

# The Journal of Policy Analysis

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Institute for Youth in Policy, Journal of Policy Analysis

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# Issue 8

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The Institute for Youth in Policy

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Dear Valued Readers,

I am honored to welcome you to the 8<sup>th</sup> edition of YIP's Journal of Policy Analysis. It is a genuine pleasure to share with you this iteration of our journal, a culmination of weeks of writing, revisions, and organic thought. Since its inception, the Journal has served as a forum for the next generation of leaders to critically analyze policy measures and offer their invaluable insights on some of their communities' most pressing issues.

In a world overcome with political polarization, the Journal of Policy Analysis sets a high standard for respectful discussion, thorough analysis, and carefully crafted recommendations. Such rich works of analysis, ranging from Argentina's memory policy to Louisiana's Civics course, housing in Alameda County to the United States' immigration detention system, and bureaucracy in Los Angeles to the European Union's recent rule of law crises.

The impact of these manuscripts cannot be understated. Beyond solely offering a potentially fresh perspective to a captivated cohort of readers, the Journal's entries have a unique ability to spark legitimate policy change, forging a new path for youth leadership by enabling renewed conversations about legislative or administrative evolution.

I would also like to express my biggest gratitude to each author this cycle. Thank you for entrusting my team and me with your entries, and thank you for elevating policy discussions beyond the superficial, devising genuine solutions that may very well be implemented in the future. To my editors and our outreach team, I am remarkably grateful for your steadfast diligence in working with your authors and support as we navigated my first official cycle at the helm of the journal. I look forward to our continued success in the future.

To our readers, thank you for your careful consideration and appreciation of these manuscripts. I hope that you will approach each work with an open mind, enabling you to learn from the diversity of perspectives represented in the Journal. Most importantly, I urge you to take the lessons offered – whether that be a new point of view or an understanding of respectful policy discourse – back to your communities, classrooms, or homes.

Thank you for engaging with YIP's Journal.

James McLaughlin  
Vice-President of Journal  
jamesm@yipinstitute.org

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## Letter from the Chief Executive Officer:

Dear Reader,

Welcome to the Spring 2026 issue of our Journal of Policy Analysis. As always, each issue of our journal carries strong scholarly insights on communal, local, and global policy issues. The ideas presented in this publication reflect the discussions happening within the youth community and the work being done within the Institute for Youth in Policy (YIP) to spark civic discourse on the issues that matter.

YIP is dedicated to Educating, Engaging, and Empowering the next generation of civic changemakers. Our mission is a vision that we put into practice and aspire to. We have a strong mandate as an organization: to meet the challenges of a changing world and make it better by designing solutions to boost civic engagement and tackle political polarization. The Journal of Policy Analysis is a central part of our mission—it contains rich research that tackles the problems of the past, delves into the present, and imagines the future. As we have grown into new ventures, such as our [Global Rising Innovators in Policy program](#), learning hubs, community fundraising, multimedia, [legislative outreach](#), [conferences](#), and more, this journal has been a consistent source of inspiration and insight.

Through these pages and papers, we empower diverse perspectives, foster dialogue across lines of difference, and amplify voices that may otherwise go unheard. This journal is not just a collection of disparate articles, but a carefully designed story that we hope serves as a call to action. I encourage you to take the time to read this edition in its entirety. You will find that these young writers have challenged conventional approaches to policy, pushed boundaries, and invited you to engage deeply in the issues they present.

Demand for our programs has never been higher, and neither have our ambitions. We are consistently looking for ways to engage more students at the Institute, and this goal often hinges on the financial support of our community. Although it is never easy to ask, if you enjoy what you see in this journal and would like to consider making a [small contribution](#) towards sustaining our efforts, it would be greatly appreciated.

I am extremely thankful for the dedication of our team, contributors, and partners who help make this work possible. Before you explore our other offerings and engage with our mission, I hope you take a moment to see this dedication in action by diving into these pages and exploring what they offer.



Chief Executive Officer, Institute for Youth in Policy

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# Academic Papers

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## *Beyond Measure W:*

Enforcing Tenant Protections and Expanding Community-Led Housing in Unincorporated Alameda County

**Clara Ng, Asiya Siddiqui, and Ellie Sohn**

University of California, Berkeley | clara.ng@berkeley.edu | May 1, 2026

### **I. Abstract**

Unincorporated Alameda County faces a growing housing crisis shaped by weak tenant protections, limited enforcement systems, and the absence of municipal governments. Although the county adopted a Just Cause for Eviction ordinance in February 2025, there is no enforcement infrastructure to uphold it. Renters in unincorporated areas have no rent board, hearing processes, or oversight body to review violations, which leaves many residents without practical protection. Measure W was meant to support housing stability, yet its programs have not reached the communities that most heavily rely on county governance. This memo recommends two coordinated strategies to fill these structural gaps: establishing an Independent Rent Board with elected commissioners and launching a Measure W-funded Community Land Trust partnership for long-term affordability. The proposed series of recommendations can deliver what unincorporated Alameda County currently lacks: an institution to enforce tenant protections and a housing strategy that secures long-term stability. The rent board ensures Just Cause protections are not symbolic but enforceable, while the CLT program builds a pipeline of permanently affordable homes. Alameda County has the resources and responsibility to act. By adopting these models, the county can shift from reactive crisis management to proactive prevention and finally provide unincorporated communities with the support and protection they have long been denied.

*Keywords:* Alameda County, housing, Measure W, unincorporated communities

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## II. Introduction

### **Past Marginalization of Unincorporated Communities:**

An astounding 37% of the U.S. population resides in unincorporated communities and face a significant representation deficit (Welch, 2024). Located outside of the legal boundaries of incorporated cities, unincorporated communities are small, low-income areas that lack municipal governments, city departments and services such as fire, police, and public works. This forces them to rely on their county government for funding, accommodation, and representation purposes. While county supervisors are required to represent all county residents, it can be difficult to garner attention and convince said representatives to focus on local matters because they are also responsible for broader, county-wide issues, placing unincorporated areas at a major disadvantage (Krans, 2025). Advisory councils exist but hold little authority (Change How Unincorporated Communities Are Governed, n.d.), replacing constituent advocacy with mere passing along of information.

As a result, unincorporated areas are more vulnerable to pollution, flooding, and climate change, and limited emergency resources raise risks during disasters ([Appendix A](#)). (Community Climate Action Plan and Safety Element Update - Planning - Community Development Agency - Alameda County, n.d.). In Alameda County specifically, unincorporated areas also receive the short end of the stick funding-wise, receiving only around 8% of Alameda County's FY 2025-26 final budget, \$380 million even though it is home to over 150,000 residents — nearly 10% of the county's population. These modern inequities echo Russell City's history of extraction and erasure ([Appendix F](#)). Russell City was founded in 1853 as one of the few unincorporated areas where Black and Latino families could own property because cities like Hayward barred them through discriminatory zoning and lending. The community lacked basic infrastructure such as sewage and electricity, and repeated petitions for services were ignored. In the 1960s, Alameda County and the City of Hayward used eminent domain to seize Russell City properties for redevelopment, displacing more than 1,400 residents. While Russell City can no longer be found on a map, the history and downfall of this East Bay unincorporated area hold important lessons (Krans, 2025). As such, addressing the needs of unincorporated areas and directing funding here enables the county to fulfill its unique responsibility, address inequities, and ensure that residents receive the basic services and dignity they have long been denied.

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## Housing Struggles in Unincorporated Regions

The concerns in unincorporated areas are reflected by a survey done in the Eden Area. The Eden Area is 25.2 sq miles of land located in central Alameda County, consisting of five unincorporated communities: Ashland, Cherryland, San Lorenzo, Fairview, and Castro Valley. The 2023 survey of residents aimed to identify what these individuals' most pressing needs were and ultimately, four findings were highlighted. First, renters faced severe habitability issues, with one-third of renters living in housing that no longer met the state's minimum standard of habitability. Second, rent increases were leaving many residents with a worsening fear of eviction. Third, many tenants had chosen to self-evict in response to verbal harassment from a landlord. Lastly, one-third of families in single-family homes were not protected by state tenant protection regulations. Overall, the survey provides significant insight into the unjust living conditions and struggles that individuals in unincorporated communities face. Among the many housing issues, this memo will focus on the second and fourth issues of protecting tenants.

Alameda County has some of the highest eviction rates among the nine Bay Area counties. Between July 2023 and June 2024, there were 6,340 eviction filings countywide (“Evictions in the Nine-County Bay Area,” 2025). Unincorporated communities such as Fairview and Sunol were especially impacted, with about 8% of the renter population filing eviction lawsuits in ZIP code 94542 (which includes some areas of Fairview), and about 3% in ZIP code 94588 – which includes Sunol (BAHFA Bay Area Eviction Study – Regional Eviction Dashboard, 2025). High eviction rates are a strong predictor of housing instability and potential homelessness. Without targeted interventions, households in these areas face disproportionate risks of displacement, which threatens to worsen the county's broader homelessness crisis.

In Alameda County, the Eden study highlights a clear connection between eviction density and areas with limited municipal infrastructure or county-administered housing programs. Unincorporated areas report higher eviction rates, suggesting that the aforementioned geographic and administrative boundaries play a role in housing instability. Another report from UC Berkeley's Urban Displacement Project and the California Housing Partnership found that “increases in housing prices in Alameda County were correlated with shifts in where low-income people of color lived between 2000 and 2015,” as well as the fact that these shifts led to new concentrations of poverty and racial segregation. These show the strong correlation between housing struggles and unincorporated regions, especially for marginalized populations.

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### III. Existing Solutions

#### Measure W





A potential recent solution is Measure W funding, addressing housing issues, which is designated to have some focus areas on unincorporated regions. Measure W, a half-cent sales tax passed by Alameda County voters in 2020, raised approximately \$810 million from January 2021 through June 2025, with projected annual revenue of \$170 million through 2031 (Measure W, 2025). The measure funds two key programs: the Home Together Fund (HTF), which is aligned with the county's homelessness response strategy and administered by the Health Care Services Agency, and the Essential County Services Fund (ECSF), administered across various departments to maintain social safety-net programs.

Spending is divided across four categories:

1. Accrued funds: \$395 million allocated to the HTF in December 2024, and \$6.5 million to the ECSF in June 2025 (\$4.5 million for food procurement and delivery, \$2 million for senior services).
2. Prudent reserve: \$170 million set aside for future fiscal uncertainty.
3. Remaining one-time funds: \$238.5 million, to be split 80% to the HTF and 20% to the ECSF.
4. Future sales tax revenue: Estimated \$1.02 billion through 2031, distributed at the same 80/20 ratio (Board of Supervisors Meeting, 2025).

However, the current Measure W allocations fail to meet some needs of unincorporated regions. The county-wide services for the HTF are summarized based on the funded programs illustrated below. The ECSF covers a range of countywide services, such as food security, infrastructure, and housing. In June 2025, about \$6.5 million was allocated to the ECSF from one-time accrued Measure W funds: \$4.5 million for food-related services and \$2 million for senior services via the Social Services Agency's Area Agency on Aging. Current measures cover specific target populations such as those in encampments and convicts. Other initiatives provide targeted responses such as healthcare, emergency response and shelters (Appendix B). The relevant initiatives are explained below, focusing on the gap in addressing Just Cause Eviction and the provision of affordable long-term housing.

## Home Together Fund Intersections

Home Together Strategy	Homelessness Intervention	Supported County Initiatives
 <b>Prevent Homelessness</b>	Shallow subsidies Emergency rental assistance Housing stabilization services	CARE Court CDA: AC Housing Secure Care First Jails Last Cities: Keep People Housed SSA: Countywide Plan for Older Adults Public Health prevention
 <b>Access &amp; Coordinate</b>	Housing Navigation Access Points Street Health and Outreach	Encampment Response Care First Jails Last Probation/Re-entry Countywide Plan for Older Adults Behavioral Health and crisis response
 <b>Expand Shelter</b>	New interim housing Enhanced support for existing shelter	Encampment Response Care First Jails Last SSA Shelter Bed-Night Rate Probation/Re-entry supports
 <b>Increase Housing</b>	Flexible Housing Subsidy Pool Rental subsidies Tenancy Sustaining Services Housing Deposits	CDA: AC Housing Plan Care First Jails Last Probation/Re-entry supports BHS: Housing Interventions

**Figure 1: Home Together Fund Support Areas**

### Housing Navigation

Alameda County’s housing navigation services are designed to connect unhoused or housing-insecure individuals with available units and financial aid, but current systems largely focus on short-term crisis resolution rather than sustained stability. Many residents report that once initial assistance concludes, re-engagement with navigators or county services is difficult, creating gaps in follow-up and continuity of care (Planning, n.d.). This issue is especially acute in unincorporated areas, where navigation centers and outreach infrastructure are limited. Long-term case management, landlord mediation, and rent-stabilization linkages are missing, which weakens the overall housing retention framework.

### Increase Housing: CDA: AC Housing Plan

The Alameda County Housing Plan (2025–2035) is the County’s 10-year strategy to address the housing crisis by expanding affordable housing, ending homelessness, and strengthening housing stability across all communities. Developed by the Housing and Community Development Department (HCD), the plan lays out a framework to produce 20,000 new affordable units by 2035, including 7,385 units of permanent supportive housing and over 10,000 units for acutely low-income households earning below 20% of the Area Median Income. The Plan focuses on seven core priorities: addressing and preventing homelessness, building and preserving affordable housing, stabilizing families in crisis, promoting racial equity, and creating sustainable funding streams for long-term housing solutions. The County projects a

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need for 107,000 new affordable housing units and 2,200 new shelter beds to achieve a healthy housing ecosystem.

HCD's approach integrates production, preservation, and protection strategies, acknowledging that while the market produces higher-cost housing, the government must take the lead in funding deeply affordable and supportive housing. The Plan builds on the success of Measure A1, which exceeded its goal by creating over 4,500 affordable homes, and sets a roadmap for future countywide collaboration among public agencies, nonprofit developers, and private partners. The Housing Plan explicitly includes Alameda County's unincorporated communities, such as Ashland, Cherryland, San Lorenzo, Castro Valley, and Fairview, within its housing goals and funding strategies. Because these areas do not have their own municipal housing departments, HCD serves as the primary housing authority and development agency for unincorporated regions. This means HCD directly administers affordable housing investments, rental assistance programs, and anti-displacement efforts in these communities, ensuring they receive the same level of support as incorporated cities.

### **BHSA Housing Interventions**

The Behavioral Health Services Act (BHSA), passed by voters in March 2024 as Proposition 1, is Alameda County's key framework for expanding housing and treatment options for individuals experiencing serious mental illness or substance use disorders. The initiative merges the state's Behavioral Health Infrastructure Bond (AB 531) and the Behavioral Health Services Act (SB 326), shifting the system's focus toward people with the most acute behavioral health needs—particularly those at risk of homelessness. BHSA dedicates 30% of its funding to housing interventions, which include rental subsidies, shared housing, family housing for youth and children, and transitional rent assistance. Half of that amount (50%) is reserved for chronically homeless individuals, while up to 25% can support capital development—such as building or rehabilitating supportive housing sites. These housing investments are paired with treatment, recovery, and case management services through Full-Service Partnerships, ensuring that people can stabilize long-term rather than cycle through homelessness and crisis systems.

BHSA housing interventions are countywide, serving residents in both incorporated cities and unincorporated communities like Ashland, Cherryland, Castro Valley, San Lorenzo, and Fairview. Alameda County Behavioral Health manages these funds directly, so unincorporated areas are fully covered. Residents in these areas can access BHSA housing resources through the Behavioral Health Access line (1-800-491-9099) or via county referral networks such as 2-1-1 Alameda County. By centralizing housing coordination under Alameda County Behavioral

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Health, the program helps bridge service gaps that typically leave unincorporated communities underserved.

### **Other Housing Measures:**

#### *Alameda County Housing Secure*

Centro Legal de la Raza and ACHS's legal partners provide services to all individuals, regardless of immigration status. There is no policy on excluding residents of unpermitted/substandard housing. ACHS exists to cater to low-income residents, although there is no quantitative threshold specifically listed. Currently, there is no publicly available data on the percentage of eligible unincorporated residents served by ACHS eviction defense programs, denial rates and reasons for denial, or waiting lists.

#### *Statewide Tenant Protection*

One of the most important statewide tenant protection programs is the California Tenant Protection Act of 2019 (AB 1482). This law requires just cause to evict any tenants that have been residing in a property for over 12 months, both for month-to-month rentals as well as fixed leases. It also limits rent increases; rent may only be raised twice in a 12-month period, and any increases may not exceed a 5% rent cap + CPI, or 10%, whichever is lower. The law covers all properties with 1) at least two units and 2) that are older than 15 years. Because it is state law, unincorporated communities are covered by it.

### **Gaps in Existing Measures**

Given the programs available under Measure W and supporting initiatives, we identified two major gaps. First, a successful Measure W should establish robust tenant protections by holding landlords accountable. This includes strict enforcement of rent registries, mobile home protections, and eviction defense programs. These measures would allow the County to monitor compliance with rent caps and eviction policies while protecting tenants from harassment and abuse. Furthermore, it is increasingly apparent that fair and equitable allocation of resources is of the utmost importance for an effective Measure W. An effective Measure W should also prioritize investment in long-term housing stability for disenfranchised residents. This solution would address the long-standing issues of homelessness, lack of affordable housing, rent hikes, and severe uninhabitability of current housing by offering affordable housing options, rental assistance, long-term housing subsidies, and assistance with moving costs. To understand these gaps better, we uncovered more details about each problem and proposed a relevant solution,

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focusing on the issues separately.

## **IV: Tenant Protection through Rent Boards**

### **Comparative Analysis of Tenant Protection**

The lack of tenant protections is a significant gap because tenants remain housed only when those protections are in place. This is crucial because the prevention of homelessness is important in ensuring that it does not continue. Moreover, the process of finding housing for an unhomed person is typically a lot more complicated than the process of ensuring that a tenant is well-protected. To understand this, we did a case study on Los Angeles and San Diego, selected for their stronger tenant protection laws.

#### *Case Study 1: Los Angeles (LA) County Unincorporated Areas*

LA's Rent Stabilization and Tenant Protections Ordinance (RSTPO, effective April 1, 2020) is one major form of tenant protection. This permanent county ordinance caps annual rent increases for most multifamily units with certificates of occupancy dated on or before Feb 1, 1995 (with the exemption of single-family homes and newer units) in unincorporated LA County, limiting rent increases to around 8% per year (*LAHSA Applauds Extension of Tenant Protections*, n.d.). The RSTPO also established "just cause" eviction rules, meaning landlords cannot evict tenants in covered units without a valid at-fault reason (e.g. nonpayment, lease violation) or a specified no-fault cause. This protects roughly 400,000 residents in unincorporated areas within LA County from evictions without cause and excessive rent hikes (Inner City Struggle, n.d.).

LA also has the Mandatory Relocation Assistance (No-Fault Evictions 2020). Under the RSTPO, if a tenant in an unincorporated area is evicted for a no-fault reason, the landlord must pay relocation assistance to the displaced tenant (*LAHSA Applauds Extension of Tenant Protections*, n.d.). The amount is set by County rules, and additional assistance is required for certain vulnerable groups, including seniors above 62, disabled tenants, low-income households, or those with minor children, to help them relocate. The RSTPO also contains an anti-harassment provision (sometimes called the "Retaliatory Eviction and Anti-Harassment Ordinance") which forbids landlords in unincorporated areas from using tactics like shutting off utilities, threatening or intimidating tenants, or refusing repairs to pressure a tenant to move out (*LAHSA Applauds Extension of Tenant Protections*, n.d.). Tenants can use these provisions as a defense in court or sue landlords for violations, adding another layer of protection beyond rent

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and eviction rules.

*Case Study 2: San Diego (SD) County Unincorporated Areas*

SD’s tenant protection is enacted through the State Rent Cap & Just Cause Law (AB 1482 – effective Jan. 1, 2020). Although not a county ordinance, California’s Tenant Protection Act of 2019 applies in unincorporated San Diego County. It caps annual rent increases at 5% plus local inflation (CPI), up to 10% max, and requires “just cause” for evictions after a tenant has lived in the unit for 12 months (*El Cajon Homelessness Forum*, n.d.). It also mandates relocation assistance equal to one month’s rent for any no-fault eviction (landlord can waive the final month’s rent instead). The County of San Diego does not impose its own rent control in unincorporated communities. In a public Q&A, a county supervisor confirmed that the County has chosen not to enact rent control for local rentals (*El Cajon Homelessness Forum*, n.d.). Thus, apart from the state’s rent cap (AB 1482), unincorporated area landlords can raise rents without additional county-level limits.

SD also has the Rental Assistance and Eviction Prevention Programs. San Diego County has focused on programmatic tenant assistance in unincorporated areas. In 2022, the County launched a “Shallow Rental Subsidy” pilot to prevent senior renters from becoming homeless. This program (expanded in May 2024) provides selected at-risk seniors (55+ years old) in the unincorporated region with \$500 per month towards rent for 18–24 months, paid directly to their landlords. By subsidizing rent for hundreds of low-income seniors, the County aims to stabilize tenancies and avoid evictions. The County also partners with legal aid and community organizations on eviction prevention services, offering education, counseling, and referral to resources for unincorporated-area tenants facing financial hardship or landlord disputes. The differences in policies in the two regions are summarized below:

	LA County	SD County	Contra Costa	Sacramento
<b>Rent registries</b>	Yes ( <i>Rent Registry</i> , n.d.), people who own rental property or a mobilehome park in unincorporated LA County, are required to register their property with the county	No registry for unincorporated areas. However, there is some data on where houses are available, but it is not landlord and tenant-specific ( <i>Portal - Unincorporated Area</i> , n.d.).	No registry, only city-level.	No registry, only city-level.
<b>Eviction prevention</b>	Yes ( <i>Rent Registry</i> , n.d.).	Yes (Nemeth, 2021), adopted rent and eviction controls. This includes unincorporated areas.	Yes, just cause eviction was implemented ( <i>Neighborhood Preservation Program (NPP)   Contra Costa County, CA Official Website</i> , n.d.).	No, Sacramento gives funding and legal aid to those who receive an eviction notice. However, there is no direct prevention of such eviction.

**Figure 2:** Comparing rent registries and eviction prevention across these localities.

## Comparison with Incorporated Areas of Alameda County

While unincorporated areas have limited tenant protection, many of these are enforced on a city level. To understand the disadvantages faced by unincorporated Alameda, a comparison is made.

	Oakland (City of Oakland, n.d.)	Berkeley ( <i>Measure BB Changes to Berkeley's Rent Ordinance</i> , n.d.)	Hayward	Unincorporated Alameda (Alameda County Community Development Agency, 2022)
<b>Mandatory rent registry</b>	Yes. Annual registry required for all non-exempt rental units; owners must provide address, tenancy, and rent data. Failure to comply may result in fines and loss of legal right to raise rents.	Yes. All covered rental units (including subsidized/Section 8 as of Nov 2024) must register unit/tenancy info within 15 days of tenancy. There are fines for late/non-registration, and owners must update registry yearly	Yes. Annual registry is required for most units built pre-1979. This applies to covered units and is subject to city audits.	Only for mobile homes as of 2022. No comprehensive multi-unit registry yet; county is developing a basic database. A full registry is "under consideration," but not yet codified or enforced.
<b>Rent Stabilization</b>	Yes. Rent Adjustment Program (RAP) covers most multi-unit buildings built before 1983. The annual rent cap is ~2-3% (tied to CPI). Exempts newer units and single-family homes. Includes appeal rights.	Yes. For fully covered units: rent increase is limited by Annual General Adjustment (5% cap, but typically lower, as it's tied to CPI). Capital improvements must be completed to increase petitions. Partially covered (subsidized) units have limited controls.	Yes. Most pre-1979 multi-unit structures are covered. Annual rent increases are capped at 5%. "Banking" allows unused increases in future years up to a max whole increase. Rent review process for disputes.	No local rent stabilization (except mobile homes). State law (AB 1482) caps rent increases at 5% plus CPI (max 10%) for covered units. There are no local reduction or enforcement powers. Rent stabilization exists for apartments "under consideration," but has not been implemented.
<b>Just-Cause Eviction</b>	Yes. City ordinance limits evictions to 11 "just cause" grounds. This applies to multi-units built pre-1996; owners must provide valid cause and documentation. No-cause evictions are forbidden for most covered renters.	Yes. Expanded in Measure BB (2024): nonpayment "just cause" must now be at least one month of Fair Market Rent. A "material breach" must cause actual harm, and owners must file all notices with the city. Tenants get special disclosure. No eviction if the tenant refuses "substantially similar" renewal lease.	Yes. List of 16 allowed grounds. Must state the cause in the notice and provide it to the city within 30 days. Defenses apply if the cause is not stated.	State law just cause (AB 1482) covers multi-unit 15+ years old. Just cause expansion for under-12-month tenancies and SFH "under consideration" but not passed. Exemptions remain for newer buildings, single-family homes. A proposal exists for expansion, but is not yet law.

<b>Right to Counsel (eviction defense)</b>	Yes. "Tenant Protection, Representation, and Legal Services" program provides free legal counsel for eligible low-income tenants in evictions.	Yes, for income-eligible tenants in eviction proceedings. City contracts with legal aid ensure representation for most facing eviction.	No formal right to city-paid defense. County legal aid (AC Housing Secure) may assist. Landlords must provide information about rent dispute rights.	No "right to counsel" in local law. County legal aid via AC Housing Secure, but not universal or funded for all evictions.
<b>Relocation Assistance</b>	Yes. Uniform Tenant Relocation Ordinance: landlords must pay substantial relocation fees for "no-fault" evictions (owner move-in, Ellis Act, code compliance). Fees are determined by unit size, length of tenancy, and vulnerability of tenants (elderly, disabled, families); indexed annually.	Yes. Owner move-in and certain "no-fault" evictions require indexed relocation assistance (amounts set and adjusted annually). Applies to covered units.	Yes. Required for code-based, demolition, withdrawal, and sometimes owner move-in evictions; process and amounts determined by the city council.	No local relocation ordinance; only the state's minimum. The county plans to consider it in the future, but no established program or index is scheduled. Benefits for displaced renters are much lower or not guaranteed.
<b>Mobile-Home Rent Control</b>	Yes. Mobile Home Space Rent Stabilization covers most parks. Annual increase is capped, rent adjustment process, no arbitrary increases.	Limited. The city recognizes some rent regulation, but not as robust as for apartments; subject to county/state law overlays.	Yes. Pre-1995 parks/units eligible; annual caps similar to apartments. Rented spaces in covered parks are included.	Mobile homes only (not apartments). State and county protections apply; no extra local controls. No permanent rent board, registry, or regular review.
<b>Habitability Enforcement</b>	Yes. Proactive city inspections for major code compliance; habitability petition process via RAP; "Code Enforcement Relocation Ordinance" for severe disrepair. Strong process for rent reduction if the landlord fails to make repairs.	Yes. Inspection programs for subsidized and covered units. Landlords must inform and provide access. Rent reductions and penalties for harassment/neglect. The city has a proactive enforcement division.	Yes. Rental Inspection Program covers most apartments, with periodic mandatory inspections (multi-unit, pre-1979, 5+ units). The city responds to complaints, repairs can trigger relocation aid; substantial fines for violations.	Complaint-based code enforcement only. No systematic proactive inspections; limited to exterior blight (no interiors). Limited staffing, long delays. New proactive system "under consideration," not implemented.

**Figure 3:** Comparing tenant protection across incorporated and unincorporated Alameda

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## Gaps in Alameda's Tenant Protection

Alameda County's unincorporated areas lack four tenant protections that are present in other cities and counties in the United States: 1) comprehensive rent registry programs, 2) robust tenant anti-harassment ordinances, 3) enhanced just-cause eviction protections, and 4) proactive code enforcement programs.

