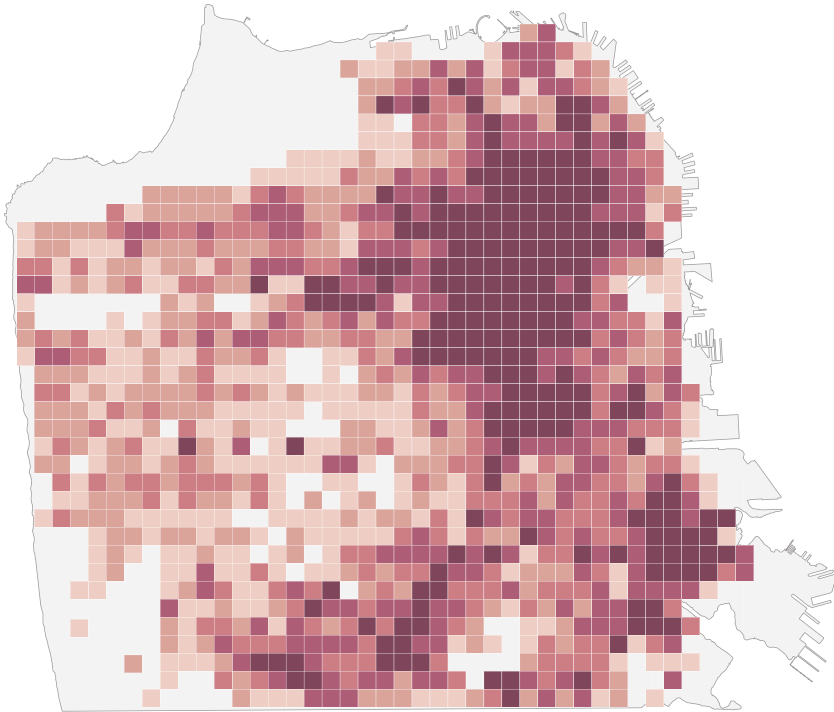
Frequently, in contexts of gentrification, police enact racial terror with outside informants. For instance, in 2014, a Latino Mission resident, Alex Nieto, was murdered by the San Francisco Police Department. The officers responded to one of several phone calls from multiple white men who had observed Alex on Bernal Hill during his work break — the place where he had regularly been taking breaks from the nightclub where he worked as a security guard. The first white man to observe him that March evening, Evan Snow, was a designer new to the neighborhood and racially profiled Alex as a dangerous gang member and tried to maintain distance. But Snow’s dog, Luna, decided that the chips Alex was eating should not be avoided and went after Alex. Alex, distressed by the dog, was then observed by two other white men who were also new to the neighborhood, and also funded by tech. One of them proceeded to call the police, who murdered him upon arrival. As an oral history that the AEMP conducted with Alex’s parents implies, Alex’s murder was a “death by gentrification.”<sup>8</sup>

As Alex’s death reveals, racial profiling is a necessary component of clearing up — out of the backyards of gentrifiers — land for capital accumulation. Thus, it is contradictory that pro-luxury development YIMBY supporters describe their opposition as NIMBY. NIMBYism is, in fact, constitutive of YIMBYism, installing white wealth into working-class neighborhoods of color. As we argue, “build, baby, build” premises fail to recognize that 1) both racialized and class-based violence are instigated by increased market and luxury development, and 2) hospitality to wealthy newcomers looks different than hospitality to poor and working-class racialized collectives. Craig Willse questions, “What does it mean to say that a house is a technology that makes live and lets die?” (Willse 2015, 23). We extend his question to ask, what does it mean that gentrification is a racial technology that makes live and lets die? The gentrifying terrain is not one of “All Lives Matter.”

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8. For AEMP’s oral history of Alex Nieto’s parents, Elvira and Refugio, discussing their son’s life and death, listen here: <https://soundcloud.com/anti-evictionmappingproject/sets/elvira-y-refugio-nieto>. For more on the oral history project, see Maharawal and McElroy, 2017a. Also see Rebecca Solnit, 2016, for the phrase “death by gentrification.”

**FIGURE 4**  
**DRUGS POLICE DISTRICT, 2016**



**FIGURE 4**  
**GRAFFITI POLICE DISTRICT, 2016**

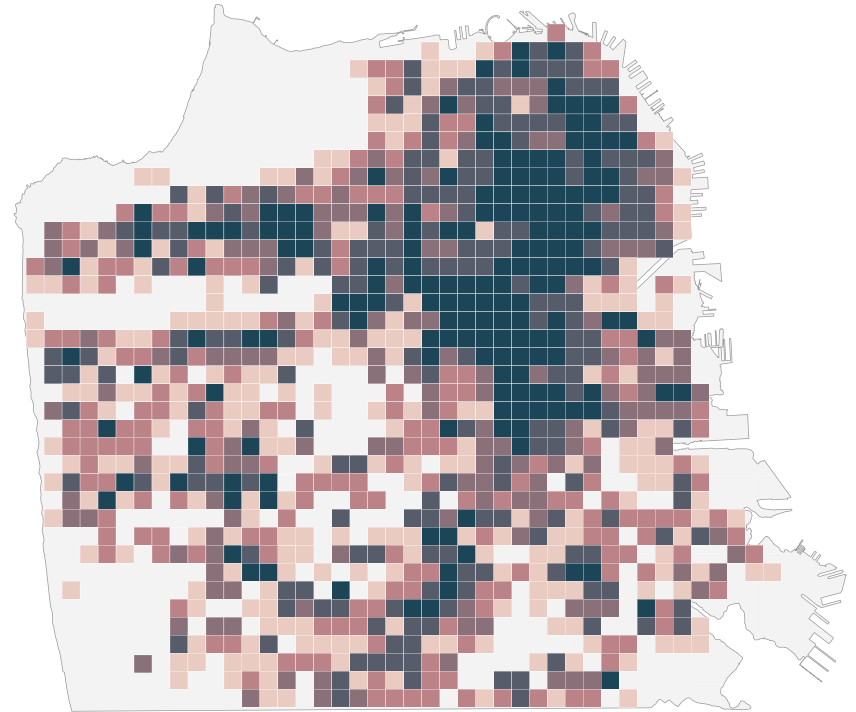
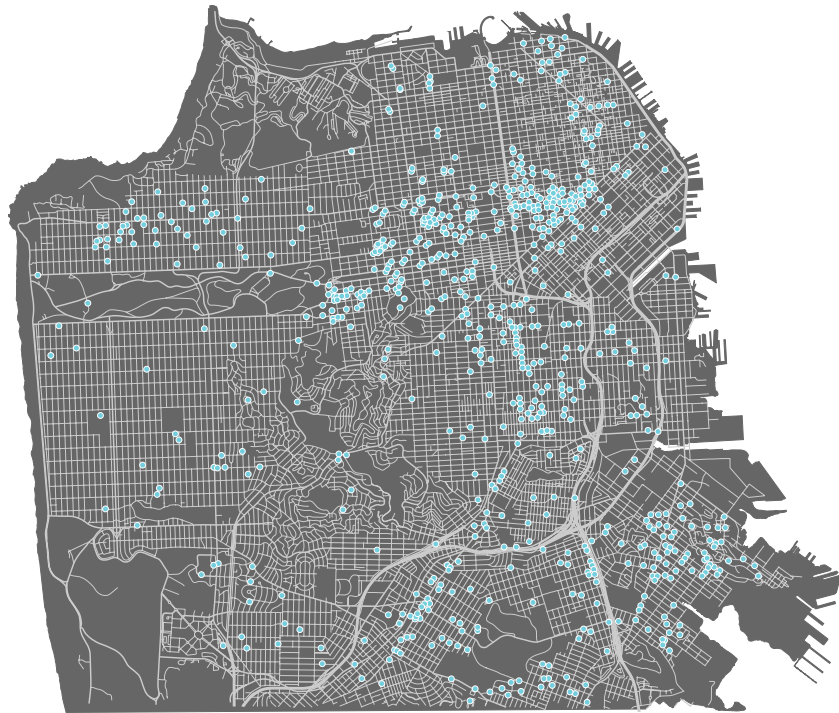


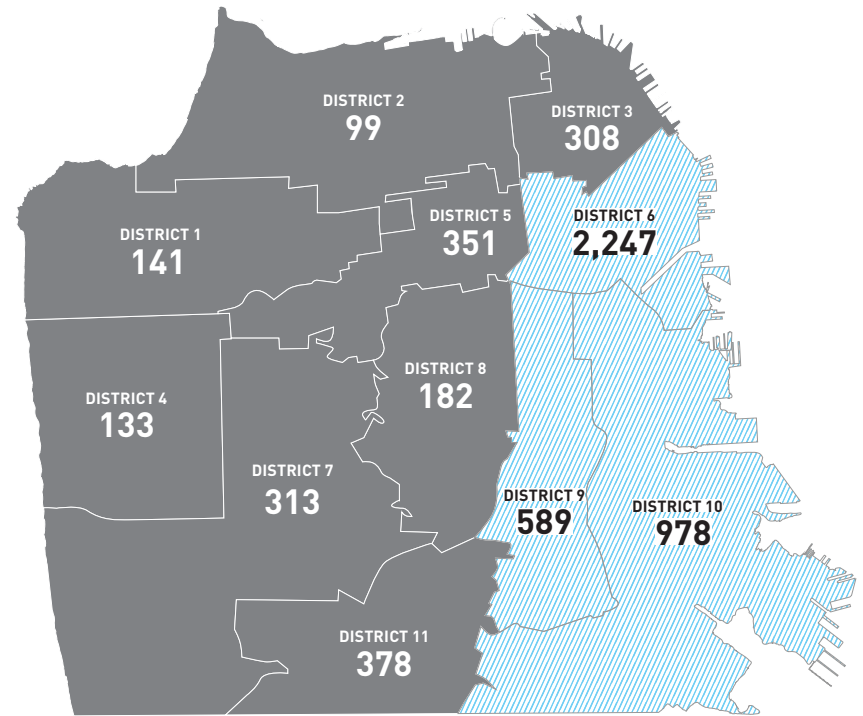


FIGURE 4  
IMMORAL LIFE POLICE DISTRICT, 2016



By the AEMP  
[see <http://antievictionmap.com/policing-race-and-gentrification>]

FIGURE 5  
EDC CASES BY SUPERVISOR DISTRICT, 2016



By the AEMP and EDC  
[see [www.antievictionmappingproject.net/edc2016.html](http://www.antievictionmappingproject.net/edc2016.html)]

## POST-RACIAL LIBERALISM

But how did it come to be that the NIMBY/YIMBY dialectic became popularly flipped on its head, particularly regarding class, race, and space? In analyzing prison construction politics, Anne Bonds argues that “[YIMBY] prison development initiatives are galvanized to maintain geographies of racialized privilege,” and that “like NIMBYism, YIMBYism is a particular form of racism” (2013, 1390). It is this form of racism, we argue, that must be unearthed to conceptualize the contradictions of San Francisco’s “liberal” housing politics.

San Francisco has long been hailed as a liberal paradise, home to a \$15 minimum wage, a sanctuary city policy, and the earliest iteration in the US of same-sex marriage — all relative consensus positions for the city’s residents. But liberal urbanism itself is not opposed to gentrification. On the contrary, urban liberalism worships Jane Jacobs, author of 1961 *Death and Life of Great American Cities* as its patron saint. Jacobs, an advocate of neighborhood charms, low-density, and “a livable, walkable city,” wrote against working-class spaces. As Sharon Zukin critiques, “What Jacobs valued — small blocks, cobblestone streets, mixed-uses, local character — have become the gentrifiers’ ideal. This is not the struggling city of working class and ethnic groups, but an idealized image that plays to middle-class tastes” (2011). As Zukin argues, Jacobs over-values aesthetics and undervalues working-class housing.

At first glance, YIMBYism aligns with Zukin’s critique. As Trauss herself proudly recounts, one of her earliest YIMBY actions was to advocate for the slashing of a tree that had been home to hummingbirds to raze room for the development of 97 apartment units (Hammill 2016). In doing so, she positions BARF as antithetical to Jacob’s liberal urbanism, and against NIMBYism and its hummingbird trees. However, both BARF and Jacobs coalesce in disregard for low-income housing. For instance, BARF’s Hanlon suggests that “if local policymakers seek to prevent displacement and permit in-migration of low-income people, they need to think more about the real estate market and less about publicly subsidized housing” (2017). He continues with a plea to not abandon market-rate housing. This overarching dismissal of public housing in the name of YIMBYism thus appears as NIMBY.

YIMBY narratives of NIMBYism have thus strategically mobilized a unique form of liberalism against housing rights activists’ supposed NIMBY

“conservatism.” In other words, YIMBYs, who advocate for luxury and market-rate housing but not public housing, conflate housing activists’ affordability campaigns with NIMBY preservationist battles. These false conflations and binaries, we argue, are best understood within a framework of racial capitalism.

Because private property and dispossession have historically been bound up in systems of racial capitalism, we can never mitigate racialized dispossession through the application of capitalism, as YIMBYs suggest. But racial capitalism has shifted since its first instantiation, a shift that we argue elucidates the violence of liberalism. After World War II, racial capitalism transitioned, in Grace Kyungwon Hong’s words, “from managing its crises entirely through white supremacy to also managing its crises through white liberalism, that is, through the incorporation and affirmation of minoritized forms of difference” (2012, 90). While some forms of difference have been well incorporated, perhaps in San Francisco most epitomized by liberal same-sex marriage support, other forms of difference are necessarily rendered surplus and extinguishable. In studying the prison-industrial complex in California, Ruth Wilson Gilmore argues that speculative capitalism requires the growth of surplus populations to feed the bedrock of racial capitalism upon which speculation stands (2007). For instance, San Francisco’s pro-development Democratic former supervisor and now openly gay State Assembly member Scott Wiener, proudly condemns Fox News as not “real news” and defends the rights of undocumented immigrants on national television. Yet at the same time, he politically enacts racist terror against the poor, trans/queer, and homeless — liberalism’s excesses, or those that Hong describes as “existentially surplus” (2012). As she contextualizes, “To be ‘surplus’ in this moment is to be valueless, unprotectable, vulnerable, and dead” (2012, 92).

Alex Nieto was rendered as surplus, as are the many homeless people that liberal Jack Davis attempts to raze from the 16th Street Plaza. So are those who Wiener has supported the dispossession of. Repeatedly, he has introduced initiatives to criminalize homelessness, evict tent-dwellers, and displace homeless people’s sources of income. Further, he has ignored that in San Francisco, as studies by the Coalition on Homelessness (COH) have revealed, eviction and rental increases lead to conditions of homelessness; therefore, the best way to decrease homeless concentrations is to thwart evictions and unaffordable housing (2015). As the COH found, 35 percent of those homeless in San Francisco lost their homes through eviction. In a different study that the AEMP conducted with the EDC, analyzing where 500

FIGURE 6

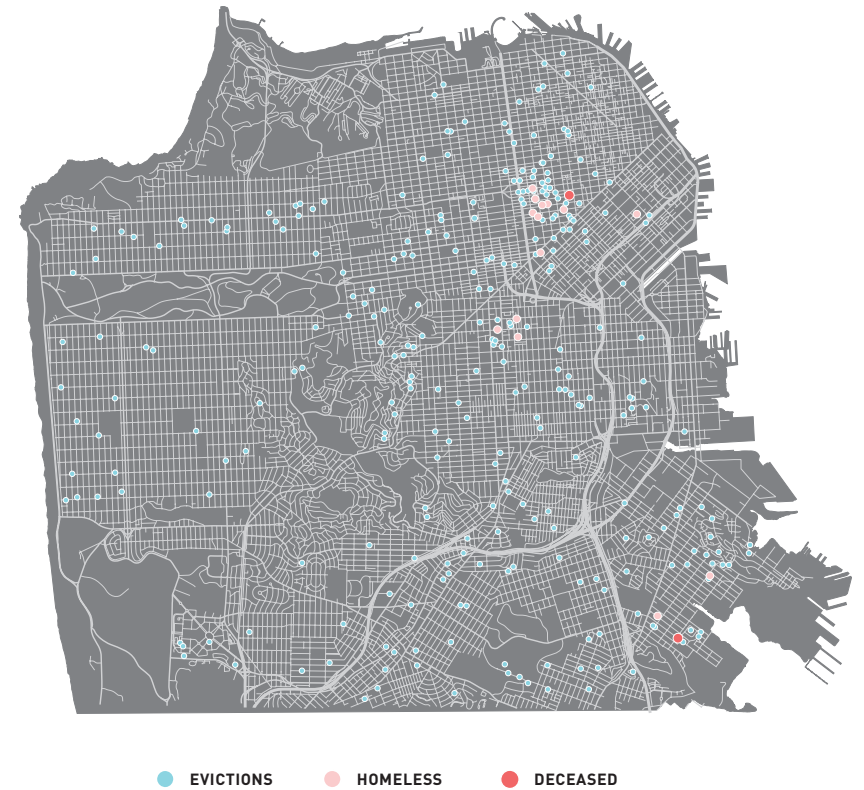
MAPPING RELOCATION AND HOMELESSNESS



By the AEMP  
(see <http://arcg.is/24RDGat>)

FIGURE 6

EVICTIIONS AND HOMELESSNESS, 2012



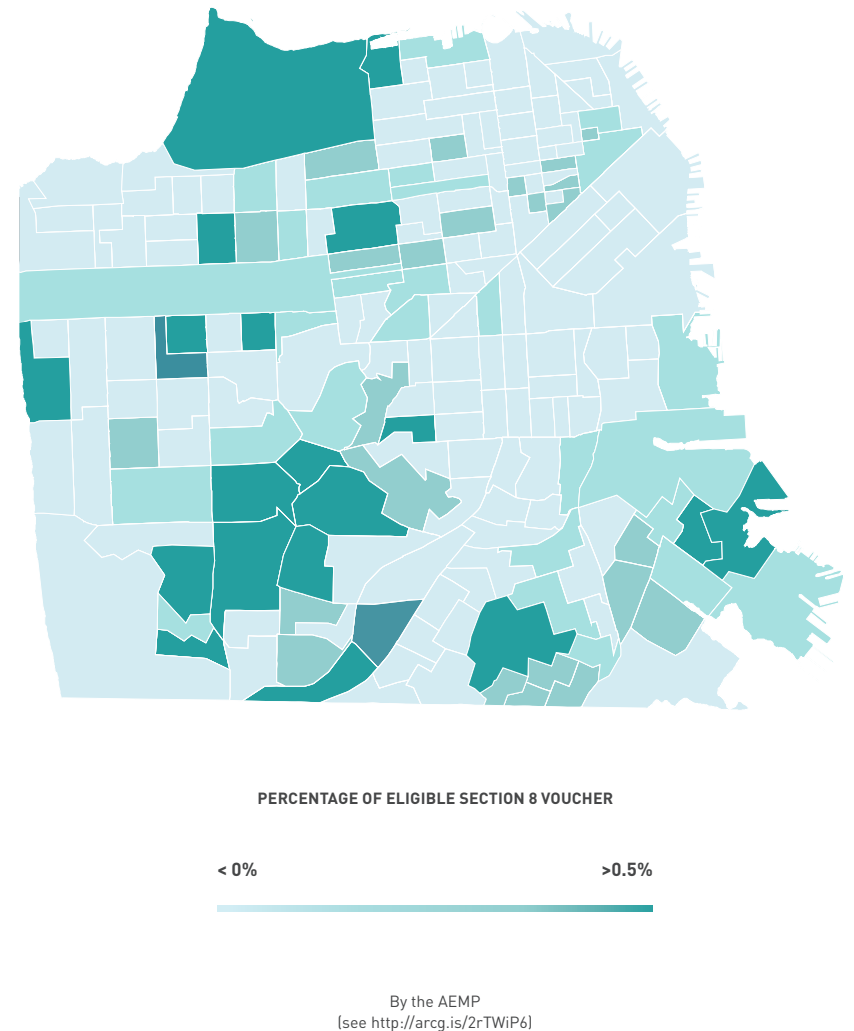
By the AEMP  
(see <http://arcg.is/24RDGat>)

people evicted in 2012 ended up post eviction (see figure 6), we found that 14 of those evicted were homeless in San Francisco, and that two people had passed away due to eviction (Anti-Eviction Mapping Project and Eviction Defense Collaborative 2016).