1. Unlike cities such as Berkeley and Los Angeles, which maintain comprehensive databases tracking rental properties and rates, Alameda County only established a basic registry in 2022 that focuses on requirements rather than comprehensive rent tracking and stabilization. The county's registry requires property owners to register units and pay annual fees, but does not provide the same level of rent control oversight.
2. While cities like Los Angeles have implemented strong Tenant Anti-Harassment Ordinances (TAHO) with specific prohibited behaviors, civil penalties up to \$10,000 per violation, and criminal misdemeanor charges, Alameda County's unincorporated areas lack these protections. The County initially considered including anti-harassment provisions in its rental registry, but later removed these requirements during the legislative process. This is a critical protection gap as tenant harassment is a significant issue in Ashland, Cherryland, and San Lorenzo, where residents face housing instability and fear of retaliation (Alameda County Community Development Agency, 2022).
3. Although Alameda County's protections were passed in February 2025, they remain limited and poorly enforced. The ordinance provides only basic enhancements to state law, including 90-day notices for vulnerable tenants and two months' relocation assistance. In contrast, incorporated cities like Oakland have comprehensive just cause ordinances with broader protections, more extensive relocation assistance, and stronger enforcement mechanisms. The county's just cause ordinance also has significant exemptions and only applies to single-family homes when landlords own five or more units in unincorporated areas.
4. The county operates primarily on a complaint-based code enforcement system with limited dedicated funding or staff. While there is a pilot rental housing inspection program, it remains focused on responding to complaints rather than proactive inspections. This contrasts with cities like Los Angeles that conduct regular inspections. Cities maintain more comprehensive code enforcement with programs like the Rent Escrow Account Program

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(REAP) and Tenant Habitability Plans, which are not available in unincorporated areas. The county code enforcement division primarily focuses on exterior blight and zoning violations, rather than interior habitability conditions that affect tenant health & safety.

In unincorporated Alameda County, tenant protections exist only on paper, as they remain unevenly enforced. The county adopted a Just Cause for Eviction ordinance in February 2025, extending basic protections to renters in unincorporated areas for the first time (*Just Cause for Eviction Ordinance*, 2025). The policy prohibits evictions without a legally defined reason, such as nonpayment of rent, substantial lease violations, or wrongful move-in. However, the ordinance was enacted without the necessary enforcement structure. There is no rent board, oversight body, or clear reporting process for violations. This gap leaves many renters uncertain about how to assert their rights or challenge illegal rent increases and evictions.

In 2023, data shows that 72% of surveyed renters in unincorporated Alameda County reported rent increases within the past year, many exceeding state limits under California's Tenant Protection Act. Some tenants reported facing informal evictions, harassment, and even unsafe living conditions after questioning rent hikes (My Eden Voice, 2023). The lack of enforcement mechanisms means these violations often go unaddressed. Establishing a rent board would provide a centralized body to oversee compliance, mediate conflicts, and collect data on local housing trends. Without such a structure, the Just Cause ordinance cannot effectively protect tenants or prevent cycles of instability that continue to shape the County's unincorporated housing landscape. As a result, Alameda County should establish a Community Land Trust Acquisition Fund using funding from Measure W's HTF Capital Acquisition.

### **Rent Boards as a Solution**

A rent board offers a promising solution to the issue of tenant protection in Alameda. To understand the potential solution, we study Los Angeles County, as the only unincorporated California county with a dedicated rent board. Operating a nine-member Rental Housing Oversight Commission (RHOC), the LA rent board began hearing appeals in 2023 (Los Angeles County Consumer and Business Affairs, 2022). The RHOC consists of five members appointed individually by each Supervisor, plus four stakeholder representatives, all serving at the Board's discretion. The Commission functions as an appellate body reviewing determinations made by the Department of Consumer and Business Affairs (DCBA) on rent stabilization and tenant protection matters through bi-weekly hearings. DCBA enforces the Rent Stabilization and Tenant Protections Ordinance while RHOC hears appeals and renders

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binding decisions after reviewing evidence and testimony. The program is funded through annual registration fees of \$90 per covered rental unit (Los Angeles County Consumer and Business Affairs, 2022). Other California counties with substantial unincorporated populations—including San Mateo (Home for All San Mateo County, 2023), Contra Costa, Riverside, San Bernardino, Orange, and Sacramento—have no rent boards for unincorporated areas and rely on state law AB 1482 for baseline tenant protections (*Bill Text - AB-1482 Tenant Protection Act of 2019: Tenancy: Rent Caps.*, n.d.).

Despite passing substantive tenant protections (Alameda County Community Development Agency, 2022), Alameda County still lacks a dedicated rent board or enforcement mechanism. The County’s Just Cause for Eviction ordinance (*Just Cause for Eviction Ordinance*, 2025), effective March 6, 2025, requires relocation assistance up to \$10,000 per household but provides no corresponding enforcement framework (Cowley, 2025). While Los Angeles County’s DCBA processes complaints with staff funded by registration fees, Alameda County’s enforcement has no dedicated funding or personnel (*Board of Supervisors Unincorporated Services Committee Staff Report*, 2023). Alameda’s three-year policy plan considers creating a rent board "should funding be made available" and establishing a proactive rental inspection program by Year 3, but these remain unfunded proposals (*Alameda County Board of Supervisors Approves Suite of Tenant Protections*, 2025). This structural gap illustrates why administrative infrastructure is essential to ensure compliance with protection ordinances.

## **Rent Board Functions**

Rent boards play five critical roles in supporting tenant protection, as illustrated below. Firstly, rent boards process requests for rent increases or decreases by accepting formal petitions from landlords and tenants. These petitions outline reasoning and provide supporting evidence for each request (City of Berkeley, n.d.). After a petition is submitted, both parties are notified, and a hearing date is set where both sides can present their argument before a hearing officer. A written decision is issued after the officer looks through all documents, at which point there is a 35-day buffer for appeals. Petitions can address issues like repairs, loss of amenities, or an unlawful rent increase. The board may inspect the property, review previous contracts, and issue a decrease if warranted. Mediation and inspections often occur before the final hearing to resolve issues or verify claims (*The Petitions and Hearings Process*, n.d.). For example, between 2014 and 2019, Oakland averaged 847 petitions per year, highlighting the scale of tenant concerns around rising rents (“Follow-up Report - Rent Adjustment Program,” n.d.). Additionally, in Mountain View, a team from the city analyzed data from the Housing

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Department Rent Stabilization Division. From November 2017 to June 30, 2025, a total of 291 petitions were filed, 93% of which came from tenants. These petitions were submitted under the Community Stabilization and Fair Rent Act (CSFRA) and the Mobile Home Rent Stabilization Ordinance (MHRSO). Residents may file a petition either to request a rent increase above the annual allowable limit or to seek a rent reduction due to unlawful rent increases, habitability or maintenance issues, or tenant hardship (City of Oakland, n.d.).

Secondly, rent boards also adapt to local needs with adapted policies. For example, Berkeley's Rent Board played an integral role in developing Measure BB, a 2024 ballot measure. The purpose of this measure was to issue changes such as expansion of protections for government-subsidized units, modification of just-cause eviction rules, 5% caps of annual general rent adjustments, and the development of noncompliance fines (*Measure BB Changes to Berkeley's Rent Ordinance*, n.d.). The Board also made these changes clear by publishing updated documents of comparison between the old policies and the refined policies.

Thirdly, in many incorporated areas, there are well-established examples of how local governments administer rent registries and use the collected data. These jurisdictions not only manage the technical process of registering rents but also conduct regular analyses to identify trends, monitor compliance, and inform housing policy decisions. For instance, Oakland operates a rent registry. To administer the system, owners of covered apartment complexes must provide the address of each unit and the names and email addresses of all tenants (City of Oakland, n.d.). They must also report the lease start date, the initial rent, and the most recent rent increase. Owners submit this information through the city's database, which is how Oakland collects and maintains accurate data. Within the city, the requirement applies only to apartment buildings covered by Oakland's rent control and eviction policies, specifically those built before 1995. If an owner fails to comply, they are not allowed to petition for a rent increase. The rent registry also helps tenants verify whether their apartment is covered under rent control (City of Oakland, n.d.). For example, places like Los Angeles use their rent registry data to track allowable annual rent increases, identify illegal rent hikes, and ensure they maintain an affordable housing stock. They also use the registry to identify units that are not properly registered, so the county can intervene and ensure landlords are not charging more than what is allowed (Borges, 2025). On the other hand, the city of Alameda uses their rent registry to catch violations, return money to tenants, track market trends, and refine enforcement of rent control and eviction protections. For example, in March 2024, the Rent Program mailed 74 notices to landlords of potential violations, and 35 tenants were reimbursed \$42,196 (Alameda County Rent Program, 2024).

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Fourthly, rent boards also enforce housing regulations and resolve complaints by investigating tenant reports of violations, such as illegal rent hikes or health and safety problems. Investigators may inspect the property, review records, interview parties, and require landlords to fix any violations found. Orders to remedy violations may be issued, and penalties can be assessed for non-compliance. This process keeps housing safe and ensures laws are followed. Tenants can file complaints with boards or local housing departments, which trigger case review and possible inspection. Boards keep tenants updated and may require more documentation in ongoing investigations (Los Angeles Housing Department, n.d.).

Lastly, Berkeley's Rent Board provides outreach and education programs for community understanding and engagement. Their Public Information Unit is responsible for organizing informational workshops and webinars, such as detailed sessions explaining Measure BB for both landlords and tenants, and participates in local community outreach events (*Community Outreach*, n.d.). Housing counselors offer topic-specific presentations and Q&A informational sessions to ensure that renters and landlords are aware of recent ordinance changes, know their rights, and are empowered to petition for redress or compliance (*Outreach Committee*, n.d.-b). This proactive outreach, delivered through in-person events, webinars, and collaborative partnerships, helps to build community awareness and reduce disputes.

## **Models of Rent Boards**

### *Model 1*

A prime example of an Independent Rent Board with Elected Commissioners is Berkeley's Rent Stabilization Board, which consists of nine commissioners with four-year terms, selected by Berkeley voters. Upon re-election, commissioners are permitted to serve two terms, or eight years total, with exceptions made for those filling vacant Board seats (Rent Stabilization Board of Berkeley, n.d.). This allows for the remainder of the vacant seat to be served along with typical election and re-election, which warrants the typical two terms thereafter.

For petition adjudication, Berkeley's Rent Board schedules a settlement conference and hearing, where a hearing examiner utilizes evidence and testimonies provided by both parties and witnesses to make a decision. That is final if neither party files an appeal within 35 days (*The Petitions and Hearings Process*, n.d.).

The Rent Board's budget, \$9,017,005 for 2025-26, works on a fiscal cycle from July 1st to June 30th the following year, with said budget and operations reviewed throughout the year by

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the Board’s Budget & Personnel Committee to ensure compliance with its policies. The Board maintains 29 full-time equivalent employees and charges annual registration fees of \$344 per unit for fully-covered unit fees, \$212 per unit for partially covered unit fees, and \$96 per unit for Summer Fraternity and Sorority unit fees (*Budget & Personnel Committee*, n.d.).

An Independent Rent Board with Elected Commissioners, as illustrated by Berkeley’s Rent Board, offers many advantages for unincorporated areas, such as tenant stability with rent stabilization to prevent displacement, just cause eviction processes to protect tenants from arbitrary evictions, and rent control to prevent landlords from pricing out long-term residents. Conversely, this implementation could result in a reduced housing supply due to rent control, increased administrative and legal costs for the government and residents, landlord-tenant conflicts caused by increased regulation, and more legal disputes. Additionally, potential property maintenance concerns may arise to compensate for investment returns, as landlords seek to offset rent caps.

Ultimately, the Independent Rent Board with Elected Commissioners model is uniquely utilized by incorporated cities. Unfortunately, unincorporated areas are unable to reap the benefits of a dedicated dispute resolution and rent stabilization system provided by local representation, forcing them to rely on statewide laws that rarely cater to community needs.

### *Model 2*

The governance model in Los Angeles includes an advisory body called the Rental Housing Oversight Commission (RHOC), whose primary mission is to safeguard tenants from unreasonable rent increases. The Rental Housing Commission is an appellate body with the power and authority to “enforce the procedures and guidelines prepared by the Department of Consumer and Business Affairs (DCBA) Director” (*Rental Housing Oversight Commission*, n.d.). They act as an additional oversight, resolving appeals made against the DCBA. RHOC may also overturn DCBA’s determinations. For example, the RHOC returned \$16,142.15 to a tenant in 2023. But the commission does not have a final say regarding rent petitions. In Los Angeles, when city and county jurisdictions overlap, rent petitions are handled through the county’s “Just and Reasonable” program, which reviews and approves rent increase requests. And because the RHOC operates under a county structure, it does not serve as the final authority in Los Angeles County (*Just & Reasonable Rent Adjustment Program*, n.d.).

There is no specific evidence as to how the RHOC is funded. There is also no evidence as to

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how DCBA commissioners are paid, and they currently use volunteers appointed by the Board of Supervisors. The DCBA currently receives money from federal grants and county general funds, as it is a county agency.

LA County's rental oversight model helps protect tenants from unreasonable rent increases by creating a transparent system with clear rules and a structured petition process. Being housed under the Department of Consumer and Business Affairs strengthens enforcement and supports rent stabilization, which reduces displacement. However, the system can be slow and bureaucratic since the Commission is not the final decision-maker, and many cases could also move through the city's broader "Just and Reasonable" program rather than the county's housing department (*Just & Reasonable Rent Adjustment Program*, n.d.). RHOC's authority is limited, compliance can be burdensome for landlords, and overlapping city and county jurisdictions often cause confusion about where tenants should file petitions.

### *Model 3*

The hybrid model should combine professional staff administration with binding authority on petitions while preserving city council control over general policy. Exemplified by Hayward's Residential Rent Stabilization and Tenant Protection Ordinance, this structure designates a Rent Review Officer to coordinate cases and assign them to trained mediators and arbitrators, who issue legally binding decisions on tenant petitions. The arbitrators would have "binding authority" over issues such as whether rent increases meet standards for cost justification. These decisions would be enforceable as administrative law (*MuniCode Library*, n.d.). The city council would still be in control of general policy development under a "presumptive adoption" model where staff recommendations are forwarded for elected official approvals (Wobbe & Wobbe, 2024).

The advantages of this hybrid model would include binding dispute resolution without full politicization, professional expertise, mandatory mediation that reduces contentious proceedings, and cost efficiency compared to utilizing independent agencies (Wobbe & Wobbe, 2024). However, some disadvantages would include a lack of proactive rent ceiling establishment (making it purely reactive to tenant petitions), potential delays and costs for tenants navigating the petition process, inconsistency in arbitrator decisions across cases, and inability to strengthen tenant organizing rights as in comprehensive systems like Berkeley.

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## Comparative Analysis of Rent Board Models

There are a variety of rent board models that each have their strengths and weaknesses. We will compare each model to find which one suits Alameda County based on different criteria and components. For Model 1, we examine boards with appointed commissioners by the people. Their system alludes to a court-like structure, with hearing parties and witnesses to argue their petition. This system not only utilizes commissioners, but has staff to accommodate them and charges any fees/decisions made by the petition. As for Model 2, the approach is strikingly similar. Instead of being appointed by the voters, the rent board would be appointed by the Board of Supervisors. Then the rent board would review petitions through agendas and debate without hearings or witnesses, like Model 1. An additional difference lies in their enforcement. For their enforcement, this is done within a county department called the Department of Consumer and Business Affairs. The Department of Consumer and Business Affairs administers the enforcement, while the rent board overrides DCBA's decision if it believes it was not made fairly. So, Model 1 is an extension of DCBA. Lastly, we have model 3. In Model 3, instead of a rent board, they have a rent review officer. They can make binding decisions, but ultimately, the city council has jurisdiction over whether or not to enact those decisions. But mainly, it is a review and adjustment of policy rather than enforcement.

By comparing and contrasting the different models, we can compare the speed of petitions. For Model 1, there are no concrete timelines to follow for petition filing and hearing, but once final decisions are made by the hearing examiner, one can take up to 35 days to appeal. There are no specific timeline guidelines regarding hearing and petition filing (*The Petitions and Hearings Process*, n.d.). In model 2, there is no specification on a timeline for review, as review takes place during agenda meetings. For Model 3, it can take a while for petitions to be reviewed and accepted, as it can take multiple days for each step of the process, ranging from 5 to 30, not consecutively but between each stage. This creates a lengthy wait process. As for the models, most require substantial time for both the tenant and landlord to respond.

Next, we can examine the metric of enforcement effectiveness given citation & compliance rates. Model 1 is the most effective for enforcement based on its accurate records through mandatory reporting requirements for eviction proceedings. Overall, there are high landlord compliance rates with registration fees covering all operating costs (Urban Habitat, 2018). Model 3 is effective in terms of professional staff administration with binding authority, which would decrease contentious proceedings. However, enforcement may lack consistency compared to permanent independent boards with established procedures.

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Another aspect to highlight is political sustainability and community responsiveness. Once again, Model 1 would be most sustainable as elected commissioners provide direct democratic accountability and community representation (PolicyLink et al., n.d.). The structure of elected rent boards would protect against arbitrary political changes and maintain program consistency. When electoral accountability is present, community organization has proven to be strengthened. This is notable in New York City, where rent-stabilized tenants mobilized tens of thousands of voters to support candidates committed to rent control (PolicyLink et al., n.d.). In comparison, Model 3 and Model 2 do not provide direct electoral representation for the community, and therefore are at risk of being less representative.

Additionally, the financial capacity of each product, specifically its fiscal sustainability and startup costs, must be examined. Model 3 is the most fiscally sustainable as it demands lower startup costs by utilizing existing city staff and contracted mediators rather than creating a new independent agency like Model 1 or 2. Richmond's FY 2025-26 budget of \$3.9 million is funded entirely by rental housing fees (\$267 per fully covered unit, \$151 per partially covered unit), which establishes continued sustainability after its initial startup phase. Model 1 follows closely as all the operating costs in Berkeley were covered by landlord registration fees, but it is more costly than Model 3, given its higher administrative and legal costs with robust enforcement infrastructure, making the startup phase more expensive (*Rent Board | Richmond, CA - Official Website*, n.d.).

Lastly, given the coordination capacity with other tenant protection programs, Model 1 has the best capacity to be integrated. The independent rent board would act as a bridge between tenant associations and the county, which in turn would boost coordination efforts. Berkeley's specialized committees could allow for adaptation to community issues without jurisdictional overlap. Model 3 follows closely behind as a separate rent review officer would help coordinate cases flexibly, but has the danger of inconsistent application across cases due to a lack of centralized oversight.

### **Final Recommendation for Rent Board**

For unincorporated Alameda County, the ideal structure to model is Model 1 of the Independent Rent Board with Elected Commissioners, as exemplified by the Berkeley Rent Stabilization Board, because of its efficient processing speed, enforcement effectiveness, political responsiveness, fiscal sustainability, and coordination capacity. Through comparative research, Berkeley's elected Rent Board is an ideal model for the proposed Alameda County Rent Board as it demonstrates efficient petition processing, attentive enforcement, political responsiveness,

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and fiscal sustainability. A My Eden Voice survey reported that 39% of Eden renters fear displacement within a year, 25% fear eviction, and 64% are unaware of their legal rights: issues easily mitigated by an elected board through accessible dispute resolution. Alameda County ranks among the top three Bay Area counties for eviction rates, with 85-97% stemming from nonpayment. A rent stabilization board would directly address this affordability crisis, which drives displacement. Currently, no unincorporated area has this model, forcing 60,000+ unincorporated renters to rely solely on statewide protections that do not directly address specific local needs.

This rent stabilization board, coordinated by Alameda County Housing & Community Development Department and Registrar of Voters, would serve all major unincorporated communities – Ashland, Castlewood, Castro Valley, Cherryland, Fairview, Hillcrest Knolls, Hayward Acres, San Lorenzo, and Sunol. This would cost around \$8-10 million annually, modeled off of Berkeley’s 2025-26 fiscal budget of \$9,017,005, and funded through per-unit registration fees (\$344 fully-covered units, \$212 partially-covered units) and Measure W supplementation, which includes the Home Together Fund as well as the CLT funding solution provided above.

First and foremost, in phase 1, implementation should commence with new county legislation that establishes an Independent Rent Board consisting of at least one commissioner for each major unincorporated community in Alameda County, including Ashland, Castlewood, Castro Valley, Cherryland, Fairview, Hillcrest Knolls, Hayward, San Lorenzo, and Sunol. However, larger districts can justifiably seat two or three commissioners as a reflection of more responsibility for their communities with greater population sizes and petition volumes. These commissioners, around 9-12 total, would be elected directly by representatives in their respective areas and serve staggered four-year terms, as modeled in Berkeley, to ensure local accountability and true representation. Moreover, the Board should create and adopt bylaws, organize area-specific elections with the Alameda County Registrar of Voters, and launch a centralized rent registry and fee structure for units, mirroring Berkeley’s, with adjustments made for district size and local needs. To ensure success, initial hiring should place emphasis on multilingual staff and the development of accessible digital materials to increase accessibility for these communities from the beginning.

During phase 2, the second and third years of implementation, the Board should scale up operations to strengthen its ability to achieve its goals and solidify its commitment to local accountability. Therefore, staffing should be expanded to accommodate population growth by

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adding outreach officials in each district and holding meetings to allow for local voices to be heard. Program performance should be measured in each unincorporated area using metrics such as registration rates, hearing and resolution time for petitions, translation service performance, and satisfaction of both tenants and landlords. In addition, reports and area-specific budget reviews should result in changes to fees and services. In this stage, the Board's ultimate goal is to fortify its effectiveness and presence in all areas, achieved through coordination with county social services, local organizations, and performance reviews.

Phase 3 should focus on evaluating the adoption and potential modifications to the Board and its structure. At this point, multiple years of data have been collected, and the Board should conduct a formal review in every district, ensuring community engagement and input to evaluate which areas require expanded representation or procedural changes. As previously mentioned, larger or more active communities have more people to accommodate and thus should be able to petition for additional commissioners. Furthermore, panels of residents and advocates should be organized to demonstrate the Board's commitment to improvement and to solidify its reputation for transparency and adaptability.

For implementation, phase 1 would establish structure by passing county legislation to create the Independent Rent Stabilization Board and organizing area-specific elections for commissioners through the Registrar of Voters. Alameda County would prioritize hiring multilingual staff and developing accessible digital materials to accommodate and increase accessibility for unincorporated communities from the beginning. Phase 2 would span over years 2-3, in which the program would build capacity by expanding staffing, hosting community meetings, and measuring performance utilizing registration rates, petition processing time, and landlord-tenant satisfaction. The board would conduct area-specific budget reviews and adjust fees accordingly. The final phase would be the years following, where bi-monthly evaluations with formal reviews in each district and organized resident panels to ensure transparency would be conducted to evaluate the adoption of and consider potential modifications to the Alameda County Rent Stabilization Board.

Ultimately, by establishing this model, Alameda County would create the institutional infrastructure necessary to transform current reactive homelessness solutions into proactive prevention, more specifically focused on local accountability and efficient dispute resolution.

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## V. Community-Led Housing Acquisition

While Alameda County has some promising initiatives for creating long-term sustainable housing options, there is a lack of support for community-led housing acquisition. This complementary solution can target the most disenfranchised groups and offer a short-term response to the housing crisis. The comparative analysis focuses on the financing models of community housing in other areas.

Community Land Trusts, or CLTs, cooperative housing funds, and revolving loan programs have each proven effective in expanding affordable housing and stabilizing communities facing displacement. CLTs are nonprofit entities that hold land in trust for long-term community use, separating land ownership from building ownership to keep housing permanently affordable. They are governed by community members and offer long-term ground leases that allow residents to own or rent homes at below-market rates. CLTs help close racial wealth gaps by providing low-income and historically marginalized residents with pathways to ownership.

### Funding Streams for CLTs

Beyond Measure W, unincorporated Alameda County and Bay Area communities can tap a robust landscape of alternative funding streams for community-led land acquisition and ownership. Local housing trust funds, such as those managed by the San Francisco Mayor's Office of Housing and Oakland's Housing and Community Development Department, leverage developer fees, impact fees, and special-purpose taxes to provide competitive grants and low-interest loans for nonprofit and resident-driven acquisition projects (City of Oakland, n.d.). These trust funds are routinely used to finance property purchases, site control, and capacity building specifically for community ownership initiatives.

Regional and local foundations, most notably the San Francisco Foundation and the East Bay Community Foundation, have long supported housing justice and anti-displacement efforts with grantmaking and program-related investments (PRIs). These dollars are crucial for early-stage acquisition, gap financing, and empowering mission-driven organizations with flexible capital. Impact investment notes and community bonds, provided by intermediaries like RSF Social Finance and ImpactAssets, aggregate dollars from local stakeholders, social investors, and businesses to offer bridge loans and acquisition capital, all resources that are repayable over time and designed for locally rooted projects.

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Employer-assisted housing initiatives represent another promising pool. Anchor institutions such as Kaiser Permanente have invested in down-payment assistance, employee housing funds, and direct support for community homeownership and stabilization, in collaboration with housing nonprofits. Some municipalities, such as Emeryville, have dedicated portions of property tax increment, captured through redevelopment or TIF districts, to affordable housing pools supporting land acquisition by nonprofits and neighborhood coalitions.

Environmental remediation and EPA's Brownfields grants further expand funding options for land acquisition, particularly for sites requiring environmental cleanup. West Oakland and Hunter's Point projects have demonstrated how these grants help turn previously unusable properties into new homes and community resources.

Finally, Bay Area mission-driven lenders such as Community Vision Capital & Consulting (formerly Northern California Community Loan Fund) and Self-Help Federal Credit Union provide flexible, rapid-response acquisition loans and consulting specifically tailored for nonprofits and community organizations implementing ownership projects.

### **Comparative Analysis of Funding in Other Areas**

To understand the potential funding streams for CLTs, we conduct an in-depth analysis of funding measures in other areas.

In San Francisco, the San Francisco Community Land Trust, or SFCLT, preserved a 40-unit building at 285 Turk Street in the Tenderloin, a neighborhood where low-income residents of color faced steep rent hikes and eviction pressures. When the property's owner attempted a 70 percent rent increase, tenants organized with the Filipino Community Development Corporation and successfully negotiated to stop it. With support from Self-Help Federal Credit Union and the Bay's Future Fund through LISC Bay Area, SFCLT purchased the property for \$10.4 million (*Pathways to Tenant and Community Control*, n.d.). This acquisition created permanently affordable housing and ensured community control, exemplifying how cooperative ownership models can stabilize neighborhoods vulnerable to displacement.

The Oakland Community Land Trust, or OakCLT, acquired Avenida 29, a 14-unit building in the Fruitvale district, after tenants launched a two-year rent strike over poor maintenance and rising rents. Using \$3.3 million in funding from the City of Oakland's Measure KK bond and the Bay's Future Fund, OakCLT was able to purchase the property and begin rehabilitation work. The project's success stemmed from collaboration between tenants, city staff, and community organizations who negotiated complex financing to preserve affordability.

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OakCLT also worked with LISC Bay Area on a nearby four-unit project on 34th Avenue, which will convert to affordable condominiums while the trust retains ownership of the land (*Pathways to Tenant and Community Control*, n.d.).

In Houston, the Harris County Community Land Trust received \$15 million in ARPA funding (COVID-19 relief) in 2023 as part of a broader \$200 million countywide investment in affordable housing. This funding will allow the CLT to acquire more than 100 single-family homes, targeting households earning below 80 percent of the area median income. The Houston program is governed by a board composed of CLT homeowners, community residents, and public representatives, ensuring that decision-making remains locally grounded. These examples show how diverse financing sources can sustain land trust models that advance community equity.

County policy, public-private partnerships, and bond measures can make community-controlled housing possible by combining local authority with flexible funding. Counties can update zoning and housing codes, issue bonds, and direct public funds to support land trusts or cooperatives. Public-private partnerships bring together local governments, lenders, and nonprofits to pool resources and share risk, making it easier for community groups to acquire and preserve housing. Such collaborations help align regional policies with on-the-ground needs, while county bond measures provide stable capital for acquisition, infrastructure, and rehabilitation.

### **Challenges to Financing**

Unfortunately, the current financing landscape is unfit to sustain CLTs as a viable solution for Alameda County's unincorporated housing crisis. Current funding resources include: philanthropic grants, LISC Bay's Future Fund, Self-Help Federal Credit Union, and Impact Investors, but each comes with limitations. Philanthropic grants are typically short-term and competitive, which limits their ability to provide the sustained capital community land trusts need to acquire and maintain properties (*Common Counsel Foundation – 30 Years Supporting Progressive Social Change*, n.d.). LISC Bay's Future Fund depends on a mix of philanthropic and private financing, meaning its capacity is tied to investor interest and cannot always meet the demand for deeply affordable housing projects. Self-Help Federal Credit Union provides low-interest loans to community organizations but requires collateral and repayment terms that smaller land trusts may struggle to meet (Self-Help Federal Credit Union, n.d.). Impact investors often prioritize financial returns alongside social outcomes, which can restrict funding to projects that do not guarantee measurable or timely profit (Yelimeli, 2025). Together, these

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constraints show why current financing tools fall short of what CLTs in unincorporated communities need to operate and grow.