Cases of death by eviction abound. For instance, Jose Luis Góngora Pat, a Mayan immigrant made homeless due to eviction in the Mission, was murdered by the police in 2016 while lying in his tent. This death, also mapped by the AEMP (Anti-Eviction Mapping Project 2016b), transpired weeks after a wave of increased sweeps incited by the Mayor's call to "clean up" houseless people from downtown to make the city more presentable for the Super Bowl 50. This led to increased policing of tent dwellers throughout the city. In endorsing BARF and YIMBYism, both Wiener and the Mayor have made it a policy to weaponize liberalism for the primary benefit of developers, gentrifiers, and tourists. Under the auspices of liberalism, developers must be permitted free reign in San Francisco so that there is "room for everyone." But there is not enough room for everyone. Those positioned as surplus, whether by choice or not, often become geolocated, in Lisa Marie Cacho's words, in the land of the "devalued dead" (2011, 25).

Homelessness and eviction rates have only increased in San Francisco as rents have been raised, and rents are raised when new luxury development infrastructure is introduced via the speculative logic of gentrification. In San Francisco, as the Brookings Institute reported, income inequality is growing almost more rapidly than anywhere else in the county, largely due to the influx of wealth amongst the top 20 percent (Reidenbach 2016). With more millionaires per capita than any other US metro region (McNeill 2016; Walker 2016), it seems that the problem is trickle-up capitalism rather than trickle-down poverty. As American Community Survey data reveals, in San Francisco, median household income continues to grow for white households, while it vacillates at extremely lower rates for Black and Latinx ones. Further, as we have found, Section 8 housing has been steadily declining in recent years (see figure 7), as landlords capitalize on the rental market and raise rents past voucher eligibility lines, largely impacting tenants of color (Anti-Eviction Mapping Project 2017b). As histories of racial capitalism have long made it more difficult for racialized residents to pay rents and own property, this is hardly surprising (Hern 2016; Lipsitz 2006; Maharawal and McElroy 2017b).

**FIGURE 7**  
**LOSS OF SECTION 8 HOUSING, SAN FRANCISCO, 2015**



The necessity of centralizing gentrification's racialized violence is concretized by the repeated attempts of YIMBYs to infiltrate the local Sierra Club chapter by boosting a slate of three women of color with pro-development agendas.<sup>9</sup> Nevertheless, while communities of color are disproportionately being pushed into toxic sites such as Treasure Island, pro-density and pro-development projects come to stand in for environmental and racial justice. YIMBYism thus functions, we argue, through what Jodi Melamed describes as neoliberal multiculturalism (2011), or the instituting of new forms of racialized privilege (liberal, multicultural, global citizen) to negotiate value. As a post-World War II phenomenon, neoliberal multiculturalism obscures the ongoing violence of racial capitalism, and instead celebrates diversity. In doing so, it embraces the violence of assimilation; a violence that Lisa Lowe marks as intimately linked to the violence of racialized exclusion and modern liberalism. Race, she describes, is an "enduring remainder of the processes through which the human is universalized and freed by liberal forms, while the peoples who create the conditions of possibility for that freedom are assimilated or forgotten" (2017, 7). By embracing multiculturalism, YIMBYism obscures its neoliberal underpinnings with liberal forms.

To avoid this trap, we argue for the foregrounding of racial capitalism as analytic. In doing so, we can observe that anti-racist housing justice advocates rallying against new luxury condos are not, as YIMBYs likes to suggest, conservative NIMBY homeowners angered by increased height level allowances muddying their bucolic views; rather, these activists are opposed to the racialized dispossessions that luxury condo development inheres. Such projects install new concentrations of wealth into neighborhood pockets, inciting racialized and class-based effects, from augmented eviction rates to racialized surveillance and criminalization.

By failing to recognize these effects, the YIMBY movement solidifies a form post-racial liberalism, suggesting that all people, along with all forms of housing, are the same. As Denise Ferreira da Silva observes, because the very construct of the human is predicated upon racialized exclusionary forms, we will never be post-racial; nor will we ever all be human (2007). Racial

difference has always constituted the boundaries of the human, informing racialized histories continuously mapped onto the liberal contemporary (Lowe 2015, 7). Freeing the market will never lead to housing for all; racially dispossessive logics will always haunt the present. Pretending that gentrification will be solved by freeing the market relies upon a post-racial neoliberal imaginary, disavowing ongoing legacies of racialized dispossession.

As we argue, both NIMBYism and YIMBYism are entrenched within the same liberal tradition of racialized/spatialized expropriation and appropriation. By engaging in a YIMBY verses NIMBY understanding of San Francisco's geography, one ignores the racial histories that constitute both. This myopic approach forecloses possibilities of working towards housing justice. How might we refigure our understanding of what resistance to dispossession can look like without reifying systems of liberal violence constitutive of gentrification? How can we think about abolitionist approaches to private property, or about enlivening sites of restitution for those Indigenous peoples whose lands gentrification struggles sit upon? How can we think beyond the fictive NIMBY/YIMBY binary that racial capitalism and post-racial liberalism fuel?

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9. In San Francisco, BARF has become notorious for attempted "disruption" of the governing body not only of the Sierra Club, but also the SF Democratic County Central Committee, solely to approve new development projects. In 2014, the group went as far as to disseminate a slideshow detailing its annual goal to divide rent control from affordable housing advocates, disrupting a historical alliance (Bay Area Renters Federation 2014).

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# GENDERED TECHNOLOGIES OF POWER

Experiencing and Unmaking Borderscape in South Asia

Shikha Silliman Bhattacharjee

## ABSTRACT

Across South Asia, women migrate for employment within their home countries, within the region, and to more distant destination countries. Despite regular and ongoing transit, they are subject to restrictions on their mobility. How do migrant women workers confront and resist these restrictions? This question calls for an analytical approach that considers both the nature of the restrictive forces they confront and the resistance strategies they bring to bear. Scholarship on governmentality traces how nation states, as sovereigns, deploy a dual system of thought and management to exert control over populations and the nations they inhabit. Gendered migration governance at the legal and policy level maps one of many forces that restrict women's mobility across the region. Within South Asia, social control over women is informed by not only legal, but also political, cultural, and ideological discourses that are anchored in patriarchal social systems. Women workers migrate through varied "borderscapes," landscapes traversed by competing discourses and practices that seek to define parameters of mobility (Rajaram and Grundy-Warr 2007). Based on fieldwork conducted between October 2015 and July 2016, this paper considers how local, national, and regional networks of migrant women in South Asia circumvent restrictive policies and resist patriarchal binaries. Examining their modes of resistance, this study lends critical insight into how gendered technologies of power are experienced and unmade.

## INTRODUCTION

In the last three decades, uneven development within South Asia has triggered high unemployment rates and mass displacement, including mass migration for employment among women and girls from across the region. Women migrate for employment within and among the South Asian countries of Bangladesh, India, Nepal, and Sri Lanka. Low income women from marginalized communities who travel from rural to urban areas and special economic zones (SEZs) in search of employment are disproportionately concentrated in the informal sector. They find employment as domestic workers, in brick kilns, in the entertainment sector, and in low-skill positions at the production base of global supply chains.

During regular and ongoing migration, transit, and at work, migrant women are subject to restrictions on their mobility. Patriarchal modes of organization are articulated in protectionist laws and policies that restrict the physical and social mobility of migrant women workers. For instance, Sri Lanka selectively regulates international migration by requiring women to submit a gender-specific Family Background Report (FBR). Women are required to have the FBR signed by their husbands or another male family member. These legal requirements may run entirely counter to actual decision making structures within the family. Violet Pereira from the Action Network for Migrant Workers (ACTFORM), a network of migrant rights organizations in Sri Lanka, described the experience of a forty-year-old woman who had to obtain the signature of her eighteen-year-old brother in order to migrate legally, even though she had been largely responsible for raising him and supporting him financially for more than a decade. Pereira described such experiences as "deeply humiliating and undermining" for women. Restrictions on women's mobility, like those described by Pereira, function to consolidate patriarchal control over the household by ensuring that a woman's mobility remains subject to the control of male family members. Furthermore, restrictions on formal migration channel migrant women workers through informal migration pathways and into informal labor markets. Outside the boundaries

of formal migration processes and employment relationships, migrant women workers remain exposed to a spectrum of violence with few avenues for formal redress.

Social control over women is informed by not only legal, but also political, cultural, and ideological discourses that are anchored in patriarchal social systems. For instance, in the Gumla, Simdega, and Khoonti districts in Jharkhand, India, young women and girls who migrate for employment as domestic workers do not speak openly about their migration experiences. Saachi Kumari, Secretary of Chotanagpur Sanskritik Sangh (CSS) in Ranchi, Jharkhand, explained that when they return home, migrant men and women are received differently within their communities: “When men come back, they relax and enjoy themselves. People from the community ask, ‘What did you do?’ ‘What did you buy?’ ‘What did you see?’ Women are never asked these questions.” Instead, upon returning to Jharkhand from the Delhi, National Capital Region, young women report being referred to as “Delhi-returned”—an allusion to their migration to this urban industrial hub. This moniker is not neutral. Rather, it carries a stigma that marks transgression of patriarchal social norms and impacts how they are considered and treated by their families and communities.

How do migrant women workers experience and resist restrictions on their mobility? Grounded in discussions with migrant women workers and activists over the course of ten months in 2015 and 2016,<sup>1</sup> this paper traces competing and colluding discourses and practices that together seek to define the parameters of women’s mobility in South Asia. This approach considers both the restrictive forces migrant women experience and the resistance strategies they deploy.

Scholarship on governmentality traces how the formal apparatus of the state comes to know and administer lives across a territory (Foucault 1997, 82; Rose, O’Malley, and Valverde 2006, 87). Within the neighboring countries of Bangladesh, India, Nepal, Pakistan, and Sri Lanka, migration policies are a crucial site for the formation and administration of individual and group identities for migrant women workers. Governmentality as an analytical frame provides insight into the role of various political authorities in construct-

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1. This research was supported by South Asia Women’s Fund (SAWF). Selected findings were published by SAWF in a 2016 report entitled *Gender and the Right to Mobility in South Asia: Changing the discourse around rights to movement, livelihood and decision making for women and sexual minorities*.

ing and acting upon women migrant workers as a population. The gendered legal architecture governing women’s migration is just one of many forces that restrict women’s mobility across the region. Accordingly, this paper seeks to read technologies of power that cross geographies, law, and society through an analysis of “borderscapes” — landscapes traversed by competing discourses and practices that seek to define parameters of mobility, inclusion, and exclusion (Rajaram and Grundy-Warr 2007).

Patriarchal norms governing women’s mobility are co-opted and re-inscribed in the legal architecture governing women’s mobility. Gender constructs are also, however, fractured and remade by migrant women, their collectives, and regional trans-border movements. Local, national, and regional networks of migrant women circumvent restrictive policies and resist patriarchal binaries. The discordant overlay of gendered legal restrictions, persistent mobility, and resistance traced in this study reveal how gender functions as a mobile and adaptable technology of power.

## **GENDERED GOVERNMENTALITY AND BORDERING**

Scholarship on women and the global economy has addressed not only the impact of migration on gender patterns and relations (Grasmuck and Pessar 1991), but also new forms of cross border solidarity, and the emergence of feminist subjectivities (Basch 1994; Soysal 1994; Eisenstein 1996; Ong 1996). Drawing these strands of scholarship together, this paper considers how gendered migration governance in South Asia colludes with patriarchal social norms to restrict women’s mobility, and how migrant women, their organizations, and collectives fracture and remake gendered processes of social control. This approach contributes to the feminist analytic project of reading features of the contemporary global economy to capture both instantiations of gendering and openings for women’s participation (Sassen 1996). Such an account reveals not only gendered systems of domination, but also potential sites for resistance with significant implications for both theory and praxis.

Since gendered processes of social control are anchored in legal and social systems, a lens that attends to different but intersecting practices of governance is particularly suited to tracing how gendered technologies of power are experienced and unmade. Accordingly, this paper takes an analytic perspective that considers scholarship on governmentality and borderscapes as not only compatible hermeneutic frameworks, but a promising intersection for scholarship on migration.

### *Governmentality*

Governmentality refers to the discourses, strategies, tactics, and devices deployed by authorities to construct and control populations, and the individuals that comprise populations (Foucault 1997; Rose 1996, 328). Foucauldian scholarship on governmentality views political power as dispersed across a variety of authorities that govern in different sites and with multiple and diverse objectives (Rose, O'Malley, and Valverde 2006, 85). Governmentality as a conceptual framework links processes of self-control with forms of political rule, referred to by Foucault as technologies of the self and technologies of domination (Foucault 1993). Rose, O'Malley, and Valverde contend that this theoretical orientation calls for empirical mapping of governmental rationalities and techniques (2006, 99).

Responding to critics of governmentality that consider this perspective closed to an analysis of contradictory forces and resistance, Rose, O'Malley, and Valverde (2006), argue that due to the assembled nature of government — enacted through various sites and in relationship to distinct objectives — the process of rationalizing or making various elements internally consistent is never complete (98). While they argue that neoliberal ways of thinking and acting can be found in most contemporary regimes and programs, they also warn against a static typification of modes of governmentality. Instead, they direct attention to how governing rationalities are informed by social and economic processes that are particular to place and time (98). As such, Foucauldian lenses for reading governmentality across particular historical and geographic assemblages provide space for reading contradictions within discourses, strategies, tactics, and devices of domination. These contradictions generate space for political action (Mohanty 2003).

Scholarship on governmentality and migration must, however, continue to develop analytic strategies for mapping how individual, social, and economic processes govern the construction of borders and their administration. While Foucault never gave sustained attention to immigration (Fassin 2001, 2011; Walters 2015), his impact on migration scholarship is reflected in work on the biopolitics of citizenship (Tyler 2010), otherness (Fassin 2001), borders (Vaughan-Williams 2010), and the disciplining and surveillance of mobility and labor migration (Geiger and Pecoud 2013; Salter 2013; Rudnychiyi 2001). Influenced by Foucauldian scholarship on migration, this paper considers the migration policy arena as a crucial site for the formation and administration of individual and group identities for migrant women workers. This line of inquiry considers not only how governmentality positions migrant women workers as gendered subjects, but also the implications of these governing practices upon their lives.

### *Gendered Borderscapes*

Governmentality refers to the discourses, strategies, tactics, and devices deployed by authorities to construct and control populations, and the individuals that comprise populations (Foucault 1997; Rose 1996, 328). Foucauldian scholarship on governmentality views political power as dispersed across a variety of authorities that govern in different sites and with multiple and diverse objectives (Rose, O'Malley, and Valverde 2006, 85). Governmentality as a conceptual framework links processes of self-control with forms of political rule, referred to by Foucault as technologies of the self and technologies of domination (Foucault 1993). Rose, O'Malley, and Valverde contend that this theoretical orientation calls for empirical mapping of governmental rationalities and techniques (2006, 99).

Scholarship on governmentality and migration would continue to benefit from robust engagement with the study of borderscapes. The term “borderscape,” introduced by Rajaram and Grundy-Warr (2007), describes a concept of borders as fluid and contested social constructs that are at once mobile, perspectival, and relational. This terminology reflects a conceptual shift in the understanding of borders which began in the 1990s, from a focus on borders as territorial lines administered by political institutions to borders as discursive processes and practices (Brambilla 2015, 15). As explained by Chiara Brambilla, the transition from studying borders to studying processes of bordering facilitates a view of borders as dynamic social processes and practices of spatial differentiation (2015, 15).

The potential of this approach lies in the opportunity to both consider the constitutive role that borders play in producing political subjectivity and the simultaneous re-imagination of the border as it is traversed by bodies, discourses, practices, and relationships (Brambilla 2015, 18–19). Borderscapes, forged by competing practices and discourses, emerge not only at sites of formal separation between nation-states, states within nations, and local jurisdictions, but as a reflection of membership and exclusion and rules and their exceptions (Rajaram and Grundy-Warr 2007).

Whereas much of governmentality scholarship has focused on how nations discover and manage populations and the spaces they inhabit, analysis at the intersection of governmentality and borderscapes facilitates the consideration of how gendered technologies of power operate across migration pathways that traverse South Asia. Reading migration pathways in South Asia as a borderscape sets a framework for analysis that facilitates a recognition of resonances between policies and practices in the region. This

frame facilitates attention to commonalities between and among migration pathways, governance, and practices across South Asia that find their roots in shared colonial histories and discourses. Resonances between Bangladeshi and Indian laws and policies can be explained in part by a common British colonial history and shared penal code. Sri Lanka's legal system is also derived from common law while retaining Dutch legal provisions in the civil legal system. While Nepali laws place fewer gender-based restrictions on migration, since Nepali migrants routinely migrate for employment to India through formal and informal channels, regional policies and policing practices have a significant impact upon Nepali women migrants.

## METHODOLOGY

This study takes a participatory approach that aims to function not only as a means of knowledge, but also a tool for action and engagement. Participatory methodology refers to an approach to social research that is characterized by interaction between and among researchers and the communities they engage (Ebersohn, Ferreira, and Beukes 2012). This study draws from focus group discussions with migrant women activists conducted between October 2015 and July 2016 in the following regions: Dhaka, Bangladesh; Kathmandu, Nepal; Delhi, Jharkhand, and West Bengal, India; and Colombo and Batticaloa, Sri Lanka. This approach invited communal participation in producing, transforming, and controlling knowledge (De Vos *et al.* 2005). Accordingly, it is particularly well suited to empirical investigation of how women workers, activists, collectives, and feminist networks expose and challenge contradictions within institutionalized social and family structures that restrict women's mobility.

The first phase of field research included participation in three regional meetings held in Delhi and West Bengal, India and Kathmandu, Nepal. These meetings brought together representatives from a range of organizations and collectives that support women's migration and address multiple forms of migration related violence. During the second phase of field research, researchers facilitated nine, comparatively smaller, focus group discussions<sup>2</sup> where 45 migrant women and their allies, representing 19 collectives, networks,<sup>3</sup> and

2. Focus group discussions lasted between 45 minutes and two hours. Discussions and meetings were conducted in English, Bengali, Hindi, Nepali, Sinhala, and Tamil with simultaneous translation into English.

3. Interlocutors included members of seven national and state-level networks. National networks included the National Sex Workers Network (India); Bangladeshi Ovibhasi Mohila Shramik Association and the National Sex Workers Network (Bangladesh); Right to Mobility Network, National Alliance of Women's Human Rights Defenders, and Nepal Disabled Women's Association (Nepal); and Act Form (Sri Lanka). State-Level networks included the Jharkhand Anti-Trafficking Network (India).

organizations, engaged in addressing women's mobility and employment rights in South Asia.

During both phases, researchers<sup>4</sup> facilitated semi-structured discussions. At the start of each discussion, participants were briefed on the purpose of the research; namely, to engage in a collective process of understanding how migrant workers and their allies confront and resist restrictions on mobility and other gendered challenges. Researchers proposed three initial categories of analysis: safe mobility, decent work, and de-stigmatizing women's work. These initial categories were chosen through analysis of interventions by South Asia Women's Fund (SAWF) partners, as documented in program reports. Participants were invited to reflect on these thematic areas, and to introduce alternate categories and concepts. Building on the findings from phase one discussions, in phase two, participants were invited to reflect upon an expanded and revised range of concepts: right to mobility, decent work, de-stigmatizing women's work, and right to information. This structure was used to facilitate cross-learning and identify potential sites of collaboration at the local, national, and regional level.<sup>5</sup> In analyzing these conversations, I sought to identify pivotal modes of governance by the state, beyond the state, and where these disparate technologies intersect, collide, and conspire.

This approach does not aim to address the comprehensive range of interventions undertaken by migrant women and activists in South Asia to circumvent restrictive policies and resist patriarchal binaries. Rather, it considers the strategies of SAWF's partners, a regionally linked constellation of social movement actors committed to addressing the spectrum of migration related violence through an explicitly feminist and regional approach.

## GENDERED BORDERSCAPES IN SOUTH ASIA

In South Asia, population movements include mixed flows of forced migration that challenge neat distinctions between political and economic causes (Manchanda 2004). In addition to aspirations for better economic futures, significant push factors for women workers who migrate for employment within and across South Asian countries may include conflict-related or

4. Shikha Silliman Bhattacharjee, JD; Anisha Chugh, MA; and Jael Silliman, Ed.D conducted field work for this study.

5. Data analysis from both phases of findings took place both concurrently and subsequent to field work. Researchers wrote debrief memos for each discussion based upon contemporaneous field notes. I hand coded each debrief memo for key patterns and analytic categories. These included the collision between restrictions on mobility and the reality of migration patterns and stigma associated with migration. These findings were further contextualized through extensive desk research on laws and policies governing women's migration in South Asia.

development driven displacement, landlessness, agricultural stagnation and decline, natural resource erosion, natural disasters, and individual and household-level economic distress. Due to explosive development of urban economic hubs beginning in the mid-1980s and an imbalance in economic growth, workers migrate in search of livelihood to urban hubs and megacities including Kathmandu, Nepal; Dhaka, Bangladesh; Delhi, Mumbai, and Kolkata, India; and Colombo, Sri Lanka. Reading migration pathways in South Asia as a borderscape, this section traces the national and transnational processes that propel women's migration based upon accounts from migrant women workers and activists. Where possible, these accounts have been situated in relationship to secondary literature.