Bay Area acquisition costs make it extremely difficult for CLTs to compete for mobile home parks and multifamily buildings. Such properties often sell for \$8 to \$10 million, which far exceeds what most community organizers can move quickly. Even when CLTs combine every available source of funding, only \$5 to \$6 million is able to be assembled. This creates a \$2 to \$4 million gap that cannot be filled under current financing conditions (Ramos, 2025).

The timing of real estate transactions adds another barrier. Sellers typically expect buyers to close within 60 to 90 days, but CLTs cannot reach full financing in that window, as they rely on multiple lenders and grant sources that take longer to approve. When the funding gap and pressure converge, community groups don't stand a chance against private offers. This cycle shows how the current system fails to protect vulnerable residents and leaves preservation efforts outpaced by private market forces.

One of the key challenges to CLT financing is bond limitations. Applications for financing solutions are typically competitive and complex. A study from 2021 found that, on average, developers need about 3.5 funding sources to be considered financially feasible (Turner Center, 2021). New construction also calls for long, expensive timelines: each additional public funding source adds about four months to the timeline of being able to start construction, and it adds on around \$20,460, per-unit, in total development costs (Reid & Reid, 2025). In California, tax credits are one of the primary sources of funding, but they are highly competitive and include certain requirements that projects must meet to qualify (*Pathways to Tenant and Community Control*, n.d.). When awarded, bond financing still typically mandates affordability levels at 50-80% AMI, which excludes many of the vulnerable household areas that Measure W is meant to reach. Another study from 2022 found that almost all deals that were awarded LIHTCs faced significant cost increases after being awarded credits, typically around 30% or more (Abt Associates, n.d.).

Public-private partnerships also face a major problem: private partners require market-rate returns—typically around 15-20%—which forces projects to increase rent amounts as a way to generate higher revenue. Especially for projects that are being developed in or for vulnerable communities, this creates a significant issue. Projects can also be affected by politics, with funding sources subject to change based on leadership changes. The direct funding advantages from Measure W are significant. It takes the necessary steps to close the financing gap by

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providing dedicated, flexible capital, or “hardline money.” Unlike private partnerships, there are no required private returns, meaning that rent amounts can be permanently set at affordable rates (~30% AMI or below). Overall, this financing structure directly reflects community priorities in unincorporated areas.

### **Recommendation of Measure W-Funded CLTs**

Given that CLTs have high potential to increase housing affordability but face many financing constraints, we propose funding CLTs using Measure W. Since it is flexible and non-competitive, Measure W funding can effectively plug this gap. By establishing a method in which CLT funds are processed quickly, they are more likely to obtain them before the 60 to 90-day window closes. In doing so, CLTs can acquire houses and provide them to lower-income families rather than getting priced out by private companies.

This model can mirror the Los Angeles County Community Land Trust Partnership Program. In September 2020, the program first enabled established CLTs to acquire, rehabilitate, and preserve tax-defaulter properties for long-term affordable housing. Given the context of the pandemic and the program’s success, it was further expanded to secure unsubsidized multifamily housing, intended to protect renters at risk of eviction and homelessness. Money was used to cover the full cost of all acquisitions, without debt, and to partially rehabilitate some properties. In total, the \$14 million initial funding preserved eight multifamily properties across all five supervisorial districts with a total of 43 residential units, enabling 110 individuals to live in stabilized affordable housing (The Los Angeles County Community Land Trust Partnership Program, 2022).

The program was proven successful in preventing homelessness, with the success being attributed to a few reasons. Firstly, a close partnership in co-designing the execution of the program is necessary. This refers to a collaborative consensus on specific focus areas such as eligibility criteria, property types, and target geographies. While these benchmarks should be standardized, they should not slow down the process of applications and grants. Secondly, a huge reason for success is the single-funding mechanism. In the LA program, the funding for acquiring and rehabilitation was, in its entirety, provided for by the county, resulting in no debts incurred. This means that CLTs do not have to rely on capital stacks. As such, there is a minimization of bureaucracy and red tape. It also sped up the funding process so that CLTs are able to make timely acquisitions. However, there is still an acknowledgment that various funding sources can be considered in the long term. It is important to balance the speed of processes with deep affordability. This model serves as a lesson and guide that we believe

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Alameda County should implement.

This can be administered by a working group set up to oversee the partnership. From the county, that working group should include relevant authorities such as the Alameda County Housing & Community Development Department (HCD) and the Treasurer-Tax Collector. The working group could also involve some neighborhood communities that are invested in the issue, with a good understanding of the locale and representing various groups. In the context of Alameda County, this could involve groups like East Bay Housing Organizations (EBHO), Renewed Hope Housing Advocates, and the Alameda Point Collaborative. On top of that, there should be direct partnerships with some existing CLTs, especially those in unincorporated areas; some examples include Sogorea Te' Land Trust, Eden Community Land Trust, Northern California Land Trust, and Bay Area Community Land Trust. The prioritization of unincorporated communities can be dependent on the presence of CLTs, which administer these changes. The dollar amount required would be dependent on the scale of the pilot and the geographic area. However, it should be sufficient to cover the cost of the house and some restorative works for the property. Based on LA County, it costs an average of \$327,523 per unit, where prices would differ based on housing costs in Alameda.

The rollout of this program can be done over multiple phases and steps. This can begin with a pilot, rather than a large-scale implementation. The first step would be establishing the aims of the program among the supervisors and identifying relevant agencies and CLTs for the work group. The next step would be setting up the work group, which would then go through thorough research to identify properties for investment. After implementation, purchase, and integration of new occupants, an independent review should be carried out to assess the effectiveness of the program for future expanded implementation.

This model should be implemented because of the specific needs in Alameda County's unincorporated regions. Based on current findings, there is a shortage of deeply affordable housing options in unincorporated areas, especially affecting disadvantaged communities. This proposal would target the affordability directly, offering housing options that are sustainable in the long run. The implementation of the program and its rationale can be drawn from the funding model in Los Angeles, which was seen as largely successful. Compared to other housing options, it was 47% less than the cost of new construction projects in the county, and 39% less than the cost of acquisition-rehabilitation projects financed by Low-Income Housing Tax Credits (LIHTC). Not only does it reduce the cost for the county in battling housing issues, but it can also be maintained and offered in the long run for future generations. This ensures that

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homeless people can find affordable means to stay off the streets, while tenants who are close to facing eviction have affordable housing options, preventing the stickiness of homelessness.

## **VI: Conclusion**

Currently, Measure W funds are not reaching Alameda County's unincorporated communities at the scale or precision intended by voters, leaving residents vulnerable to displacement and homelessness. Addressing this gap requires an integrated strategy that pairs direct defenses with structural solutions to provide both immediate protection and long-term stability.

The recommended independent rent stabilization board with elected commissioners would serve as the County's primary direct defense mechanism for unincorporated areas, covering communities such as Ashland, Castro Valley, Cherryland, Fairview, San Lorenzo, and Sunol. Coordinated by the Alameda County Housing & Community Development Department and the Registrar of Voters, and funded through a combination of per-unit registration fees and Measure W supplementation, the board would offer enforceable tenant protections, accessible dispute resolution, and local accountability. Modeled after Berkeley's elected rent board, this structure addresses the high eviction rates and widespread lack of tenant awareness documented by My Eden Voice, while filling a governance gap that currently leaves more than 60,000 unincorporated renters reliant solely on state-level protections.

At the same time, Community Land Trust (CLT) partnerships provide the essential structural solutions needed to sustain affordability over the long term. By using Measure W funds to support CLT-led acquisition and rehabilitation, the County can expand affordable housing in unincorporated areas at a lower cost than new construction, ensuring permanent affordability for current and future residents. Implemented together, rent boards stabilize tenants in place while CLTs create lasting housing options for households facing displacement.

This combined approach enables Alameda County to move from reactive homelessness response to proactive prevention, fulfilling its responsibility as the sole governing authority for unincorporated communities and ensuring equitable protection, representation, and housing security countywide. These recommendations simply ensure that unincorporated communities receive the same level of attention, investment, and support as other parts of the county. Alameda County has both the resources and the responsibility to act. These recommendations provide a roadmap for preventing displacement before it becomes homelessness.

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## VII. Appendix

### Appendix A - Issues in Unincorporated Areas

Unincorporated communities uniformly lack sewer systems, clean drinking water, sidewalks, streetlights, and storm drains. The lack of such infrastructure is often correlated with gastrointestinal illnesses, respiratory diseases, and general public health risks (Welch, 2024). In Alameda County’s unincorporated areas like Ashland, Castro Valley, Cherryland, Fairview, San Lorenzo, and Sunol, residents lack access to critical services (Krans, 2025).

Further, unincorporated communities experience substantial mobility gaps, with insufficient public transit connections and pedestrian infrastructure. Los Angeles County’s 2035 General Plan and study for the East San Gabriel Valley found that limited mobility restricts the residents’ ability to attend work and school, which can have a profound impact on economic opportunity (County of Los Angeles Department of Regional Planning, 2022).

Unincorporated areas bear the environmental and infrastructure burdens of resource extraction. These communities endure mineral extraction, oil and gas extraction, and waste disposal. Economic extraction perpetuates environmental racism through the systematic concentration of polluting industries in unincorporated communities of color. These communities face disproportionate exposure to cumulative environmental health impacts, including higher concentrations of particulate matter, nitrogen dioxide, and proximity to hazardous waste sites.

The Eden Area Livability Initiative documented aging commercial corridors and inadequate public facilities in unincorporated communities, while Healthy Alameda County data reveals that life expectancy in Cherryland is about 10 years shorter than in nearby Piedmont (Healthy Alameda County, n.d.). Historic redlining, racially exclusive housing policies (Mena, 2022), and decades of underinvestment pushed low-income residents of color into these areas, leaving them with fewer resources and poorer health outcomes. According to Krans (2025), “many are forced to live in housing that would normally be considered uninhabitable, endure verbal abuse from landlords, and live in fear of eviction, all while having no clear avenues to get help.”

### Appendix B - Existing Measure W Programs

#### *Encampment Response Initiative*

The Encampment Response Initiative represents Alameda County’s first structured and countywide framework for managing homelessness in unincorporated areas. Led by the County

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Homelessness Council, this initiative established an Encampment Response Team (ERT) made up of departments such as the Community Development Agency, Health Care Services Agency, Public Works, Social Services, and the Sheriff’s Office. The goal is to create and pilot an “Encampment Toolkit” to guide responses and ensure outreach, sanitation, enforcement, and housing placement efforts are consistent across all unincorporated areas. Responses include protocols for health and safety assessments, debris removal, public health interventions, and service engagement by the county’s Coordinated Entry System. Early efforts included launching a Mobile Hygiene Unit, expanding winter warming centers into winter shelters, and operating Navigation Centers. However, despite Measure W and Homelessness Action Plan funding, only about \$75,000 of \$10.5 million (less than 1%) from 2018–2021 was allocated to unincorporated areas; the scale of response remains limited due to insufficient funds.

### *Care First, Jails Last*

The Care First, Jails Last (CFJL) initiative is Alameda County’s countywide framework to reduce reliance on incarceration and expand investments in community-based behavioral health and housing systems. Adopted in 2021, the initiative emphasizes diversion strategies, which include redirecting individuals with behavioral health or substance-use needs away from jail and into treatment, crisis stabilization, or supportive housing programs. The policy’s 59 recommendations—included as a portion of Measure W’s \$1.4 billion funding toward the Home Together Plan and Essential Services Fund—promote permanent supportive housing and the expansion of treatment-based housing for individuals with mental health or substance-use needs (Care First Community Coalition, n.d.). The Mental Health Advisory Board guides implementation, and an ad hoc committee composed of community advocates, reflecting a “community-led” governance model. But while CFJL activity is concentrated around the Santa Rita Jail corridor, Oakland, and other urban centers, it remains less visible in unincorporated areas such as Ashland, Cherryland, San Lorenzo, and Fairview. These areas often have significant mental health and homelessness overlaps but fewer direct service linkages (Care First Community Coalition, n.d.). This reveals a spatial equity gap: unincorporated residents experiencing behavioral health crises remain under-reached by CFJL’s housing-related interventions.

### *Countywide Plan for Older Adults*

The Countywide Plan for Older Adults (CWAP), prepared every four years by Alameda County’s Area Agency on Aging (AAA), aims to address the needs of residents aged 55+ through services that include housing stability, mental health support, and emergency preparedness. Its housing-related priorities include expanding affordable and age-appropriate

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housing, preventing homelessness through programs like HomeSafe (a pilot program offering housing navigation and case management for vulnerable older adults), and preserving existing affordable senior housing (Planning, n.d.). The plan’s AC Care Connect program exemplifies an integrated model that links medical, behavioral, and housing services to promote stability. However, survey data indicates persistent vulnerabilities: 18% of older adults consider their housing situation uncertain or temporary, while 34% face barriers to shelter access. Many struggle with digital or mobility barriers that limit their ability to find assistance, meaning that outreach often depends on chance encounters. The CWAP recognizes these gaps and explicitly targets unincorporated “service deserts” with lower life expectancy, but the county’s aging response remains stretched. Strengthening housing retention programs, legal protections, and accessibility for older adults is crucial to prevent their rising rates of homelessness.

### *Behavioral Health and Crisis Response*

Alameda County Behavioral Health (ACBH) operates a network of crisis response teams to address acute behavioral health emergencies, many of which intersect with housing instability. Through Mobile Crisis Teams, ACBH pairs clinicians with law enforcement to respond to mental health calls, while specialized programs such as Post-Crisis Follow-Up, Community Connections, and Familiar Faces provide continued case management, linking clients to housing and recovery services. Despite these strengths, geographic disparities remain: dedicated hotlines exist for Oakland and Hayward, but not for Berkeley, Fremont, or unincorporated areas, leaving gaps in immediate crisis intervention. Housing connections are often temporary or referral-based rather than long-term placements, revealing a need for better integration between behavioral health and housing navigation systems. The county’s Critical Care Management Team oversees acute psychiatric placements, but lacks a direct housing stabilization component. Strengthening these cross-system linkages, especially in unincorporated communities where crisis and homelessness overlap, would align ACBH’s work with Measure W’s prevention goals.

### *Street Health and Outreach*

Street health (general health of unhoused individuals) and outreach programs serve as the county’s primary interface with unsheltered populations, providing basic care, wellness checks, and service referrals. However, outreach coverage remains uneven. Reports indicate that not all encampment residents are reached, and individuals who are not in formal encampments often receive little to no contact. Current outreach systems appear better equipped to serve specific vulnerable groups, such as seniors or chronically ill individuals, leaving others underserved. Moreover, follow-up engagement is inconsistent, leading to a cycle of temporary connection

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without long-term stabilization. Expanding outreach coverage beyond encampment zones, improving data collection on unincorporated homelessness, and linking outreach directly with housing navigation and behavioral health teams would help close these gaps.

### *Encampment Response*

Alameda County Health Care for the Homeless (ACHCH) is a county-run program that works to improve access to health care for people experiencing homelessness across Alameda County. Established in 1988, the program coordinates a network of community-based organizations and health centers that offer comprehensive medical, behavioral, and social services. Their care model combines primary care, behavioral health, urgent and street medicine, substance use treatment, dental and optical care, and case management, making it a central provider for unhoused residents who might otherwise go without consistent treatment. What's important about ACHCH is that it doesn't just serve major cities like Oakland or Berkeley; it reaches throughout Alameda County, including unincorporated areas such as Ashland, Cherryland, and San Lorenzo, where many residents face barriers to formal health and housing systems. The program's mobile and street medicine teams specifically target people living in encampments, shelters, and transitional housing in these regions. Beyond direct care, ACHCH also conducts policy research and advocacy. It works with community partners and its Community Consumer Advisory Board to shape equitable housing and health policies at both county and state levels, while also engaging in national conversations through the National Health Care for the Homeless Council. The ACHCH program is administered by Alameda County's Health Care Services Agency (HCSA), specifically under the Public Health Department. The HCSA oversees ACHCH's funding, contracts, and partnerships with community-based organizations and health centers across Alameda County. In other words, ACHCH is a branch of the Alameda County government, housed within the Health Care Services Agency's Public Health Department, which allows it to coordinate directly with county-wide health, housing, and social service systems.

2-1-1 Alameda County is a free, 24/7 information and referral service that connects residents with housing, healthcare, legal aid, childcare, food assistance, job training, and emergency shelter. When someone calls 2-1-1, they are connected with a live Community Resource Specialist who can link them to services based on their specific needs. The program operates in partnership with Eden I&R, Inc., a nonprofit connecting Alameda County residents (both incorporated and unincorporated communities) with human service agencies (*Mission - Eden I&R, Inc.*, 2025). The county's partnership with Eden I&R ensures these services are equitably distributed and accessible across geographic boundaries, helping fill the service gaps that often

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exist in unincorporated communities.

### *SSA Shelter Bed Night Rate*

The Alameda County Social Services Agency (SSA) Shelter Bed-Night Rate (BNR) was created to stabilize funding for emergency shelters and ensure consistent quality of care across all county-funded shelter programs. The BNR sets a standardized amount that the county reimburses providers per occupied shelter bed per night. Originally established at \$34.06 and later increased to \$36.42, the rate helps cover the cost of providing space for unhoused individuals and families, but does not fully fund all operational or service costs. SSA partnered with UC Berkeley's Goldman School of Public Policy to assess whether the BNR still meets the true cost of shelter operations. That study found current funding only covers about 15% to 42% of actual expenses, depending on shelter type, leading SSA to propose a new rate of \$48.43 per bed-night, still below the full-service cost of \$97.70. The county-wide program currently funds 645 year-round beds across family, single adult, domestic violence, transitional-age youth, and youth shelters, with an additional 29 beds pending Board of Supervisors approval. In practice, this means someone living in an unincorporated area who needs shelter would be connected to an available BNR-funded bed regardless of where the shelter is located.

### *Emergency Rental Assistance Program (ERA)*

Alameda County's ERA program requires the following documentation: government photo ID, proof of household income, proof of COVID-related loss of income or hardship, proof of residency, and proof of rent. There is an online application portal, and places such as the Alameda County Housing Secure offices, or ACHS, administer ERA so individuals can receive in-person help with their applications. ACHS offices are primarily located in Oakland and Berkeley, although individuals living in unincorporated communities can still contact these offices via email or phone.

The federal ERA program guidelines prohibit restricting access to the program based on immigration status, making the program's funds available to everyone. Alameda County has no general policy on excluding residents in mobile homes or unpermitted/substandard housing, but proof of residency and rent are still required. At the federal level, ERA program funds are limited to households below 80% of Area Median Income, or AMI, with preference given to households at or below 50% of AMI.

### *Alameda County Housing Secure*

The Alameda County Housing Secure (ACHS) is a county-wide program for low-income

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residents. It provides renters and homeowners with legal assistance, consultation, an representation in case of eviction risk or foreclosure. Since 2017, the county has budgeted over \$11.8 million to ACHS (Alameda County Community Development Agency, 2022). Existing county programs, such as Housing Secure, launched in 2018, demonstrate effective models that combine free legal aid, rental assistance, and partnerships with community organizations to help tenants negotiate with landlords and remain housed.

#### *Community Development Block Grant*

The Community Development Block Grant (CDBG) is a program funded by the US Department of Housing and Urban Development (HUD). It provides funds to local governments to be used for a wide variety of programs benefiting low-income neighborhoods. The Alameda County Housing and Community Development Department (HCD) is a grant recipient of the “Urban County” CDBG grant. Each of the five major cities within Alameda County (Albany, Dublin, Emeryville, Piedmont, and Newark) receives a portion of the grant funds, and the HCD administers the rest for unincorporated communities. In FY 2024, CDBG funds totaled over \$2 million for the county.

### **Appendix C - Infrastructure Deficits**

#### *Los Angeles County Unincorporated Areas*

The LACDA (Los Angeles County Development Agency) focuses on affordable housing, and community and economic development (Agency Overview, n.d.). The agency’s wide-ranging programs benefit residents and business owners in the unincorporated Los Angeles County areas and in various incorporated cities that participate in different programs. Two of their main focus areas are Home Improvements and creating Affordable Housing. Houses are also made more affordable with new builds, beyond existing infrastructure. Under the Community Development Board Grant (CDBG), the LACDA prepares the necessary applications and reports to the U.S. Department of Housing and Urban Development (HUD) and other funding agencies. The agency provides monitoring and technical assistance to partner agencies to ensure that activities are compliant with all Federal, State, and local requirements. This enables community partners to receive federal funding for their programs.

#### *San Diego County Unincorporated Areas*

San Diego County approved a 2023 Housing Zoning Ordinance Update, part of which funds more infrastructure needed to support housing in unincorporated communities (San Diego County News Center, 2023).

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### *Contra Costa County*

Contra Costa County passed a state law allowing a single parcel to be split between two residential units and Urban Lot Splits for up to two lots. This allows more people in the community to access housing (*Streamlined Urban Single-Family & Duplex Housing (Senate Bill 9)* | *Contra Costa County, CA Official Website*, n.d.).

### *Sacramento County*

In the Sacramento County Regional Housing Needs Allocation (RHNA) Rezone Project, there are several policies passed specifically for unincorporated communities. The Project consists of rezoning sites totaling approximately 230 acres across unincorporated Sacramento County to provide additional lower-income and moderate-income category housing (County, 2024). Rather than changing the landscape previously proposed, it increases infrastructure in the area to accommodate higher residential density in multifamily developments.

## **Appendix D - Resident Input**

According to the Alameda County Housing and Community Development Department's "Appendix A: Demographics and Housing Needs Assessment," residents in unincorporated Alameda County communities such as Ashland, Cherryland, San Lorenzo, Fairview, Castro Valley, and Sunol say that their most urgent needs are affordable housing, fewer overcrowded households, and better neighborhood infrastructure. In Ashland and Cherryland, data reveals that 66% of renters are cost-burdened by their housing costs, and 31% of those renters pay over half their income for rent (Alameda County, 2024). Overcrowding is reported in 15-17% of households in these communities, especially among Latinx and Asian households (Alameda County, 2024). Issues like unpermitted garage conversions and lack of access to parks and transit reduce the quality of life and exacerbate displacement fears. Surveys across these areas repeatedly highlight affordability, habitability, and safety as resident priorities.

Residents' experience with county services, including Measure W-funded programs, shows some positive outreach and new prevention services, but still leaves many needs unmet. Residents report barriers such as long waits for affordable rentals, application complexity, and little influence in shaping programs. More than 40% of renters live in homes that are not covered by tenant protections, such as mobile units, single-family units, or recently built rentals (Alameda County, 2024). Language barriers, fear of losing their housing if they complain, and a lack of simple, county-recognized legal support all further reduce access to help, especially for immigrants, seniors, and families without fluent English speakers.

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According to information collected by the 2023 Unincorporated Renters Survey and door-to-door canvassing conducted by My Eden Voice, “In the Shadows of Eden: Rising Rents, Evictions, and Substandard Living Conditions in Alameda County,” when asked what would make a real difference, community members propose solutions like a rental property registry run by the county, stronger eviction protections, more legal aid and tenant education, and more affordable, family-sized housing. Tenants also want better funding for community resources like parks, sidewalks, and transit and want local residents to have a formal say in program design. Local needs assessments and survey data confirm these are broadly supported ideas that directly reflect community voices.

Comparisons to Contra Costa and Sacramento counties highlight clear distinctions in service delivery and infrastructure priorities. Contra Costa uses County Service Areas for basics like lights and drainage, but does not have tenant protection programs or much resident input, making service levels uneven and social support weak. In contrast, Sacramento County’s Tenant Protection Program actively registers all rentals in unincorporated areas, sets a rent increase cap at 7.7%, and supports tenants with outreach and dispute resolution, which offers a much clearer and more proactive response to the types of challenges that Alameda County residents have identified.

### **Appendix E - Funding Allocations to Prioritize Unincorporated Areas**

#### *Los Angeles County Unincorporated Areas*

Los Angeles County has structured its funding allocations to prioritize unincorporated areas primarily through its use of Community Development Block Grants (CDBG). The County directs at least 70% of its CDBG funds toward low- and moderate-income (LMI) communities (*Capital Projects*, n.d.), many of which are in unincorporated areas that lack access to city-level infrastructure and services. Funding decisions are based on community needs, demographic data, and infrastructure gaps to ensure resources are targeted to areas of highest need.

#### *San Diego County Unincorporated Areas*

In San Diego County, funding allocation for unincorporated areas is structured through the Department of Public Works’ Capital Improvement Program (CIP). This program is specifically designed to improve infrastructure and public facilities in unincorporated parts of the county, ensuring that residents living outside city boundaries have access to safe, functional, and equitable public spaces. The Capital Improvement Program funds a wide range of projects, including road and bridge repairs, flood control systems, airport facilities, and wastewater infrastructure. These projects are prioritized to support community safety, environmental

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sustainability, and local economic development within unincorporated regions. Each project goes through a comprehensive process covering planning, budgeting, environmental review, permitting, and right-of-way acquisition managed by the County’s Public Works Project Development Section (*Capital Projects*, n.d.). Funding for these projects is approved annually by the County Board of Supervisors through a Detailed Work Program, which outlines all active and upcoming projects for the fiscal year. Typically, over 120 capital projects are active at any given time, reflecting the County’s ongoing commitment to maintaining and improving infrastructure across its unincorporated areas.

### *San Joaquin County*

San Joaquin County Title 9, Division 12, Infrastructure and Services Financing Regulations lays out how San Joaquin County funds and manages infrastructure and public services in unincorporated areas. It ensures that when new developments are built, the county pays their fair share for things like roads, drainage, water, sewer, fire protection, parks, and schools instead of pushing those costs onto residents. It creates Traffic Impact Mitigation Fees, which charge developers for things like traffic lights, road widening, and bridge improvements that are needed because of new construction. These fees have to be paid before building permits are issued, and the money goes into separate accounts that can only be used for transportation-related projects (Infrastructure and Services Financing, n.d.).

To help keep essential services running, the County collects Water Facilities Fees, Fire Protection Fees, and Park and Recreation Fees. These funds go toward expanding water systems, improving fire stations, and building new parks. Housing project developers have to either set aside land for parks or pay a fee based on how many people their project will add to the community. The ordinance also requires that new residential projects establish that school facilities are adequate before being approved. School districts have to submit facility plans that explain future enrollment plans. Lastly, it establishes a County Facilities Fee Program, which helps pay for larger, countywide infrastructure projects like libraries, county offices, or public safety facilities that benefit both the incorporated cities and the unincorporated areas.

### **Appendix F - Russell City’s Historical Disenfranchisement**

In 1963, Alameda County and the City of Hayward initiated a “redevelopment project” for economic extraction disguised as public improvement. The county exceeded its initial cost estimate of \$1.423 million for land acquisitions and spent \$2.442 million. Approximately 1,400 residents were forcibly displaced, with 205 families evicted from 700 parcels. The community survey conducted in 2024 revealed that 84.7% of respondents were still awaiting moving

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assistance from Alameda County, and 89% experienced lasting harm from the displacement. The Russell City case demonstrates how economic extraction destroys intergenerational wealth accumulation in communities of color. Homeownership and business ownership in Russell City represented generational wealth that was systematically appropriated through eminent domain. The community survey revealed ongoing impacts: families lost not only property but also social networks and economic opportunities. The “othering effect”, the lack of access to clean water systems and facilities, creates separate and unequal development patterns that concentrate disadvantage in unincorporated areas. The effects of this displacement have carried into the present and have not been properly accounted for. As such, the county has a duty to address the needs of unincorporated regions and to account for past wrongdoings.

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## VII: References

- Abt Associates. (n.d.). *Filling funding gaps: How state agencies are moving to meet a growing threat to affordable housing*. <https://www.ncsha.org/wp-content/uploads/NCSHA-Filling-Funding-Gaps-Report-Sept-2022.pdf>
- Agency overview. (n.d.). *LACDA*. <https://www.lacda.org/home/about/agency-overview>
- Alameda County Board of Supervisors approves suite of tenant protections. (2025, October 14). *National Low Income Housing Coalition*. <https://nlihc.org/resource/alameda-county-board-supervisors-approves-suite-tenant-protections>
- Alameda County Community Development Agency. (2022). *Tenant protections in the unincorporated county*. [https://www.acgov.org/board/bos\\_calendar/documents/DocsAgendaReg\\_1\\_24\\_22/GENERAL%20ADMINISTRATION/Regular%20Calendar/Item\\_1\\_Tenant\\_protections\\_unincorp\\_1\\_24\\_22.pdf](https://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_1_24_22/GENERAL%20ADMINISTRATION/Regular%20Calendar/Item_1_Tenant_protections_unincorp_1_24_22.pdf)
- Alameda County Health. (2018). *Unincorporated Alameda County homelessness action plan 2018–2021*. Alameda County Health, Housing and Homelessness Services. <https://homelessness.acgov.org/homelessness-assets/docs/action-plans/Unincorporated-HomelessActionPlan-2018-2021.pdf>
- Alameda County Housing Secure. (n.d.). <https://homelessness.acgov.org/ac-housing-secure.page>
- Alameda County Rent Program. (2024). *Alameda rent program monthly report*. <https://www.alamedarentprogram.org/files/sharedassets/housingauth/v/1/resources/2024.03-monthly-report-rent-program.pdf>
- BAHFA Bay Area Eviction Study – Regional Eviction Dashboard. (2025). *Bay Area Housing Finance Authority*. <https://bahfa-eviction-dashboard.mtcanalytics.org/>
- Bay Area Housing Finance Authority. (2025). *Evictions in the nine-county Bay area*. [https://mtc.ca.gov/sites/default/files/documents/2025-07/BAHFA\\_Evictions-Nine-County-Report-07-27-25.pdf](https://mtc.ca.gov/sites/default/files/documents/2025-07/BAHFA_Evictions-Nine-County-Report-07-27-25.pdf)
- Bill text – AB-1482 Tenant Protection Act of 2019: Tenancy: Rent caps. (n.d.). [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB1482](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1482)
- Board of Supervisors meeting. (2025). *County of Alameda, California*. [https://alamedacounty.granicus.com/DocumentViewer.php?file=alamedacounty\\_621babc1241776ed93db269b856bf273.pdf&view=1](https://alamedacounty.granicus.com/DocumentViewer.php?file=alamedacounty_621babc1241776ed93db269b856bf273.pdf&view=1)
- Board of Supervisors Unincorporated Services Committee staff report. (2023). [https://www.acgov.org/board/bos\\_calendar/documents/DocsAgendaReg\\_6\\_28\\_23/GENERAL%20ADMINISTRATION/Regular%20Calendar/Item\\_1\\_Just\\_cause\\_staff\\_rpt.pdf](https://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_6_28_23/GENERAL%20ADMINISTRATION/Regular%20Calendar/Item_1_Just_cause_staff_rpt.pdf)

- 
- Borges, J. (2025, August 27). What happens if I don't register my LA rental? <https://www.lametrohomefinder.com/blog/lahd-rental-registration-penalties>
  - Budget & Personnel Committee. (n.d.). City of Berkeley. <https://rentboard.berkeleyca.gov/elected-rent-board/rent-board-committees/budget-personnel-committee>
  - Capital projects. (n.d.). County of San Diego. <https://www.sandiegocounty.gov/content/sdc/dpw/engineering/cipprojts.html>
  - Care First Community Coalition. (n.d.). Care first, jails last. <https://www.acbhcs.org/wp-content/uploads/2024/06/Care-First-Jails-Last-Overview-Presentation-June-2024.pdf>
  - Turner Center. (2021, September 27). The complexity of financing low-income housing tax credit housing. <https://turnercenter.berkeley.edu/blog/lihtc-complexity/>
  - Change how unincorporated communities are governed. (n.d.). California Unincorporated. <https://www.caunincorporated.com/change-how-unincorporated-communities-are-governed>
  - City of Berkeley. (n.d.). Guide to Berkeley's rent stabilization program. [https://rentboard.berkeleyca.gov/sites/default/files/documents/Rent%20Board%20Guide%20for%20website%20Jan%202023\\_1.pdf](https://rentboard.berkeleyca.gov/sites/default/files/documents/Rent%20Board%20Guide%20for%20website%20Jan%202023_1.pdf)
  - City of Oakland. (n.d.). Annual update on the rent stabilization petition program. <https://mountainview.legistar.com/View.ashx?M=F&ID=14793560&GUID=9C47C2B1-3904-496E-A254-0965E7089079>
  - Community climate action plan and safety element update. (n.d.). Alameda County. <https://www.acgov.org/cda/planning/ccapse.htm>
  - Community outreach. (n.d.). City of Berkeley. <https://rentboard.berkeleyca.gov/services/community-outreach>
  - Common Counsel Foundation. (n.d.). <https://www.commoncounsel.org/>
  - Cowley, R. (2025, March 14). New tenant protections enacted in Alameda County for just cause evictions. <https://www.propertymanagementpleasanton.com/california-landlord-law-resources/new-tenant-protections-enacted-in-alameda-county-for-just-cause-evictions>
  - Documents – Eden Area Livability Initiative. (n.d.). *Alameda County*. <https://www.acgov.org/edenareavision/documents.htm>
  - El Cajon Homelessness Forum. (n.d.). <https://www.supervisorjoelanderson.com/content/d2/us/en/policy/priorities/homelessness/el-cajon-homelessness-forum.html>
  - Healthy Alameda County. (n.d.). <https://www.healthyalamedacounty.org/indicators/index/view>
  - Home for All San Mateo County. (2023, July 26). *Residential tenant protections*. <https://homeforallsmc.org/strategies/residential-tenant-protections/>
-

- 
- Housing rehabilitation – Healthy homes department. (n.d.). <https://www.achhd.org/programs/housing-rehab/>
  - Infrastructure and services financing. (n.d.). [https://www.sjgov.org/commdev/cgi-bin/cdyn.exe/file/Planning/Title%209/SJC%20TITLE%209%20-%20Division%20\(12\).pdf](https://www.sjgov.org/commdev/cgi-bin/cdyn.exe/file/Planning/Title%209/SJC%20TITLE%209%20-%20Division%20(12).pdf)
  - Inner City Struggle. (n.d.). *Permanent renter protections*. [https://www.innercitystruggle.org/permanent\\_rso](https://www.innercitystruggle.org/permanent_rso)
  - Just cause for eviction ordinance. (2025). [https://www.achcd.org/wp-content/uploads/2025/02/2025\\_02\\_04\\_Just-Cause-Ordinance\\_2nd-Reading\\_Ordinance\\_O-2025-9\\_No-44.pdf](https://www.achcd.org/wp-content/uploads/2025/02/2025_02_04_Just-Cause-Ordinance_2nd-Reading_Ordinance_O-2025-9_No-44.pdf)
  - Katz, S. (2025, April 9). *Just cause for eviction ordinance passed*. <https://www.achcd.org/just-cause-for-eviction-ordinance-passed/>
  - LAHSA applauds extension of tenant protections. (n.d.). <https://www.lahsa.org/news>
  - Los Angeles County Consumer and Business Affairs. (2022). *Los Angeles County rental housing oversight commission 2023 annual report*. <https://dcba.lacounty.gov/wp-content/uploads/2025/02/Annual-Report-2023-FINAL-with-signature-002.pdf>
  - Los Angeles Housing Department. (n.d.). <https://housing.lacity.gov/residents/file-a-complaint>
  - Measure BB changes to Berkeley’s rent ordinance. (n.d.). <https://rentboard.berkeleyca.gov/laws-regulations/measure-bb-changes-berkeley-s-rent-ordinance>
  - Measure W. (2025). *County of Alameda*. [https://www.acgov.org/board/bos\\_calendar/documents/Measure\\_W.pdf](https://www.acgov.org/board/bos_calendar/documents/Measure_W.pdf)
  - Mena, A. (2022, May 18). *Roots of hunger*. <https://www.accfb.org/redlining/>
  - Mission – Eden I&R, Inc. (2025, October 9). <https://edenir.org/mission/>
  - My Eden Voice. (2023). *In the shadows of Eden: Rising rents, evictions, and substandard living conditions in Alameda County*. <https://ebho.org/wp-content/uploads/2023/07/In-the-Shadows-of-Eden-Report.pdf>
  - Neighborhood preservation program. (n.d.). *Contra Costa County*. <https://www.contracosta.ca.gov/4334/Neighborhood-Preservation-Program>
  - Nemeth, M. (2021, May 12). <https://caanet.org/san-diego-county-ignores-rental-housing-providers-adopts-rent-and-eviction-controls>
  - San Diego County News Center. (2023, July 20). *County ordinance update aids housing production, affordability*. <https://www.countynewscenter.com/county-ordinance-update-aids-housing-production-affordability>
-

- 
- Outreach committee. (n.d.-a). <https://rentboard.berkeleyca.gov/elected-rent-board/rent-board-committees/outreach-committee>
  - Outreach committee. (n.d.-b). <https://rentboard.berkeleyca.gov/elected-rent-board/rent-board-committees/outreach-committee>
  - Planning. (n.d.). <https://www.alamedacountysocialservices.org>
  - Portal – Unincorporated area. (n.d.). <https://www.sandiegocounty.gov/content/sdc/pds/HPCP-UA.html>
  - Rent registry. (n.d.). <https://dcba.lacounty.gov/rentregistry/>
  - Rent stabilization program. (n.d.). <https://dcba.lacounty.gov/rentstabilizationprogram/>
  - Streamlined urban single-family & duplex housing (SB 9). (n.d.). <https://www.contracosta.ca.gov/8473/Streamlined-Urban-Housing-SB-9>
  - Welch, K. (2024, May 1). A fight for the right to clean water and sanitation in California’s unincorporated communities. Kresge Foundation. <https://kresge.org/news-views/a-fight-for-the-right-to-clean-water-and-sanitation-in-californias-unincorporated-communities/>
  - White, R. (2025, August 5). <https://www.reneewhiteteam.com/guides/contra-costa-county-rent-control/>
  - Krans, B. (2025, July 17). 150,000 people live in unincorporated Alameda County. What does that mean for them? *KQED*. <https://www.kqed.org/news/12048251/150000-people-live-in-unincorporated-alameda-county-what-does-that-mean-for-them>

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# *Addressing Excessive Bureaucracy in Los Angeles: The Reason Why Nothing Seems to Work*

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## **I. Abstract**

This paper discusses the issue of excessive bureaucracy in Los Angeles, particularly with infrastructure development, public services, and post-disaster recovery. Los Angeles's complex municipal structure has contributed to inefficiencies, duplicative authority, and communication delays. The city's permitting system, workforce shortages, and reliance on private-sector contractors serve as manifestations of bureaucratic fragmentation. For instance, homeowners face months-long delays to obtain permits, public sector departments struggle with high vacancy rates and slow hiring processes, and outsourcing to private consulting firms creates parallel bureaucracies that often enrich corporations without improving efficiency. The paper approaches this issue by presenting case studies that examine each facet of excessive bureaucracy in detail. Through these case studies, the paper identifies root causes of bureaucratic inefficiencies, from fragmented departmental authority to budget constraints and lack of oversight. Potential solutions focus on both procedural reforms and workforce-strengthening initiatives. Procedural reforms include simplifying the permitting process, establishing interdepartmental task forces, implementing regulatory review commissions, and improving oversight of private contracts. Capacity-building initiatives focus on strengthening the public sector workforce through centralized hiring, dedicated training funds, and collaboration with local universities, as well as delegating some non-essential services to non-profit organizations. Altogether, these reforms aim to create a more efficient, accountable, and effective municipal government capable of supporting infrastructure, public services, and equitable recovery efforts.

*Keywords:* Bureaucracy, Los Angeles, private-sector contractors

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## II. Introduction

In January of 2025, the Eaton Canyon Wildfire and Palisades Wildfire, among other wildfires in Southern California, devastated large portions of Los Angeles County. As a result, total economic losses amounted to \$250–\$275 billion, the highest of any U.S. natural disaster (Vincent, 2025). Beyond the financial damage, homes, businesses, and communities, such as Altadena, were destroyed. In response, Los Angeles County Mayor Karen Bass pledged to rebuild the communities affected. Nine months later, progress remains limited. As of October 2025, the number of permits issued by the City of Los Angeles and Los Angeles County accounted for only 10% of homes affected by the fires (Farberov, 2025). Furthermore, in the Pacific Palisades, approximately 230 homes were under construction, roughly equivalent to 3% of the 6,000 properties destroyed (Farberov, 2025). While several political and socioeconomic factors have contributed to the slow rebuilding effort, these outcomes highlight a deeper issue: government bureaucracy. Inefficiency is prevalent in virtually every government and public sector industry, but Los Angeles is a particularly salient case because of its response to the wildfires and its difficulty in providing rapid support to affected communities. However, from traffic congestion to aging infrastructure and costly government services, public sector bureaucracy has affected everyone in Los Angeles. It might be tempting for one to think shrinking the size of government is the solution; however, this assumption has some flaws. In fact, improving efficiency may require providing more material and structural support to the public sector, thereby increasing the size of government. This is because the public sector provides key services, such as utilities, public transportation, and welfare, that can only be maintained by the government. Although the operation of these services can be privatized, these services have historically remained under public control. Therefore, reducing inefficiency should focus on strengthening the public sector and its efficiency, which might require additional resources, rather than reducing its size altogether. Within this framework, excessive bureaucracy can be addressed across several areas: public sector staffing shortages, contracting inefficiencies, duplicative authority, ineffective procurement rules, and outdated regulations. To address these issues, the county and city governments can expand public sector staff capacity, simplify their contracting process, clarify departmental authority, and reevaluate ineffective programs and regulations.

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### III. Policy Context & Framework

#### *Bureaucracy in Political and Conceptual Context*

When discussing government inefficiency, it is important to distinguish between bureaucracy in a political sense and bureaucracy as a government structure. In political discourse, bureaucracy is often used as a catch-all term and means different things across the ideological spectrum. For instance, House Speaker Mike Johnson identified limited government as one of the seven pillars of conservatism. Johnson (2018) argues that the government becomes more efficient and less prone to corruption when its size and extent are reduced. Consistent with this perspective, upon returning to office, the Trump administration established the “Department of Government Efficiency,” initiated a hiring freeze across federal agencies, and pledged to eliminate “waste,” “fraud,” and “abuse” (Wooly & Peters, 2025). On the opposite side of the political spectrum, Ezra Klein and Derek Thompson have written *Abundance*, a book that offers a different perspective on bureaucracy (Conroy, 2025). They propose “abundance liberalism,” a left-wing ideology that affirms the government’s role in building infrastructure, while emphasizing the reduction of regulations that hinder its ability to do so (Conroy, 2025). However, these perspectives do not fully address what bureaucracy is in a structural sense. For clarity, Merriam-Webster (n.d.; accessed December 2025) defines bureaucracy as “government characterized by specialization of functions, adherence to fixed rules, and a hierarchy of authority.” In theory, bureaucracy can be a positive force because it creates order and stability, especially when the government must address complex or nuanced issues. Any large-scale government requires some level of bureaucracy to delegate tasks and effectively manage a town, city, state, or nation. In American politics, bureaucracy is often used interchangeably with “red tape,” a term that describes a collection of laws that overregulate any particular sector of the economy. It is important to distinguish between the two, as government inefficiency results from excessive bureaucracy rather than bureaucracy itself. Therefore, to build infrastructure quickly, provide services more efficiently, and reduce government inefficiency as a whole, excessive levels of bureaucracy must be reduced.

#### *Excessive Bureaucracy and Los Angeles’s Infrastructure Challenges*

The effects of excessive bureaucracy are evident in Los Angeles’ aging water infrastructure. Approximately one in every five of the city’s water pipes was built before 1931 and will be due for replacement within the next 15 years (Hall, 2024). The replacement of these pipes is set to cost the city around \$1 billion (Hall, 2024). This raises questions about why the pipes have not

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yet been replaced. Budget shortfalls and limited political will have both contributed to delays in pipe replacement. However, even if the city council approved replacement and sufficient funding were available, excessive bureaucracy would still hinder timely replacement

### *Labor Capacity, Outsourcing, and Project Delays*

One contributing factor is that Los Angeles's public sector suffers from persistent workforce shortages. As a result, the city outsources work to the large private corporations. However, many of these contracts lack enforceable completion deadlines, reducing incentives for timely delivery. Furthermore, splitting the management of such projects between the public and private sectors allows for delayed communication and oversight, further stalling completion times. Los Angeles's infrastructure challenges go beyond its water system. For example, the L.A. River Path Project, an eight-mile river path connecting Elysian Valley and Maywood, was initially projected by LA Metro to be completed in 2027 (Macías, 2025). However, LA Metro officials now estimate completion in 2030, with projected costs over \$1 billion, nearly triple the original \$365 million estimate (Macías, 2025). Metro officials attribute these delays to the project's need to cross over and under thirty bridges and navigate through both public and private land. However, these factors alone do not fully explain the delays. While public sector inefficiency is not the only reason for Los Angeles' infrastructure challenges, it is a significant contributing factor. Public sector staffing shortages and outsourcing of labor to the private sector, both examples of bureaucratic inefficiency, might play a considerable role in these outcomes. More broadly, the city government has struggled to complete several infrastructure projects on time and within budget. Nearly a century ago, the Hoover Dam, built from 1931 to 1935, was completed three years ahead of schedule and under budget (Shtemenko, 2021). The dam is 726 feet in height and 1,244 feet in length, with its base thickness of 660 feet, longer than two football fields (Gray Line Las Vegas, n.d.; accessed December 2025). The Hoover Dam differs substantially from a modern river pathway in scale, location, and the construction and labor standards under which it was built. However, this contrast highlights how a city can struggle to complete eight miles of pathway while a large-scale engineering project was completed ahead of schedule. In part, this can be explained by workforce capacity: at its peak, 5,251 workers were present at the construction of the Hoover Dam daily (Travel Nevada, n.d.; accessed December 2025). This level of staffing enables rapid physical construction. Ultimately, project timelines are heavily influenced by workforce capacity and on-site labor availability. Therefore, labor shortages and contracting arrangements that lack time-based incentives make prolonged project timelines more likely.

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## IV: Government Structure and Municipal Fragmentation in Los Angeles

### *Municipal Fragmentation and County Governance*

To develop a nuanced understanding of excessive bureaucracy in Los Angeles, it is necessary to examine the city's historical and structural governance conditions. Los Angeles's bureaucratic challenges stem in part from its history of rapid growth and extensive municipal diversification. This diversification emerged as communities sought reliable access to essential public services, such as health care, fire protection, and public safety, as Los Angeles County's population expanded (Holmes, 2018). When Los Angeles County was established in 1850, the City of Los Angeles was able to provide these services independently and chose to incorporate as its own municipality. This distinction is significant because cities within Los Angeles County maintain their own city councils and mayors responsible for day-to-day governance (Holmes, 2018). Although every city in Los Angeles County operates under the county's jurisdiction, substantial differences exist among them. For example, Monrovia, a suburban city with a population of approximately 38,000 (World Population Review, 2025), is significantly smaller than the City of Los Angeles, which has a population of nearly four million (World Population Review, 2025). While local governments share similar administrative responsibilities, smaller cities tend to rely more heavily on county support, whereas the City of Los Angeles largely operates independently. Other communities that incorporated as independent cities include Long Beach, Beverly Hills, Santa Monica, Glendale, and Pasadena (Holmes, 2018). By contrast, some communities, such as Hollywood and Echo Park, were incorporated within the City of Los Angeles (Holmes, 2018). Additionally, some communities never experienced sufficient growth to incorporate as cities and therefore remained unincorporated areas, including Altadena and Marina del Rey. These unincorporated areas fall directly under the jurisdiction of the Los Angeles County Board of Supervisors. This high degree of municipal diversification often results in excessive bureaucratic complexity. When the county undertakes infrastructure projects, it must coordinate with all affected cities and their respective departments. Without strong coordination, duplicative efforts and disputes over jurisdictional authority frequently arise, resulting in significant delays. At the same time, the county must provide essential services to all unincorporated areas, often stretching its administrative capacity. Although Los Angeles County plays a significant role in regional governance, this analysis focuses primarily on the City of Los Angeles for clarity and consistency. As the county's largest municipality, the city provides a useful case study for understanding how bureaucratic structures affect efficiency in large, complex urban governments.

Beyond municipal fragmentation, excessive bureaucracy in Los Angeles is also shaped by the power dynamic between the mayor and the city council. Although the mayor of Los Angeles holds significant authority, the position wields less power than mayoral offices in cities such as Chicago or New York City (Arleta Neighborhood Council, 2022). The mayor’s primary powers include proposing and signing budgets, appointing commissioners, removing city officials, and declaring states of emergency with city council approval (Arleta Neighborhood Council, 2022). During declared emergencies, the mayor may temporarily reduce bureaucratic barriers by suspending regulations and accelerating contract approvals (City of Los Angeles, 2022). However, such emergency powers do not address the structural sources of excessive bureaucracy or local challenges. Given the limited extent of the mayor’s power, the 14-member city council determines all other areas of policy under the jurisdiction of the city. While a strong legislative branch serves as an important check on executive power, it often struggles to respond swiftly to complex issues such as excessive bureaucracy. This is partly because legislative bodies are influenced by political sentiment and require substantial time to draft, negotiate, and debate legislation. The limited role of the executive branch further complicates Los Angeles’s already complex patchwork of municipal governments. As a result, comprehensive action to remove antiquated regulations, clarify jurisdictional authority, initiate public sector hiring, and pursue structural reform is often delayed.

#### *Case Study 1: Permitting and Departmental Fragmentation*

One critical example of excessive bureaucracy in Los Angeles is its complex and inefficient permit system. Although the system faced backlogs and structural inefficiencies before the L.A. wildfires, these disasters exacerbated existing problems and further exposed the costs of excessive bureaucracy. For context, the City of Los Angeles and Los Angeles County have different permit systems meant to serve their respective jurisdictions. Although these systems differ in structure and population, they face similar administrative challenges. Accordingly, this section refers to both the City of Los Angeles and Los Angeles County unless notable differences require distinction. In the City of Los Angeles, residents may be required to obtain up to nine distinct permit types, including building, electrical, plumbing, mechanical, grading, fire sprinkler, green building, elevator, and disability access permits (Los Angeles Department of Building & Safety, n.d.; accessed December 2025). By contrast, Los Angeles County issues only three permit types: express, work exempt, and general permits (Los Angeles County Public Works, n.d.; accessed December 2025). The express permit is used for the simplest home improvements, such as replacing an air conditioner (Los Angeles County Public Works, n.d.).

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The work exempt permit is used for small home improvement projects that do not require significant labor, such as making moderate changes to one’s driveway (ICC Digital Codes, 2019). General permits apply to large-scale projects, such as home reconstruction, and typically require the longest approval timelines due to mandatory inspections (Los Angeles County Public Works, n.d.; accessed December 2025). In “A Comprehensive Guide to Navigate the Los Angeles Construction Permitting Process,” Ben-Haim (2024) outlines the steps required to obtain a permit in the City of Los Angeles. Applicants must first understand applicable zoning laws, environmental requirements, and legal standards. Applicants must then compile documentation, including architectural plans and property surveys for the proposed project. After doing so, the developer or homeowner can submit those documents to the Los Angeles Department of Building and Safety, or LADBS, for approval (Ben-Haim, 2024). In Los Angeles County, applications are submitted to the Department of Public Works (Los Angeles Public Works, n.d.; accessed December 2025). Inefficiencies emerge during the review and approval phase. Depending on project scope and permit requirements, review may involve multiple departments, including the Department of City Planning, the Los Angeles Fire Department, and the Bureau of Engineering (City of Los Angeles, n.d.; accessed December 2025). This is similar for those living in Los Angeles County (Los Angeles Public Works, n.d.; accessed December 2025). Due to significant departmental fragmentation, this process can take several months to over a year to complete (Schon Tepler, n.d.; accessed December 2025). At the same time, this process can cost homeowners hundreds to thousands of dollars (Jacobson, 2025). These delays are further extended by budget constraints the city faces, which limit staffing levels and restrict modernization of the application process at the Los Angeles Department of Building & Safety (Somers, 2025). While some may argue that extensive bureaucratic oversight prevents illegal practices, it likely prolongs the permit approval process unnecessarily. Ensuring safety and expediting approvals are not mutually exclusive. Despite existing departmental fragmentation, the permit process can likely be simplified within the current framework. Proposals to merge all departments into a single authority or eliminate permit distinctions entirely would likely be politically unrealistic. More broadly, the permit system reflects deeper structural issues, including duplicative authority and chronic public sector staffing shortages. Nevertheless, the overall permit approval process can be significantly expedited through targeted structural reforms.

### *Case Study 2: Public Sector Workforce Shortages and Administrative Capacity*

One of the most important requirements for quick permit approval and infrastructure development is operational capacity, which ultimately depends on a productive public sector workforce. Therefore, a significant share of Los Angeles’s infrastructure inefficiency can be

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attributed to persistent workforce shortages. It is important to note that workforce shortages themselves are not inherently bureaucratic. However, excessive bureaucracy, particularly in hiring practices, exacerbates these shortages. When departments face budgetary constraints resulting from deficits or limited political will, bureaucratic systems become strained, as they depend on adequate funding to function effectively. This is evident in Los Angeles's \$1 billion budget deficit in the 2025-2026 fiscal year (Walters, 2025). Due to multiple factors, including the L.A. fires, annual revenues decreased, causing an initial deficit projection of \$600 million to grow to \$1 billion (Walters, 2025). However, Los Angeles's budgetary challenges date back to 2020, during the COVID-19 pandemic. During this period, the city council relied on federal aid and budgetary reserves to approve sustained increases in public spending (Walters, 2025). As the global economy slowed in 2020 and revenues declined, Los Angeles implemented an early retirement program across city departments, resulting in more than 2,000 employees leaving the workforce. When federal aid expired, the city faced deficits that could no longer be sustained through reserves alone (Walters, 2025). These fiscal decisions had lasting consequences for Los Angeles's public sector workforce. Before the pandemic, vacancy rates at most departments were at 10%, with the exceptions of the Department of Power & Water, L.A. World Airports, and the Harbor Department (Stoltze, 2023). After the pandemic, vacancy rates rose sharply to 17.4%, representing 9,786 unfilled positions citywide (Stoltze, 2023). Higher rates of vacancy can be seen at the Bureau of Street Lighting with 32%, the Recreation and Parks Department at 23%, and the Sanitation Department at 21% (Stoltze, 2023). These conditions are projected to worsen as Los Angeles enters a fiscal emergency (Los Angeles Personnel Department, 2025). LA Targeted Local Hire, a key pipeline for filling public sector positions, reports that hiring will be "very limited" (Los Angeles Personnel Department, 2025). As a result, workforce shortages are highly likely to increase, creating even more inefficiency and putting heavier burdens on those who are already working. Although remaining employees may receive overtime pay, backlogged systems often create stressful work environments with unrealistic workloads. This often leads them to leave the workforce, further contributing to high vacancy rates. As experienced employees exit the workforce, a growing share of positions is filled by less experienced personnel. Moreover, Los Angeles's hiring process is slow, requiring applicants to navigate individual departments to locate open positions (Stoltze, 2023). As hiring delays persist and workforce experience declines, wait times increase, and service quality deteriorates. Ultimately, significant workforce shortages, when paired with budgetary constraints, tend to highlight excessive bureaucracy. This contributes to a continuous cycle of high vacancy rates, long wait times, and reduced quality of service. This dynamic is further illustrated by the length of the public sector hiring process. In his report *A Hire Calling: Modernizing Recruitment and Hiring in Los Angeles*, City Controller Kenneth Mejia (2018) reports that the average time to

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hire a city employee is approximately 7.5 months. Of this period, an average of 98 days is spent opening application portals, followed by an additional 129 days compiling lists of qualified candidates. He attributes this to the fact that “too much of the process is bureaucratic” and the hiring process is “overly restrictive” (Mejia, 2018). Because of excessive bureaucracy, the hiring process is prolonged, which further bottlenecks Los Angeles’s already overstretched workforce. Meanwhile, demand for public services does not decline. This leads to the city outsourcing its labor to the private sector to help complete critical functions.