Conflict-related displacement has fueled migration across the region. For instance, within Nepal's conflict and post-conflict environment, large numbers of women displaced by the Nepalese Civil War (1996–2006) entered the entertainment sector, which included working in restaurants, bars, massage parlors, and as sex workers. Forced migration in Sri Lanka has also been associated with two decades of civil war and its aftermath, prompting Tamils to migrate across the world (Manchanda 2004). While forced migration flows in Sri Lanka have slowed significantly in the last fifteen years, migration for employment from conflict-affected Eastern and Northern areas of Sri Lanka remains significant, particularly for widows and single mothers. In India, ongoing violence in states such as Chhattisgarh and Jharkhand displaces communities and precipitates migration to neighboring states and urban industrial hubs.

Civil wars and more localized separatist conflicts not only fuel migration but also instigate violent confrontation. In these contexts, women face a "gendered continuum of violence," including sexual violence, as a result of the ways in which gender is embedded in relationships of power (Moser 2001; Cockburn 2001; Shepherd 2007). Conflict-related violence, in its gendered forms, may have long lasting consequences for women. For instance, conflict-related violence has resulted in increased populations of disabled women. Meena Poudel from the Nepal Disabled Women's Association explained that lack of infrastructure and transportation severely limit the mobility of women with disabilities. Women with disabilities also face significant barriers to seeking alternate livelihoods, including discrimination in accessing housing in destination areas and a heightened risk of sexual violence in public spaces.

Environmental push factors, including natural disasters and development-related displacement, also fuel migration and have differential impacts on members of marginal communities. For instance, following the series of

earthquakes that shook Nepal in 2015, migration — including among women — increased significantly. These migration push factors have different impacts upon women and their communities that are related to particular intersecting vulnerabilities. For instance, tribal communities from remote areas in Nepal were severely impacted by the earthquake, but often outside the ambit of relief efforts. Women with disabilities reported facing heightened difficulties in migrating from affected areas and seeking employment to rebuild their lives.

Caste, social, and community identity have significant bearing on migration patterns, pathways, and the risks migrant women are willing to take. Migrant workers traveling in search of employment include some of the poorest, most marginalized castes and social groups in South Asia. These women confront multiple and intersecting axes of discrimination and violence (Crenshaw 1989). These include, but are not limited to, discrimination on the basis of gender, caste, religious and tribal identity, marital status, sexual identity, class, and disability.

Bijaya Rai Shreshta, Programme Coordinator for Pourakhi and the Nepal Right to Mobility Network, emphasized how wealth influences migration patterns from Nepal:

The richest migrants go to Western countries, the poor go to the Gulf and the poorest of the poor go to India. Migrants to India represent the highest number of migrants from Nepal. They submit the highest remittances even though their work is seasonal. There is no support for them. The government focus is on migrants who go to the Gulf and Malaysia.

Migrant workers from Nepal traverse distinct migration pathways, influenced by socioeconomic opportunity and access. The variegation of migration pathways along socioeconomic lines is reinforced by selective distribution of government support to those considered to be from comparatively elite social and economic echelons.

Migration pathways are also variegated within countries. Respondents from CSS in Jharkhand reported that migration patterns vary significantly by community and socioeconomic status. In Jharkhand, migration is perhaps most significant among the Oraon tribe — a politically influential and comparatively well off community that migrates through kinship networks. Women

from more vulnerable tribal and caste communities in Jharkhand, by contrast, are more likely to migrate for employment as domestic workers through networks of formal and informal recruitment intermediaries (Silliman Bhattacharjee 2018).

Upon arriving at their respective destinations, migrant women from vulnerable communities largely work in low-wage, unorganized, and unprotected settings within the informal or unorganized sector. In these contexts, migrant women workers are often engaged in working relationships without proof of employment — either through company rolls or formal employment contracts. Undervaluation of women's work in the paid economy exacerbates the already precarious nature of women's employment (Policy Briefing 2015).

While perhaps facing similar opportunities and constraints, migrant women make distinct choices based upon their personal understanding of risk, aspirations, and commitment to social norms. Saachi from CSS provided a striking example of how, faced with the same circumstances, migrant women may choose very different paths:

We were notified that 30 young women had departed by train from Ranchi. Those under legal age were equipped with false certificates to show that they were over 18. They were split upon the train so they were less visible — so it didn't look like a case of trafficking. Our intervention was successful. We spoke to the girls. Those who did not want to go for work, we helped them to get off the train. Some did want to go. We provided them with the information they needed to be less vulnerable when they arrived at their destination.

The girls on the train traveled a common migration pathway. They were governed by similar legal standards when establishing legal authority and subject to common policing practices informed by anti-trafficking practices. Although they experienced common flows and practices, they responded in distinct ways, which reflected personal decisions and compulsions. Migrant women and girls traversing borderscapes in South Asia are left with difficult choices. Their decisions provide further evidence that the process of governing is never a finished process.

## LEGAL ARCHITECTURE OF MIGRATION IN SOUTH ASIAN BORDERSCAPES

This section highlights gendered laws and policies across the region that either explicitly or in their enforcement restrict women's mobility. These include minimum age requirements, family background reports, laws criminalizing sex work, and preventive custody measures.<sup>6</sup>

These laws and policies are rooted in entrenched notions of community that confine women to narrow roles within the domestic sphere, control women's sexuality, and stigmatize women who breach these norms. Enacted in distinct national contexts and through various sites, policies governing women's migration across the region address women's mobility primarily within the framework of conservative sexual morality, victimization, and trafficking (Kapur 2015).

The gendered legal restrictions on women's mobility described in this section contradict both the reality of women's persistent mobility. At the nexus of persistent migration catalysts and restrictive migration policies, women must decide whether to conform to gendered restrictions, circumvent legal standards and enter informal migration processes and employment relationships, or take individual and collective action that challenges discriminatory laws and policies. This range of responses from women migrant workers demonstrates how, despite regional patterns in migration governance, governmentality is informed by social and economic processes particular to space and time. Readings of contradiction and resistance demonstrate, moreover, that these processes of rationalization are always fraught and subject to revision.

### *Age Limits*

Since the 1990s, Bangladesh and India have set limitations on women's migration by imposing age limits for migration directed at low-skilled workers. In both countries, minimum age standards are based on the assumption that low-skilled women workers are particularly vulnerable to abuse. This paternalistic reasoning is used to justify discriminatory practices that elide fundamental questions of citizenship (Percot and Nair 2011).

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6. This analysis does not claim to represent the comprehensive framework governing internal and external migration in South Asia, but rather aims to shed light upon the institutional anchoring of paternalistic social norms.

The Indian Government (GOI) restricts emigration of low-skilled women younger than 30 for overseas employment by requiring clearance prior to permitting migration to any emigration check required (ECR) country.<sup>7</sup> These ECR requirements establish distinct standards for low-skilled emigrants in general and low-skilled women emigrants in particular. Whereas the GOI justifies this policy as a measure to ensure women's security, it is thinly veiled structural discrimination in India's migration policy (Percot and Nair 2011).

Since the 1980s, Bangladesh has also selectively regulated migration for employment among low wage women workers. In 1981, a presidential order barred select categories of women workers from migrating overseas for employment. While professional and skilled women were permitted to migrate as principal workers, semi-skilled and unskilled women were not allowed to migrate overseas without a male guardian. In November 1997, the Bangladeshi Ministries of Foreign Affairs, Finance, and Labour and the Cabinet re-imposed a complete migration ban on women categorized as semi-skilled or unskilled, including nurses, typists, secretarial assistants, garment and other factory workers, and domestic workers. Following advocacy by migrant women's organizations, these restrictions were lifted for all categories of women workers, except domestic workers. In 2003, the Ministry of Expatriates Welfare and Overseas Employment amended the 1997 policy to allow unskilled and semi-skilled women workers to migrate for employment, but only after reaching 35 years of age (MFA 2011).

Advocacy to address age-based restrictions on migration in Bangladesh is ongoing. Sumaiya from the Bangladeshi Ovibhasi Mohila Shramik Association (BOMSA), an organization founded and operated by returned women migrant workers in Dhaka, Bangladesh, explained:

For the last three years we have been learning from partners and working with the government to make sure age discrimination is not used to stop women from migrating. In 2014, a year and a half ago, the Government Order prevented women who were under 35 from migrating. We have advocated to reduce the age restriction to 25. We are still working to have the age limit reduced to 18—the norm for when a person is considered an adult.

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7. Ministry of Overseas Indian Affairs, Documents Required for Unskilled/Women Workers (Individuals), <http://moia.gov.in/services.aspx?IBID1=102&Ibid=m6&Ibidp=100&mainIbid=73>

By Sumaiya's account, BOMSA advocacy has been progressive, seeking to incrementally lower the threshold of restriction for migrant women workers. While reducing the age restriction to 25 relieves the category of women between the age of 25 and 35 from these restrictions, it leaves the gendered legal architecture of migration governance intact.

### *Family Background Reports*

In 2013, Sri Lanka's Ministries of Foreign Employment Promotion and Welfare (MFEPW) introduced the Family Background Report requirement. This provision selectively regulates migration by requiring women to submit a gender-specific Family Background Report (FBR). FBRs are submitted to a Development Officer tasked with recommending prospective migrants for migration clearance. Those with children under five years old are subject to rejection on this basis. This procedure re-inscribes a social script that confines women to narrowly defined caregiving roles. Violet Pereira from Act Form in Sri Lanka explained:

Migration restrictions for women with children under five years old do not allow women to make choices about what is right for their families. Mothers with children under five years old have explained to us that despite restrictions, they have decided to migrate because their earnings will allow them to secure a better education for their children. The assumption that a mother must be there to look after a child does not consider the responsibility of the father for taking care of their children.

As explained by Pereira, gendered assumptions about care giving posit that a mother should hold primary caregiving responsibilities. This primary caregiving responsibility, however, is decoupled from the authority to make decisions about family needs.

Further reasserting patriarchal social norms by undermining the decision-making authority of migrant women, women are required to have the FBR signed by their husbands or another male family member. These legal requirements, migrant women report, may run entirely counter to actual decision-making structures within the family. Pereira explained:



Women may have to go through great efforts to meet these requirements, especially in women led households. I'll give you an example: in order to migrate legally, a forty-year-old woman had to obtain the signature of her 18-year-old brother. She had been largely responsible for raising him and supporting him financially for the last ten years. These experiences can be deeply humiliating and undermining for women.

This requirement functions to consolidate patriarchal control over the household by ensuring that a woman's mobility remains subject to the control of male family members.

### *Medical Clearance*

Study respondents reported that state migration clearance practices have emerged as an avenue for regulating bodily integrity, violating reproductive rights, undermining reproductive health, and selectively circumscribing the rights of women with disabilities. Medical clearance practices reported in both Sri Lanka and Nepal exert control over migrant women in distinct but related ways: they expose migrant women to invasive medical practices as a condition of migration; and they establish and impose physical requirements for migration.

Pereira explained that migrant women in Sri Lanka have been administered Depo-Provera shots as a medical clearance requirement without informed consent. Perhaps most alarming is the fact that once it is injected Depo-Provera cannot be removed or reversed, no matter how extreme the adverse side effect.<sup>8</sup> The impact of these health consequences, furthermore, is exacerbated for migrant women who travel overseas without adequate health and family support systems — and at times, without even knowing they have received the injection.

The Nepal Disabled Women's Association reported that required medical clearance for emigration from Nepal functions to circumscribe the rights of disabled women. Meena Poudel, from the Nepal Disabled Women's Association, explained:

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8. Depo-Provera, a hormonal contraceptive, is banned in many countries due to significant adverse side effects, including menstrual disorders, skin disorders, tiredness, headaches, nausea, depression, hair loss, loss of libido, weight gain, and delayed return to fertility. Depo-Provera has also been associated with long term health consequences, including breast cancer, osteoporosis, abdominal pain, infertility, and birth defects.

In Nepal, women with disabilities are denied the right to migrate internationally for employment because they are not given the required medical clearance. This is a violation of their right to work and mobility and undermines bodily integrity.

In Poudel's account, women with disabilities who seek to migrate are prevented from doing so on the basis of a medical determination that they are unfit. The experiences with medical clearance requirements presented by Pereira and Poudel are linked in their assault on migrant women's ability to make decisions about their bodies — whether decisions about medical treatment or their physical capacity to migrate.

### *Preventive Custody*

In Bangladesh, India, and Nepal, women who are perceived to be victims of violence or trafficking are routinely held in preventive state custody. For instance, in India, the federal Immoral Traffic (Prevention) Act (ITPA) of 1956 equates prostitution with commercial sexual exploitation. Women "rescued" from the sex trade are placed in institutions and prevented from leaving until they are released by court order. This provision has long been challenged on the grounds that it violates fundamental constitutional rights to life and liberty (Ramachandran 2015).

In many instances, study respondents report that police, state authorities, and anti-trafficking initiatives — rather than the women involved — hold primary authority in determining whether a woman should be taken into custody. As a result, women who migrate for employment may be subject to protective custody on the basis that police, state authorities, and anti-trafficking actors believe them to be unsafe. Detaining perceived victims of violence restricts their mobility on the grounds that holding them in custody will keep them safe. Study respondents reported, however, that women may in fact be least safe in state custody.

These reports by study respondents find corroboration in national crime statistics and civil society reports. At the extreme end of the spectrum of violence people face in state custody, according to India's National Crime Records Bureau, 591 people died in police custody in India between 2010 and 2015 alone. According to Human Rights Watch, while police blame most of the deaths on suicide, illness, or natural causes, in many cases, family members allege that the deaths were the result of torture (Bajoria 2016).

In 2003, in *Bangladesh Society for the Enforcement of Human Rights v. Government of Bangladesh*, the Supreme Court of Bangladesh responded to legal mobilization by women sex workers and recognized the violence that attends police raids. The Court upheld the rights of women who were assaulted and forcibly sent to government homes during a brothel raid, reasoning that while the state was obliged to take measures to end prostitution, such measures could not violate the right to life and liberty of women engaged in prostitution (Ramaseshan 2012).

### *Criminalization of Sex Work*

Numerous international bodies have clearly articulated the need to decriminalize sex work to eliminate discrimination against vulnerable populations.<sup>9</sup> Despite these human rights frameworks, the dominant legislative approach in Bangladesh, India and Sri Lanka persists in criminalizing sex work, and thereby functionally criminalizing some instances of consensual adult sex.

In Bangladesh, sex work is criminalized under the Suppression of Immoral Traffic Act of 1933, a gender-specific act that explicitly addresses prostitution. While the act does not punish women, solicitation is considered an offense and landlords are prohibited from renting accommodations to women who engage in prostitution. Legally severing the maternal-child bond between women engaged in sex work and their children, the Immoral Traffic Act does not permit a woman involved in sex work and living in a brothel to keep her child with her after four years of age. The Bangladesh Children Act of 1974 – enacted more than forty years after the Immoral Traffic Act – is similarly gendered. The Act prohibits girls under sixteen years old from engaging in prostitution, but does not address instances in which boys may be forced into prostitution. In Sri Lanka, the Brothel Ordinance of 1889 and Vagrancy Ordinance of 1889 are used to criminalize prostitution and vagrancy. Although sex work is not an offense, solicitation constitutes an offense under the Vagrancy Ordinance. India's Immoral Traffic Prevention Act, 1956 criminalizes sex work in a range of ways. These include criminalizing the following actions: keeping a brothel; and living off the earnings of prostitution, a provision which also applies to a child who reaches legal adulthood and lives with a parent sex worker; procuring, inducing, or taking a person for prostitution; and soliciting. Many of these provisions are used to punish women engaged in sex work, whether voluntarily or involuntarily.

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9. Since 2008, the following international human rights mechanisms have articulated a need to decriminalize sex work: United Nations Human Rights Council, World Health Organization, United Nations Programme on HIV/AIDS, and United Nations Population Fund.

Kiran, a member of the National Network of Sex Workers in India, explained how laws criminalizing sex work exacerbate the vulnerability of sex workers:

Trafficking, police raids, discriminatory health systems, petty criminals, and law enforcement all create unsafe, exploitative environments for sex work. The law stands against us and not for us. Most of the sections [of the law] used against sex workers are related to anti-trafficking and not to sex work.

In Kiran's account, not only are trafficking and petty criminals features of an unsafe work environment, but police raids, discrimination in health services, and law enforcement also contribute to unsafe and exploitative environments for sex work.

Kiran describes the law as standing against her and her colleagues. The law that Kiran evokes includes provisions prohibiting sex work as well as anti-trafficking laws that do not address sex work directly. These legal regimes collectively criminalize sex work and, in turn, increase clandestine engagement in sex work. Sex workers who are entirely off the public radar are more vulnerable to abuse from clients and report having to bribe law enforcement or offer sexual favors to operate. Furthermore, respondents report that police raids are frequently violent and that sex workers are particularly vulnerable to custodial violence.

### *Trafficking Regulation Practices*

Across South Asia, regulation of trafficking disproportionately emphasizes trafficking for sexual exploitation, while obscuring and deregulating trafficking for labor exploitation, including forced and bonded labor.<sup>10</sup> As explained by Mona Mishra, the assumption that women and girls are primarily

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10. There is considerable debate among feminists regarding how to stop trafficking. Within feminist debates, these issues surface persistently around issues related to sexuality, sex work, and trafficking. Some aim to regulate dangers to women in trafficking – even if overriding a woman's ability to choose sex work or other stigmatized employment. Their interventions are circumscribed by a three-pronged strategy: rescue, removal, and reintegration. Others within the feminist movement acknowledge that protection and rehabilitation should be available but cannot be enforced without the consent of the woman in question. They argue that protectionist and judgmental policy responses, which are guided by a disproportionate focus on trafficking for sexual exploitation, manifest as interventions that undermine women's agency, mobility, and right to work – including the right to choose sex work (Petchesky 1984). This study is informed by the latter perspective on trafficking regulation.

trafficked for sex work ignores two significant realities: first, that women and girls are also trafficked into several other high absorption labor sectors, including domestic and construction work and small scale industry; and second, that not all women in sex work are trafficked or are in the trade against their wishes (Mishra 2016).

Deeply entrenched cultural and ideological discourses controlling women's mobility are reinforced by regional standards and Bangladeshi and Indian national laws that selectively criminalize trafficking for sexual exploitation — including penalizing women who engage in voluntary sex work. For instance, the South Asian Association for Regional Cooperation (SAARC) circumscribes the definition of trafficking to include only the narrow framework of trafficking for prostitution and does not address other manifestations of trafficking.

By contrast, Nepal and Sri Lanka take a more comprehensive approach to address trafficking that also criminalizes other forms of trafficking beyond sex trafficking. The Nepal Trafficking in Persons and Transportation (Control) Act of 2007 is a gender-neutral act that criminalizes all forms of trafficking. The Act also includes measures to protect informers and whistleblowers and exempt trafficking victims who submit written statements from cross-examination. Victims are entitled to appoint their own lawyers in addition to a public prosecutor and to receive translation support during proceedings. As in Nepal, under 2006 amendments to the Sri Lankan penal code, trafficking encompasses a spectrum of coercive labor, such as conscription of a child soldier, removal of organs, or any other criminal act in addition to trafficking for sexual exploitation.

Restrictions on women's mobility are reinforced by a transnational anti-trafficking discourse that is institutionally anchored by large donors and foreign policy actors. Recent discussions about shifts in the anti-trafficking field have tracked the emergence of “philanthrocapitalists” — a new generation of philanthropists that aim to apply business acumen to addressing global social problems. Deep resources and elite networks position these actors to engage directly in anti-trafficking policy making—reconfiguring the roles and policies of other international actors in the field. However, in their rebranding of forced labor and trafficking as “modern-day slavery,” they deploy a unidimensional victim-survivor narrative that locates structural violence in individual deviance (Chuang 2015). As warned by Chuang, this approach risks marginalizing or even displacing less influential voices of resistance that are often led by women migrant workers, sex workers, and their allies.

The policies discussed in this section, while ostensibly established with the intention of protecting women from abuse, in fact discriminate against women on the basis of gender and class by constructing significant hurdles to migration and employment. Anuradha Rajaretnam, Legal Coordinator at Surya Women's Center in Batticaloa, Sri Lanka, explains:

Those who migrate for work are the poorest in Sri Lankan society. They have no access to any kind of resources — but yet are required to secure documentation from six government officials. Some give up in frustration and get forged documents instead. Without genuine documentation, they effectively migrate illegally. They cannot produce any legitimate documentation and therefore cannot seek relief for exploitation through the courts.

As described by Anuradha, women may choose to move under the radar of formal migration processes. Women who migrate for employment through informal migration channels are particularly vulnerable to human trafficking for the purpose of debt bondage, forced labor, sexual exploitation, and forced marriage (Ramameshan, 2012).

Women also, however, take action to inform government programs and their implementation. For instance, in Sri Lanka, Act Form uses a two-pronged approach to address government restrictions and inadequate government support. First, they maintain a complaint desk that works to facilitate communication between migrant workers and relevant government agencies, including the Immigration Bureau Welfare Offices and Ministries of Economic Affairs, Foreign Affairs, and Higher Education. Second, they participate in a Migration Bureau committee including 15 Sri Lankan government ministries, trade unions, and non-governmental organizations that determine policies on migration. These approaches are mutually reinforcing. The insights gleaned from direct engagement with migrant communities, in turn, inform policy-level advocacy. In direct negotiation with the migration governance administration apparatus, migration women workers and their allies seek to inform policy discourses, rulemaking, and program administration.

## EXPERIENCING AND UNMAKING GENDERED TECHNOLOGIES OF POWER

Within South Asia, control over women is informed by not only the legal architecture described in the previous section, but also political, cultural, and ideological discourses and practices (Mohanty 2003). Dispersed across a variety of authorities, colliding and colluding, governmentality manifests as both a technology of domination and a technology of the self through which subjectivity is actualized, experienced, and performed (Foucault 1988, 1993). This final section discusses two pivotal modes of governmentality and their unmaking: stigmatization and violence. These modes of governmentality are significant because of their frequency and uniquely gendered implications. Anchored by the legal architecture of the state, they also exist beyond the bounds of the state. They are neither independent nor discrete. Instead, they intersect, collide, and conspire with the legal architecture governing women's mobility.

These pivotal sites of negotiation, I argue, are some of the locations where gendered technologies of power are experienced and unmade. The strategies deployed by migrant women workers and their allies to address processes of stigmatization and violence seek to inform public discourse and engage directly with migration administration. Migrant women and their allies not only experience technologies of power, but also challenge and reorient these processes at the level of the family, community, and the apparatus of the state.

### *Stigma*

Stigmatization refers to sociocultural processes that operate to reproduce power relationships and exclude stigmatized individuals from the social world (Farrugia 2009; Parker and Aggleton 2003). Stigmatization of women's work refers to social and other processes that systematically devalue particular types of women's work, including domestic, brick kiln, construction, entertainment, and sex work. Stigma rooted in family and community patriarchal norms exerts social control women who migrate for employment. This system of social control creates a parallel policing structure to the architecture of the state: family, community, and state forces collude to victimize women engaged in particular types of work or render stigmatized occupations invisible. In this way, stigma can function to erase the lived experiences of migrant women workers from public and legal discourses while capitalizing on their labor and economic contributions. This erasure has significant impacts upon women's

mobility, their migration pathways, and the forms of violence they encounter. Stigma can be associated with mobility, employment, group identity, as well as other categories. For instance, women employed in the domestic work sector routinely hide their migration experiences at home and in their communities. Anuradha, Legal Advocacy Coordinator for Surya Women's Center in Batticaloa, Sri Lanka, explained:

Women who migrate from this area migrate for domestic work but they do not want to admit that they are domestic workers. They face stigma from their families, and their contributions are discounted at home. Because their work is not recognized or protected, they face harsh working conditions, including non-standard rates, extended working hours, and vulnerability to harassment in employers' homes where they are isolated.

Stigma associated with sex work can be so profound that Hena from the Bangladesh Sex Worker's Network reported that the Network was denied the legal right to register as a formal network.

Stigma against sex workers is so great that we are not even allowed to register ourselves under the name of a Sex Workers Network. We were requested to change our name. We managed to register under this name when we threatened to go to the Human Rights Commission.

For women and girls with disabilities, stigma may combine with superstition in creating barriers to mobility, housing, and employment. Meena Paudel from the Nepal Disabled Women's Association explained:

Many people view women with disabilities as a bad omen based upon societal prejudice, stigmatization, and superstition. Sometimes women with disabilities are not even allowed to move around. Their families keep them within four walls. Sometimes they are even chained. Migrants with disabilities cannot get rented homes when they come to urban areas because landlords assume that they are unclean and carry diseases. Families are sometimes denied housing if they have a disabled child. When disabled women travel to cities and cannot find housing, this opens up chances for abuse and trafficking.

In these accounts, stigma is not only gendered but also deployed in relationship to a range of other categories, including employment profiles, disability, and social group. Women at the intersection of these categories may face compounded stigma, rendering them particularly vulnerable to discrimination and abuse.

The impact of social stigma upon women's ability to protect their rights can be profound. Many migrant women workers are employed without the protection of labor regulations that protect formal sector workers, relegating their workplaces and the working conditions they face outside the boundaries of legal and collective intervention. Respondents reported that the stigma associated with migration causes many returnee migrants to hide their experience of migration and forego efforts to pursue accountability in cases of workplace- and transit-related abuse. The double weight of stigma and informality may discourage and prohibit women from seeking legal redress for workplace violations and violence at all stages of the migration process.

Respondents explained how they learned to recognize and address the impact of stigma on migrant women workers. Anchita Ghatak from Parichiti, based in Kolkata, West Bengal, India, highlighted how stigma associated with domestic work undermines sexual harassment reporting:

Domestic workers don't like talking about sexual harassment although they admit it exists. They are stigmatized for traveling to work because a classic form of patriarchal control relates to controlling women's mobility. Thus, women employed in domestic work feel that if they talk about sexual harassment, their work will be further stigmatized.

To address sexual harassment given this culture of silence, Parichiti fosters safe spaces for domestic workers to discuss these and other experiences of violence. Anchita described: "Women do role plays at our picnic. This is a safe place to discuss the sexual harassment they face. They open up and speak about these issues when they have the space to do so."

Networks of stigmatized women workers have been instrumental in intervening in cases of discrimination. Hena recounted:

Sex workers are not accepted in public hospitals. There was a case where the baby of a sex worker was put out on the veranda in the cold and was shivering. Her mother was thrown out of the hospital. In cases like this one, the network was called and we demanded an apology for this treatment. We were able to get the mother and child into another government hospital. We work with hospitals regularly to make sure that sex workers using these facilities are treated well.

In addition to intervening in cases of abuse, respondents described working with stigmatized women to sensitize their communities and destigmatize women's work. Saachi, from Chotanagpur Sanskritik Sangh in Jharkhand, India, described addressing community stigma as a core program priority:

We don't want returnees to be isolated so we work with the community to accept them. This is a core strategy of ours. To sensitize the community about the contributions of migrant workers and to take away negative attitudes especially towards women returnees.

The Dhaka-based Partners in Population and Development (PPD) worked with stigmatized sex workers in Bangladesh to host a public hearing, raising the profile of rights violations faced by stigmatized sex workers. Jo Thomas from PPD described how this event catalyzed sex worker issues into public discourse:

The public hearing brought sex workers to testify at a huge event designed to look like the UN General Assembly, with the National Human Rights Commission chair validating their perspectives. They spoke in front of agencies, NGO representatives, journalists, and filmmakers in the Dhaka University campus convocation hall. Their issues were brought into mainstream conversation. As a result of the work culminating in this intervention, a sex worker now sits on a 28-member policy committee and addresses the needs of sex workers directly in a policy forum.

While interwoven with patriarchy and the state, stigma associated with migration is unraveled and reworked by migrant women organizers and their allies. Their strategies address processes of stigmatization at the levels of subjective experience, family and community, and the legal and welfare apparatus of the state. In these ways, migrant women and their allies not only experience technologies of power, but also engage in the process of challenging and reorienting these processes at each of these levels.

### *Violence*

Within borderscapes in South Asia, migrant women experience violence as both a real threat and a broad justification for limiting their mobility. In order to protect women from violence, while ensuring their rights to mobility and work, respondents described the importance of attending to particular risks associated with specific locations, professions, and migration patterns. For instance, in order to distinguish between trafficking, voluntary engagement in sex work, and the range of scenarios that lie in between, women activists in South Asia reference a continuum. This continuum, developed by women activists in Thailand, includes six gradations between totally forced labor and totally voluntary labor.<sup>11</sup>

### *Transit Violence*

For women who migrate for employment, transit is ongoing. It includes initial migration, travel between transient employment sites, daily commutes, and return to native villages. Transit-related violence impacts not only the ability to seek and maintain employment, but also access to medical facilities, courts, and other public resources. For migrant women, mobility is intimately tied to autonomy, security, and access to a range of valuable services and resources.

Transit related violence has distinct manifestations and impacts upon diversely situated women. Patterns of violence may be spatial, demographic,

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11. These gradations on the spectrum of totally forced to totally voluntary labor include victims who are forced and/or kidnapped and trafficked; victims who are given false information and are trafficked into businesses that are different than promised; victims who are aware of the type of work and working conditions, but are not aware and/or are not able to foresee the difficult situations they may encounter; workers (who may have been trafficked victims before) who are aware of the type of work and work conditions, but are not given alternative work sites and cannot choose where they work; workers (who may have been trafficked victims before) who are aware of the type of work and work conditions, have the freedom to stay or go with regard to the work concerned, and are able to select their work site.

environmental, or linguistic. For instance, Meena Paudel from the Nepal Disabled Women's Association explained how transit-related violence informs the right to mobility for women with disabilities in Nepal:

Disabled women who take public transportation face sexual harassment, especially during office time commutes. Blind women are touched in sensitive parts of their bodies. Disabled women are forcibly taken off their routes and abused. For us, the right to mobility includes the ability to move safely and efficiently from one place to another – including walking without tripping, being able to cross streets, and use public transportation.

Parichiti, based in Kolkata, West Bengal, India, gained a deeper understanding of violence faced by domestic workers during their daily commutes by conducting safety audits in train stations. Anchita Ghatak from Parichiti described this approach:

We did a safety audit where we covered four local stations, released a report and conducted meetings with railway authorities about key concerns. Key concerns related to need for better infrastructure, such as having accessible toilets. We also did a signature campaign demanding a shed at the station where women can sit when they wait.

In order to keep in touch with the needs of women domestic workers, Parichiti conducts ongoing outreach at commuter train transit junctures. Anchita explained:

We work at commuter train stations in metro Kolkata – places where women transit through as they move to and from suburbs to Kolkata for domestic work. We go at times when women are waiting for trains. They know they can find us there. They may come with complaints, information, or seeking information. Our work is to listen and keep in touch with their lives and the challenges they face.

The types of transit violence described by women with disabilities and domestic workers are distinct from those described by indigenous women living in remote areas, domestic workers confined to the homes of their

employers, and minority women restricted to areas ghettoized on the basis of religious identity. While the range of restrictions mentioned by respondents are meaningfully distinct, they are also deeply similar in that in each of these scenarios violence is gendered and intersects with relationships of power that limit women's social interactions and autonomy on the basis of their subjective construction within parameters of ethnic, religious, and class difference.

### *Workplace Violence*

Women who find employment in the informal sector are more vulnerable to abuse, including precarious working conditions, low pay, and exposure to violence and forced labor (United Nations Human Rights Council 2014). These women have comparatively fewer options for employment and may therefore be willing to take more significant risks to meet their personal and family needs. They may also have fewer networks and less information to guide them in their recruitment and placement processes.

Workplace safety surfaced as a key site of intervention among respondents. Strategies for addressing workplace violence include initiatives to activate legal protections. For instance, according to Elizabeth Khumallambam from Nari Shakti Manch (NSM), a women's empowerment platform for garment and domestic workers in the Gurgaon production hub in Haryana, India, while most factories have established sexual harassment committees on paper, these committees have not materialized in practice. NSM addresses these implementation gaps by supporting informal sector migrant women garment workers, through their collectives, to activate workplace protections under India's Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act of 2013. Strategies include the following: first, informing women through their collectives about their rights and entitlements; second, explaining the role of police and judicial processes in promoting workplace and public safety; and third, supporting women's collectives in building strategic partnerships with employers, police, judiciary, and labor officials to enhance safety at work, home, and in the community.

Where women engage in unprotected work—outside the bounds of legal protection — respondents reported using collective action strategies to address workplace violence. For instance, representatives from Veshya Anyak Mukti Parishad (VAMP), a member of the National Network of Sex Workers in India, discussed initiatives by sex worker collectives to promote safe working environments for sex workers through Conflict Resolution Samitis

(forums). As explained by Raju, organized collectives of sex workers, Conflict Resolution Samitis, are able to effectively bargain with brothel owners. He gave the following example:

Kopila was sold to a trafficker by her husband in Nepal. She ended up in a brothel owned by a Nepali brothel owner [in India]. One of the sex workers in the brothel realized that she had been trafficked. She was brought to a Conflict Resolution Samiti and we asked her what she wanted. She said that she wanted to return to her natal family home in Nepal. The Conflict Resolution Samiti intervened on her behalf with the brothel owner. The brothel owners do not want any trouble with the Samiti. They sent her home.

In this case, the Conflict Resolution Samiti intervened on behalf of Kopila to stage an intervention with the brothel owner in an identified case of trafficking. The resolution in this case was determined by Kopila and guided the Samiti advocacy.

Migrant women workers and their collectives and organizations engage a wide variety of formal and informal institutions and authorities, including railway station authorities, police, the judiciary, labor officials, and employers. The range of authorities they engage reveals a complex experiential mapping of governmentality. The processes they use to engage these distinct administrations and governing rationalities reflect nuanced understandings of positionality and possibility for action.

## **CONCLUSION**

How do migrant women workers confront and resist restrictions on their mobility? This study provides an answer rooted in the lived experiences of migrant women workers that details both the restrictive forces they confront and the resistance strategies they deploy. Paternalistic social norms are anchored in legal and policy frameworks that confine women to narrow roles within the domestic sphere, control women's sexuality, and stigmatize women who breach these norms. Stigma and the positioning of migrant women as in need of protection from violence conspire with the apparatus of the state to further undermine women's mobility and autonomy. Inscribed at the intersection of patriarchy and the state, restrictions on mobility are hegemonic, but they are not absolute. Instead, they are unraveled and

reworked by migrant women organizers and their allies. In these ways, migrant women not only experience technologies of power, but also engage in the process of challenging and reorienting these processes at the level of the family, community, and the apparatus of the state.

The analytic perspective articulated in this paper considers borderscapes and governmentality as not only compatible hermeneutic frameworks, but a key site of intersection for scholarship on migration. This framework for analysis recognizes resonances between policies and practices in the region that are rooted in shared colonial histories, patriarchal norms, and experiences of women workers whose migration pathways move between these countries. This approach also recognizes women as integral players in shaping migration practices; lends insight into the role that migration processes play in producing subjectivity; and reimagines national boundaries as they are traversed by bodies, discourses, practices, and relationships. The practice of reading governmentality across borderscapes stands to inform research on global production networks, labor supply chains, urbanization, and local, national, and regional processes of displacement.



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# HOUSING IS ESSENTIAL

A Commonsense Paradigm Shift to Solve  
the Urban Displacement and Racial Injustice Crisis

Margaretta Lin  
Dan Lindheim  
Minkah Eshe Smith

The flag is in the mud claiming territories and families  
The flag is in the mud, barreling out of control  
What is the square root of racism  
How do you quantify and qualify the communities you're destroying  
Where's our conscience on a google map  
How many likes does decency have  
What side of history do we stand on as a people and industry  
What will be the spark?  
(Lyfe 2016)

We are confronted with a major test for our society. Advancements in race relations, public education, access to good jobs, healthy neighborhoods, and the environment are being eroded because of the displacement crisis in urban centers. This is about the future of our cities and who gets to live, work, and thrive there. People from all walks of life, from activists and academics to politicians and hip hop artists, are talking about the urban displacement crisis; yet, *few significant* solutions are actually being advanced.

We posit three main points: 1) there is collective self-interest in solving the displacement crisis; 2) the prevalent "build more" strategy does not sufficiently address the housing crisis, which requires specific anti-displacement measures; and 3) it is time for a paradigm shift based upon an understanding that housing is an essential public good like clean air and water or K-12 education. We focus on California and Oakland. Case studies found in California were selected because they are at the epicenter of the national housing unaffordability crisis. Additionally, they align with our work as policy change practitioners in these communities and goals to design and implement anti-displacement solutions.

## URBAN DISPLACEMENT — MORE THAN JUST HOUSING

Displacement is both part of and different from the current overall housing crisis. It is not just that too many individuals are paying too much for housing or can't afford housing. Rather, urban displacement today is about the structural exclusion and involuntary departure of lower-income, predominantly people of color, from new centers of employment and quality of life advancements. It is ultimately about the unjust and radical transformation of our cities. It is also about the public interest (e.g., environmental, educational, and health impacts) of lower-income residents who have to move far away from employment centers.

First, displacement is destroying the soul of our cities. Whole communities are being forced out. Indispensable city workers cannot afford to live in the city or even nearby. Teachers, nurses, service workers, artists, or even the children of urban professionals cannot live in the cities in which they work or grew up in. Given historical and persistent racial discrimination in employment, financial stability, as well as the housing market, people of color have been the most impacted by urban displacement. How we care about and engage in solving the displacement crisis is a direct measure of our commitment to right the wrongs of our nation's history of racism and racial exclusion.

Decades ago, in cities like San Francisco and Oakland, there was government sponsored displacement. It was called *Urban Renewal* (or *Redevelopment*) or freeway construction. These government programs demolished neighborhoods and separated communities. The literature is replete with accounts of the disastrous impacts of these programs. John Powell writes that for many years America's cities and their residents were ignored, neglected, and discriminated against. Federal lending discrimination, bank redlining, housing covenants and forced segregation from the 1930s to the 60s created today's concentration of poverty in certain neighborhoods and a lack of financial equity in these communities. White flight and ensuing public and private divestments occurred from the 1950s to 90s. The crack epidemic and mass incarceration policies of the 1980s and 90s further imprisoned a whole generation (Powell and Cardwell 2013). Despite all these challenges, many people stayed in the cities and worked hard to improve their neighborhoods and communities.

Now, the apparently non-governmental "market" is taking up where these deliberate and identifiable public programs left off. Today's reality is an absence of major policy efforts. In effect, our cities will become predominantly higher income and less diverse. As urban equity researcher Malo Hutson shows, today there is a reversal of white flight and a new era of re-segregation in major metropolitan areas with strong housing markets like the San Francisco Bay Area, Boston, Brooklyn, and Washington DC (Hutson 2016). Communities of color are bearing the brunt of the crisis. In San Francisco's Mission District, Latinos are being forced out. In Berkeley and San Francisco, previously vibrant African American communities are now in single digits. In Oakland, the African American population dropped from 47% in 1980 to 28% in 2010, and this decline is accelerating.<sup>1</sup>

Granted, there are many reasons why people move from cities, including a search for safer communities, better schools, and bigger homes. Students of urban history understand that communities change over time. However, the branding of cities as cool, hip, diverse places, smart growth living, and the explosion of the tech economy have resulted in higher-income residents moving in and driving up housing costs. This in turn results in the involuntary push out of lower-income, predominantly people of color, expelling much of what makes cities cool and hip in the first place. The involuntary displacement is occurring at a time when these cities have experienced new economic growth and jobs, improvements in public education and safety, and population expansion of Whites and other ethnic groups (Lin and Rose 2015, 10).

The economic and housing markets are exacerbating, rather than alleviating, the housing crisis for lower-income families. Rents and home costs are increasing because of the new pressure placed on housing markets, which is caused by the influx of new jobs and new people taking those jobs.