### *Case Study 3: Outsourcing, Contracting, and Parallel Bureaucracies*

Even with a stable budget and a strong public sector workforce, infrastructure projects and public services are not guaranteed to be managed efficiently. Some non-essential tasks can be delegated to non-profit organizations or the private sector. Therefore, this case study evaluates outsourcing not on ideological or economic grounds, but in terms of administrative practicality. Outsourcing contracts to the private sector might not be as efficient as some might think. This is because the private sector, driven by profit, and the public sector, focused on improving the public good, pursue different objectives that often conflict when responsibilities are shared. In practice, this arrangement creates a separate system of governance, a parallel bureaucracy, in which coordination expands into ongoing negotiation and oversight, or the absence of it. This dynamic can be seen with the city’s use of Task Order Solicitations (TOSes) with private-sector firms (Los Angeles City Clerk, 2024). For example, in 2014, a TOS was given to Tetra Tech, an engineering consulting firm, to inspect Los Angeles’s aging sewage infrastructure and provide recommendations to the city government (Los Angeles City Clerk, 2024). In 2016, the TOS was extended by two years, and Tetra Tech was awarded \$2.6 million in total (Los Angeles City Clerk, 2024). This is just one of many contracts given to private consulting firms. From stormwater assessments to brownfield inspections, the Bureau of Sanitation issued TOS contracts to 86 private consulting firms, totaling \$125 million (Los Angeles City Clerk, 2024). This reliance on outsourcing, contract extensions, and consultants strengthens the role the private sector plays in carrying out public services, further entrenching these parallel bureaucracies. This is particularly important because, although these bureaucracies are not conventional public-private partnerships (PPPs), they have similar power dynamics. PPPs, contrary to what they are often intended to do, tend to increase costs and delay completion times (Medium, 2023). This stems from a multitude of factors, many of which can be traced back to the fact that the private sector seeks to maximize profit. Most firms within this network are large, established companies, as prestige, legacy, and prior experience are often prerequisites for qualification. First, an announcement is given to the Los Angeles Business Assistance Virtual Network, a collection of private corporations and firms that have been approved by the

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city to carry out tasks related to construction and other professional services (ProcureLA, n.d.; accessed December 2025). However, it is important to note that most of the businesses and firms in this network are large in size due to prestige, legacy, and experience that are often necessary to be viewed as qualified. Once a task is announced, firms submit bids, and the city awards the contract based on “best value,” weighing experience and reputation against proposed costs (ProcureLA, n.d.; accessed December 2025). This process helps explain the negative effects commonly associated with public-private partnerships. Although firms compete for contracts, they are typically large corporations, limiting meaningful competition and resulting in repeated awards to the most established companies. For instance, Tetra Tech, a firm with over 25,000 employees and experience across more than 100,000 projects, was awarded 14 of the 86 TOS contracts, a figure comparable to other major firms (Los Angeles City Clerk, 2018). This level of consolidation and lack of competition allows private consulting firms to take advantage of the city’s significant budget and labor shortfalls and use their leverage to maximize their payments (Medium, 2023). When the same firms repeatedly receive contracts, these parallel bureaucracies become inefficient and ultimately benefit the private sector more than the city government. Contracts are primarily awarded based on legacy and experience, as these firms are perceived as the most reliable. However, under the current system, doing so does not provide an incentive for awardees to complete their tasks efficiently. Although these firms have long track records, contracts that lack enforceable deadlines and provide upfront payment offer few mechanisms for accountability. Ultimately, outsourcing contracts to private consulting firms likely does not increase efficiency or reduce costs; it creates a parallel version of bureaucracy that highlights weak governance and demonstrates a low level of accountability. The problem is not necessarily the fact that contracts are being outsourced, but the current process tends to lack proper oversight and ends up enriching the same corporations. Because these parallel bureaucracies disproportionately benefit private firms, public funds are diverted from city operations, further deepening budget shortfalls. At the same time, the quality of services and overall efficiency decrease, since contracting with a private corporation and a city leaves room for delays in communication. Although the City Clerk’s report spans multiple years and these contracts represent a limited share of overall expenditures, reducing reliance on profit-driven partnerships could nonetheless reduce unnecessary costs.

## **V: Policy Recommendations**

Although each example of excessive bureaucracy in Los Angeles is distinct, the proposed solutions fall into two broad categories: structural and procedural reforms, and public sector capacity reforms.

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## *Structural and Procedural Reforms*

Beginning with structural and procedural reforms, the issuance of permits can be simplified and expedited to achieve maximum efficiency. Permits serve a critical function by minimizing risks to personal safety and property while ensuring compliance with zoning laws (e-PlanSoft, n.d.; accessed December 2025). It is also necessary to distinguish between residential and industrial construction, as industrial projects typically pose higher safety risks due to the nature of their operations. If risk mitigation is the primary purpose of permits, the city can simplify the types of permits while maintaining safety standards. Given that Los Angeles County issues only three permit types, express, work exempt, and general, the City of Los Angeles's nine residential permit categories are likely unnecessary (Los Angeles Public Works, n.d.; accessed December 2025). Therefore, in its permit applications, the City of Los Angeles should distinguish between residential and commercial/industrial projects. Residential projects should be eligible for the county's three-permit framework, while commercial and industrial projects would continue to require specialized permits. To further expedite permit approvals, the City of Los Angeles should establish a Permit Authorization Agency, an interdepartmental body designed to coordinate reviews within the existing framework. It would be comprised of civil engineers, permit reviewers, architects, and other professionals who engage with the permit process. These individuals would remain within their existing departments, such as Public Works, Engineering, or Building and Safety, while taking on dual roles focused on expedited review, inspections, and interdepartmental coordination, with adjusted workload expectations to prevent burnout. Following this line of thought, the entire approval process would be moved into this agency, so the burden does not fall solely on the Los Angeles Department of Building and Safety. This agency would reduce communication delays and duplicate authority across departments. Given that applicants already navigate complex zoning requirements and documentation standards, these reforms would not meaningfully weaken regulatory safeguards. Therefore, this new agency should make an internal distinction between core environmental and safety regulations and less significant ones. Applicants who satisfy a checklist of core environmental and safety requirements should be eligible for expedited approval. One might argue that doing this would lead to a lack of enforcement of certain regulations. However, most residential applicants are homeowners seeking to rebuild or improve existing properties. For instance, it is a common practice for homeowners to hire contractors to apply for permits (Pawlukiewicz, 2024). Contractors are trained professionals familiar with zoning and regulatory requirements and are therefore likely to submit compliant applications. Beyond permitting, excessive bureaucracy can also be addressed through regulatory reform. Regulatory Guillotines, or the process of rapidly reviewing and cutting antiquated or ineffective regulations, have shown success in countries

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such as South Korea, Sweden, Russia, and Croatia (Jacobs, Cordova & Associates, n.d.; accessed December 2025). Los Angeles could implement a similar model by establishing a temporary Regulatory Review Commission composed of professionals familiar with the city's regulatory framework. They would not cut regulations on their own, but they would be given a high level of authority to review any regulations, determine their efficacy, efficiency, and relevance, and then make a recommendation. If the commission recommends repeal, the relevant department would be required to justify the regulation, or the city council would vote on its removal. Any regulations cut would have to be voted on by the council. The goal is to remove outdated or ineffective regulations that unnecessarily restrict the public sector, private sector, or nonprofit organizations. However, there are some areas in which oversight should be increased, such as current procurement regulations. As discussed earlier, many of the contracts that the city has with the private sector lack proper oversight, creating parallel bureaucracies. Departments should require firm completion deadlines and award payment on project completion. By doing so, companies are incentivized to complete the project promptly. Now, legacy firms could still be awarded contracts, since they often have long track records of results; however, by attaching time deadlines, the benefits of legacy firms can be preserved while the tendency to be inefficient is reduced.

### *Public Sector Capacity Reforms*

Moving to public sector capacity reforms, effective bureaucracies must address both the demand and supply of the public sector workforce. First, Los Angeles should transfer, partially or wholly, some of its services to non-profit organizations. For example, the Department of Aging aims to provide nutritional, transportation, and caregiver support services to senior citizens (Department of Aging, n.d.; accessed December 2025). One of their primary services is free, door-to-door transportation for senior citizens in conjunction with the county. While these services are valuable, they do not necessarily need to be administered directly by the city to remain effective. For instance, the free transportation that some senior citizens receive could be managed by the Department of Transportation, allowing for more centralized control over the operation. The Department of Aging's most recent budget was \$11.5 million, or 0.09% of total city spending (City of Los Angeles, 2025), a portion of which could be reallocated to nonprofit organizations to expand outreach without disrupting services. Furthermore, since these non-profit organizations are already on the ground serving senior citizens, such operations might be conducted more efficiently than by a bureaucratic government. Under this model, service quality is maintained, administrative burdens are reduced, and personnel can be reallocated to higher-need departments. Importantly, this approach would not expand the role of for-profit

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providers or delay service delivery. A similar initiative might also work with the Community Investment for Families Department and the Youth Development Department. Turning to the public sector workforce, the city should prioritize filling vacancies without significantly straining resources. First, the application process should be simplified. Instead of having applications at each department, there should be one job portal that spans all departments and connects applicants to their respective departments. Second, in every annual budget, there should be a Workforce and Vocation Fund that appropriates funding for long-term educational pathways and filling vacancies in especially bottlenecked departments as soon as possible. To ensure resources are being dedicated towards this fund, it should be required for the city to put 2.5% of its total expenditure into this fund. With total expenditures of \$12.9 billion (City of Los Angeles, 2025), this would amount to approximately \$332.5 million. For comparison, this is similar to the \$290 million given to the Parks & Recreation Fund or the \$353 million given to the Capital and Technology Improvement Expenditure Program (City of Los Angeles, 2025). The appropriate funding of this fund would allow critical departments, such as the Bureau of Engineering, to hire more workers and fill vacancies. This would reduce reliance on private contractors, improve coordination, and minimize inefficient parallel bureaucracies. The fund would also support coordination between the California State University system, the University of California, and the City of Los Angeles. Through media campaigns, in-person events, and scholarships, the city can attract future civil engineers, electricians, and other high-demand professionals. Over time, this would build a public sector workforce capable of completing infrastructure projects internally and on schedule. Ultimately, the city's bureaucratic framework can be efficient and effective if there is a strong public sector workforce.

## **VI: Implementation**

For these proposals to translate into reality, they must be implemented within the existing government framework. Therefore, the city council will pass many of these proposals, while the mayor and departments will implement them. Accordingly, implementation can be divided into three phases: immediate, medium-term, and long-term.

### *Phase I: Immediate Reforms*

The first phase consists of proposals that require limited resources and can be implemented quickly. Within one year, the city council can pass legislation to establish the Permit Authorization Agency, launch a fast-track permitting system, implement procurement and contracting reforms, create a universal job application portal, and establish the Regulatory

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Review Commission (RRC). Once the council approves these proposals, the mayor will appoint the leadership of the Permit Authorization Agency and the Regulatory Review Commission. At the same time, departments will begin reallocating personnel, enacting procurement reforms, coordinating on the job application portal, and preparing to work with the RRC on retaining or removing regulations. Any disputes or implementation roadblocks would be adjudicated by the mayor and department heads, consistent with the approved legislation.

### *Phase II: Medium-Term Reforms*

The second phase, lasting an additional two to three years, would involve a second round of legislation addressing permit simplification, the transfer of selected services to nonprofit organizations, and the establishment of the Workforce and Vocation Fund. This phase is largely executive-driven, with department heads and the mayor responsible for reallocating responsibilities and transitioning services to other departments or nonprofit organizations. The mayor will also play a central role in coordinating with the CSU and UC systems to expand educational pathways into public sector employment. During this phase, the council should begin voting on regulatory repeals and continue this process into phase three. If phase two stalls, council members may issue formal recommendations to the mayor outlining more efficient implementation strategies.

### *Phase III: Long-Term Evaluation*

Phase three, lasting an additional three to five years, would focus on completing remaining reforms and evaluating outcomes and safeguards. Should services that went to non-profit organizations become disrupted, the city could leverage existing services to fill gaps, increase auditing on such organizations, and/or increase subsidies for these organizations. If reliance on parallel bureaucracies persists, the council should increase funding for the Workforce and Vocation Fund or issue recommendations to the mayor to strengthen public sector recruitment.

## **VII: Conclusion**

Los Angeles's challenges with bureaucracy are complex, particularly when considering its governmental structure and competing definitions of bureaucracy. Nevertheless, the city's aging infrastructure, reliance on parallel bureaucracies, and difficulty responding effectively to the aftermath of the L.A. wildfires underscore the urgency of reducing excessive bureaucracy. Ultimately, one of the most important drivers of societal progress is the continued expansion and modernization of infrastructure. That requires a strong public sector workforce and

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efficient government, regardless of issues with the institutional framework. Los Angeles, however, has struggled to meet this standard. The COVID-19 pandemic led to a contraction of the public sector workforce, and fiscal decisions that followed prevented a full recovery. At the same time, private sector consulting firms took on more responsibilities, creating parallel bureaucracies that lacked proper oversight and disproportionately benefited the private sector. This pattern of inefficiency extends beyond infrastructure and is also evident in the permitting system. The permit system faces a backlog of cases and is often caught between conflicts over duplicative authority as well as communication delays. Altogether, these issues demonstrate the city's broader struggle with excessive bureaucracy. But it does not have to be this way. The permit system can be simplified through smarter governance, private consulting firms can be held accountable through procurement reforms, and the public sector's strength and productivity can be built up again. Under such reforms, projects like the L.A. River Path can be completed on schedule, permit applicants can receive timely approvals, and residents can begin rebuilding their homes. At the same time, the City of Los Angeles can reduce its dependence on legacy consulting firms. When infrastructure is built efficiently and communities are restored, modern projects need not appear so distant from past engineering achievements like the Hoover Dam. Ultimately, ensuring this progress begins with restoring dignity to the communities affected by the L.A. wildfires, starting with timely and accessible permits.

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## VIII: References

- Arleta Neighborhood Council. (2022, October 24). *How to LA: What Does The Mayor of LA Even Do?*. Arleta Neighborhood Council. <https://arletanc.org/2022/10/24/how-to-la-what-does-the-mayor-of-la-even-do/#:~:text=When%20the%20city%20charter%20was,control%20over%20the%20education%20system>
- Ben-Haim. (2024, March 26) *A Comprehensive Guide to Navigate the Los Angeles Construction Permitting Process*. Built To Perfection. <https://www.builttoperfection.com/post/a-comprehensive-guide-to-navigate-the-los-angeles-construction-permitting-process>
- City of Los Angeles. (2022, December 12). *Mayor Karen Bass Declares a State of Emergency on Homelessness*. City of Los Angeles. <https://mayor.lacity.gov/news/mayor-karen-bass-declares-state-emergency-homelessness#:~:text=The%20order%20immediately%20gives%20Mayor,to%20advance%20these%20critical%20reforms>
- City of Los Angeles. (2025). *Expense Budget | City of Los Angeles | Open Budget Expense Budget*. City of Los Angeles. [https://openbudget.lacity.org/#!/year/2025/operating/0/departement\\_name](https://openbudget.lacity.org/#!/year/2025/operating/0/departement_name)
- Conroy. (2025, March 28). *What is 'abundance' liberalism, and why are people arguing about it?* *The Guardian*. <https://www.theguardian.com/us-news/2025/mar/28/what-is-abundance-liberalism#:~:text=His%20name%20is%20Elon%20Musk,What%20has%20gone%20wrong?%E2%80%9D>
- Department of Aging. (n.d.) *The City of Los Angeles Department of Aging provides community based services to seniors and their caregivers*. Los Angeles Department of Aging. <https://aging.lacity.gov/>
- e-PlanSoft. (n.d.) *Types of permits: the vast world of permits and epermitting*. e-PlanSoft. <https://www.eplansoft.com/resources/types-of-permits-the-vast-world-of-permits-and-epermitting>
- Farberov. (2025, October 19). *L.A. Wildfire Rebuilding Drags On With Just 1,320 Permits Issued—as Victims Turn to ADUs*. *Realtor.com*. <https://www.realtor.com/news/trends/los-angeles-wildfires-rebuilding-permits-victims-adus/>
- Gray Line Las Vegas. (n.d.) *13 Powerful Facts You Didn't Know About Hoover Dam*. Gray Line Las Vegas. <https://graylinelasvegas.com/8-powerful-facts-you-didnt-know-about-hoover-dam/>

- 
- Hall. (2024, April 9). *So many potholes in L.A. — and not enough people to fix them*. *Los Angeles Times*. <https://www.latimes.com/opinion/story/2024-04-09/commentary-so-many-potholes-los-angeles-not-enough-people-to-fix-them>
  - Holmes. (2018, March 14). *Places in LA, Explained*. *Medium*. <https://nsholmes21.medium.com/the-puzzle-of-places-in-la-18e8a537e3ac>
  - ICC Digital Codes. (2019). *Excerpt From: 2019 California Existing Building Code, Title 24, Part 10. ICC Digital Codes*. [https://codes.iccsafe.org/s/CEBC2019P1/chapter-1-scope-and-administration/CEBC2019P1-Ch01-SubCh02-Sec105.2#:~:text=24%2C%20Part%2010-,%5BA%5D%20105.2%20Work%20exempt%20from%20permit.,\(1753%20mm\)%20in%20height](https://codes.iccsafe.org/s/CEBC2019P1/chapter-1-scope-and-administration/CEBC2019P1-Ch01-SubCh02-Sec105.2#:~:text=24%2C%20Part%2010-,%5BA%5D%20105.2%20Work%20exempt%20from%20permit.,(1753%20mm)%20in%20height)
  - Jacobs, Cordova & Associates. (n.d.). *What Is the Regulatory Guillotine*. Jacobs, Cordova & Associates. <https://regulatoryreform.com/regulatory-guillotine/>
  - Jacobson. (2025, September 11). *Los Angeles Building Permit Guide*. *PermitFlow*. <https://www.permitflow.com/blog/los-angeles-building-permit>
  - Johnson. (2018). *7 Core Principles of Conservatism*. U.S. Congressman Mike Johnson. <https://mikejohnson.house.gov/7-core-principles-of-conservatism/>
  - Los Angeles City Clerk. (2024, May 13). *Summary of Awarded TOSes*. Los Angeles City Clerk. [https://cityclerk.lacity.org/onlinedocs/2024/24-0604\\_rpt\\_cao\\_5-13-24.pdf](https://cityclerk.lacity.org/onlinedocs/2024/24-0604_rpt_cao_5-13-24.pdf)
  - Los Angeles County Public Works. (n.d.). *Express Permits*. Los Angeles County Public Works. <https://pw.lacounty.gov/building-and-safety/permits/express#permit-select>
  - Los Angeles County Public Works. (n.d.). *Permit Center*. Los Angeles County Public Works. <https://pw.lacounty.gov/explore-public-works/permit-center/>
  - Los Angeles County Public Works. (n.d.). *Permits*. Los Angeles County Public Works. <https://dpw.lacounty.gov/building-and-safety/permits/#permit-select>
  - Los Angeles Department of Building & Safety. (n.d.). *Plan Review and Permitting*. Los Angeles Department of Building & Safety. <https://dbs.lacity.gov/services/plan-review-permitting>
  - Los Angeles Personnel Department. (2025). *Targeted Local Hire*. Los Angeles Personnel Department. Los Angeles Personnel Department. <https://lalocalhire.lacity.gov/targeted-local-hire>
  - Macías. (2025, November 6). *Delays, cost overruns slow Metro's plan to complete 8-mile gap in LA River path*. *Los Angeles Public Press*. <https://lapublicpress.org/2025/10/la-river-metro-path-delay/#:~:text=To%20connect%20with%20the%20southern,due%20to%20rising%20construction%20costs>
-

- 
- Medium. (2023, October 7). *Public Private Partnerships — Blessing or Curse?*. Medium. <https://medium.com/@caribbeanissues/public-private-partnerships-blessing-or-curse-862c7b480819>
  - Mejia. (2018, July 25). *A Hire Calling: Modernizing Recruitment and Hiring in Los Angeles*. City of Los Angeles. <https://controller.lacity.gov/audits/a-hire-calling-modernizing-recruitment-and-hiring-in-los-angeles>
  - Merriam-Webster. (n.d.). *Bureaucracy*. Merriam-Webster. <https://www.merriam-webster.com/dictionary/bureaucracy>
  - Pawlukiewicz. (2024, December 9). *Who Pulls Permits: Homeowner or Contractor?*. Angi. <https://www.angi.com/articles/who-pays-building-permits.htm>
  - ProcureLA. (n.d.) *Doing Business With the City of Los Angeles*. City of Los Angeles ProcureLA. [https://business.lacity.gov/sites/g/files/wph2321/files/2025-05/DOING%20BUSINESS%20WITH%20CITY%20OF%20LOS%20ANGELES%209%20STEPS\\_city.Revision.pd\\_.pdf](https://business.lacity.gov/sites/g/files/wph2321/files/2025-05/DOING%20BUSINESS%20WITH%20CITY%20OF%20LOS%20ANGELES%209%20STEPS_city.Revision.pd_.pdf)
  - Schon Tepler. (n.d.). *How Long does it take to get a Building Permit in Los Angeles?*. Schon Tepler. <https://www.schontepler.com/how-long-does-it-take-to-get-a-building-permit-in-los-angeles/>
  - Shtemenko. (2021, May 19). *Hoover Dam – the Greatest Project in Times of the Great Depression. What Can Be Done to Achieve Success?*. Strefa. <https://strefapmi.pl/strefa-studenta/hoover-dam-the-greatest-project-in-times-of-the-great-depression/#:~:text=The%20Hoover%20Dam%20project%20was%20launched%20during,which%20had%20to%20be%20completed%20on%20time>
  - Somers. (2025, June 16). *Understanding Los Angeles Permitting Delays: Causes*. Crest Real Estate. [https://www.crestrealestate.com/understanding-los-angeles-permitting-delays-causes/#Staffing\\_and\\_Resource\\_Limitations](https://www.crestrealestate.com/understanding-los-angeles-permitting-delays-causes/#Staffing_and_Resource_Limitations)
  - Stoltze. (2023, November 14). *There Are Nearly 10,000 Vacant City Jobs In LA. What's Causing The Shortfall?*. LAist. <https://laist.com/news/politics/there-are-nearly-10-000-vacant-city-jobs-in-la-whats-causing-the-shortfall>
  - Travel Nevada. (n.d.) *Hoover Dam History*. Travel Nevada. <https://travelnevada.com/hoover-dam/history-and-construction/>
  - Vincent. (2025, January 24). *Estimated cost of fire damage balloons to more than \$250 billion*. Los Angeles Times. <https://www.latimes.com/business/story/2025-01-24/estimated-cost-of-fire-damage-balloons-to-more-than-250-billion#:~:text=The%20latest%20estimate%20from%20weather,disruptions%20and%20other%20economic%20impacts>
-

- 
- Walters. (2025, March 28). *If California bails out LA's \$1 billion budget deficit, beware the slippery slope*. Calmatters. <https://calmatters.org/commentary/2025/03/california-bails-los-angeles-budget/>
  - Wooly & Peters. (2025, March 20). *White House Fact Sheet: President Donald J. Trump Eliminates Information Silos to Stop Waste, Fraud, and Abuse*. The American Presidency Project. <https://www.presidency.ucsb.edu/documents/white-house-fact-sheet-president-donald-j-trump-eliminates-information-silos-stop-waste>
  - Travel Nevada. (n.d.) *Hoover Dam History*. Travel Nevada. <https://travelnevada.com/hoover-dam/history-and-construction/>
  - World Population Review. (2025). *Los Angeles, California Population 2025*. World Population Review. <https://worldpopulationreview.com/us-cities/california/los-angeles#:~:text=County:%20Los%20Angeles%20County,population%20of%203%2C896%2C329%20in%202020>
  - World Population Review. (2025). *Monrovia, California Population 2025*. World Population Review. <https://worldpopulationreview.com/us-cities/california/monrovia#:~:text=County:%20Los%20Angeles%20County,Total%20Population>
  - Snegovaya, M., Fenton, N., Dolbaia, T., & Bergmann, M. (2025). *The Russian Wartime Economy: From Sugar High to Hangover*. CSIS. [https://csis-website-prod.s3.amazonaws.com/s3fs-public/2025-06/250605\\_Snegovaya\\_Wartime\\_Economy.pdf?VersionId=gqkdMJqGqNrsXZCRXjTpjpKNMcihzPYJ](https://csis-website-prod.s3.amazonaws.com/s3fs-public/2025-06/250605_Snegovaya_Wartime_Economy.pdf?VersionId=gqkdMJqGqNrsXZCRXjTpjpKNMcihzPYJ)
  - Statista Research Department. (2025, June 19). *Total revenue from foreign trade in goods in Russia from 2012 to 2023*. Statista.com; Statista. <https://www.statista.com/statistics/1100662/russia-external-trade-volume/>
  - Stockholm Institute of Transition Economics. (2025, April). *Financing the Russian War Economy*. Forum for Research on Eastern Europe and Emerging Economies. <https://www.consilium.europa.eu/media/d4zd40wd/financing-the-russian-war-economy-stockholm-institute-of-transition-economics.pdf>
  - *SWIFT and the Ukraine conflict: Latest developments*. (2022, May 3). Dlapiper.com; DLA Piper. <https://www.dlapiper.com/en/insights/publications/global-sanctions-alert/2022/explaining-swift-and-recent-actions>
  - The White House Briefing Room. (2022, March 8). *FACT SHEET: United States Bans Imports of Russian Oil, Liquefied Natural Gas, and Coal*. Bidenwhitehouse.archives.gov; The White House. <https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2022/03/08/fact-sheet-united-states-bans-imports-of-russian-oil-liquefied-natural-gas-and-coal/>
-

- 
- Thompson, H. (2024, April 8). *Geopolitics lurks behind Europe's gas storage success*. Ft.com; Financial Times. <https://www.ft.com/content/961ee3bd-97e6-4d40-a0b4-ff7e01e11731>
  - Thomson Reuters Institute. (2022). *The Fog of Sanctions: Global banks and businesses face unprecedented challenges in applying measures against Russia*. Thomsonreuters.com; Reuters. <https://www.thomsonreuters.com/en-us/posts/wp-content/uploads/sites/20/2022/07/Russia-Sanctions-White-Paper-2022.pdf>
  - Tian, Y. L. (2022, April 2). *China says not deliberately circumventing sanctions on Russia*. Reuters. <https://www.reuters.com/world/china/china-says-not-deliberately-circumventing-sanctions-russia-2022-04-02/>
  - TOI Business Desk. (2025, August 22). *Over 20% of Russia's war-period crude exports! India bought about Rs 13.39 lakh crore in Russian oil; trails China's Rs 193 billion*. The Times Of India. <https://timesofindia.indiatimes.com/business/india-business/over-20-of-russias-war-period-crude-exports-india-bought-about-rs-13-39-lakh-crore-in-russian-oil-trails-chinas-rs-193-billion/articleshow/123447066.cms>

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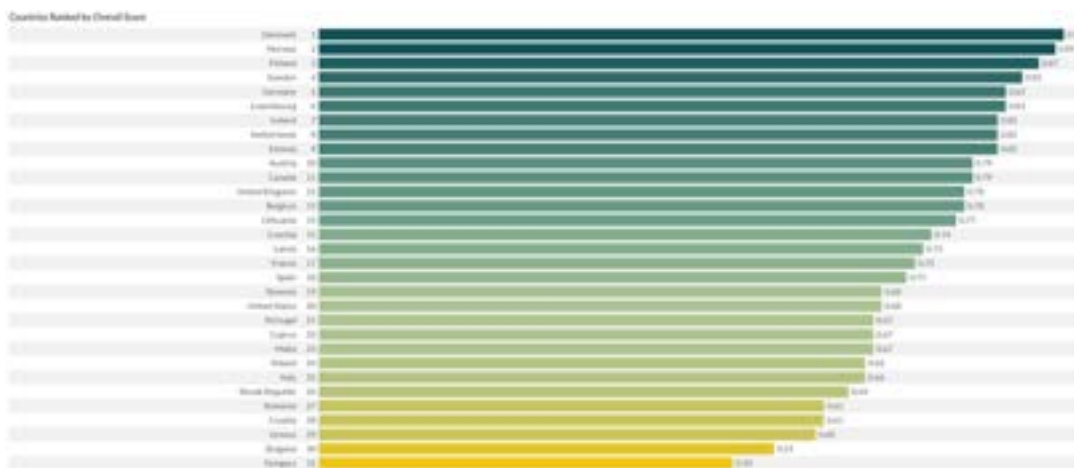
# Evaluating the Current Response to the EU Rule of Law Crisis

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## I. Abstract

This paper aims to evaluate the current response to the European Union (EU) rule of law crisis, propose policies, and offer insights for implementation. The rule of law is one of the EU's core principles. It is the driving force behind the Common Market, constitutionalism, the protection of individual rights, and, most critically, the well-functioning of democracy in all Member States. Although Member States may maintain constitutional identity and national traditions, the core definition of the rule of law is non-negotiable for EU Member States. Yet, with EU enlargement and economic growth at stake, the rule of law has generally declined. Hungary, a primary target of many EU policies and mechanisms to protect the rule of law, shows a particularly pronounced decline. Specifically, this paper will contextualize the current gaps in the EU's primary policy tools for rule of law breaches, being Article 7 of the Treaty on European Union (TEU) and the rule of law conditionality regulation.