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1. For example, in Oakland in the early 2000s, the city had a public policy goal of bringing 10,000 new people to live in Oakland's downtown area through building market rate housing and accompanying amenities. The focus on attracting higher-income people and the failure to pass proactive policy anti-displacement protections have resulted in severe consequences for today's residents. In addition, Oakland's foreclosure crisis, with its predatory lending activities targeting people of color, led to the loss of over 11,000 homes from 2007 to 2013, concentrated in working class flatland neighborhoods that were once the bastion of African American homeownership. Private speculators swooped in and purchased over ninety percent of these properties in certain neighborhoods, instantly destabilizing whole neighborhoods, since single-family homes are unprotected by rent control under state law (Lin and Rose 2015, 44). African American elderly homeowners disproportionately face high housing cost burdens, making them the most at risk of losing their homes.

While jobs are flowing into Bay Area urban centers, this unprecedented growth is lopsided (Beacon Economics 2014). The high-growth, well-paying jobs in tech and related professions are not accessible to many long-time residents of color, for reasons including persistent racial discrimination.<sup>2</sup> The other growing area of jobs, the service industry, does not pay enough for people to afford new market rate rents.

Second, health impacts compound the racial component of displacement. The Center for Disease Control (2013) recently documented the health impacts of displacement:

Bonnie Spindler may have Ellised 19 units of her own, but she has participated in Ellising hundreds more as a real estate agent at Zephyr. As an example, we were Ellised when she was hired as the agent to sell the building we lived in. She arranged for the fractional financing, sold each condo, and when one unit wouldn't sell because it was not optimal for an owner to live in, she even got her friend and "stager" to purchase the unit and then rent it out exactly two years after the eviction for four times what it was renting for before. She knows the Ellis Act inside out and profits on more than just her 19 units.

Third, displacement has also been shown to hurt educational outcomes. Improving public education for all children is a ticket out of poverty. Yet, housing instability for families of school-aged children has been shown to significantly affect educational performance and learning (Housing and Urban Development 2014), which exacerbates existing racial disparities in education (Sablich 2016).

Lastly, we are all affected by urban displacement because of climate change. *Smart growth* has provided the rationale for moving back to, and increasing the density in, cities. Decades of urban planning initiatives and focused advancements in housing, transportation, economic development, environmental, and cultural entertainment infrastructures in major cities have resulted in the planned for outcomes of people flocking to those cities, rather than to suburbs.<sup>3</sup> For people who can afford city housing costs, smart

2. I.e., <http://money.cnn.com/2017/01/18/technology/oracle-lawsuit-labor-department/index.html>.

3. A recent report from Urban Habitat (2016) found that while there were significant declines of African American and Latino residents in Bay Area cities from 2000 to 2014, there were significant increases in the African American and Latino populations in outer suburbs. The report also found that poverty disproportionately increased in outer suburb neighborhoods that are ill-equipped with sufficient services and resources to serve these newer residents (Samara 2016).

growth has positive impacts. But, urban displacement and the push-out of lower-income people to more affordable outer suburbs just replaces one group of suburbanites with another. This further increases air pollution, greenhouse gas emissions, and the clearing of green spaces (Johnson 2001, 717–735; Stone 2006, 689).

Solutions require visionary, bold, and effective government intervention.

## THE PERVASIVE BUILD MORE MODEL IS INSUFFICIENT TO SOLVE THE URBAN DISPLACEMENT CRISIS

Despite what we know about the displacement crisis, the commonly profffered solution by policymakers focuses on building more housing. Building new housing, both market rate and "affordable," will help address part of the housing crisis, but it is insufficient to address displacement. Specific anti-displacement actions are necessary.

Why can't we build our way out of the displacement crisis?

First, many of the key displacement issues have little to do with building additional housing. In cities like Oakland, long-time, lower-income homeowners risk losing their homes due to the gap between their incomes and basic housing and living costs. This is reflected in mortgage foreclosures, predatory lending, property tax defaults, and severe habitability problems (Lin 2016). Tenants are being legally or constructively evicted due to increasing rents, habitability problems, condo conversions, owner-occupancy conversions, and landlord harassment or retaliation (Lin and Rose 2015). Rent control ensures affordable rent levels for a small percentage of rental units.<sup>4</sup> In addition, artists, nonprofits, and small business employers are being dislocated due to rising rents and the absence of protections for commercial properties. Had there already been a much larger inventory of affordable units, the pressure on the housing market would have been reduced. But, building more housing today in the quantities and speed that are technically, commercially, and politically feasible to produce will be far too little and far too late.

4. Under the Costa-Hawkins California state law, units constructed after the 1980s and single family houses are exempt from rent control. More importantly, Costa-Hawkins allows for "vacancy decontrol," giving landlords the right to immediately raise rents to market levels as soon as units become vacant. This gives landlords an enormous incentive to remove existing tenants.

Second, market rate units are not affordable to the people being displaced. Most families being displaced cannot afford anything close to even the building cost of new units. While new units might help alleviate the regional housing crisis for new, higher-income people (e.g., tech migrants), they will do little to alleviate housing pressures for current, long-time residents. Rather than addressing housing issues for current residents, building more market rate units will mostly serve the housing needs of new higher-income in-migrants from the region. For example, renters in Oakland making the median household income would have to pay almost 100% of their rents to afford the new market rate; Berkeley renters would have to pay 114%; and renters across Alameda County would have to pay 72% (Lin 2016, 13).<sup>5</sup>

Third, the displacement crisis is time urgent. It takes decades to build sufficient numbers of housing units. By the time substantial new units are constructed, far too many communities will already have been pushed out.

5. See below for table of the median household income in different cities in Alameda County compared to the median market rents.

**CURRENT MARKET-RATE RENT AFFORDABILITY FOR ALAMEDA COUNTY RENTERS**

CITY	2014 MEDIAN RENT	2016 MEDIAN RENT	% RENT INCREASE	MEDIAN RENTER HH INCOME	% INCOME TOWARD MARKET RENT
ALAMEDA	\$2,298	\$3,385	47%	\$52,617	77%
ALBANY	\$2,343	\$3,455	47%	\$52,500	79%
BERKELEY	\$2,539	\$3,653	44%	\$38,539	114%
CASTRO VALLEY	\$2,170	\$2,971	37%	\$50,430	71%
DUBLIN	\$2,158	\$3,147	46%	\$91,343	41%
EMERYVILLE	\$1,555	\$2,575	66%	\$63,080	49%
FREMONT	\$2,163	\$3,123	44%	\$76,655	49%
HAYWARD	\$1,755	\$2,544	45%	\$44,064	69%
LIVERMORE	\$2,119	\$2,926	38%	\$55,403	63%
NEWARK	\$2,009	\$2,854	42%	\$59,269	58%
OAKLAND	\$1,838	\$2,835	54%	\$36,657	93%
PIEDMONT	\$4,538	\$6,711	48%	\$74,861	108%
PLEASANTON	\$2,509	\$3,524	40%	\$74,151	57%
SAN LEANDRO	\$1,815	\$2,518	39%	\$47,090	64%
SAN LORENZO	\$1,746	\$2,524	45%	\$57,522	53%
UNION CITY	\$2,082	\$2,941	41%	\$54,871	64%
<b>COUNTY TOTAL</b>	<b>\$2,400</b>	<b>\$3,385</b>	<b>17%</b>	<b>\$46,851</b>	<b>72%</b>

Source: Zillow, ACS five-year sample.

Even with vast new funding resources, numerous new contractors, and little political opposition, there are major obstacles to building large quantities of new units. It is difficult to imagine the construction of even 1,000 new units per year in a city like Oakland. At the heart of the construction boom prior to the Great Recession, Mayor Brown put forth a 10K proposal to build 6,000 new units and bring in 10,000 new people. Ultimately, 3,000 units were produced over an eight-year period. This works out to some 500 units per year. According to the most recent *City of Oakland Housing Element 2015–2023*, Oakland’s “Fair Share” Housing Goals are 14,765 units over the next eight years or almost 2,000 units per year (i.e., four times the unit construction rate of Mayor Brown’s 10K initiative during the boom years).

Fourth, construction costs in places like the Bay Area are too expensive to support the building of sufficient affordable housing units.<sup>6</sup> In the Bay Area, it currently costs about \$400,000 to \$500,000 to build one housing unit, whether market rate or affordable. The local public subsidy created for leveraging affordable rental housing construction is about \$100,000 per unit or \$1 billion per 10,000 subsidized units. However, even this assumes that there are resources (e.g., sufficient Low-Income Housing Tax Credits) to leverage this \$100,000 per unit subsidy.<sup>7</sup>

Fifth, the supply/demand idea that producing more market rate housing will lead to price reductions misunderstands basic price/demand theory. Suppliers will supply goods (housing units) as long as marginal revenue exceeds marginal cost. Most housing models, including nexus studies in both Berkeley and Oakland, indicate that projects only “pencil out” at high or even higher rent levels.<sup>8</sup> If an increased supply eventually leads to rent level decline, developers will stop building, abandon the market, and additional units will not be constructed.

Sixth, even assuming developers continue to develop, there is little prospect that new units will significantly lower the overall level of housing prices.

6. See Terner Housing Center Dashboard calculator at <http://ternercenter2.berkeley.edu/proforma/> for estimated interrelationships between construction costs, developer fees, rent levels, etc.

7. There is current concern that the Low-Income Tax Credit (LITC) market may be adversely affected by new federal proposals to lower marginal tax rates, particularly corporate rates (i.e., as marginal rates decrease, the investment value of the LITC also decreases).

8. (Vernazza Wolfe Associates 2016; <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak057583.pdf>)

The “filtering,” argument that construction of market-rate units will eventually become affordable for lower-income people (Bier 2001) is unlikely in strong housing markets. It is theorized that as new units age, they lose value and enter the housing market for lower-income households. However, filtering takes many years and does not work at all in gentrifying neighborhoods because land values and rents rise as the neighborhoods become more desirable and developers bid up prices. While building new units might reduce the competition between higher- and lower-income people for more affordable housing in markets that are not as tight as those in the San Francisco Bay Area, it is unlikely to be a solution to the problem of affordability and displacement in California’s hot housing markets.

Instead, as described below in the *Oakland Housing Action Plan* case study, we need to advance comprehensive anti-displacement policy solutions quickly and boldly, in addition to building more housing. Immediately addressing displacement requires specific strategies to protect lower-income tenants and homeowners from losing their homes, such as enacting effective rent control and condo conversion policies. It also requires investment in low-cost and evidence-based solutions like safety net services for legal eviction defense, housing counseling, and emergency housing assistance. If we do not invest heavily in urgent anti-displacement efforts, by the time large quantities of new and affordable housing are built, the struggle to preserve long-time urban communities will have been lost.

### **WE LOOK TO CALIFORNIA FOR A NEW ANTI-DISPLACEMENT PARADIGM BASED UPON COMMONSENSE PRINCIPLES: HOUSING IS ESSENTIAL**

It is highly unlikely that the federal government today will be advancing solutions for people who are the “losers” from private market operations, much less a completely new paradigm shift to address unmet housing needs. However, we believe that state and local governments have an opportunity to be bold, visionary, and impactful. We, therefore, focus our attention on how a new paradigm that positions housing as an indispensable public necessity like clean water and air or K–12 education — a *Housing is Essential* paradigm — rather than as a competitive commodity with an inevitable set of winners and losers could be implemented in California by state and local governments. We recognize that what we offer below is predicated upon the

work of state and local officials who really care about solving the housing and displacement crisis. Solving the displacement crisis involves short-term strategies as well as longer-term structural policy and financing solutions that will require the power of a movement similar to the movements for Social Security and Medicare. Given the urgency of California’s displacement crisis, our recommended policy changes utilize *existing* state and local systems.

Recognizing that the availability of housing is of statewide importance, since 1969 the State of California has required each city and county to adopt a *Housing Element*, which is updated every five to eight years. The *Housing Element* is based on the principles of planning and zoning and requires local governments, in theory, to make plans to meet their existing and projected housing needs, including their fair share of the *Regional Housing Needs Allocation (RHNA)*. However, the State’s current compliance action, with the teeth of state and regional transportation funds, is focused on recalcitrant cities that do not make a good faith attempt to identify how their *RHNA* goals will be met, especially through zoning for sufficient housing (Lewis 2003). Most local governments do not build housing and instead serve as a housing funder and regulator of development plans and permits. This being the case, there are currently no consequences for cities that do not implement the essential strategies identified in their *Housing Element*’s production goals. In addition, the *RHNA* goals do not take into account the private units lost through market rent escalation, nor people’s current needs for affordable housing.

Through our practical work in Oakland, we believe that the *Housing Element* could be modernized to be a more effective tool for addressing the housing crisis, which would require changes to state law. Under a *Housing is Essential* paradigm, *the following five changes in State law would need to occur*.

First, the State would need to amend the *Housing Element* to include a local “Housing Action Plan” that identifies the major housing problems, has clear measurable outcomes, and is action-oriented, publicly accessible, and enforceable. The “Housing Action Plan” would include local government actions to address a local community’s housing priorities, such as enacting impact fees to increase funds for affordable housing production or rent stabilization policies to prevent displacement. The state mandated template for the *Housing Element* makes it challenging for most residents to effectively understand or use it to organize change. For example, the

*City of Oakland Housing Element for 2015–2023* is 600 pages long and lists 46 different policy goals with over 130 action steps — an overwhelming and unfocused document for mere mortals. Most local government policy-makers only talk or think about the Housing Element when it's time to renew it, rather than integrating it as part of their ongoing policy-making agenda. That is why in Oakland, a housing action plan, the Oakland Housing Equity Roadmap, was developed as a complement to the city's Housing Element. The Roadmap is described below in the Oakland case study.

Second, in the development of a new “Housing Action Plan,” local governments would need to transform the community process from community “input” to authentic participation. The traditional government community engagement process is rooted in the paternalistic model of “government knows best.” In community forums, professional staff inform residents of city plans, which residents' input is unlikely to substantially change. Instead, local governments could utilize an empowerment model in the creation of the “Housing Action Plans,” where residents' voices actually define and determine city action (Barnes and Schmitz 2016). A process to create community ownership over the plan would help ensure the active engagement of residents in the implementation of the plan. This is key to breaking the inertia of the government's status quo.

Third, State law would need to change to provide a baseline guarantee of state funding for localities to implement their “Housing Action Plans.” Under a *Housing is Essential* paradigm, financing for affordable housing could follow the public financing for public schools model where a baseline of per-pupil spending exists. Local governments are currently on their own to find the resources needed to meet their *RHNA* goals. In fact, California's Governor Jerry Brown dismantled state redevelopment in 2011 and thereby deprived localities of the funding resources they needed for affordable housing development.<sup>9</sup> While there is pending state legislation that would create more funds for affordable housing,<sup>10</sup> California ultimately needs

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9. <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2012/09/19/redevelopment-in-california-the-program-that-disappeared>

For example, under the state redevelopment financing system, Oakland received about \$20 million annually for affordable housing development. Today, Oakland receives about \$5 million from the state-replaced financing system for affordable housing development, or one-fourth of its prior funds (Lin and Rose 2015, 26).

10. Examples of pending state legislation to dedicate new funding streams for affordable housing development include SB 3, a \$3 billion low-income housing bond; SB 2, a \$75 fee for real estate transactions estimated to add \$250 million per year for affordable housing; AB 71, ending the state's mortgage interest deduction on second homes and providing about \$300 million per year for affordable housing.

to provide vast new resources for both anti-displacement and affordable housing efforts. Reforming Proposition 13 could provide some resources for such an effort, assuming these new funds are allocated towards anti-displacement initiatives and the construction of affordable housing.

Fourth, complementing new state financing for affordable housing, state law would also need to change in order for the state to hold local governments accountable when failing to implement their locally developed solutions to local housing crises. State legislators have proposed legislation to address local noncompliance with *RHNA* goals.<sup>11</sup> State action could range from incentives such as providing preference points in competitive state infrastructure grants for local governments that are actively meeting their “Housing Action Plans” to enforcement action in the form of withholding state funds. In addition, new state law could take a page from education civil rights models that enable private citizens to file complaints with the state, rather than through the current system of costly and burdensome litigation.

Lastly, yet extremely critical, meaningful state solutions to California's housing crisis would require the enactment of state laws that protect vulnerable people from eviction and displacement. At the very least, this would require the repeal of the Costa-Hawkins Act, enacted to prevent local governments from implementing effective rent protections. While long seen as touching the third rail of California politics by moderate Democrats, this year a trio of bold progressive state leaders have introduced such legislation, AB 1560. The state could also pass a statewide just cause evictions law, a commonsense approach to preventing discriminatory or abusive evictions. In addition, the state should prioritize financing low-cost, but extremely effective, strategies to prevent displacement and homelessness, such as legal assistance for low-income tenants and homeowners and emergency housing assistance for those suffering from a temporary loss of income.

A fundamental shift in how government and people think about housing may naturally result in private or other sector changes. For example, there is a movement among health leaders to advance healthcare resour-

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11. Examples of pending state legislation to address local government compliance with their *Regional Housing Needs Assessment (RHNA)* goals include: 1) SB 35, which would require cities that are failing to meet their *RHNA* goals to streamline the approval process for housing projects that meet their housing obligations, including market rate projects; and 2) AB 1350, which would require local governments that have not met one-third of their *RHNA* goals to pay a penalty to be deposited in a *RHNA* Compliance Fund for projects in cities that are compliant.



es for housing funds. This movement views stable [housing as a “vaccine”](#) to improve health.<sup>12</sup> Employers like Facebook, with its recent, yet limited, [\\$20 million contribution to affordable housing](#), are also beginning to understand their self-interest in addressing the housing crisis. Under a *Housing is Essential* paradigm, employers with financial means would participate in funding housing for their workforce, either through developing housing for their employees or paying their workers enough to afford market rate housing.<sup>13</sup>

### THE BITTERSWEET OAKLAND CASE STUDY: A MODEL LOCAL “HOUSING ACTION PLAN” AND LIMITATIONS OF LOCAL POLITICS

We look to the Oakland example for both what a local “Housing Action Plan” in the *Housing Element* could look like, as well as to assess why a new state accountability framework is critical to advancing the public good. Oakland serves as a cautionary tale for other cities that are in the earlier throes of housing market displacement trends. Once the epitome of a working class city with a plurality African American population after *white flight*, Oakland was “discovered” in the beginning of the 21<sup>st</sup> century. Its great weather, proximity to San Francisco and Silicon Valley, and cultural diversity quickly made Oakland one of the “hottest” cities in the nation.<sup>14</sup> The unleashing of the tech economy tsunami turned Oakland, almost overnight, into the city with the fourth highest rents in the nation.<sup>15</sup> This quarter, the median rent in Oakland approaches \$3,000, a 54% increase in just two

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12. Results from these efforts include health insurer UnitedHealth Group investing in low-income housing in several states and New York State using Medicaid dollars to develop or renovate subsidized housing (Doran *et al.* 2013).

13. Alternatively, employers can contribute to the building of new housing units through vehicles like a robust commercial/housing linkage fee or building affordable housing for lower-income residents. A short-term local remedy could be to set commercial linkage fees at a level commensurate with building costs, especially through working in collaboration with other cities in the region to avoid developers from jurisdiction shopping for their projects.

14. <http://techcrunch.com/2016/12/02/facebook-invests-20m-to-catalyze-affordable-housing-development-in-menlo-park/>

15. <http://blog.sfgate.com/ontheblock/2015/12/21/oakland-ascends-to-nations-4th-most-expensive-rental-market/>

years.<sup>16</sup> Meanwhile, the median household income for renters is only \$36,000. Oakland’s African American population, heaviest hit by displacement, has declined by over 36,000 people since 2000, a change from 140,139 people to 106,637. (Lin 2016).

In areas of substantial gentrification and over-heated housing markets like Oakland, displacement is exacerbated by illegal rent increases and evictions and foreclosures. Few affected people know their rights or their ability to fight the actions of landlords and institutions. *Preventing displacement requires strategies beyond just building more affordable housing units.* The Oakland story highlights specific local anti-displacement strategies and the challenges of implementing those strategies without an outside accountability system.

Working with a city inter-departmental team and community groups, the City of Oakland created a model for utilizing the *Housing Element* as an anti-displacement tool in the *City of Oakland Housing Element for 2015–2023*. Oakland’s Housing Element referenced a specific, quantifiable, and separate *Housing Action Plan, A Roadmap Toward Equity: Housing Solutions for Oakland, California*. This occurred in 2014 just as the housing market and attendant displacement impacts were heating up (Lin and Rose 2015). This roadmap identified the main displacement forces occurring in Oakland, strategies that could effectively address Oakland’s problems based on best practice research and an evaluation of scale, and specific implementation requirements and their key actors. The roadmap’s authors also consulted with stakeholder groups on both sides of a potential policy. The Oakland City Council adopted the roadmap as a policy framework in September 2015.<sup>17</sup>

The Roadmap identified eight anti-displacement strategies that included both policy changes and the funding of priority programs that would prevent the displacement of over 40,000 households. Fixing rent stabilization law to be proactive, fixing a major loophole in a condo conversion law, proactively

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16. Zillow estimate of median rents. <https://www.zillow.com/research/data/-rental-data>

17. The Oakland Housing Equity Roadmap also provided a chart that summarized key points helpful for public accountability and city implementation, including the following: 1) risk of inaction, such as the loss of 14,000 un-retrofitted rental units in an earthquake; 2) which city departments and community stakeholder groups would be involved in policy deliberations; 3) how much it would take to achieve specific outcomes; and 4) which city official was spearheading the specific change effort (Lin and Rose 2015, 43–46).

addressing habitability problems including seismic retrofitting, increasing protections for distressed homeowners, and developing home preservation and rapid re-housing funds were among the strategies listed.

The roadmap also identified nine new strategies to meet its *RHNA* goals of building at least 7,000 new affordable housing units over the next 7 years. These strategies included a housing bond, a housing impact fee, a second unit local ordinance, removing city liens on vacant lots for affordable housing re-use, and public lands for affordable housing policy. Lastly, the roadmap identified strategies to address housing habitability in ways that would not result in the displacement of existing tenants (Lin and Rose 2015).

The *Oakland Housing Equity Roadmap* provided a set of best practices for local “Housing Action Plans” with buy-in from key political, bureaucratic, and community stakeholders. It demonstrated comprehensive strategies, specific outcomes, and implementation activities and roles. Indeed, it has been used by other cities like Seattle and Berkeley in developing their housing action plans.

Two years since the Roadmap’s adoption, where is Oakland in terms of implementing roadmap strategies and benefits for residents suffering from the housing crisis?

On the positive side, the city has largely implemented the affordable housing development strategies identified in the roadmap, which are altogether anticipated to provide an unprecedented \$200–250 million in the next five years. This will facilitate the production of about 2,500 new affordable housing units.<sup>18</sup> The major driver of these efforts has been the new mayor’s focus on new development strategies to address Oakland’s housing crisis, including both market rate and affordable housing. The mayor’s Housing Cabinet is comprised mainly of market rate and affordable housing development representatives.

Less hopeful are Oakland’s efforts to enact immediate anti-displacement strategies. The only major accomplishment so far has been a grassroots ballot measure campaign to fix the city’s rent stabilization law, which

sparked long overdue action by the City Council.<sup>19</sup> Without additional protective anti-displacement regulations, an estimated 33,000+ rental units are potentially at risk of being lost to condo conversions (29,000 units) or an estimated 14,000 units to a major earthquake (Lin, Rose 2015, 17–19). The housing needs of families who live in these units cannot be sufficiently addressed through the production of 2,500 new affordable units.

Most strikingly, Oakland’s lack of progress in preventing displacement of its lower-income residents has contributed to the surge in its homeless population, which has increased by 39% in two years (EveryOne Home 2017). The new homeless population includes the working poor who are homeless not because of mental health or substance abuse problems, but because they are unable to afford escalating housing costs.

A recent experience showcases why a state accountability framework is critical to protecting residents at risk of displacement and homelessness. In response to the growing displacement and new homeless epidemic, anti-displacement leaders formed a community effort called Our Beloved Community Action Network to develop program and policy solutions, including anti-displacement safety net strategies identified in the *Oakland Housing Equity Roadmap*. Given the infusion of a new \$580 million County Housing Bond for affordable housing development, the network was able to convince Alameda County leaders to redeploy the funds initially allocated toward affordable housing development to displacement and homelessness prevention instead. The county has collected \$15 million over two years from former state redevelopment funds, commonly known as housing boomerang funds, which is now dedicated to anti-displacement and homeless prevention. The network also worked with the City of Berkeley’s new political leadership to secure new and unprecedented public funds for similar anti-displacement strategies.

Armed with these successes, the network approached City of Oakland officials with a similar proposition: to utilize Oakland’s housing boomerang funds for anti-displacement services. Network leaders who had previously worked in Oakland government understood the importance of identifying monies outside of the General Fund to dedicate to anti-displace-

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18. The City of Oakland enacted:

- 1) a housing impact fee projected to generate about \$6 million annually;
- 2) a city infrastructure bond that included \$100 million for affordable housing; and
- 3) participated in a county-wide housing bond anticipated to yield \$200 million for Oakland projects.

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19. The Committee to Protect Oakland Renters, comprised of ACCE, Causa Justa Just Cause, Oakland Tenants Union, EBASE, APEN, and other groups, initiated a ballot measure to fix the City of Oakland’s rent stabilization law. This would lead to City Council changes to the law, as well as a ballot measure to fix the city’s Just Cause Ordinance.

ment strategies.<sup>20</sup> City officials were originally very supportive and several councilmembers even volunteered to champion the effort. The anti-displacement plan that went to the City Council was data-driven, evidence-based, and designed to address the main reasons for why Oakland residents were losing their homes. Rising evictions and economic hardships were primary factors, which were further amplified by the fact that there are only nine and one-half tenant eviction defense attorneys in the entire county (Kalb 2017).

The council proposal created a coordinated Anti-Displacement Safety Net that wove together housing counseling, eviction legal defense, and emergency housing assistance for an estimated 3,300 low-income tenants and elderly homeowners who were at high risk of displacement. The proposal sought \$2 million annually from the City of Oakland to create a universal Anti-Displacement Safety Net and leveraged \$6 million in non-city funds that network leaders had raised. The strategies to preserve housing for vulnerable residents would have cost the city about \$2,500 to \$5,000 per household, compared to the average city contribution of \$100,000 to build one affordable housing unit (Kalb 2017).

Despite original major support from councilmembers, the highly politicized and disorganized City of Oakland budget process resulted in some of the initial council champions, at the 11<sup>th</sup> hour, going back on their commitments and using more than half of the housing boomerang funds for different priorities. Last minute horse-trading among several of the councilmembers compromised community and other governmental efforts to address the needs of some of Oakland's most vulnerable residents.

Our experience shows that even with good intentions and good people, given the realities of local politics, there is a need for outside accountability and compliance in order to support bold and timely action by local governments. Despite political rhetoric about the city's concern for displacement of long-time residents and Oakland's "secret sauce" of cultural diversity, city actions were ultimately defined by the people at the decision-making table; decision-makers who are not lower-income residents on the verge of losing their homes. Changing this status quo requires concerted outside

pressure. A state framework, through the passage of new state laws that actually require cities to implement anti-displacement actions, would be an important solution.

## CONCLUSION

Addressing our nation's housing crisis requires addressing the often over-looked human displacement crisis. History teaches us that social change movements succeed when there is a sense of collective self-interest, as seen with the environmental movement, or when enough people's moral outrage is pricked, as seen with the civil rights or South African anti-apartheid movements. We believe that both ingredients exist with the problem of urban displacement. To achieve social change, anti-displacement solutions require the advancement of idealistic visions — so that what is today's impossible can become tomorrow's possible. The soul of our cities and our values as a society are on the line. In the words of activist turned first President of the Czech Republic, Václav Havel,

Hope is not the conviction that something will turn out well, but the certainty that something makes sense, regardless of how it turns out... It is the deepest and most important form of hope which gives us the strength to live and continually to try new things, even in conditions that seem as hopeless as ours do, here and now (Havel 2004, 82–83).

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20. About half of Oakland's \$1.2 billion per two years General Fund budget is deployed for police and fire services. This leaves the remainder to be divided amongst every other basic city function, which means that important community services like senior centers, head start programs, libraries, and parks are on constant vigilance for budget cuts.

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# THE RIGHT TO REMAIN IN THE CITY

How one community has used legal rights and rights talk  
to stay put in Bangkok

Hayden Shelby

## ABSTRACT

In this exploratory piece, I present a case study of the complex machinations of one community in Bangkok in their 13-year struggle to stay on their land. I ask how legal rights, rights talk, and political maneuvering figure into their strategies, as well as how their involvement with a larger social movement has shaped their efforts. The non-traditional form of the piece allows me to walk step-by-step through the community and the processes at play while considering multiple framings that may help us better understand the community's situation.

## INTRODUCTION

“Are you afraid of ghosts?” In the nearly ten years that I have lived in and studied Thailand, everyone from small children to grandmothers to professional colleagues have posed this question to me. Ghosts and spirits play a prominent role in Thai lore, from age-old fables to modern soap operas, and whether or not to believe in such beings is a common topic of conversation. Thus, upon visiting the community of Wat Tai, I was not surprised to hear that it is haunted. I was, however, surprised to learn of the nature of that haunting. While it is true that the outer facades of some of the houses are composed of a wall of cremated remains constructed by the local *wat* (“temple” in Thai), for most of the residents, spirits of the dead are the least of their worries. The bulk of the ashes in the wall were, in fact, relocated long ago. Dust is all that remains of the remains. And therein lies what’s really haunting the residents of Wat Tai when they lie awake at night — the fear that the same fate awaits them. As one woman put it to me during my first trip to Wat Tai, “We’re not afraid of ghosts here. We’re afraid of being evicted.”

I have come to know the Wat Tai community through a group of urban land activists with whom I have worked for over a year as part of my research. These activists, known as the Four Regions Slum Network (FRSN), talk about “land rights” in a way that at first rang awkward to my American ear. Land is what indigenous groups or farmers have. In cities, the possessors of space refer to their holdings with words that imply the intent to build, such as *real estate*, *property*, or *investment*. The land is concealed by layers of concrete and jargon. But while sipping coffee in the kitchen of Pi Yeh, Wat Tai’s representative to the FRSN, I stare at my flip-flopped foot resting on reddish-brown

dirt. There is no disguising or abstracting what Pi Yeh is fighting for. The land is bare and visible. It is solid. And this is precisely why Wat Tai's residents are so surprised to find that it has shifted beneath their feet. The exact nature of the shifts is sometimes difficult to discern, but their result has been a thirteen-year standing threat of eviction from the abbot of Wat Tai, the temple from which the community derives its name. How the community can shift matters in their favor and gain full legal rights to the land they have inhabited for well over a generation is one of many subjects of speculation in the situation. In their search for these rights, the community has put forth claims based on multiple temporalities. Some strategies rely on assertions based on the community's history. Other strategies involve demonstrating a readiness to become part of a progressive future. Their tactics, however, are disputed at every turn. In order to maintain the material conditions supporting their lives, the residents must navigate competing narratives and visions of the past and future.

## SPECTERS OF THE PAST

Pi Yeh is a tall man in his sixties with a ponytail of long, black hair that begins under his baseball cap and wanders down his back. His speech is equally meandering. He begins his answer to each of my questions with an emphatic hand gesture and ends somewhere I didn't see coming. His responses are rambling and full of contradictions, but perhaps that is for the best. His very nature ensures that I will not be able to give a neat, consistent account of the Wat Tai community.

Bare though his floor may be, Pi Yeh is quick to make guests comfortable in his home. On this June day I have arrived at 10 a.m., around the time the Bangkok sun begins to become unbearable. As I walk inside he switches on a fan. There are cups of cold water and hot coffee on the table before I can settle in my seat. "Oh, around here we drink coffee like it's water," he chuckles as he grabs another packet of Nescafe and begins to tell me his story.

Pi Yeh relishes telling the history of Wat Tai. He beams as he tells me about how his father used to take his boat along the rivers and canals all the way to the neighboring province of Nakhon Pathom and back in a single day to trade mangoes, bananas, and hay. "He would leave at six, seven in the morning and come back by five in the evening. He was a strong paddler, wasn't he? Oh, and back then there were canals everywhere."

The canals were central not just to trade, but also to social and cultural life. It was common for *wats* to be located along them, as they allowed the monks to travel easily past local homes so that villagers could *tak bat* at dawn (the practice of giving alms through the sharing of rice). *Wats* have historically served as centers of community in Thailand, and in turn they rely on donations to make merit (*tham bun*) by community members for upkeep.<sup>1</sup> In fact, the temple of Wat Tai originally gained the rights to this land when the previous owner bequeathed it in order to *tham bun* upon his death. The man had little money with which to make merit, only land. In those days land was not such an immediate relative of money.<sup>2</sup>

When Pi Yeh's father was paddling his goods down the canal, the land of Wat Tai produced wealth in indirect ways. Rice fields provided goods for subsistence and trade. The same was true for mango and banana trees. Households within the community supported themselves through a mixture of farming, trading, and working as labor for hire. They also supported the *wat* by working its land and paying a modest rent to live on it. These rental agreements have gone through phases of varying levels of formality throughout the over-100-years of the community's existence, as has the exact legal means by which the *wat* itself owns the land.<sup>3</sup>

Up until the current abbot—the head monk and administrator of the *wat*—arrived in 2004, the *wat* and the community lived in this state of symbiosis: the community supported the *wat* and its monks through labor, rent, and merit-making donations, while the *wat* served as the center of educational, spiritual, and communal activities. This new abbot, however, has ushered in a new era characterized more by conflict and upheaval than by mutual benefit.

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1. Making merit at *wats* has long been a way to establish not just good *kaam* ("kharma"), but also to demonstrate wealth and display power. Thus, the *wat* is an integral part of establishing and maintaining the social hierarchy of a community (Hanks 1962). With respect to communities living directly on *wat* lands, these relationships have changed over time, with merit-making being one of many ways in which communities support the *wats*. Other ways have been through indentured *corvée* labor and later through other labor agreements and forms of land rental (Reynolds 1979).

2. Polanyi (1944) has famously characterized the post-World War I era by the rise of "fictitious commodities," of which land is one. These fictitious commodities are integral to the ostensibly natural workings of the global market economy. In Thailand, in particular, Feeny (2002) has documented how changes in the economy have led to a transition from a regime of property in man to a regime of property in land, which facilitates the control of wealth and power and underpins the economy.

3. The ways in which the *Sangha*—the Buddhist monastic order—has held land have undergone significant changes over the past 100 years, and these changes reflect overall changes in the politics and rule of the country, as well as the relationship between the *Sangha* and the Crown (Reynolds 1979).

## AN UNCERTAIN PRESENT

Our coffee finished, Pi Yeh takes me on a tour of Wat Tai. He points out the wall that used to store the ashes of past generations and introduces me to members of the current generation. They live in houses of varying sizes and styles that have been built in a piecemeal fashion over the decades. The official current population of Wat Tai stands at 384, though it varies considerably from year to year, season to season, even day to day. This is not to say the community is unstable, though. The bulk of the residents have lived their entire lives in the just-over 100 self-built houses. For many, the same can be said of their parents and even their grandparents. But the present generation is set to be the last, at least according to the proclamation of a sign posted by the abbot just inside the ornate entrance to the *wat*.

We pause for a while in front of the sign. Now nearly noon on June 24, 2016, the sun is scorching, and I have to shield my eyes to look at it. Pi Yeh asks if I can read it, and when I say I can he requests that I do so aloud. He chuckles as I stammer my way through the text but professes to be impressed anyway. The six-foot by four-foot banner proclaims that the *wat* is in need of all lands belonging to it. According to the law, lands belonging to a *wat* cannot be transferred to others. Therefore, all houses and property that have been built on the land must be removed, regardless of when they were constructed. The final lines of the sign assert that people living on lands belonging to Wat Tai are *phu bukruk* — trespassers — and must vacate the premises within 30 days of the posting of the sign.<sup>4</sup>

As I reach the end and announce the date of its posting — December 26, 2014 — we both give an awkward laugh. The lawsuits and threats have been stressful, but thus far they have also been unsuccessful. Through a combination of strategy, stubbornness, and a sheer lack of anywhere else to go, the community of Wat Tai is still here.

I am not sure whether to be more puzzled by why the abbot wants to evict the community or why he has not succeeded. The reasons behind each are manifold and difficult to tease apart. While the posted sign simply states that the *wat* is in need of all its lands, a number of other explanations have been

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4. Bhan (2014) has detailed how, in India, the characterization of residents of informal settlements as illegal “encroachers” in the city has provided the legal basis for denying people their social rights as citizens of the nation.

given to the community as to the necessity of their removal. But these explanations have been inconsistent over time and are sometimes in conflict with each other. At first, the abbot claimed to want to build new structures to expand the *wat*'s efforts to teach Buddhist practice. Though plausible enough, no concrete plans or architectural renderings have ever been supplied to substantiate this claim. For Pi Yeh, the more demoralizing reasons given for eviction have to do with the physical and social state of the community. It is no secret that the residents of Wat Tai are poor and many of their homes are crowded and unkempt. There are also accusations of drug problems, which cannot be completely denied. Pi Yeh himself admits to having sold drugs in the past. “But not because I wanted to,” he explains, “because I was poor.”

By most accounts the drug issue has been ameliorated in recent years, but that still leaves the physical state of the community. Pi Yeh gives a beleaguered sigh when he explains that the community is considered *sokaprok* — dirty — and *seuam som* — dilapidated, rotten, blighted. On our tour of the community, he dutifully acknowledges the areas of the community that are *sokaprok*.<sup>5</sup> These spaces have narrow walkways littered with trash, dark corners that house numerous cats and dogs of dubious ownership, and the worst section contains the rubble of a house that has been knocked down after a family vacated, trying to get ahead of a forced ouster. The uncertainty about the future of the community has done nothing to improve its condition.<sup>6</sup> As reasonable as accusations of the community being *seuam som* and *sokaprok* might seem, Pi Yeh and his colleagues in the FRSN doubt that this is the true reason behind the desire to evict. To understand their skepticism, one need only cross the street.

## SPECULATION ON THE FUTURE

After our tour of the community, Pi Yeh and I return to his kitchen. Less than fifty feet from his front table the din of traffic from Oon Nut Road eclipses his reminiscences at regular intervals, and I frequently have to ask him to repeat himself. The cacophony of this congested thoroughfare occupies the same space as the canal that used to carry Pi Yeh's father to and from his

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5. Ghertner (2015) has highlighted how the physical appearance of certain areas of the city, rather than actual documentation, are often used to determine formality or legality.

6. It has been well documented throughout the literature on housing and international development that the increased security of tenure is associated with higher levels of investment in the physical state of housing (e.g. Payne 2001; Payne and Durand-Lasserre 2012).



trading destinations. While the traffic here is stop-and-go most hours of the day, a glance at the surrounding area from the footbridge spanning Oon Nut shows that capital has been flowing smoothly in this neighborhood for quite some time.<sup>7</sup>

Wat Tai occupies an uncomfortable space that is at once centrally located and out-of-the-way. If walking along the sidewalk of Oon Nut Road, located just off the busiest line of Bangkok's skytrain, you could be forgiven for missing the community altogether. Most of the houses are just one story, a touch shorter than the wall surrounding the *wat*. The long stretch of sidewalk along this wall is lined with stalls selling the country's eponymous iced tea, a variety of sweet *khanom*, and five-packs of cigarettes in tiny plastic bags. By contrast, many of the surrounding buildings are upwards of forty stories high. Their exteriors are mostly glass, so that the residents of the condominiums can enjoy the view of the city from their lofty perches. But the windows only work one way. From the outside, the shiny, opaque facades serve only to reflect the city back onto itself. The community of Wat Tai, too low-lying to enter these ghostly images produced by its neighbors, is instead lost in their shadows.

Scattered among the high-rises are billboards and massive LED screens advertising the numerous new condo projects in the area. The vision presented by the billboards is hard to resist. They follow a formula: a large photo of plush couches, sleek tiled floors, and smiling residents with the inevitable inset of a towering high rise to demonstrate the immensity of the larger project of which this home is a part. It is comfort paired with achievement. It is a lifestyle to aspire to. "Aspire," of course, being the name of at least two of such condo developments in Bangkok.<sup>8</sup>

These new condos are part of a new vision of what the city is and should be. The vision is displayed on billboards throughout Bangkok, on the "now leasing" signs on condo buildings spanning the length of Oon Nut Road, and on screen ads at skytrain terminals. The vision is that of *khwaam charoen*.

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7. Using the case of Mumbai, Appadurai (2000) has described how "spectral housing" provides an especially acute lens through which to view the way cash and capital flow through the city.

8. Gertner (2015) has described how "World Class" aesthetics guide city building in the twenty-first century, with many Asian cities seeking to be the next Shanghai or Singapore.

This is a tricky word for me, *khwaam charoen*. It can mean "growth," "advancement," or "development." But it is not to be confused with *kan pattana*, another word for "development" but without the necessary implication of growth. I have heard *khwaam charoen* translated by Thai friends as the state of being or becoming "civilized," but when pressed they admit that if Thailand continues to *charoen*, the implication is that it is not yet fully civilized. This sentiment does not sit well with anyone.