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## II. Introduction

In 2025, the Rule of Law Toolbox expanded monitoring of rule of law violations, allocated additional funding to civil society and media organizations, and, notably, introduced conditionality mechanisms specific to repeated rule of law breaches. However, despite key shifts toward a more proactive approach to conditionality regulation, criticisms persist that Article 7, often described as the “nuclear option” for addressing rule of law breaches, has not been fully utilized in response to concerns in Hungary.

The Article 7 procedure against Hungary has now reached its 7th year, and the most recent development is another Article 7(1) hearing focused on alleged rule of law deficiencies in the country. Hungary has not yet been formally recognized as posing a clear risk of a serious breach of EU values, as it lacks the votes to meet the four-fifths threshold. Article 7 has remained in use for this extended period despite calls from some Member States for escalation, as the six principles of legality, legal certainty, prohibition of the arbitrary exercise of executive power, effective judicial review, separation of powers, and equality before the law have been subject to scrutiny in Hungary. The lack of political will ultimately stems from the perceived politicization of the EU’s rule of law policies and mechanisms, and from Hungary’s invocation of constitutional pluralism as a counterargument. Constitutional pluralism is a concept that recognizes the coexistence of multiple legal systems. In the EU's case, EU law and the national constitutions of member states would not be inherently superior to each other. However, constitutional pluralism becomes a point of contention when used as a counterargument to the rule of law, with Member States arguing that their national constitutions should have greater authority and should not be obliged to EU law in certain cases where national sovereignty is at stake. This is explored later to have an impact on stalling EU measures to enforce the rule of law.

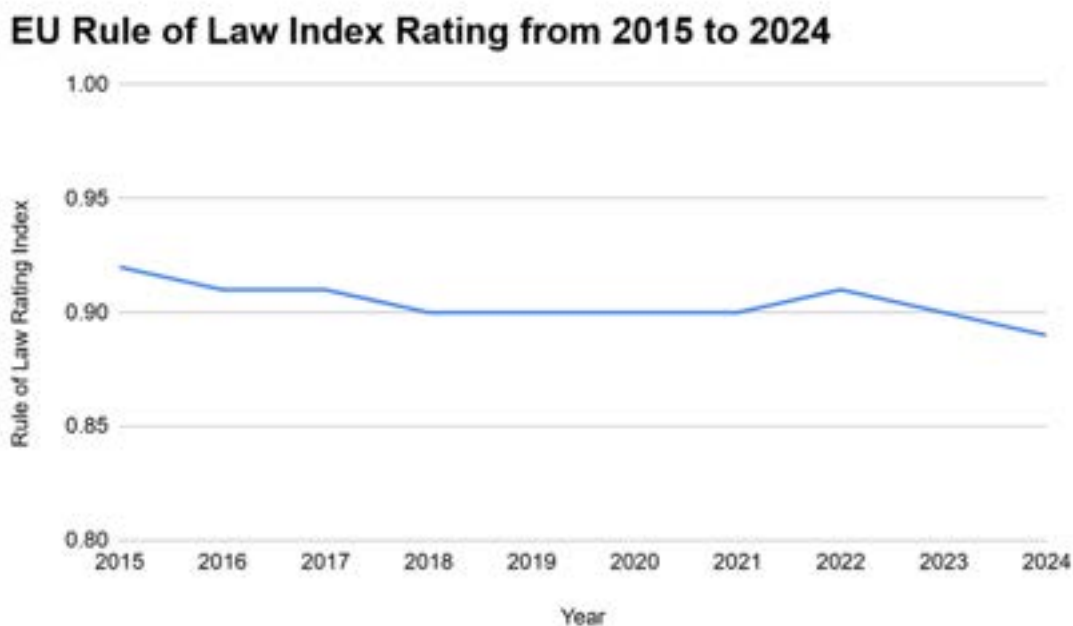
### *Historical Context and Scope of the Problem*

The indisputable trend undermining Europe as a whole is the rule of law crisis. Given that the EU was, from the outset, built on the need for supranational integration within Europe, this is challenged by members’ conscious political choice to depart from the principles that define the rule of law. The core theory guiding EU responses to this crisis is that combining legal constraints and binding legal procedures, such as Article 7 and the Conditionality Regulation, will deter violations through punitive measures (legal censure, funding freezes) while rewarding compliance (access to funds, restored EU trust). This theory is contextualized through the cases

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of Hungary and Poland, where the EU’s response to breaches of the rule of law has proven only partially effective. Most notably, the Hungarian rule of law crisis has had ripple effects across Europe, directly undermining both a collective EU identity and the credibility of supranational governments in Hungary. For a political and economic union to see its values erode among its members is to challenge the leverage of integration and collective strength that the EU was designed to achieve.

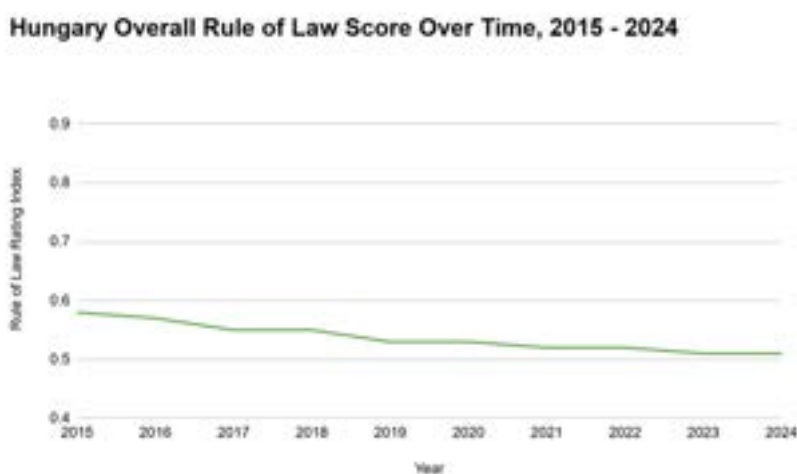
International rule of law indices have continued to decline among EU Member States over the past decade. Yet, the data also reveal a growing imbalance between high- and low-adherence countries. Based on these databases, the median rule of law score for all EU Member States declined between 2015 and 2024, from 0.73 to 0.72 according to the WJP (World Justice Project, 2024) and from 0.96 to 0.93 according to V-Dem (V-Dem Institute, 2024). Overall, the vast differences in the rule of law index scores of high-adherence countries and low-adherence countries have led to a phenomenon in which values at the extremes, such as Denmark’s overall WJP score of 0.90 and Croatia’s overall WJP score of 0.61, naturally balance out, yielding a stable long-run average trend.



**Figure 2:**  
Rule of Law Index Rating Trend from 2015 to 2024, according to the Varieties of Democracy (V-Dem) Institute.

Since Viktor Orbán’s Fidesz party gained a supermajority in 2010, Hungary has frequently clashed with Brussels over judicial independence, media pluralism, and the balance of powers, all of which are key principles of EU law and values. In April 2023, Hungary released several foreign detainees who had been imprisoned for smuggling migrants (Botsford, 2025). Hungary argued that, in 2023, almost all prisons were over 100% full, with only a few between 90% and 100%<sup>1</sup> (Katus, 2023), thereby justifying the release of migrant smugglers to reduce the prison burden. Conversely, the European Commission argues that Hungary is failing to honor the agreed position on strengthening EU law against people smuggling made on December 13th, 2024 (European Council, 2024). Prime Minister Orbán has also raised concerns about the overreach of rule of law enforcement in national politics and the conditionality of funds (Scheppelle, 2024), a frequent concern given his obstructionism in EU foreign policy.

Additionally, on May 13th, 2025, a member of the Fidesz party submitted a bill titled ‘The Transparency in Public Life Bill’ (Human Rights Watch, 2025). The EU strongly criticizes the Transparency in Public Life Bill for two main reasons: first, civil society organizations (CSOs) must register and obtain authorization if they accept foreign funding; and second, the bill violates numerous provisions of the EU Charter of Fundamental Rights. Potential violations of the Transparency in Public Life Bill, if passed unchanged, include the free movement of capital, freedom of expression, freedom of association, and the right to adequate judicial protection. The Hungarian rule of law is frequently ranked lowest in the EU by the World Justice Project, with a score of 0.51 in 2024. Critically, despite numerous interventions and new policy instruments employed by the EU to reverse the downward trend of the rule of law in Hungary, the crisis remains an increasingly pressing issue.



**Figure 3:** Hungary Overall Rule of Law Score Over Time, 2015 - 2024, according to the World Justice Project (WJP).

Led by the Law and Justice party since September 2015, the Polish government has differed from the requirements of Article 19(1) of the TEU, which states that “Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.” On December 20, 2017, the European Commission triggered Article 7(1) of the TEU to protect judicial independence amid reforms in Poland, which subjected the judiciary to the political control of the ruling majority (Cuddy, 2017). Article 7 involves Case K 3/21 of 7 October 2021, a constitutional review by the Constitutional Tribunal of the TEU, which ruled in a 12-2 decision that all branches of power in Poland confirm that Poland’s membership in the EU does not entail the supreme legal authority of external institutions, such as the European Court of Justice (Gliszczyńska-Grabias & Sadurski, 2023).

Case K 3/21 demonstrates that constitutionalism, though well-intentioned, raises questions about whether EU law may override national constitutions, particularly in the interest of national sovereignty and validity. The main point of contention in Case K 3/21 was that Article 19, which establishes the European Court of Justice, empowers ordinary courts to disregard national constitutions by applying EU law over Polish law and challenging the constitutionality of national judicial appointments (Muttreja et al., 2023). The EU’s role in addressing the Polish rule of law crisis highlighted several shortcomings in the European Commission’s annual rule of law evaluations and enforcement mechanisms. The perceived clash between national constitutions and international law is a hallmark of constitutional pluralism. Additionally, constitutional pluralism has been criticized for its perceived abuse by Member States undergoing democratic backsliding, whereby national laws and traditions are accommodated without declaring the superiority of one legal system over the other (Racková, 2025). In Case K 3/21, the ultimate authority of Poland’s national constitution raised questions about whether a system in which different legal systems coexist fosters dialogue or division. Constitutional pluralism remains important to discussions of the rule of law, as it provides uncertain grounds for a Member State to select which EU law commitments to fulfill, given the ultimate authority of legal systems (Lasek-Markey, 2021).

In May 2024, the Article 7 procedure against Poland concluded after the European Commission analyzed Poland’s action plan and sustained commitments, withdrawing the reasoned proposal because there was no longer a clear risk of a serious breach of the rule of law (European Commission, 2025). Evidence of Poland’s policy change can be traced back to the Tusk-led coalition’s promise to reset Brussels-Warsaw relations and reverse the previous

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government's policies against the rule of law. Poland achieved two super milestones: reforming the disciplinary regime for judges and replacing it with a new body, and reviewing the cases of the judges affected by the disciplinary chamber. This enabled Poland to unlock €6.3 billion in grants and loans and is well on track to achieve the remaining super milestones by the mid-2026 deadline (Liboreiro, 2024).

In particular, the Tusk-led coalition sought to exit the Article 7 procedure as soon as possible, as Poland was the largest recipient state of EU Cohesion Funds, which it relied on for many development projects (The Chancellery of the Prime Minister, 2023). Therefore, with the action plan submitted by Justice Minister Adam Bodnar, the pitch detailed nine bills aimed at restoring judicial independence from the highest tribunal to the most ordinary, and it was successful, representing a significant change achieved through EU policies (Liboreiro & Psara, 2024). As this paper aims to evaluate the current response to the EU rule of law crisis, Poland is examined as a case study to provide context on how the EU has responded to, and can respond to, rule of law breaches.

### **III. Key Policy Instruments, Enforcement Mechanisms, and Evaluations**

The EU was founded on the principles of the rule of law, and it was widely assumed that Member States would be willing and able to integrate EU law into their national law. The EU's toolbox for addressing and protecting the rule of law is somewhat mixed, comprising policy instruments and review mechanisms, all of which have been effective to some extent. As key treaties were being drafted, notably the TEU, issues such as democratic backsliding and restrictions on freedoms were likely unanticipated by the then-twelve Member States in 1992. Beyond policy instruments, the EU employs various diplomatic channels and recommendations to promote the rule of law, the most notable of which is the European Commission's annual Rule of Law Report. The report serves as the primary mechanism for reviewing progress on the rule of law across Member States since 2020, both in positive and negative terms.

#### *TEU Article 7 of the Treaty on European Union*

Article 7 is commonly known as the nuclear option. This is because it is an infringement procedure to curb human rights abuses within the EU by threatening Member States that do not comply. Article 7 concerns the identification of breaches of the EU's founding values, the imposition of sanctions, and voting rights. However, it is not possible to expel a Member State. Bureaucratic hurdles and hesitation constrain the effectiveness of Article 7. In March 2014,

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the European Commission adopted a three-step process for addressing breaches, comprising an assessment of the situation, a recommendation to be concerned about the accused Member State, and monitoring compliance (The European Commission, 2014). Moreover, the Article 7 process proceeds in three parts: Article 7(1) identifies the breach; crucially, actions against the accused Member State may not commence until Article 7(3).

The European Council's path to Article 7(3) is not straightforward. To move beyond Article 7(2), which requires proof that the Member State has not heeded the recommendations, further guidance is discussed. Evidence of breaches of EU values and principles spans a wide range of EU reports, policies, and bodies; however, the key data for defining a breach of the rule of law are primarily drawn from the annual Rule of Law Report and the EU Justice Scoreboard. Both sources are quantitative, analyzing case backlogs, lengths of proceedings, and clearance rates, but they overlook key qualitative factors related to the actual perception of justice, which could contribute to the conclusion that such reporting mechanisms fail to produce results or conclusions that spur accusations and action.

Most importantly, Article 7(2) requires the European Council to decide whether to proceed to Article 7(3). The voting procedure under Article 7(3) requires a unanimous vote (excluding the accused Member State). These thresholds, though well-intentioned in their upholding of the principle that certain policy areas are subject to unanimity, allow known violators of the rule of law to rely on one another to evade suspension of their membership rights or other sanctions. Additionally, many Member States are hesitant to sanction or disenfranchise another Member State, especially when constitutional autonomy is at issue. According to constitutional pluralism, national constitutional law and EU law constitute a conceptual heterarchy, and voting to prioritize constitutional safeguards raises uncomfortable questions within the EU (Flynn, 2021). The interplay between geopolitical objectives and constitutional obligations reveals a structural uncertainty within the EU's enforcement mechanisms: the effective transformation of Article 7, purported to be the ultimate, powerful last-resort procedure to protect the EU's core values, into an expectation that is frequently circumvented by Member States seeking to contest the status quo.

Specifically, Article TEU 4(2) states that the EU shall respect the national identities inherent in the fundamental structures of Member States, such that certain aspects of their constitutional identity fall outside the domain of EU primacy, as the rule of law is merely an EU concept and not a model set in stone. Realistically, setting a precedent that questions the supremacy of EU law, or risking strained foreign relations, is what leads many Member States to approach Article

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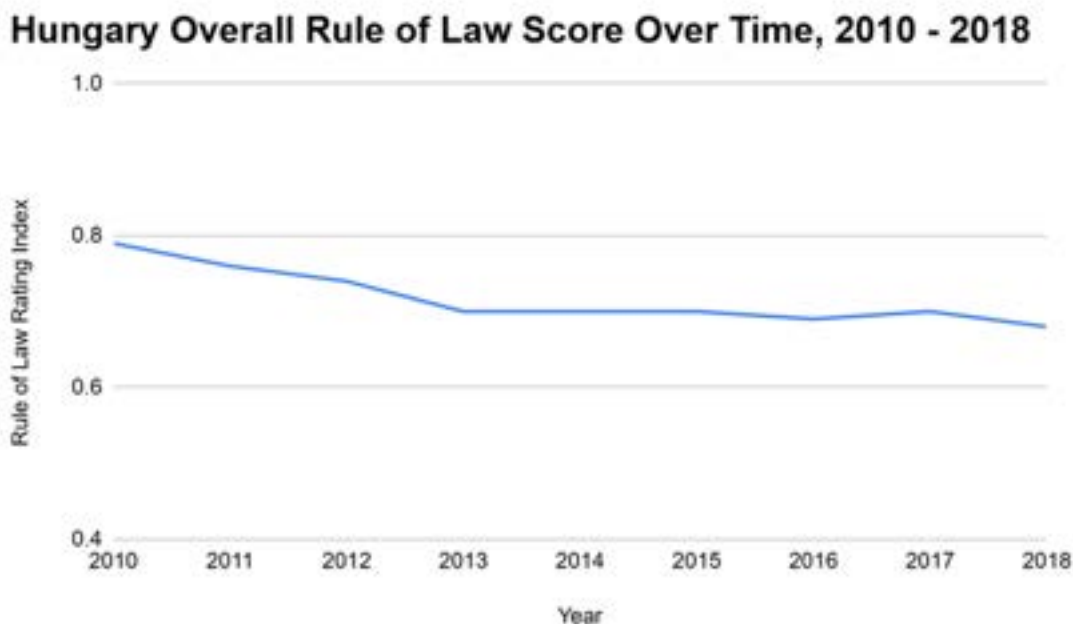
7(3) with caution rather than decisiveness in protecting EU values. In many cases, it is perceived as preferable to avoid Article 7 altogether. Cases such as the 2000 Austrian coalition with the far-right, the expulsion of thousands of Roma by France in 2009, and the 2012 political struggles in Romania are all examples of when Article 7 was considered. The reasoning behind the historically hesitant consideration of Article 7 is that, despite its name as a nuclear option, Article 7 cannot be wielded promptly or reliably. Given that Article 7 has been formally invoked only against Hungary and Poland, it is unclear whether, even if agreed upon, the rule of law is protected by the lengthy bureaucratic processes required to reach definitive action under Article 7(3).

Regarding the use of Article 7 against Hungary, discussions of its application lasted eight years, from 2010 to its activation in September 2018. During this period, the rule of law rating declined by approximately 14%, from 0.79 in 2010 to 0.68 in 2018 (See Figure 3), underscoring the urgency of invoking Article 7 and the severity of prolonged inaction. Even so, the Article 7 process remains in limbo, with the most notable development being the General Affairs Council's eighth hearing under Article 7(1) in May 2025 (General Affairs Council, 2025). As of March 2026, the European Council has yet to vote on whether there is a clear risk of a serious breach of the rule of law by Hungary. At the same time, the rule of law situation in Hungary is a growing issue for the EU day by day, including widely recognized breaches in anti-LGBTQ+ legislation, the Transparency in Public Life Bill, and an estimated 80% of Hungary's media market resources controlled by Prime Minister Viktor Orbán's Fidesz party (Lewing, 2025).

The threat of this nuclear option is troubling, as the prolonged rule of law crisis in Hungary strains the complex relationship between Hungary and the EU. The threat of this nuclear option remains contentious, as the prolonged rule of law crisis in Hungary complicates Hungary's relationship with the EU. Hungary is one of the biggest recipient states in the EU, with primary benefits in funding, soft power, and freedom of movement (Yanatma, 2024). The strains in this relationship are portrayed in Hungarian state and pro-government media as a necessary sacrifice to protect Hungarian identity, with Fidesz's political messaging framing the issue as a price to be paid for national self-determination (Benedek & Sebestyén, 2025). However, Member States remain optimistic that Hungary will eventually come to the negotiating table, citing the acceleration of the Article 7 procedure as an incentive to negotiate. The appropriate policy instrument in this optimistic case is to disenfranchise immediately, as Hungary has historically used its veto powers to impede aid to Ukraine, bargain for a reduction in the blockage of EU budget funds, and slow progress on certain voting rights. All in all,

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Article 7, though complicated by bureaucracy and hesitation, is likely to be a solution as the EU grows ever frustrated with Hungary's perceived misuse of the unanimity principle to veto and contest EU values and principles.



**Figure 4:**

Hungary Rule of Law Index Rating Trend from 2010 to 2018, according to the Varieties of Democracy (V-Dem) Institute.

#### *Rule of Law Conditionality Regulation*

Given the loophole in TEU Article 7 on the EU's values that could be exploited by Member States, the European Commission proposed in May 2018 to link EU budget allocations to adherence to the rule of law (Mańko et al., 2020). However, progress on the proposal was hindered by a reluctance to confront Hungary and Poland. Eventually, at the July 2020 European Council summit, it was agreed that the Multiannual Financial Framework and the Next Generation EU funds should be linked to a similar rule of law conditionality scheme proposed in 2018 (Drachenberg & European Council Oversight Unit, 2020).

The regulation was adopted on December 16th, 2020, following the specification of its interpretation, adoption, and implementation, which led Poland and Hungary to refrain from vetoing the regulation. The rule of law conditionality regulation takes targeted measures against

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continued breaches of the rule of law that are proven to be directly affecting/or seriously risk affecting the EU budget. Protective budget measures are outlined in the rule of law conditionality regulation, in Article 5(1)(b), which states: suspensions of commitments or payments, reductions of commitments through financial corrections or pre-financing, and an interruption of payment deadlines. Given that conditionality is rooted in a more budgetary approach, it could place greater pressure on continued breaches, particularly as the primary Member States concerned, Hungary and Poland, receive among the highest proportions of EU funding under cohesion policy. However, the rule of law conditionality regulation has proven effective in exerting pressure on violators of the rule of law. When faced with the financial threat of losing the stability provided by EU cohesion funds, Orbán's government has pledged to take measures to protect the rule of law (Bayer, 2022). The extent to which such measures will be sustained is uncertain; however, reluctant concessions and pledges are a step forward.

A qualified majority voted in favor of applying the conditionality regulation against Hungary on December 15th, 2022. It froze €6.3 billion in cohesion and related funds received from the EU (Melchior, 2022), though this number has increased to around €18 billion in 2025 (Sorgi, 2025). Since the first use of the rule of law conditionality mechanism in 2022, Hungary has implemented several legislative and administrative measures in response to the EU's recommendations, focusing on prosecutorial effectiveness, public transparency, and anti-corruption. The Hungarian government claims that the majority of these bills aim to strike a balance between national sovereignty and the rule of law, although Brussels does not wholly agree; in fact, some actions have faced significant criticism from other Member States. In addition to the previously mentioned 'The Transparency in Public Life Bill', Hungary has amendments that tighten political control over judicial appointments and court presidencies, which are widely criticized.

On June 1st, 2023, Hungary's judicial reform package under Hungary's Recovery and Resilience Plan entered into force (Novoszádek, 2023), increasing the powers of the National Judicial Council, amending the functions of the Supreme Court to reduce political influence, and protecting the right of national courts to refer preliminary questions to the Court of Justice of the EU. Contrary to the celebrations surrounding Hungary's Recovery and Resilience Plan, it is well established that Hungary's overall rule of law index has continued to decline, despite the pledges made. This is due to several factors, but the primary contributing factor is the weak immediate financial leverage of conditionality; despite having funds withheld, Hungary continues to access other forms of financial assistance, including funds from the Recovery and Resilience Facility.

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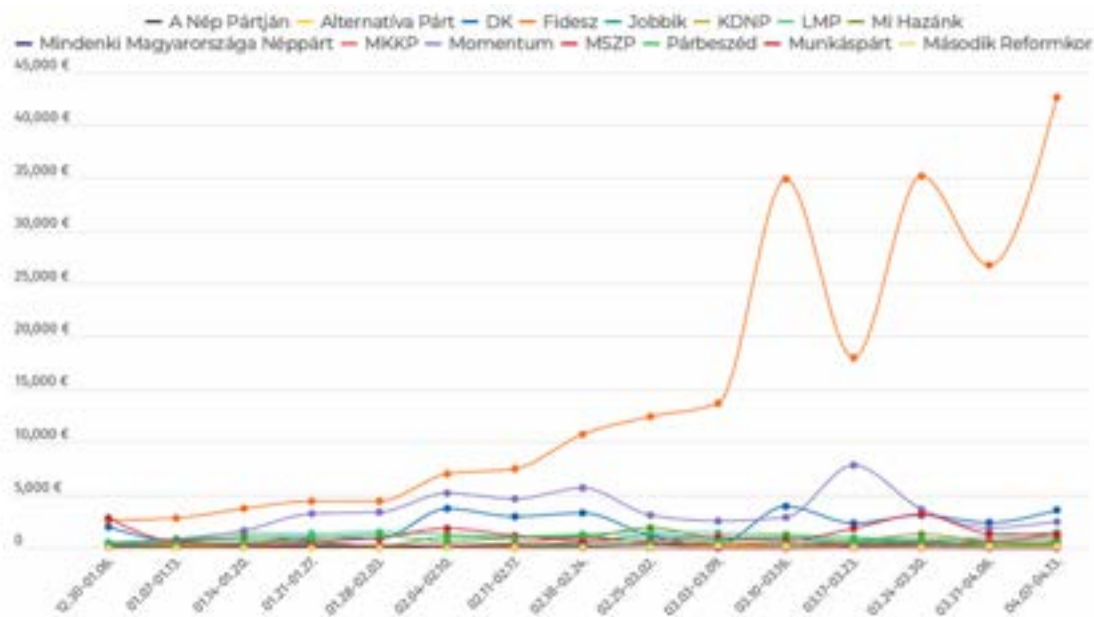
Hungary has not fulfilled its commitments under the Recovery and Resilience Plan, as no meaningful change has been made since June 1st, 2023. The Recovery and Resilience Facility requires that all milestones and targets in the national plans be completed by August 2026, including strengthening the rule of law and judicial independence. Yet Hungary may not be able to receive the full payments from the Recovery and Resilience Facility, as all 27 super milestones, covering necessary and measurable improvements in areas such as the rule of law, anti-corruption, and public procurement safeguards, must be fully met to unlock them. The ruling majority in Hungary continues policies that weaken checks and balances, as the undermining of EU values to consolidate power is simply greater than the price of forfeiting EU payments. If anything, the fact that Hungary can still benefit from the Recovery and Resilience Plan's grants despite CSOs' detailed assessments of Hungary's failure to comply with the preconditions for receiving EU benefits is proof enough that conditionality remains porous.

Alternatively, the rule of law conditionality raises concerns about unintended consequences, particularly regarding the media's portrayal of budget cuts or payment suspensions. Once again, the question of constitutional pluralism arises, as selective compliance with conditionality mechanisms can be justified on the grounds that it protects constitutional identity. As constitutional pluralism is rooted in nationalism and the conflict between national and supranational identities, conditionality can be presented as an assault on sovereignty in constitutional traditions. By design, selective conditionality in Hungary's Recovery and Resilience Plan employs threshold criteria that can be interpreted as upholding EU values, but rather enforcing arbitrary cut-offs in an act of political overreach.

Hungary's state-controlled outlets have portrayed the most recent EU 2028–2034 spending plan to extend the link between funds and rule of law breaches with the following headlines: “Here is the plan, this is how Brussels will destroy our country” (Nemzet, 2025, para. 1), or “The Orbán government could lose hundreds of billions due to corruption in December” (Gergely, 2024, para. 1). While other Hungarian media outlets report on the situation from a neutral perspective, the presence of outlets that advance hostile narratives and delegitimize the EU as a supranational institution exacerbates the EU's existing media disinformation crisis. Across the EU, contrasting portrayals of the Fidesz party politicizing the rule of law in favor of the ruling party by eroding checks and balances only serve to ignite state-controlled outlets to increase spending on political advertising.