Unsurprisingly, for Pi Yeh *khwaam charoen* comes with a hand motion, and that motion is up. He sweeps one hand up to describe the first wave of condos and apartments that were built in the fury of the years prior to the 1997 East Asian Financial Crisis. His hand falls slightly to signify the building reprieve of the years immediately following. But less than a decade later, both hands are raised. They wave at the building behind me, the one that was built on land from which another community in the activist network was evicted. He turns and waves them higher at the high rises behind him, built in the last few years. He lifts both hands above his head and waves them frantically — "*charoen, choroen, charoen*." It is as if the land itself were rising up around Wat Tai.

It seems to me that *khwaam charoen* is built out of a particular formula. The buyers aspire to the lifestyle. The developers and investors speculate on the quantity and extent of the aspirations of this cosmopolitan class. Aspiration plus speculation equals *khwaam charoen*.<sup>9</sup> Inherent in this formula is the necessity of movement. Aspiration depends on mobility, not just of capital, but also of people. The targets of these aspirational ads are on a constant upward and outward trajectory, seeking novelty while climbing social ladders. This group changes jobs and countries at the drop of a hat. For them, space is not a place to call home, but rather something to be experienced and traversed. I know this because I know many of them. They are my friends. I am, in many ways, one of them. Though speculation by governments and developers often overestimates the actual flows of this cosmopolitan aspiring class; without them, there is nothing to speculate on.

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9. Gertner (2015) also explains how speculation on value becomes one of the ways in which the world class city is envisioned. This vision takes hold even for slum dwellers who are most likely to experience the downsides of speculation.

Perhaps the abbot aspires to reap a profit from the land by selling it to developers. But the residents of Wat Tai have different aspirations, which necessitate other forms of speculation. Without the formal claims to property rights that underlie the formation of a future-oriented Bangkok, the residents of Wat Tai are left to guess what other rights they might be able to assert to the land and on what basis. Strategies for claiming these rights sometimes involve calling on evidence of land rights from the past, while others require presenting plans for the future. Often these two types of assertions are at odds with one another.

## ELUSIVE RIGHTS

The Wat Tai community's attempts at gaining secure land tenure have followed a strategy of asserting rights based on the past in combination with putting forth plans for their own vision of the future. However, their tactics are up against alternative ideas about what constitutes a legitimate historical claim and what vision of the future represents progress.

The accusation of being *phu bukrak* — trespassers — is especially stinging to the residents of Wat Tai for many reasons. Not least among these is that they have been recognized by the municipality in many ways throughout the years. The extent of the Wat Tai community's recognition by Bangkok and the local district surprised me, though perhaps it shouldn't have given the many shades of gray formality and informality takes in contemporary cities.<sup>10</sup>

When I ask Pi Yeh about the current layout of Wat Tai, he unfurls a map the size of the entire front table. On it, the footprint of each house in the community and two neighboring communities has been painstakingly outlined and numbered by hand. I ask him what the numbers are, and he looks confused. "They are the addresses." This should be obvious, but now I am confused. If they all have addresses, that means they must also have *tabian bahn* — housing registrations. The district office has registered and approved

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10. It has long been understood that illegality and informality are produced by the actions of government and often do not reflect the ways in which people actually inhabit the city (Hardoy and Satterthwaite 1989). More recently, Roy (2005) has described informality as a "logic" of urbanization, while Caldeira (2017) refutes the simply binary implied by formality/informality, instead asserting that those inhabiting literal and figurative urban peripheries rely on "transversal logics" to inhabit the city.

them. Pi Yeh confirms that this is true. And that is not the only way in which the community has received approval of its existence. Over the past decades it has gradually extended municipal electricity and running water to nearly all of the homes. These official provisions make the accusations of trespassing all the more frustrating to Pi Yeh: "We have public electricity. We have public water. We have *tabian bahn*. How can we be called *phu bukrak*?"<sup>11</sup>

Another effort at claiming legal status relies on historical rent payments, although documentation of these payments is far from complete.<sup>12</sup> Though these piecemeal implementations of services and documentation were more about meeting basic needs than making claims to space at the time,<sup>13</sup> they are now drawn on as evidence of recognition in the eyes of the city that so often looks down on them.

A second line of argument that draws even further into the past involves the age of the community. Pi Yeh's grandparents were the first of his family to move to Wat Tai. That puts the length of the family's tenure at about 100 years. Some families can claim residence of even longer. This means that the community of Wat Tai has been in existence for longer than the current regime of property rights has been in place — before there were maps clearly demarcating what land belonged to whom throughout the city.

It is only by grace of the fact that this community lives on *wat* lands, which carry limited rights of sale and transfer, that the residents have been able to fight for the ability to stay. Many households who had lived in the area an equal amount of time but whose homes were on what came to be privately held land have long since been evicted with little means of recourse. However, since the Wat Tai community is not liable to simply have their land sold out from beneath their feet, they have been able to use their age as an argument.

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11. Holston (2008) has documented how those living in the peripheries of Brazilian cities utilize piecemeal evidence of sanctioned inhabitation in conjunction with the court system to assert their right to stay on their land. He refers to such activities as the "insurgent" actions of people who have found themselves within a regime of differentiated citizenship. Likewise, Ranganathan (2014) has demonstrated how paying for services is often used as a means of building evidence of the legitimacy of their tenure. However, she emphasizes that such actions occur within hegemonic discourses of rule and do not necessarily constitute a challenge to the state.

12. Due to the changes in the ways in which *wat* lands have been administered and the variation across the wats, clear documentation of land rental agreements has not been well kept within the Thai government or the Sangha (Reynolds 1979).

13. As Bayat (2000) has argued, the actions the urban poor take to secure a place in the city or gain access to services often do not amount to overt or organized political action. Instead, they can be characterized as a "quiet encroachment of the ordinary."

The assertion of being a *chumchon gao* or *chumchon doem* — “old community” or “original community” — has been used by multiple communities in an effort to lay claim to historic land.<sup>14</sup> Claims of “we were here first” by urban communities echo efforts by rural dwellers to assert rights to indigenous lands. But while historical claims to land in cities are tempting, they are also tenuous. Along with the second- and third-generation residents of Wat Tai, there are those who cannot claim to be “original.” Though Wat Tai may be old, it is not unchanged.<sup>15</sup> These newer residents are often family or close friends of residents, moving to the land by invitation for various lengths of time. Some have stayed and built their own houses, but others *Pai Pai Ma Ma* — come and go. Their presence in the city depends on the need for farm labor in other provinces and the availability of work in Bangkok. Although changes in the economy have altered much about Thai society, one thing that has not changed for many poor families is collective provisioning among extended kin. Young adults, in particular, come and go between cities and rural homes, supporting various livelihood strategies. This migration, whether temporary or permanent, is vital to survival for many families, but it also makes claims to land difficult, especially in cities. It has undermined Wat Tai’s claims to be an “original” community. Fluidity in population has limited the ability of the Human Rights Commission of Thailand to support them in their claims to being the original inhabitants of the land, as they cannot claim to be indigenous and thus appeal to the United Nations Declaration on the Rights of Indigenous Peoples. Making claims to being a historical community requires not only longevity, but also stasis. To remain in place, they must demonstrate a sort of immunity to the many forms of mobility that surround them and the constant flux of *khwaam charoen*.

Claims related to indigeneity comprise just one aspect of Wat Tai’s efforts to use human rights to stand their ground. In our conversations Pi Yeh frequently brings up human rights, often referencing the United Nations (U.N.) when he does. He talks about how people need to be educated about

what their human rights are so that they will be willing to come together and fight for them. However, he never elaborates on precisely what human rights are being violated in the case of Wat Tai. This lack of specificity is not simply a matter of Pi Yeh not being well-versed in the minutiae of U.N. declarations. While ejecting over a hundred people from land they have occupied for decades intuitively smacks of a human rights violation, pinning down exactly what human right is being transgressed is not so straightforward. The misalignment between the historical claims of long-time urban residents and declarations aimed at protecting indigenous groups is just one example of how the juridical aspect of the global movement of human rights falls short.

Other human rights claims call upon the basic fact of residents’ poverty.<sup>16</sup> However, these claims sometimes come with a cost. While indigeneity puts forth a claim, indigence quickly becomes a plea. Reading the arbitration documents, I am struck by the discordance between the fist-pounding, indignant claims to land Pi Yeh makes at his kitchen table and the language in the documents, which asks for mercy and calls upon the charity of the abbot.

While Thailand has signed on to the U.N. Charter and even has a human rights commission, the human right to adequate housing does not carry the weight of law.<sup>17</sup> The only article in the United Nations Universal Declaration of Human Rights relevant to this situation that is reflected in Thai law is the right not to be arbitrarily deprived of property. The residents of Wat Tai can point to their longevity, their housing registrations, their payment of rent and taxes, and the fact that basic infrastructure and city services have been extended to them. They can hold up the most aged and feeble of their community members and argue that they could not withstand a move from the homes they have occupied their entire lives. But no one living in Wat Tai

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14. Herzfeld (2016) has meticulously documented how another community in Bangkok, Pom Mahakan, has used the status of being a *chumchon doem* as part of a larger strategy to claim to act as a “living museum” that represents the history of the polity and therefore should not be torn down. Though Wat Tai’s claims are not so grand, they employ a similar strategy in that they assert that their rights to the land precede the present regime of ownership. They combine these claims with human rights discourses to invoke a number of non-specific human rights, some of which could be read as the rights belonging to indigenous peoples (United Nations 2007).

15. Though the term *indigenous* carries with it the implication of being original and unchanged, Li (2010) elaborates on how so-called indigenous groups are constructed through political and discursive strategies, as such groups, like other social groups, are constantly changing.

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16. The International Covenant on Economic, Social, and Cultural Rights guarantees, in Article 11, the right to an adequate standard, which includes the right to adequate housing (United Nations 1966). This is elaborated in General Comment 4 (Office of the High Commissioner on Human Rights 1992). However, this right to housing does not include the right to be housed in any particular place, and thus cannot be used to claim a right to a historic piece of land.

17. Signing on to the United Nations Universal Declaration on Human Rights does not necessarily imply that those human rights become legal rights within the nation-state. National-level human rights organizations operate in a number of ways to promote human rights, many of them not involving the legal system (Kumar 2003).

can claim the land they live on as their property.<sup>18</sup> And when the law looks at Wat Tai, that is the claim that matters most. Though the Human Rights Commission has stepped in to support Wat Tai, they can only do so as mediators between the community and the *wat*. They have no legal power to force the hand of the abbot.

Despite not having a clear path forward for the juridical use of human rights to make claims to disputed land, activists continue to employ human rights as a motivating discourse. Among the FRSN and other social activists and NGOs in Thailand, human rights talk is ubiquitous. Human rights are asserted on t-shirts, on banners, and in speeches. Several friends of mine are working on master's degrees in human rights. And these are not idle discourses. In cases where eviction is threatened by public entities such as the Bangkok Metropolitan Administration or a moral authority such as the *Sangha*, the invocation of human rights does not fall on deaf ears. The human rights discourse emboldens people like Pi Yeh to think of themselves and their communities as deserving of a higher social status and greater material conditions than society has previously allotted to them. With no legal claim to the land, Wat Tai's only way forward is collective action, negotiation, and perseverance. As evidenced by Pi Yeh, the discourse of human rights bolsters these efforts.

## SPECULATION, NEGOTIATION, AND PLANNING

Without clear legal claims to their land, the community has relied on more overtly political means to stay put. With the backing of the FRSN, the residents have pressured the abbot into multiple rounds of negotiations. Often these negotiations take place as part of legal proceedings.

The initial suit filed by the abbot against the residents of Wat Tai thirteen years ago was sent to mediation, with an eventual agreement that the residents would begin paying rent at a rate of 4,000 baht (about 115

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18. Article 17 of the United Nations Universal Declaration on Human Rights states, "(1) Everyone has the right to own property alone as well as in association with others. (2) No one shall be arbitrarily deprived of his property" (United Nations 1948). Unlike the right to adequate housing, statutory rights to property now exist in most nations. Though many scholars argue that human rights carry value even if they are not written into the state's legal code (Sen 2001; Nickel 2007), the discrepancy between the legal right to property and human right to housing often means that property owners are able to deprive those without legal property of their housing.

USD) per month dating from the start of the suit. Organizers from the FRSN advised against taking this deal. Experience had taught them that without a long-term lease such agreements are worth very little by way of security. However, the community went their own way. They paid, hoping their payment would bring them respectability and legality.<sup>19</sup> Unfortunately, the instincts of the organizers were correct.

It is not a meager monthly rent the abbot is after. A couple of years after the rental agreement went into effect, he put forth his claims of wanting to extend facilities for the teaching of Buddhist practice, as well as his accusations of blight and social disorder. Since he has not provided anyone with clear architectural or financial proof of his plans, the residents and activists remain skeptical. Though it is against the law to sell *wat* land for private development, it would be possible to develop it into condos by exploiting a loophole in the law. This particular intention is impossible to prove, and it is unlikely to be exposed before the residents are removed, since such an expulsion for the purpose of private enrichment would reflect poorly on the Buddhist community. In fact, any kind of violent expulsion would not look good for the abbot or the entirety of the *Sangha* (the order of the Buddhist monkhood).<sup>20</sup> In the meantime, the residents have tried to address the charges of being *seuam som* by organizing themselves to take part in a slum upgrading program with the help of the FRSN.

Through their association with the FRSN, residents of Wat Tai have been able to demonstrate that they are backed by numbers and will not go quietly. The knowledge that the abbot has some fear of the public reaction to an outright eviction is one of the few bargaining chips the community has. With the time this strategy has bought them, they have put forth proposals for sharing the land. Their most concrete proposal has been to consolidate the community onto a smaller piece of land and rebuild their homes through a policy called *Baan Mankong* ("Secure Housing").

*Baan Mankong* has a complicated history. It is now run by a government-sponsored agency, the Community Organizations Development Institute

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19. See note 11 (Ranganathan 2014; Holston 2008).

20. The fear of the political fallout and loss of face for government or other entities is often part of a strategy to stay in place for communities facing eviction, as evidenced by the case of the Pom Mahakan community (Herzfeld 2016). Even now, as many households are being evicted from that land, it has taken place only after extensive negotiations resulting in the consent of the households whose homes are being demolished (Channel 7 2017).

(CODI),<sup>21</sup> but its origins date back much further than its institutionalization in 2003. The flexible program is modeled off of a process of protest and negotiation with landowners seeking to evict, which was pioneered by the FRSN. Though the FRSN appears nowhere in CODI's official literature on *Baan Mankong*, they still play a prominent role in carrying out the policy for many communities. It is with the help of the professional organizers of the FRSN, as well as the leaders of other communities in the network, that those at risk of eviction learn how the policy works and receive training in how to organize themselves to go through the process.

The first step of *Baan Mankong* involves creating a collective savings group to help pay for the physical upgrading or possible relocation they are looking to undertake. The savings amounts to the collateral for a collective loan the community will take out to perform the upgrading. They must save 10 percent of what they intend to borrow. Another important part of the process involves deciding what land the community will occupy: whether they will be able to negotiate with the landowner to buy their land — or at least a piece of it — outright, achieve some form of legally-recognized rental agreement, or have the community find new land elsewhere on which to resettle. Regardless of the agreement reached in the end, the community's land tenure, debt, and assets in the form of new housing will be collective.

These new forms of legally-recognized communal land tenure have been pushed for by the FRSN as an alternative to private property rights. Through these tenure arrangements, individuals cannot be pressured to sell their plots for redevelopment. They also bind the communities together, tie them to the larger network, and bring them into the fold of a social movement that is constantly pushing for land reform and greater equality in Thai society on many fronts. The types of land rental and purchase agreements that have become part of *Baan Mankong* are part of many successful attempts by the FRSN and associated social movements to achieve new forms of land tenure that are better suited to the lives and livelihoods of their member communities. These communities have found themselves outside the regime of private property that undergirds the nation's economic growth.

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21. *Baan Mankong* falls under an umbrella of policies known as participatory slum upgrading, which is currently a favored method of dealing with informal settlements among international housing experts and governments alike. *Baan Mankong*'s first director and chief advocate, Somsook Boonyabancha, has raised the profile of the policy on the international stage (Somsook 2004, 2005, 2009). It has since been taken up as an example of a successful participatory slum upgrading model by academics and policymakers (Das and Takahashi 2009; Bhaktal and Lucci 2016).

The Wat Tai community began their attempts to take part in *Baan Mankong* in 2005. The efforts, though, have met up with multiple problems. The first obstacle was getting enough community members to adhere to the requirements of their savings group. Pi Yeh estimates that only about half of Wat Tai residents have stable enough incomes to save the required amount each month. If these residents were included in the group, it would make the better-off residents hesitant to join for fear of getting left with the bill. However, leaving out households unable to save would mean abandoning the most vulnerable among them, not to mention that there might not be enough participants in the program to effectively spread the risk.

Another obstacle is that the program itself cannot solve the problem of the *wat* not being legally allowed to sell the land. Getting around this obstacle requires a change in the law, which has been advocated for by the FRSN on numerous occasions but which requires the coordination of many government entities, including the *Sangha*, and must be continuously revisited, as every case of a community living on religious land is a bit different.

The final hurdle to gaining collective rights is simply convincing the abbot that he should allow the plan to move forward. By 2006, "community architects" used by CODI had drawn up a proposal to present to the abbot. In the proposal, the community would yield a good proportion of the land they now occupy to the *wat*. On the remaining land, the plan shows neatly laid out rows of numbered houses surrounded by perfectly symmetrical trees. At the front table, Pi Yeh pulls out the renderings, their corners curled and yellowed. It is a very nice image. Pi Yeh jabs his index finger at the renderings and says, "We want to develop (*pattana*). We want to be part of the country's development (*kan pattana*). But we don't have the money. All we have is our homes."

As I look at the neat but aged renderings of the Wat Tai community that is not to be, I can't help but feel that the quaint houses neatly planned out by the community architects would somehow be just as out of place as the self-built tin-roofed homes in which most of the community currently resides. The new homes may very well represent *kan pattana* for the community. But the rest of the area is experiencing *khwaam charoen*. These two directions of development are different not just in their connotations, but also in their aesthetics. Pi Yeh's vision of development looks at odds with the rest of what is going on along Oon Nut road. Perhaps this is one reason why the abbot has been unmoved by their plans. However, this is just my own hypothesis. One cannot help but speculate about this situation.

## CONCLUSION: TANGLED IN TIME AND PLACE

After multiple trips to visit Pi Yeh and the Wat Tai community, I think I have a handle on their situation. So I decide to sit down with the professional organizer of the FRSN in charge of Wat Tai. I ask her what she thinks the next steps are for the community. She replies that, honestly, she thinks it is time to start looking for new land or breaking up the community to live in other forms of social housing. When I ask why, she reviews all of the strategies that have been pursued so far and how none of them have worked. It is not clear what the next steps might be to stay in place. The abbot is intransigent, and the community has been unable to come together in the way some of the more successful communities have.

She seems disappointed and a bit exasperated. The FRSN has had many successes in terms of creating policies and new forms of land tenure that are more closely aligned with the needs of their members and people like them. But the alignment is not perfect, and once the law or policy is made, there is always the business of molding the community to fit the new legal forms.<sup>22</sup> For groups of residents that join the FRSN or go through the *Baan Mankong* upgrading program, their status as a community becomes more formal. The community itself becomes the unit through which they are recognized, either as part of a larger social movement or as an entity that collectively holds assets, debts, and rights. Being part of such an entity can be empowering, as it enables them to amplify their voices. However, it also entails following new sets of rules and ceding some level of individual autonomy in order to further the interests of the group. Some communities are better able to fit the mold set out by the FRSN and *Baan Mankong* than others, for reasons having to do with both circumstance and internal group politics.

When I told my colleagues in the FRSN that I was planning to write about Wat Tai, they did not exactly discourage me, but instead pointed to other examples of communities that have successfully organized and negotiated

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22. Rose (1999) has argued that community represents a new third space of governance in the present era, and communities are spaces upon which governmentality is enacted. However, Chatterjee (2004) points out that communities can also enable mere populations to claim recognition in “political society.” In the case of the Four Regions Slum Network and the laws the network enacts, I argue that both valences of community are present. By participating in the movement, individuals are able to act politically and impact policies that affect them in ways they could not if they were not part of a community. However, membership in a community also entails being disciplined by numerous actors and re-forming in order to take advantage of the means of beneficial policies.

to stay on their land. I said I understood and I want to write about those communities too, in the future to hold up the movement’s successes. But at the moment, it was the complications of Wat Tai that I wanted to understand, and the ways in which so many seemingly plausible claims to rights have kept falling through their fingers.

At the end of one of my visits, Pi Yeh walks me back to the skytrain station. As we stroll along Oon Nut Rd, past sleek, soaring condo buildings surrounding Walmart-like supercenters, I come to the unsettling realization that I looked much more in-place than Pi Yeh. Pi Yeh notes this as well and exclaims, “there are more *farang* (western foreigners) here than Thais.” This is not true in the technical sense, but the sentiment is apt. The inhabitants of these condos are a mixture of foreigners and Thai young professionals enjoying the freedom of the one-bedroom high rise life. This generation and class — of which I count myself a part — values mobility, be it social, economic, or geographic. It is difficult for a class of people always on the move to comprehend the trauma of forced relocation. It was certainly challenging for me. But this mobile class of people play a prominent role in creating both the demand for and the policies that undergird the cities of the future. In Bangkok and elsewhere, these cities are dominated by the rule of individual private property.

The rules of property in much of the contemporary world do little to help people stay in place. The division of land into discrete parcels with defined owners serves to facilitate transfer, not stability. That Thailand has been so successful in carving up its urban land is one reason its real estate market, known for transparency and efficiency, has been held up as an example for other countries in the region.<sup>23</sup> It has turned land that used to produce value through rice and mango trees into land whose value is determined by who might want to buy it next and how much they might be willing to pay for it. When property rights come to be seen as primarily the right to transfer, those without property rights often must call on other rights if they want to

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23. Dowall (1989, 1992) argued that Bangkok represents an “efficiently performing housing market” because of its transparency and relatively clear property laws. He hypothesized in the early 1990s that the real estate developers would eventually move far enough down-market to greatly reduce the population living in slums. Though this has yet to happen (UN Statistics Division 2014), Dowall’s research made its way into World Bank Policy (World Bank 1993).

stay put.<sup>24</sup> In order to do so, the community must walk an impossibly fine line between demonstrating that they have remained unchanged across time and proving that they are willing to change and adapt. To stay in place, they must represent the past and the future at the same time, and they must do so in the context of a city in motion.

In the end, it remains unclear whether the story of Wat Tai is one of triumph or failure. After all, the community has held their ground for thirteen years in the heart of a city whose values, land, and land values have been drastically transformed. On the other hand, they remain haunted by the specter of eviction, grasping at elusive rights to the most solid of substances as they find themselves caught between a spectral past and a speculative future. It may very well be that the next time I return to Wat Tai all that will remain of them is dust upon the ground that once supported a way of life.

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24. Weinstein (2014) coined the term “the right to stay put” in reference to ways in which residents of the Dharavi mega-slum of Mumbai participated in complex webs of politics and governance in order to resist displacement in the face of large-scale redevelopment plans. An important aspect of Weinstein’s argument is that Dharavi residents were able to do this because of the size of the slum and its importance to the city’s politics. This paper contributes to an understanding of the non-statutory “right to stay put” by analyzing how a community of a much smaller scale also uses a variety of legal and extra-legal means—working in what could be said to be “invited” and “invented” spaces of participation (Miraftab 2009)—to remain on their land, however, precariously.

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## BOOK REVIEW

*African Futures: Essays on Crisis, Emergence, and Possibility*

Goldstone, B., & Obarrio, J. (Eds.). (2016).

Shakirah Hudani

This collection of essays by prominent African scholars centers familiar themes of continuity and emergence, as well as rupture and disruption, but filters them through new light. To think of African futures here is to engage with the diverse contexts through which these accounts reimagine visions of futurity and connections to the past — from the macro scale of urban construction in Kinshasa to the micro dynamics of a prayer meeting breaking up — and to view their interconnections. Drawing from new material and earlier pieces of Africanist scholarship on crisis and change by these scholars,<sup>1</sup> the contributions in this collection are grouped thematically and speak to one another through a framework, which describes the construction, imagination, and deconstruction of temporality and, in particular, futurity in Africa. The editors, Brian Goldstone and Juan Obarrio, offer a textured introduction and foreground the collection as a relational reflection on the “motley ensemble of verdicts and diagnoses” proffered by previous writing on African contexts (1). The volume thus avoids the binary of despair and triumph in representations of the continent, and provides a valuable addition to scholarship on temporality in relation to refiguring Africa’s futures. As the editors write, the volume aims “not so much to iron out the contradictions nor to disprove the verdicts (though such disproving will at times be necessary) as to think within the paradoxes, perplexities, and apparent certitudes Africa is taken to insinuate” (3).

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1. Examples include Roitman’s 2014 ‘Anti-Crisis,’ Geschiere’s earlier work on urbanization in Africa in the 1990s, Michael Ralph’s emerging work on the ‘forensics of capital,’ and inspired by Charles Piot’s earlier work on social modes of imagining the future in-Cold War Togo (2010).

The first section, “Rethinking Crisis,” is centered as much on theorizing crisis in the context of continuing emergencies on the continent as on analyzing crisis as prolonged temporal state, thereby entering into conversation with Reinhardt Kosselleck’s (2006) theories of rupture and transformation. Janet Roitman, for instance, positions her earlier work on “anti-crisis” as a liquid and metaphorical antidote to crisis in Cameroon, circa early 1990s. Roitman describes crisis as a persistent condition that eviscerates earlier notions of connection and post-independence nationalism. She builds on existing theorizations of crisis as a productive “blind-spot” for thinking of emergence such as operates through “legitimacy crises, fragmented or partial sovereignties and ‘no war no peace zones’” (36). In an ensuing essay, Brian Larkin reflects on her theorization, reading crisis in its affective terms in relation to different forms of exigencies, states of emergency, and the continuation of disruption. Using similar themes of temporality and rupture in the face of the rapid change of modernization, he calls for re-readings of narrative theory in African contexts where African futurity is presented as demanding simultaneity and coincidence. Larkin comments on the temporal scale of the vast nature and speed of Africa’s transformation in the recent past: “paying attention to the temporal frame of crisis and categorization allows us to move beyond the specificities associated with each particular state of emergency and lay bare its structural coordinates” (50). Connecting his reflections to earlier work in Nigeria, and in particular the opening of the Abeokuta Steel Mill in 1983, Larkin calls attention to the

affective role of modernization not as a failed or frustrated project alone, but as “a form of congealed desire” (48). He argues that it is important to recognize “the affectual, fantastic side of modernization” that is repeated and rendered anew in contemporary infrastructure projects: “All over the world, highway projects, corporate headquarters, the laying of fiber optic cable networks, and so on, occupy that messy conceptual boundary where the economic and rational meet the symbolic and fantastic” (48).

“Emergent Economies” serve as the focus of the volume’s second section, drawing attention to nexuses of debt, financial circulations, and extractive and militarized economies. Michael Ralph’s reflective, journalistic account of “the forensics of capital” links ‘good state’ subjectivities in Senegal with hopeful outcomes of debt forgiveness to which this diplomatic capital is tied. He recounts international disciplinary orders of good state behavior that, for Senegal, have created diplomatic credibility through embracing discourses and practices of Western security and governance. As a consequence, the Senegalese government actively and disproportionately participates in peacekeeping missions. These processes of politically and fiscally conditioning the West African state tie a history of colonial and post-independence cooperation to international political capital. Ralph indicates,

The way that a nation’s profile is tethered to mobility in the world of nations — what I am calling the forensics of capital — involves managing evidence within a distinct temporal regime. Privileged nations arrive at a consensus about a country and then establish a narrative suitable to that conclusion. At the same time, they omit, or carefully recalibrate, evidence contrary to their claims (93).

Thus, international apparatuses of debt management and policy restructuring, which are purveyed by institutions like the World Bank, are “not merely a repertoire of fiscal policies but a mode of statecraft” centered around the discourse of good governance and improved business environments (93).

Part Three of the book, which considers “Urban Spaces and Local Futures,” allows for the exposition of Abdoumalig Simone’s phenomenologically thick and dizzying reflections on “uncertainty as an urban resource” in *rough towns* such as Ngaliema, Kinshasa. Simone’s writing produces a picture at the intersection of contingency, self-made visibilities, patterns of

livelihood, and forms of eligibility. This picture acts and intervenes in the spatial and temporal economies Simone analyzes in the city. He speaks of possibilities, which are born of mobilities of varying types, so that “a particular vantage point” is necessary for their apprehension and realization. Challenging singular perspectives, whether God’s eye view from above or master-plan, he cautions that the city can be multiplied and called into question,

It is this very oscillation of inhabitants traveling wide and far, and going nowhere; of substantial amounts of money being accrued and lost, invested and wasted that propels inhabitants not to take any representation, image or view of the city for granted (148).

In the same section, Filip de Boeck’s interrogation of the re-centering of the future of locality puts Kinshasa’s non-linearities of space and narration in full view. On the one hand, the government fantasizes about building a new administrative and commercial Kinshasa in its “*Cite de Fleuve*” project. The project revives colonializing compartmentalizations and oppositions by threatening to peripheralize much of the existing city. On the other hand, people’s lived realities point to “everyday movements” that “often defy such closure and exclusion, and call into question established notions of flexibility and fixture” (62). In response to these binaries, De Boeck suggests “new ways...of perceiving connectedness” and points to ideas of *doubling*, *shadow realities*, and *occultization* that shade local worlds. Here, in deep erstwhile colonial space, this idea of rereading shadow reality is illuminative and productive for de Boeck: “the black hole . . . reveals itself to be the powerful producer of narratives, experiences, various lines, material and spiritual, that produce the surroundings and forms, but also the contents, of these local worlds” (162).

Also in the volume’s third section, Peter Geschiere and Antoine Socpa trace theses of mobility in relation to the city back to colonial processes of urbanization, where the city was considered as forbidden, separated space and mobility was controlled. They argue that far from being truncated, city mobilities that originated during this period form a “crucial element in people’s reflections on the future” (167). Earlier theses on *partial urbanization* analyzed the connections that held urban dwellers to their rural villages of origin. The authors poignantly capture the analytic of shifting funerary modes. The funeral “at home” is characteristic of par-

tial urbanization. It is gradually being supplanted by subterfuges of partial funerary rites due to finance-imposed limitations on mobility, thus “sending only certain attributes of the deceased home but burying the body in the city” (170). Yet, here too the local stands out as being deeply interwoven with the networked circuitries of imagining and mobility. Local elites and urban elites in Cameroonian villages face contests of recognition, and for inhabitants, large houses in the village serve as ornaments of resentment and a misrecognition of local realities. In turn, local residents dream up alternative spatial mobilities, vernacularized as “*bush falling*”: transnational, improvisational plans to Qatar, the Gulf States, and China. These are vantage points from which transcontinental migration appears as antidote to stunted visions of opportunity at home in the village.

A final section, “Possibilities,” includes contributions by Brad Weiss, on the relative temporalities of development in urban Tanzania, and Achille Mbembe’s essay, which centers “Africa in theory” in a changing global geopolitical order. Contributions by Ramah McKay, Danny Hoffman, Jane Guyer, Charles Piot, Jennifer Cole, and Juan Obarrio strengthen a collection that challenges readers to think “Africa otherwise” (12). This collection serves as a corrective through which binary characterizations of the continent can be rethought. Much like James Ferguson’s diagnosis of “Africa Talk” (2006), instead of popular, binary narratives as failing or rising, the essays here offer prisms of nuance and heterogeneity. At the same time, positioning the future as both a materially unfolding reality and potent imaginary, the essays presented here interweave the everyday into the texture of intersecting personal realities — from instances of changing funerary rites in Cameroon to the phenomenology of a prayer meeting breaking up in Kinshasa. Taken together, these essays respond to one another in their varying depictions of continuity and rupture, crisis, repetition, and reordering. They are positioned in conversation with multiplying realities on the continent, and provide a theoretically rich contribution to scholarship on temporality and change in contemporary African contexts.

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## BOOK REVIEW

### A NEW NARRATIVE OF RACIAL SEGREGATION

#### *The Color of Law: A Forgotten History of How Our Government Segregated America*

Richard Rothstein (2017)

Alison Mills

In *The Color of Law* (2017), Richard Rothstein takes what once was a familiar narrative of racial segregation in America and turns it decisively on its head.

With bountiful evidence and rigorous detail, Rothstein rejects the prevailing view, upheld to this day by the Supreme Court, that individual decisions create a natural geography of *de facto* racial segregation in our cities, and argues instead that our government at all levels abetted and sponsored what is in fact *de jure* segregation. This is the heart of *The Color of Law*. According to Rothstein, the government has systematically violated the rights created in the 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> Amendments to the Bill of Rights for black Americans, and his book is essentially a treatise that methodically uncovers this narrative of history.

Each chapter of the book presents a careful yet forceful analysis of historical data, records, and events that uncover this *de jure* segregation across all facets of our cities. Rothstein demonstrates how public housing, zoning, insurance policies, taxation, labor unions, and police forces all developed and executed racially targeted policies and practices that created widespread discrimination and inequality at the hands of the government.

Several pieces of evidence come right from the Bay Area. Rothstein opens his book by asking, if state-sanctioned segregation occurred in San Francis-

co, the most liberal of our modern cities, then must it have occurred everywhere? One of the cases Rothstein presents in the Bay Area occurred in the mid-1950s, when Ford Motors closed its plant in racially diverse Richmond and moved 50 miles south to a racially-restrictive neighborhood in Milpitas. Developments built near the new plant were being subsidized by the Federal Housing Administration and were explicitly designated for whites only. As a result, most black workers could not move near the new plant and either lost work or faced long commutes if they remained in Richmond. For Rothstein, the story is a typical one in this country; a story not made by racially biased individual actors, but rather orchestrated knowingly by the government. Ultimately, this type of story results in the economic inequality and racial segregation we see between cities like Richmond and Milpitas today.

Rothstein's argument is strengthened by balancing a discussion of sweeping, large-scale violations with those that are more personal and shocking in their injustices. First, he thoroughly discusses the explicitly racist principles outlined in the 1935 *Underwriting Manual* of the Federal Housing Administration, which would not insure mortgages to African American families because "incompatible racial groups should not be permitted to live in the same communities." For nearly the next twenty years, subsequent editions repeated this guideline. Rothstein then rounds out his final chapters by giving a passionate account of government failure to enforce the ba-

sic rights of many black families who faced extreme physical violence and property damage if they moved into a white neighborhood and were often quickly driven out. The depth of his research at both scales powerfully illustrates the pervasiveness of racial segregation in our society.

Rothstein makes clear that *de jure* segregation occurs not just spatially, but economically as well. In his chapter discussing the suppressed incomes of black families, Rothstein explains how black families' inability to afford to live in middle-class communities is a direct result of federal and state labor market policies that depressed African American wages with undisguised racial intent. Rothstein dives into the history of specific pieces of legislation like the Wagner Act, which legally empowered labor organizations that refused to admit African Americans. This is a compelling framework that makes clear that income segregation and the wealth gap are by no means *de facto*, but rather the outcome of economic policies created by powerful organizations. Here Rothstein posits that *de jure* segregation is not limited to one side of the political spectrum, and demonstrates how many institutions played a part in the segregation and discrimination of African Americans.

Rothstein's argument throughout *The Color of Law* is clearly articulated and is certainly an important one, but it should also be considered as merely the latest development in a new body of literature that accepts this disturbing narrative of our country's history as given. Rothstein builds on important works from Weaver (1948), Kushner (1980), Hirsch (1983), Jackson (1985), Massey (1993), and Sugrue (1996), but his argument is exacting in its classification of segregation as *de jure*. Rothstein himself is a research associate at the Economic Policy Institute and a Fellow at the Thurgood Marshall Institute of the National Association for the Advancement of Colored People (NAACP) Legal Defense Fund, and as such, his examination is largely limited to the economic and legal implications of segregation. Thus, while he presents a comprehensive account in favor of explicit remediation to the inequities caused by racially homogenous neighborhoods, a consideration of the social and cultural impacts of segregation is conspicuously absent.

Near the end of his book, Rothstein concedes that a discussion of real remedies and solutions is outside the scope of this research. Yet this lack of attention to feasible policy solutions at both the federal level and the more local, contextual level feels inadequate. Throughout this book, Rothstein also curiously rejects the phrase "people of color," essentially suggesting without equally convincing evidence that other minorities do not face *de jure* segregation to the same extent as African Americans. While this seems

to be an unproductive way to position his profoundly important research, it certainly leaves room for future literature to address what Rothstein has explicitly chosen to ignore.

Nonetheless, Rothstein concludes his book with an anecdote that is both compelling and revealing in the context of the magnitude of research he has presented. He looks briefly at several U.S. history textbooks widely used in public schools and points to passages that reveal how the myth of *de facto* segregation is perpetuated and described as a passive force outside the control of government. In this sense, the history of racial segregation is not so much "forgotten" as it is reframed as one that acquits our federal, state, and local governments of responsibility. The value in Rothstein's book comes from challenging this narrative, and from providing a history that acknowledges this massive body of evidence.

Ultimately, Rothstein's book is an essential read for all, but particularly for those whose work may be based on an old narrative of racial segregation. It is a meticulous and deliberate account of history that must be relearned and brought to the fore if America is ever to heal its racial fracturing.

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## AUTHOR BIOS

### SHIKHA SILLIMAN BHATTACHARJEE

Shikha Silliman Bhattacharjee is a lawyer and Ph.D. Student in the Jurisprudence and Social Policy Program at Berkeley Law. Shikha earned her JD and Certificate in Global Human Rights at the University of Pennsylvania Law School. Her research and writing takes an interdisciplinary and transnational perspective in understanding the capacity and limitations of the law to address systematic violence; and the impact of imbalanced economic growth on labor, migration and variegated citizenship. Shikha's work is informed by more than a decade of experience working with grassroots campaigns and civil society organizations in the U.S. and South Asia, using legal, media and community organizing approaches.

### MARGARETTA LIN

Margaretta is an Urban Equity Community Fellow at the Institute for Urban and Regional Development and Principal at the Dellums Institute for Social Justice. She has worked in government, law, community development, racial reconciliation, and youth violence prevention to advance urban equity and racial justice.

### DANIEL LINDHEIM

Dan is an adjunct professor at the Goldman School for Public Policy and a Senior Fellow at the Institute for Urban and Regional Development. He was the former City Administrator at the City of Oakland

### MINKAH ESHE-SMITH

Minkah is an Urban Equity Student Fellow at the Institute for Urban and Regional Development and a Senior majoring in Society and Environment Studies. Her interest in anti-displacement research stems from her personal experiences with gentrification in her South Central, Los Angeles neighborhood

### SCOTT LITTLEHALE

Scott Littlehale is Senior Research-Analyst for the Northern California Carpenters Regional Council, where he has worked since 2003. The NCCRC represents about 30,000 building and construction tradespeople in California's northern 46 counties. Littlehale earned his bachelor's degree at Stanford University with distinction and honors from the department of political science in 1988. He advanced to doctoral candidacy in political science at the University of North Carolina at Chapel Hill before embarking on a research career with organized labor in 1997. His research interests include the intersection of labor institutions with work and living standards. He currently serves on the technical committee of "The Committee to House the Bay Area," convened by the Metropolitan Transportation Commission.



**ERIN MCELROY**

Erin McElroy is a doctoral candidate in Feminist Studies at the University of California, Santa Cruz, and co-founder of the Anti-Eviction Mapping Project, a data visualization, data analysis, and digital storytelling collective documenting San Francisco Bay Area displacement and resistance struggles. Erin is currently working on a dissertation project involving techno imaginaries and materialities in Romania, studying socialist-era technoscapes as well the gentrifying impacts of postsocialist neoliberalism. She is also co-organizing the launch of a new activist-based transnational housing justice journal, the Radical Housing Journal

**ANDREW SZETO**

Andrew Szeto is a graduate student in Ethnic Studies at San Francisco State University. His research focuses on Asian American social movements, gentrification, policing, and neoliberal multiculturalism in San Francisco. He contributed to the Anti-Eviction Mapping Project's "Narratives of Displacement: Oral History Project."

**HAYDEN SHELBY**

Hayden Shelby is a Ph.D. candidate in City and Regional Planning at the University of California, Berkeley. She has performed ethnographic investigations of low-income housing policies in both the United States and Thailand. Her interests include community development, participatory planning, the political economy of land and housing, and urban social movements.

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