Formal discussions on strengthening ties between cohesion payments and the rule of law commenced in late 2022. It increased in frequency and likelihood between 2023 and mid-2024,

until Hungary was blocked from receiving cohesion funds from June 26th, 2024 onwards (Mercédesz, 2024). This timeline aligns with a study on political advertising spending, which shows that the Fidesz Party dramatically increased its weekly political advertising expenditure as EU discussions shifted toward withholding cohesion funds to Hungary from December 31st, 2023, to April 6th, 2024.



**Figure 5:**

Weekly ad spending by political parties and politicians on Facebook (in Euros, aggregated data based on party affiliation of politicians, candidates, and affiliates running ads, source: weekly reports from Meta Ad Library)

Note. Source: *Political Capital Policy Research and Consulting Institute* (2024)

## IV. Policy Recommendations and Analysis

Addressing the rule of law crisis in Hungary and Poland requires key policy recommendations that acknowledge bureaucratic constraints, hesitation to act against Member States, and loopholes in existing policy instruments. Instead, this section will propose policy strategies to improve existing preventive and corrective approaches, specifically with respect to the pillars of efficiency, harmonization, and civic society. The policies are evaluated against criteria of feasibility, effectiveness, political acceptability, cost, and equity.

### 1. Increasing the efficiency and effectiveness of Article 7

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The first recommendation is to reorganize the EU Justice Scoreboard thematically around the four rule of law principles. An authoritative and evidentiary basis for Article 7 determinations can address the growing frustration among member states with the Article 7 procedure's bureaucracy, underscoring the urgent need to streamline enforcement against clear, ongoing violations of the rule of law. This is highly feasible, as it would not require amending Article 7, but rather a methodological revision by the European Commission, with potential insights from similar projects, such as the annual report or independent work by the World Justice Project. Using thematic organization in the EU Justice Scoreboard can strengthen the link between quantitative data and compliance with the rule of law. Currently, as the EU Justice Scoreboard is a purely objective overview, organizing the overview into the six principles of the rule of law: legality, legal certainty, prohibition of the arbitrary exercise of executive power, effective judicial review, separation of powers, and equality before the law will identify with principles are being contested, highlight gaps in compliance, both done objectively through the specification of metrics and related principles.

An alternative approach is to require accused Member States to develop a process map that includes deliverables, deadlines, and quantifiable changes. The ability to cite quantitative and qualitative failures enables the establishment of additional procedural pathways or expedited hearings to take further action against a Member State that fails to advance the rule of law in accordance with the recommendations. Equity can be achieved through a process map that can be adjusted to align with the Member State's targeted definitions of the rule of law and to adopt a stronger thematic focus. Prerequisites for equity in process maps require a multi-layered accountability system, as advocated by CSOs (Civil Society Europe, 2025). A prescriptive roadmap for restoration should balance the principle of equality between Member States (considering legal and constitutional context) with escalation thresholds to an expedited hearing at the General Affairs Council. However, the 7 years since Article 7 was triggered against Hungary, and after 8 hearings at the General Affairs Council, the procedure has stalled, underscoring the lack of procedural mechanisms to streamline voting and facilitate decisive action. This approach demonstrates mixed effectiveness: on the one hand, Poland's successful exit from Article 7, and on the other, continued stalling in the General Affairs Council in Hungary's case, contradict the successful precedent set by process maps.

## *2. Building trust and transparency to avoid politicization of the Rule of Law Toolbox*

A key hurdle in the discussions surrounding Article 7 and the Conditionality Regulation is that accusations of politicization erode the political will needed to meet voting requirements and

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to use policy instruments decisively. According to von Bogdandy, the politicization of EU law and principles ultimately stems from concerns about the effectiveness of EU law (Von Bogdandy, 2018). In a political and economic union, establishing a shared understanding of laws and principles can be built only on trust. Increasing transparency and accountability can help avoid accusations of politicizing the Rule of Law toolbox. Recent instances in which the perception of the Rule of Law toolbox has soured include the alleged delay in publishing the 2024 Rule of Law Report to avoid upsetting Italy, and the timing of fund releases to Hungary during a vote on EU support for Ukraine (Csaky, 2024). Such incidents, whether true or false, have eroded trust between Member States and the EU.

It is also possible that vetoes regarding Article 7 or the Conditionality Regulation processes have gone unreported, as they occurred in an informal setting and are therefore not available as open-source data (Szép, 2023). The only reliable way to build trust is to demonstrate changes and take steps toward a peer-review process. Instead of raising concerns about politicization, embedding existing efforts to bolster independent media and civil society in the reporting process of a Member State's compliance with issued recommendations or the annual Rule of Law Report. For example, if a vetted expert panel or committee consisting of relevant stakeholders, including independent media, civil society organizations, and national parliaments, were to fact-check findings, it would not only remove the possibility of misreporting rule of law situations but also contextualize and provide advice on better methodologies to draw truly transparent conclusions (Skóra, 2023). To draw on an example from a peer-review system outside the EU, since 2014, 83% of recommendations in peer reviews have been fully or partially implemented by Development Assistance Committee members of the OECD (Organization for Economic Co-operation and Development, 2025). This would also create a multi-layered accountability system in which both domestic and international actors validate findings, thereby reducing the perception that the EU is imposing external judgments without local legitimacy.

A peer-review process that does not exclude national political actors conveys the broader message that the EU is unwilling to compromise on the need for increased monitoring of the rule of law crisis, but will do so without interfering in or misrepresenting domestic matters. By including national parliaments and civil society in the peer-review process, the EU can demonstrate that monitoring is collaborative rather than punitive, thereby reducing resistance from governments under scrutiny. However, equity cannot be guaranteed across all Member States due to Eurosceptic media, or, in some cases, state-controlled media, opposing measures

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such as Article 7.

This can be supplemented by expanding support for independent media and civil society organizations through increased EU funding, including direct grants, technical assistance, training workshops, and loans. Such measures would not only strengthen watchdog institutions but also foster a resilient information ecosystem capable of countering misinformation and Eurosceptic narratives. Countering misinformation is also high on the EU's agenda, considering that Europe as a region is highly concerned about disinformation: 75% in the Netherlands and 76% in Poland view it as a top threat to democracy (Ipsos, 2025). The EU has already called for €5 million to bolster the European Fact-Checking Network (Directorate-General for Enlargement and Eastern Neighbourhood, 2025), and so addressing misinformation surrounding the Rule of Law Toolbox is just one of many concerns. Equity cannot be guaranteed across all Member States due to Eurosceptic media, or, in some cases, state-controlled media, opposing measures such as Article 7. As previously mentioned, Fidesz's political advertising expenditure peaked at over €40,000 per week, quantifying the extent of potential asymmetry between the amount of misinformation and current EU countermeasures in Euroscepticism.

### *3. Strengthening the link between the rule of law and the EU budget through conditionality*

The Conditionality Regulation is the latest addition to the rule of law toolbox. It has been effective in exerting greater pressure on the current state of the rule of law in Hungary by withholding €18 billion. The advancement of conditionality should be directly linked to failures to meet recommendations or threshold criteria, thereby strengthening the link between poor compliance with EU guidelines and financial penalties. Examples of EU-financed assistance linked to rule of law compliance include programs, grants, and loans.

Additionally, introducing a fast-track procedure or mechanisms that gradually increase the degree of payments withheld can pressure targeted Member States to deliver meaningful results promptly, rather than allowing time to identify alternative loopholes in the sourcing of financial payments. In practice, what fast-track procedures could look like in the Recovery and Resilience Plan, for example, a plan for a multi-tier withholding policy that increases in severity with the failure to meet milestones, should be well-established before the first payments to the Member State. Therefore, fast-tracking and increasing the severity of financial penalties, if a precedent for more proactive and streamlined withholding of funds were to be established for most EU funding sources, would result in much greater deterrence. The correlation between the rule of law and the withholding of EU funds should be made much more transparent and

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accessible to all EU citizens to avoid the risk that state media portrays the link as an attack or an unjust overreach. Beyond establishing this fact in the Rule of Law Report, it should also be made clear in publications related to every instance of EU-funded assistance, including impact reports, assessments, implementation reports, and the website.

Commissioner Serafin noted that, regarding Hungary and the conditionality regulation, “[in] exactly in two weeks’ time, at the end of the year, unfortunately, because of lack of notification from the Hungarian government, another 1 billion euro from cohesion funds will be decommitted.” This statement from December 2025 (Serafin, 2025) shows that, despite the comprehensive Rule of Law Toolbox, the transparency of the conditions, and the continued freezing of funds, the status quo has objectively worsened. This appears to be a procedural notification lapse and a gap in monitoring under the current conditionality framework. Therefore, embedding specific, agreed-upon, and transparent pathways to a fast-track Article 7 procedure/penalty mechanism can, at the very least, penalize Member States for continuing to disregard their minimum obligations.

## V. Alternative Policies

The recommendations presented as alternative policies are by no means infeasible or ineffective; however, this paper will outline the risks associated with such approaches to provide a more comprehensive review of possible solutions to the rule of law crisis. Both the modification of Article 7 to a qualified majority voting requirement and its parallel activation are constrained by the same political and legal barriers that complicate the use of Article 7 in the first place. Until the political will to act decisively against rule of law violations can be secured, the prerequisite of a depoliticized Article 7 procedure cannot be met, and likewise, the political will to drastically change the fundamentals of Article 7 cannot be secured.



**Figure 6:**

Council of the European Union: Facts and Figures, Voting System in Council

Source: *European Parliamentary Research Service* (2019)

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## 1. Modifying Article 7 to a qualified majority voting (QMV) requirement instead of a unanimous requirement

A relatively straightforward approach to reducing the strictness of the current voting requirements in Article 7 is frequently cited as a means of addressing the rule of law crisis. However, in practice, it is a complex process both legally and politically. The unanimous voting requirement outlined in Article 7 is widely regarded as the principal barrier to its effectiveness, as political gridlock has prevented even a four-fifths majority from acting against Hungary. Of course, simply removing the unanimous vote to proceed to Article 7(3) would be highly controversial, since critics argue that sanctioning rule of law violations infringes on sovereignty and national constitutional identity. While a qualified majority (55% of countries, 65% of the population) may eliminate the immediate possibility that known violators of the rule of law exploit unanimous voting to evade repercussions, this process still requires, once again, a unanimous decision to ratify the modification of the TEU. Certain exceptions under Article 31, which established that decisions shall be made through unanimity, which explicitly exclude a qualified majority when a decision has ‘military or defense implications’; therefore, a ratification of Article 7 procedure is unlikely. There is a fundamental feasibility constraint when the mechanism needed to lower voting thresholds is subject to the same political volatility.

Debates over changing voting requirements have intensified, particularly among the Group of Friends on Qualified Majority Voting, to enhance pragmatic, efficient decision-making in the EU by eliminating the unanimity requirement for key foreign policy issues. By contrast, other supranational blocs have already adopted QMV to impose sanctions and punishments on member states for unconstitutional changes of government. In the African Union, for example, QMV has increased the frequency of sanctions, enabling the Peace and Security Council to suspend Burkina Faso, Gabon, Guinea, Mali, and Niger. The committee’s ability to swiftly move into suspension, without political deadlock from the sanctioned states, has resulted in a 91% suspension rate among the 22 cases handled since 2005 (Andrews Atta-Asamoah, 2022). However, increasing the frequency of sanctions does not necessarily translate into positive political transitions, meaningful rule of law developments, or long-term deterrence. In several cases, specifically in the African Union, sanctioned and/or suspended states have continued to violate democratic norms or have re-admitted coup leaders into government, undermining the credibility of a fast-track suspension mechanism. While QMV undoubtedly facilitates faster and greater volume of decision-making, it is only part of the solution to guaranteeing compliance and democratic restoration. When considering the case of the African Union in the European rule of law crisis, it becomes clear that extensive measures to tackle bureaucracy, ensure

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consistent review, and impose fiscal costs on potential violators throughout rule of law enforcement are what truly determine the practicality of suspensions and sanctions.

Moreover, removing the unanimity requirement would raise significant questions that could undermine the EU's legitimacy. After all, the EU was founded on the core principle of unity, which helps explain why unanimity, though widely recognized as highly bureaucratic, has persisted since the Union's inception. Any move toward QMV under Article 7, even amid growing support from the Group of Friends on Qualified Majority Voting, would inevitably face resistance. A highly compelling case for abandoning unanimity in Article 7 would be needed to convince Member States such as Hungary and similarly aligned countries like Bulgaria, Italy, Poland, Romania, Slovakia, and Croatia, all of which declined to sign the declaration calling for a formal warning to Hungary over its anti-LGBT+ measures under Article 7(1). As a result, political feasibility for this policy is called into question when only 20 of the necessary 26 Member States supported the declaration (European Pravda, 2025), which adds a layer of uncertainty in whether a hypothetical qualified majority system would sway enough votes to move forward in the Article 7 process, with the risk of political divisions and sovereignty concerns persisting in impeding Article 7. Before embarking on the legally and politically complex task of amending the Treaty on European Union to abolish unanimity in future Article 7 procedures, the EU should first secure the qualified majority currently lacking among Member States. These include those reluctant to set a precedent that could later be turned against them, and those who have strategic reasons, whether political, economic, or foreign policy-related, for shielding Hungary from disenfranchisement.

## **2. Parallel activation of Article 7 against two or more Member States violating EU values and principles**

Contrary to the policy recommendations, parallel activation seeks to reinterpret the procedure and its loopholes. In an article by distinguished legal scholars (Kochenov et al., 2017), it is argued that the rule of law crisis was exacerbated by the EU's failure to address it in Hungary and subsequently in Poland. At the time the article was written, before the activation of Article 7 against Hungary and the emergence of rule of law conditionality, the assumption was that the Article 7 procedure would be much less bureaucratic and could reach the sanctioning stage beyond Article 7(1). However, it raises an interesting alternative to addressing the lack of political will among Member States to vote against another, even in a clear rule of law crisis. In cases involving more than one Member State, initiating Article 7 proceedings against them in parallel directly eliminates the risk that they can protect one another through vetoes that would prevent a unanimous vote. This would effectively neutralize the mutual veto

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protection without actually having to go through the politically challenging route of changing voting requirements.

Of course, the concern with such a solution is that it will be heavily criticized by Member States that wish to exercise their veto, and there is a high likelihood that the parallel activation of Article 7 would be challenged before the Court of Justice of the European Union. As such, a different political feasibility issue arises as more bilateral relations become variables in determining whether parallel activation can even begin. As the court generally upholds fundamental values in its judgments, the relevance of unity is undermined by the exclusion of Member States, which can be argued to be unjust or, at the very least, a threat to the precedents set in Article 7, as simultaneous procedures risk further bureaucracy in its application.

## **VI. Implementation Plan**

Firstly, the priority should be to halt the ongoing decline of the rule of law by further strengthening the link between the rule of law and the EU budget through conditionality. The European Commission should have the most direct role in this step of implementation, liaising with different EU funds beyond cohesion and the Recovery and Resilience Facility to enforce strict audits, as the Commission has authorized reimbursement up to approximately €10.2 billion, which remains a financial buffer that weakens deterrence. To overcome any legal or political setbacks to broadening the scope of conditionality, the Commission should stick to stricter and clearer protocols for milestone criteria in process maps. This is because the Commission would not have to rely on shaky political will to amend treaties and would be able to finish this task quickly (relative to alternative policies like parallel activation or QMV). Another area of conditionality expansion is the need to address ongoing procedural notification lapses and gaps in monitoring administrative concerns. Recalling Commissioner Serafin's statement, there should be a tiered conditionality system that combines thematic focuses to streamline Article 7 and fast-track procedures to withhold payments, because there is a clear distinction between declines in the rule of law and failures to remain transparent about compliance notifications. The Commission may establish process maps in the future where unfreezing of funds will only occur if a Member State meets all administrative requirements, such as communicating mid-year and annual progress according to reporting standards, and all compliance requirements, like demonstrating the impacts of passed legislation aimed at improving the thematic focuses of the rule of law, with quantifiable impacts verified by the same stakeholders involved in the Rule of Law Report consultation: CSOs, media organizations, and professional associations. Otherwise, there could be an audit in which the Commission can then very clearly and transparently cite specific thematic areas where the Member State is falling

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behind EU standards, automatically arranged should the Member State fail to notify progress. The Commission may also remain open to input from the stakeholders consulted for the Rule of Law Report.

Upon measurable progress through the corrective approach, with at least half of the super milestones achieved, and a verified improvement in all six aspects of the Rule of Law via increased involvement (monetary support, frequent communication channels in consultations) from both the Commission and external stakeholders, the preventative approach may proceed. Hastily switching to the corrective approach may prove contradictory. For example, if funds were reimbursed based on the formal fulfillment of legislative milestones and the Commission pivoted to policies aimed at countering misinformation or increased funding for civil society grants, it would risk creating a precedent that legal checklists alone can satisfy conditionality. This is precisely the message that can reiterate that procedural compliance will resolve concerns, which, in the long run, proves harmful to the rule of law, as funds are unblocked without genuine improvement. The Commission should establish a clearly defined threshold before preventive investment, determined by strengthening monitoring of the human rights impact of legislative reforms. Next, the Commission should increase support for independent media and civil society organizations through higher EU funding, including direct grants, technical assistance, training workshops, and loans. These measures would not only strengthen watchdog institutions but also promote a resilient information ecosystem capable of countering misinformation.

## **VII. Conclusion**

The ongoing rule of law crisis poses numerous challenges for the EU. The actual test lies in developing policies and mechanisms that require decisive action now more than ever to establish resilient frameworks grounded in the rule of law, given the political uncertainty sparked by the remarkable year of 2024, marked by unexpected electoral turmoils and shifting political landscapes across Europe. Democracy in the EU is now facing both internal and external pressures, and the EU must critically assess its rule of law toolbox to uphold EU values and principles across civil society, the economy, and cohesion. However, by analyzing why Article 7 is no longer the nuclear option once thought, how conditionality can drive further politicization of the rule of law, and the need to create a more comprehensive correlation between compliance and the EU budget, the EU can move from a somewhat disconnected rule of law toolbox to one that leaves no room for question or loopholes. Although concerns may remain about the wording or strict voting requirements of Article 7, the near future should prioritize compliance

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over the complexities of political will in EU voting. This is just one of many hurdles the EU must overcome to move beyond the tumultuous times of post-COVID recovery and growing Euroskepticism, addressing the rule of law crisis proves to both Europe and the world that the EU can be a force of cohesion and shared values, a sentiment many Member States would agree that it is appropriate to protect a united reputation as the strongest supporter and defender of the liberal international order.

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## VIII. References

- Andrews Atta-Asamoah. (2022, September 14). The AU prepares to wield the stick with more rigorous sanctions. ISS Africa. Retrieved March 29, 2026, from <https://issafrica.org/iss-today/the-au-prepares-to-wield-the-stick-with-more-rigorous-sanctions>
- Bayer, L. (2022, November 9). Don't fall for Orbán's promises: EU gets warning as funding deal nears. POLITICO. <https://www.politico.eu/article/viktor-orban-hungary-europe-dont-fall-for-promises-eu-gets-warning-as-funding-deal-nears/>
- Benedek, I., & Sebestyén, A. (2025). Euroambivalent and Equivocal Euroscepticism: Two Shades of Strategic Ambiguity in the 2024 European Parliament elections in Hungary. *Politologický Časopis - Czech Journal of Political Science*, 2, 190–221. <https://doi.org/10.5817/pc2025-2-190>
- Botsford, P. (2025, June 18). Rule of Law: EU blocking €18bn funding to Hungary over legislation concerns. International Bar Association. Retrieved August 8, 2025, from <https://www.ibanet.org/Rule-of-law-EU-blocking-18bn-funding-to-Hungary-over-legislation-concerns>
- Civil Society Europe. (2025). Joint Civil Society Contribution on Civic Space to the 2025 Rule of Law Report. In Civil Society Europe. Retrieved March 29, 2026, from <https://civilsocietyeurope.eu/wp-content/uploads/2025/06/Joint-Civil-Society-Contribution-on-Civic-Space-to-the-2025-Rule-of-Law-Report.docx.pdf>
- Csaky, Z. (2024, October 7). The EU and the rule of law: Much movement, little change. Centre for European Reform. Retrieved August 23, 2025, from <https://www.cer.eu/insights/eu-and-rule-law-much-movement-little-change>
- Cuddy, A. (2017, December 20). What is 'Article 7' and why was it triggered against Poland? Euronews. <https://www.euronews.com/2017/12/20/what-is-article-7-and-why-was-it-triggered-against-poland->
- Directorate-General for Enlargement and Eastern Neighbourhood. (2025, May 27). Commission launches €5 million call to strengthen European Fact-Checking Network. Enlargement and Eastern Neighbourhood. Retrieved March 29, 2026, from [https://enlargement.ec.europa.eu/news/commission-launches-eu5-million-call-strengthen-european-fact-checking-network-2025-05-27\\_en](https://enlargement.ec.europa.eu/news/commission-launches-eu5-million-call-strengthen-european-fact-checking-network-2025-05-27_en)
- Drachenberg, R. & European Council Oversight Unit. (2020). Outcome of the special European Council meeting of 17-21 July 2020. In European Parliamentary Research Service (Report PE 654.169). [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/654169/EPRS\\_BRI\(2020\)654169\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/654169/EPRS_BRI(2020)654169_EN.pdf)

- 
- European Commission. (2021). Rule of Law: Commission launches infringement procedure against Poland for violations of EU law by its constitutional Tribunal. In European Commission (IP/21/7070). Retrieved August 3, 2025, from [https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip\\_21\\_7070/IP\\_21\\_7070\\_EN.pdf](https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_21_7070/IP_21_7070_EN.pdf)
  - European Commission. (2024). Hungary's recovery and resilience plan. Retrieved August 14, 2025, from [https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility/country-pages/hungarys-recovery-and-resilience-plan\\_en](https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility/country-pages/hungarys-recovery-and-resilience-plan_en)
  - European Commission. (2025, February 6). Timeline - Article 7: the story so far. Retrieved August 21, 2025, from <https://www.consilium.europa.eu/en/policies/article-7-procedures/timeline-the-story-of-article-7/>
  - European Council. (2024, December 13). Migrant smuggling: Member States reach agreement on criminal law. Council of the EU. Retrieved August 4, 2025, from <https://www.consilium.europa.eu/en/press/press-releases/2024/12/13/migrant-smuggling-member-states-reach-agreement-on-criminal-law/pdf>
  - European Parliamentary Research Service. (2019, December 20). voting system in Council. Epthinktank. <https://epthinktank.eu/2019/12/20/council-of-the-european-union-facts-and-figures/voting-system-in-council/>
  - European Pravda. (2025, May 28). Will Hungary lose its EU veto power and which countries oppose it. European Pravda. <https://www.eurointegration.com.ua/eng/news/2025/05/28/7212591/>
  - European Union. (2016). Consolidated version of the Treaty on European Union TITLE III - PROVISIONS ON THE INSTITUTIONS Article 19. Official Journal of the European Union, C 202/27, 12016M019. [http://data.europa.eu/eli/treaty/teu\\_2016/art\\_19/oj](http://data.europa.eu/eli/treaty/teu_2016/art_19/oj)
  - Flynn, T. (2021). Constitutional pluralism and loyal opposition. *International Journal of Constitutional Law*, 19(1), 241–268. <https://doi.org/10.1093/icon/moab035>
  - General Affairs Council. (2025, May 27). General Affairs Council, 27 May 2025 [Press release]. Retrieved August 23, 2025, from <https://www.consilium.europa.eu/en/meetings/gac/2025/05/27/>
  - Gergely K. K. (2024, September 27). Százmilliárdokat bukhat a korrupció miatt az Orbán-kormány decemberben. 24.hu. <https://24.hu/fn/gazdasag/2024/09/26/eu-unios-forras-eb-rrf-befagyasztas-orban-kormany-korrupcio/>
  - Gliszczyńska-Grabias, A., & Sadurski, W. (2023). Is it Polesxit yet? Comment on Case K 3/21 of 7 October 2021 by the Constitutional Tribunal of Poland. *European Constitutional Law Review*, 19(1), 163–181. <https://doi.org/10.1017/s1574019622000396>
-

- 
- Hanelt, E. (2024). Getting Article 7 done: coalition-building against Hungary in the European Parliament. *Journal of European Integration*, 1–22. <https://doi.org/10.1080/07036337.2024.2441977>
  - Hervey, G., & Livingstone, E. (2017, December 20). What is Article 7? POLITICO. <https://www.politico.eu/article/hungary-eu-news-article-7-vote-poland-rule-of-law/>
  - How Hungary’s Orbán uses control of the media to escape scrutiny and keep the public in the dark | AP News. (2024, July 31). AP News. Retrieved August 4, 2025, from <https://apnews.com/article/hungary-media-democracy-orban-magyar-european-parliament-f6315d7cc252f210c360863de403054e>
  - Human Rights Watch. (2025, May 23). Open letter on the Hungarian bill entitled “Transparency of Public Life.” Human Rights Watch. Retrieved August 4, 2025, from <https://www.hrw.org/news/2025/05/23/open-letter-hungarian-bill-entitled-transparency-public-life>
  - Hungary’s recovery and resilience plan. (2023). European Commission. Retrieved August 5, 2025, from [https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility/country-pages/hungarys-recovery-and-resilience-plan\\_en#rrf-funded-projects-in-hungary](https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility/country-pages/hungarys-recovery-and-resilience-plan_en#rrf-funded-projects-in-hungary)
  - Ipsos. (2025, November 20). The State of Democracy 2025: Fake news, lack of accountability, extremism and corruption seen as top threats to democracy across Europe and the US. Ipsos. <https://www.ipsos.com/en-nl/state-democracy-2025-fake-news-lack-accountability-extremism-and-corruption-seen-top-threats>
  - Jakab, A., & Kirchmair, L. (2021). How to Develop the EU Justice Scoreboard into a Rule of Law Index: Using an Existing Tool in the EU Rule of Law Crisis in a More Efficient Way. *German Law Journal*, 22(6), 936–955. <https://doi.org/10.1017/glj.2021.46>
  - Katus, E. (2023, March 8). Hungarian prisons are overcrowded, there have never been so many behind bars. English. Retrieved August 4, 2025, from <https://english.atlatszo.hu/2023/03/06/hungarian-prisons-are-overcrowded-there-have-never-been-so-many-behind-bars/>
  - Kochenov, D. V., Pech, L., & Scheppele, K. L. (2017, December 23). The European Commission’s activation of Article 7: Better late than never? *Verfassungsblog*. Retrieved August 24, 2025, from <https://doi.org/10.17176/20171223-131736>
  - Lasek-Markey, M. (2021). Poland’s Constitutional Tribunal on the status of EU law: The Polish government got all the answers it needed from a court it controls. *European Law Blog*. <https://doi.org/10.21428/9885764c.50f3c7b7>
  - Lewing. (2025, May 30). Hungary’s legal challenge: A clash between EMFA and state-controlled media. *Edinburgh Europa Institute*. Retrieved August 14, 2025.
-

- 
- Liberties. (2025). Liberties Rule of Law Report 2025. Civil Liberties Union for Europe. Retrieved August 4, 2025, from <https://www.liberties.eu/f/vdxw3e>
  - Liboreiro, J. (2023, May 4). Nine EU countries join forces to reform voting rules on foreign policy and dent veto power. Euronews. <https://www.euronews.com/my-europe/2023/05/04/nine-eu-countries-join-forces-to-reform-voting-rules-on-foreign-policy-and-dent-veto-power>
  - Liboreiro, J. (2024, February 29). Breaking down the €137 billion in EU funds that Brussels has unfrozen for Poland. Euronews. Retrieved August 23, 2025, from <https://www.euronews.com/my-europe/2024/02/29/breaking-down-the-137-billion-in-eu-funds-that-brussels-has-unfrozen-for-poland>
  - Liboreiro, J., & Psara, M. (2024, February 20). Poland pitches way out of Article 7 as Brussels hails “positive dynamic.” Euronews. Retrieved August 22, 2025, from <https://www.euronews.com/my-europe/2024/02/20/poland-pitches-way-out-of-article-7-as-brussels-hails-positive-dynamic>
  - Mańko, R., Sapała, M., & European Parliamentary Research Service. (2020). Protecting the EU budget against generalised rule of law deficiencies. In EU Legislation in Progress. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/630299/EPRS\\_BRI\(2018\)630299\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/630299/EPRS_BRI(2018)630299_EN.pdf)
  - Melchior, S. (2022, December 15). Explainer: Europe cuts off funds for Hungary - what is at stake? Investigate Europe. Retrieved August 14, 2025, from <https://www.investigate-europe.eu/en/posts/explainer-europe-cuts-off-funds-for-hungary-what-is-at-stake>
  - Mercédesz, H. (2024, December 4). Hungary has not received EU cohesion funds for 161 days. Daily News Hungary. Retrieved August 23, 2025, from <https://dailynewshungary.com/hungary-eu-cohesion-funds-161-days/>
  - Mstratenwerth. (2024, December 16). Funds for Hungary remain frozen. Daniel Freund. Retrieved March 29, 2026, from <https://danielfreund.eu/funds-for-hungary-remain-frozen/?lang=en>
  - Muttreja, I., Auer, S., & Scicluna, N. (2023, May 17). The EU must face up to its rule of law crisis. Chatham House. Retrieved August 4, 2025, from <https://www.chathamhouse.org/2023/05/eu-must-face-its-rule-law-crisis>
  - Nemzet M. (2025, July 11). Íme a terv, így sarcolja meg hazánkat Brüsszel. Íme a Terv, Így Sarcolja Meg Hazánkat Brüsszel. <https://magyarnemzet.hu/kulfold/2025/07/brusszel-europai-unio-koltsegvetes-magyarorszag-eu>
  - Novoszádek, N. (2023, May 23). Assessment of Hungary’s judicial reforms - Hungarian Helsinki Committee. Hungarian Helsinki Committee. Retrieved August 14, 2025, from <https://helsinki.hu/en/assessment-of-hungarys-judicial-reforms/>
-

- 
- OJ L 433I 22.12.2020, p. 1. (2020, December 22). EUR-Lex. Retrieved August 5, 2025, from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02020R2092-20201222>
  - Organization for Economic Co-operation and Development. (2025). Development co-operation peer reviews and learning. Organization for Economic Co-operation and Development. Retrieved March 29, 2026, from <https://www.oecd.org/en/topics/development-co-operation-peer-reviews-and-learning.html>
  - Pech, L. (2022). The rule of law as a Well-Established and Well-Defined Principle of EU Law. *Hague Journal on the Rule of Law*, 14(2–3), 107–138. <https://doi.org/10.1007/s40803-022-00176-8>
  - Political Capital Policy Research and Consulting Institute. (2024). Pro-government political advertisements are in record heights in Hungary, promoting hostile narratives against the West. [https://politicalcapital.hu/pc-admin/source/documents/pc\\_in-depth\\_analysis\\_Pro-government\\_political\\_advertisements\\_are\\_in\\_record\\_heights\\_in\\_Hungary\\_promoting\\_hostile\\_narratives\\_against\\_the\\_West\\_20240425.pdf](https://politicalcapital.hu/pc-admin/source/documents/pc_in-depth_analysis_Pro-government_political_advertisements_are_in_record_heights_in_Hungary_promoting_hostile_narratives_against_the_West_20240425.pdf)
  - Racková, N. (2025). Constitutional Pluralism in Times of the Rule of Law Crisis: Susceptible to Abuse? *European Law Blog*. <https://doi.org/10.21428/9885764c.b9cba2c8>
  - Scheppele, K. L. (2024, August). Inside Orbán’s Plan to Occupy Europe. *Journal of Democracy*. Retrieved August 23, 2025, from <https://www.journalofdemocracy.org/online-exclusive/inside-orbans-plan-to-occupy-europe/>
  - Serafin, P. (2025, December 17). Remarks by Commissioner Serafin during the European Parliament plenary debate about the implementation of the rule of law conditionality regime. Piotr Serafin, Strasbourg, France. [https://ec.europa.eu/commission/presscorner/detail/en/speech\\_25\\_3128](https://ec.europa.eu/commission/presscorner/detail/en/speech_25_3128)
  - Skóra, M. (2023). How to improve the EU’s rule of law toolbox. In Friedrich-Ebert-Stiftung. Friedrich-Ebert-Stiftung. Retrieved August 21, 2025, from <https://library.fes.de/pdf-files/bueros/bruessel/20380.pdf>
  - Sorgi, G. (2025, July 11). Brussels pushes to block budget payouts to EU’s democratic backsliders. *POLITICO*. <https://www.politico.eu/article/brussels-belgium-eu-democratic-payouts-standards-hungary-governments/>
  - Szép, V. (2023, May 2). Making EU Foreign Policy More Effective: Qualified Majority Voting on the Horizon? *Carnegie Endowment for International Peace*. Retrieved August 23, 2025, from <https://carnegieendowment.org/europe/strategic-europe/2023/05/making-eu-foreign-policy-more-effective-qualified-majority-voting-on-the-horizon?lang=en>
  - The Chancellery of the Prime Minister. (2023, February 8). Inauguration of the new EU financial perspective 2021-2027 - almost PLN 350 billion for Poland. Retrieved August 23, 2025, from <https://www.gov.pl/web/primeminister/inauguration-of-the-new-eu-financial-perspective-2021-2027---almost-pln-350-billion-for-poland>
-

- 
- The European Commission. (2014). COMMISSION RECOMMENDATION of 12 March 2014 on a new approach to business failure and insolvency. Official Journal of the European Union, 74(2014/135/EU), 65–70. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014H0135>
  - V-Dem Institute. (2024). Country Graph – V-Dem. Retrieved August 3, 2025, from [https://v-dem.net/data\\_analysis/CountryGraph/](https://v-dem.net/data_analysis/CountryGraph/)
  - Von Bogdandy, A. (2018). Ways to frame the European rule of law: Rechtsgemeinschaft, trust, Revolution, and Kantian Peace. *European Constitutional Law Review*, 14(4), 675–699. <https://doi.org/10.1017/s157401961800041x>
  - Von Der Leyen, U. (2019). A Union that strives for more. In European Commission. Retrieved August 23, 2025, from [https://commission.europa.eu/document/download/063d44e9-04ed-4033-acf9-639ecb187e87\\_en?filename=political-guidelines-next-commission\\_en.pdf](https://commission.europa.eu/document/download/063d44e9-04ed-4033-acf9-639ecb187e87_en?filename=political-guidelines-next-commission_en.pdf)
  - Wigler, M. (2023). Can the European Union effectively protect the rule of law in its member states?: Evaluating enforcement tools in the context of Poland and Hungary. In S. Fina & R. Vogl (Eds.), *European Union Law Working Papers* (No. 78). Stanford Law School and University of Vienna School of Law. Retrieved August 4, 2025, from <https://law.stanford.edu/wp-content/uploads/2023/05/EU-Law-WP-78-Wigler.pdf>
  - WJP Rule of Law Index. (n.d.). Retrieved March 29, 2026, from <https://worldjusticeproject.org/rule-of-law-index/global/2025>
  - World Justice Project. (2024). WJP Rule of Law Index - Hungary. Retrieved August 4, 2025, from <https://worldjusticeproject.org/rule-of-law-index/country/2024/Hungary/>
  - Yanatma, S. (2024, December 9). EU budget: Who pays the most into the EU, and who gains the most? Euronews. <https://www.euronews.com/business/2024/12/09/eu-budget-who-pays-the-most-into-the-eu-and-who-gains-the-most>

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# Learned Disenfranchisement: Civic Education and Dispositional Outcomes in Louisiana Secondary Schools

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## **I. Abstract**

Civic education is a crucial component of a democratic society. Civic education efforts continue to permeate secondary educational systems across the United States. Despite the ubiquity of these programs or courses, formal political participation among youth remains at a less-than-ideal level. Outcomes of civic education are traditionally classified into three observable categories—knowledge, skills, and dispositions. Existing literature and standardized testing support the fact that civic education contributes to improved knowledge and skills; it remains to be seen whether the same programs ameliorate students' dispositions. This project aims to measure the impacts of Louisiana's secondary civic education course, Civics, on students' attitudes toward various civic matters. I posit that Civics may contribute to lowered external political efficacy among students, ultimately leading to a lower propensity for voting. In addition to this critical finding, this project produced evidence that suggests the presence of other undesirable attitude-related outcomes of Civics. While this project does not identify the features of the Civics student standards that contribute to these outcomes, I identify various best practices for reversing trends of political apathy among Louisiana's youngest voters. These practices include service learning requirements, classroom debates and discussions, and Nokes' (2019) case study-based civic education framework.

*Keywords:* Civic education, Civics, Louisiana

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## II. Introduction

It is paramount to a healthy democracy that citizens possess the appropriate civic virtue to actively participate in the functions of government. It is accordingly necessary that schools equip students with this sense of civic-mindedness that manifests itself through a life of political participation. Systemic attention to civic education has proven to be the most effective means through which youth become participants in democracy. In 2003, the Carnegie Corporation of New York and the Center for Information and Research on Civic Learning and Engagement (CIRCLE) published a foundational work to the scholarship in this discipline: *The Civic Mission of Schools*. This report on the state of American civic education offered direction for best practices in teaching for democracy. Additionally, the work outlined actionable goals for civic education, holding that competent and responsible citizens “are informed and thoughtful, participate in their communities, act politically, and have civic and moral virtues” (Carnegie Corporation of New York & CIRCLE, 2003, p. 10). Considering these aims, it becomes noteworthy that civic knowledge and public engagement among youth remain at an “all-time low” (Shapiro & Brown, 2018, p. 1).

This study takes aim at examining the efficacy of the Civics course in Louisiana secondary schools at equipping students with equitable, productive civic dispositions. This study identifies four categories in which students can demonstrate favorable civic dispositional outcomes: voting, political awareness, democracy, and civic virtues. Referencing these categories and the student standards for the Louisiana high school Civics course, a comprehensive answer will be provided to the question: To what extent is the high school Civics course, as standardized by the Louisiana Department of Education (LDOE), effective in equipping students with dispositional outcomes conducive to a life of civic engagement?

## III. Literature Review

### *Historical Context*

Education in the United States has long existed as the catalyst through which youth learn the importance of democracy. The idea that a fragile American democracy exists only as a result of competent citizens is foundational to the establishment of American public education. The development of public schools in the United States sprouted from the desire to educate a civically-engaged citizenry (Kober & Rentner, 2020). This theme persisted through the era of

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Horace Mann and the Common Schools Movement. Mann, an educational statesman of the antebellum period, was a large figure in the movement to establish public schools across the United States. Mann’s advocacy for public schools was fueled by his view of schools as regulators of common and equal opportunity, equitably and comprehensively distributing civic knowledge to the American citizenry (Ford, 2020). This systemic focus on teaching for democracy, positing that public education should act as a purveyor of citizenship and public good, persisted through the early twentieth century (Ford, 2020).

### *Systemic Educational Focuses*

Following the Cold War, educational focus on science, mathematics, and vocational instruction swept across American schools (Lopez & de Mattos, 2024). This change in systematic focus has had grave implications for the state of American civic education. A focus on STEM education has persisted into the 21st century, recently being illustrated on a governmental level by President Barack Obama’s 2009 *Educate to Innovate* campaign (Press Secretary, 2009). This campaign aimed to broaden access to advanced mathematics and science courses in American high schools. In practice, the initiative resulted in a larger availability of STEM educators, expanded access to technology, and provided underrepresented groups with greater opportunities to study STEM-related subject matter.

This change in educational focus represents shifting priorities for the future of the American citizenry. Social studies and civic education seem to have taken a backseat to disciplines that are viewed as being able to foster innovative or creative attitudes within students. On pace with these changes in educational focus, following the 2016 election—a year in which less than 25% of eighth-graders “performed at or above the proficient level on the National Assessment of Educational Progress (NAEP) civics exam”—only 9 states required a full year of a U.S. Government or civics course (Shapiro & Brown, 2018, p. 5).

In 2011, the Carnegie Corporation of New York published *Guardian of Democracy: The Civic Mission of Schools*, a revision of the 2003 report, including revised policy recommendations for civic learning (Gould et al., 2011). The report's findings exist in the context of trends of reduced civic participation and poor civic knowledge that have persisted to the present (Wray-Lake & Ballard, 2023, p. 3). The report outlined “six proven practices for effective civic education” that have influenced civic education-related policy, curricula, and literature in recent years. With contempt for the trends of declining civic literacy during the period in which the report was authored, it postulates that “the country shortchanges the civic

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mission of its schools at its peril” (Gould et al., 2011, p. 4).

### *Youth Participation and Civics in Louisiana*

The state of youth political participation in the United States is complex and characterized by geographic disparities. This fact is particularly relevant in the discussion of youth participation in the state of Louisiana. As of the 2022 midterm election, Louisiana is among the states with the lowest youth voter turnout, recording just 16% turnout among voting-eligible youth aged 18 to 29 (CIRCLE, 2023). As this lack of participation may be the result of political apathy, which is influenced by civic education, examining the extent to which Louisiana secondary schools influence youth’s propensity to vote is significant. The student standards for the high school Civics course in Louisiana, at a glance, seem to lack the intention of changing this low turnout (LDOE, 2022). The current student standards for high school Civics comprise five units, encompassing fourteen standards across topics including governmental structure, notable events in American history, civil rights and liberties, political processes, and financial literacy (LDOE, 2022). The Louisiana Commission on Civic Education, founded in 2004, promotes collaboration among organizations in the state that conduct civic education programs, aiming to educate citizens on the importance of citizen involvement in a representative democracy (La. Rev. Stat. § 24:971, n.d.). A 1976 amendment to Louisiana’s Title 25 provided requirements for Civics instruction in secondary schools, mandating that “all public high schools give instruction in a course in civics as a prerequisite to graduation” (La. Rev. Stat. § 17:274, n.d.). This provision demonstrated the first legislative effort to refine the state of Civics instruction on a state level. Alongside the mandate of the Civics course, the statute provides for a mandate of a “free enterprise” course, encompassing content in subject matters involving “income, money management, spending and credit, [and] savings and investing” (La. Rev. Stat. § 17:274.1 (C)(2), n.d.). Student standards with regard to free enterprise coursework are outlined in the most recent publication of the LDOE social studies standards, following another amendment to R.S. 17:274.1 that replaced the individual free enterprise course with a uniform unit of study as a supplement to the Civics curriculum (La. Rev. Stat. § 17:274.1 (C)(2)(a), n.d.). This same edition of the social studies student standards provides for a mandate that the Louisiana Educational Assessment Program (LEAP) exam for high school Civics be taken by all students as a requirement for graduation, beginning in the 2024-2025 academic year. This initiative for further data collection indicates that changes in content and instruction for high school Civics may become a priority for the LDOE in future years.

The standards for high school Civics in Louisiana can be characterized as incredibly minimal

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with regard to alternative classroom activities. None of the fourteen student standards requires that students fulfill a community service requirement, participate in classroom debate, be informed on the current state of American politics, participate in simulations of democratic processes, or participate in school or classroom governance (LDOE, 2022). Nevertheless, each of these activities has been proven to favorably influence students' civic outcomes. This somewhat antiquated aspect of the course represents greater themes of antiquity throughout the entirety of Louisiana civic education.

### *Contemporary Pedagogy and Controversy*

Traditionally, Civics courses have included instruction in the systems and foundation of the various levels of American government. As the state of civic education has developed, NAEP and state exam data have been the indicator to which education officials have most often referred in search of a more effective Civics curriculum. While these data sets offer a comprehensive understanding of the shortcomings and successes of Civics curricula, they fail to speak to the state of students' civic attitudes. Since these courses typically exist to develop civic knowledge and skills, it has become difficult to draw conclusions regarding students' dispositions. Existing literature irrefutably supports the notion that civic education leads to greater knowledge about politics and government (Campbell, 2019). A lack of scholarship on civic attitudes makes it difficult to draw the same conclusions.

A study of attitudes toward government among secondary students in Brussels, Belgium, found that failing to address certain dispositions among pupils acts counterintuitively to the ethos of civic education. The project found that pupils who perceive themselves as being discriminated against by democratic institutions were far more likely to bear anti-democratic attitudes than adolescents who experienced fewer instances of self-perceived discrimination (Mansoury Babhoutak et al., 2020). In a representative democracy of an incredibly diverse citizenry, an aim of civic education is to promote pro-democratic citizenship to students of all origins. Despite this, the civic education curricula of today make, at best, an incredibly passive effort to develop these attitudes. The State of Louisiana is no exception to this fact. Though not unlike other student standards for civics courses across the nation, it is noteworthy that the LDOE's standards for Civics make no mention of students' dispositions. In truth, the nature of attitudes to be difficult to measure and seemingly subjective may be to blame for their widespread absence from student standards documents (Nokes, 2019, p. 7).

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## IV. Methodology

### *Sample Selection*

To discern to what extent the high school Civics course contributes to favorable dispositional outcomes, one predictor variable was employed: students' completion of the course. The participants (n=33) consisted of students in Louisiana secondary schools. Twenty-one participants were assigned to the control group on the basis that they had received no instruction in Civics or any similar government course. Twelve participants were assigned to the treatment group on the basis that they had completed the Civics course in its entirety. Students who received any instruction in any government course in a fashion that did not align with the two predictor groups did not participate. The results are accordingly indicative of the course's effectiveness in its entirety, limiting the influence of other educational factors where possible.

### *Design and Operationalizations*

To measure the extent to which participants had productive civic dispositions, four suites of outcome items were employed. These four suites employed various Likert items to deduce a comprehensive view of participants' attitudes. Likert items intend to measure opinions and attitudes toward the provided statements. The statements provided in this study outlined general declarations of various attitudes or instances in which attitudes can be put into practice. These items fulfill the study's goal of deducing participants' dispositions toward civic matters as a result of taking the high school Civics course. See **Appendix B** for the reliability of outcome item suites.

The first suite of outcome items measured the likelihood to vote using the following items: "It is incredibly important to vote in local (1.1.1), state (1.1.2), and federal (1.1.3) elections," "My vote matters in determining the winner of a major election (1.2)," "I try, to the best of my ability, to convince others that they should vote (1.3)," "I care about the outcome of elections (1.4)," "I would vote even if it were inconvenient for me; e.g., bad weather, long lines, prior obligations (1.5)," "Elections in the United States are fair (1.6)," "I am confident that I know how to vote (1.7)," and "It is my duty as a citizen to vote (1.8)." The answer choices were "Strongly agree," "Agree," "Neutral," "Disagree," and "Strongly Disagree."

The second suite of outcome items measured contemporary political awareness using the following items: "I know who the President (2.1.1), my Representative (2.1.2), my senators

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(2.1.3), my Governor (2.1.4), and my Mayor (2.1.5) is,” “I can explain the difference between the Democratic and Republican parties (2.2),” “I can explain the state of important political issues that are being debated in the United States; e.g., immigration, the economy, abortion, climate change (2.3),” “Decisions made by the government have a large impact on my life (2.4),” “I discuss political topics with my friends and family (2.5),” and “I can explain the policy positions of the Democratic and Republican parties on major political issues (2.6).”

The third suite of outcome items measured participants’ attitudes toward democratic institutions and practices using the following items: “Civil disobedience—refusing to follow certain laws as a form of protest—is sometimes necessary to bring about change (3.1),” “Peaceful protests are an effective way to bring about change (3.2),” “I felt represented by one of the two candidates—Donald Trump or Kamala Harris—in the 2024 Presidential Election (3.3),” “The actions of the government benefit me in my daily life (3.4),” “The government does not try to serve people like me (3.5),” “Most politicians try to advance their own interests over mine (3.6),” and “The government is too powerful (3.7).” Items 3.5, 3.6, and 3.7 were reverse-coded.

The fourth and final suite of outcome items measured concern for the civil liberties and welfare of peers using the following items: “The wellbeing of disadvantaged groups is important to me (4.1),” “A society benefits from the prosperity of its most vulnerable members (4.2),” “I am willing to pay more taxes if it improves the quality of life of my peers (4.3),” “The government should ensure that all citizens have access to basic necessities like food, education, and housing (4.4),” “I would urge someone with whom I disagree that they should vote (4.5),” “The opinions’ of my peers do not matter, especially when they are rooted in ignorance (4.6),” and “All Americans, regardless of race, gender, religion, sexual orientation, or any other factor, should be treated equally under the law (4.7).” Item 4.6 was reverse-coded.

### *Procedure*

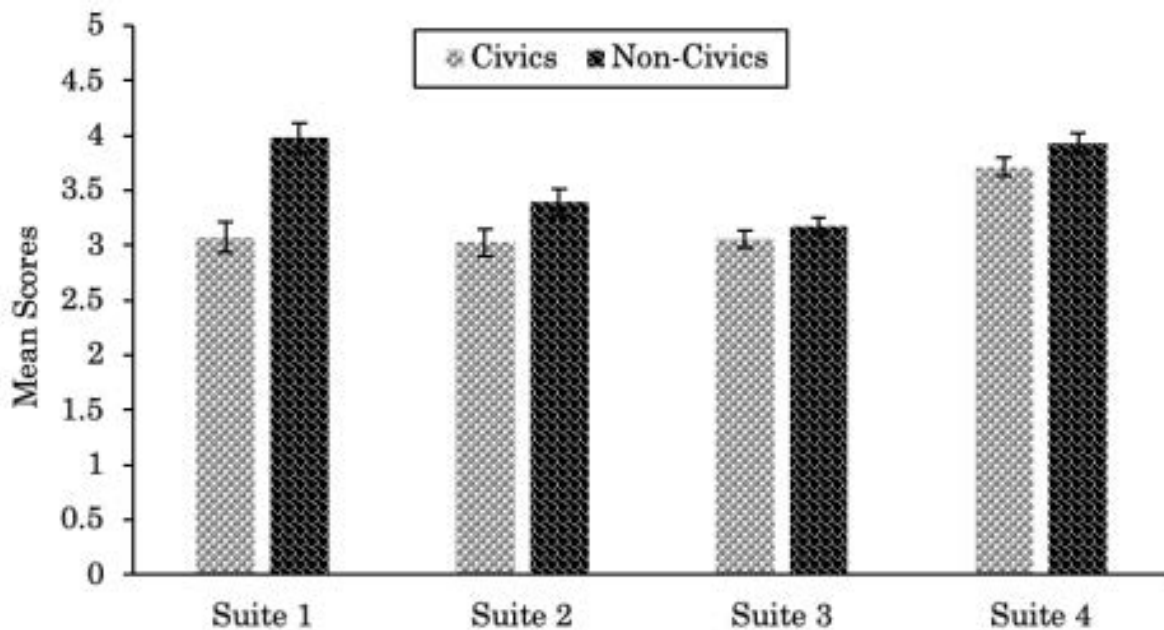
All items were compiled into a digital form that was provided to participants. The form began by collecting participants’ contact information, name, and age, and ensuring informed consent. Following the gathering of identifying information, participants were given the first item suite, then the second, third, and fourth. Following the final item set, participants were identified as belonging to either the control or treatment group: having not yet begun Civics or having completed Civics, respectively. Participants self-identified their educational history and the academic term in which they completed the course, if applicable.

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## Analysis

Each response was designated a numerical value one through five: “Strongly agree (=5),” “Agree (=4),” “Neutral (=3),” “Disagree (=2),” and “Strongly disagree (=1).” For reverse-coded items—3.5, 3.6, 3.7, and 4.6—each response was designated the inverse value: “Strongly agree (=1),” “Agree (=2),” “Neutral (=3),” “Disagree (=4),” and “Strongly disagree (=5).” A mean score for each outcome variable was calculated by each predictor group. The difference between the mean scores of each predictor variable was calculated by subtracting the mean score of the control group from the mean score of the treatment group.

## V. Findings



**Figure 1:**

Mean Scores for Outcome Suites by Predictor Groups

*Note.* ‘Suite’ refers to the previously outlined suites of Likert outcome items. Error bars depict each suite’s standard error.

The differences in mean scores for the various items of the first suite may represent a greater propensity for voting among students who have not taken Civics than students who have completed the course (see Appendix A). On a smaller scale, the difference in mean scores for the second suite may be indicative of Civics students' lack of political awareness. Students who have not taken Civics may demonstrate a greater faith in the effectiveness of civil disobedience, supported by the data of item 3.1. Finally, as suggested by the data of item 4.2, students who

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have not taken Civics may place a greater importance on the well-being of vulnerable people.

## **VI. Discussion**

### *External Policy Efficiency*

Generally, it is the goal of civic education to leave students as active participants, and specifically, it is the goal of civic education to equip students with attitudes conducive to formal political expression. The data suggest that high school Civics, as it exists in the state of Louisiana, fails in this respect. Participants who never received instruction in Civics demonstrated a greater likelihood to vote than participants who completed Civics. This difference may be the result of a form of disillusionment that develops throughout the course. Students, beginning the course with minimal knowledge of governmental functions, seem to complete the course feeling as though their voice is insignificant. This learned disenfranchisement manifests itself through apathy toward civic matters. Where civic education is intended to address negative dispositions and foster beneficial, productive citizenship, the Louisiana high school Civics course seemingly does the opposite.

Seeing as though students leave the Civics course with some greater degree of political disenchantment, it may be the case that the course contributes to some poorer degree of external political efficacy—the extent to which citizens believe that the government responds to their demands. Students who completed Civics seem to believe to a lesser extent that democratic practices can influence change. The literature supports the idea that political disenchantment persists in the youth of Western democracies despite continued efforts to expand civic education programs (Print, 2007). It remains to be seen, though, whether traditional civic education contributes directly to weakened external political efficacy. It may be the traditional nature of Louisiana’s Civics curriculum—its lack of comprehensive civic socialization strategies—that contributes to students’ missing sense of political efficacy. Political efficacy can be ameliorated through comprehensive class debates, political discussions outside of the classroom, and civic engagement in school activities (Kudrnáč & Lyons, 2018). The LDOE’s standards for Civics do not explicitly provide for a single one of these activities. The absence of these proven best practices for mitigating the impact of unproductive civic attitudes may contribute to Civics students’ apathy toward formal political expression.

### *Contemporary American Democracy*

Other literature argues that issues of unproductive dispositional outcomes and poor external political efficacy are the result of a governmental system that is “less responsive to African

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Americans and Latinos than to European Americans” (Kahne & Westheimer, 2006). Though rather outdated, this study offers valid conclusions regarding the state of youth external political efficacy; as large strides have not been made in the government’s responsiveness to historically underrepresented groups, the contention remains valid that lower external political efficacy among certain racial groups is, to an extent, justified. Kahne and Westheimer argue that civic education should not aim to improve the external political efficacy of students, as that would amount to an attempt “to try and convince a disempowered group that mainstream institutions want to respond to their concerns” (p. 292). Attitudes of disenchantment among these disempowered groups, per Kahne and Westheimer, represent the “underlying ills” of an otherwise healthy democracy (p. 293). The results of this project cannot speak to these contentions, as this project is limited by its lack of racial data. The sole predictors of this project were the participants’ completion of a unit of study of civic education in Louisiana. Considering this, it is difficult to suggest that a curricular change to the Civics course would result in a mass amelioration of civic dispositions across students of all backgrounds. Instead, it is more likely that more effective means of civic socialization, like debates or service learning, would improve external political efficacy and civic dispositions to an extent that is appropriate under the current state of American democracy.

Furthering the discussion of disparities in dispositional outcomes, it is clear that a one-size-fits-all approach will not improve the state of this issue. A 2020 study of political efficacy and applied political participation interventions suggests that attitudes can indeed be improved with all-encompassing civic socialization efforts, but disparities still exist across socioeconomic lines (Padilla et al., 2022). Results of the study indicate that combining traditional instruction in a civic education program with opportunities for applied political participation can influence desirable attitudes among students. This finding applies to the state of secondary civic education in Louisiana, considering that most Louisiana students do not receive opportunities to engage in applied political participation. Nevertheless, even in the presence of these well-designed programs, disparities in students’ attitudes persisted. In other words, disparities in students’ attitudes will exist so long as there are disparities in the government’s treatment of its citizens. Civic education should not aim to influence dispositions as they apply to true, observable instances of unjust governance. The state of the current American government is an additional contributing factor to students’ dispositions.

## **VII. The Future of Civics in Louisiana**

### *Course Rigor*

Practically, the answer to civic apathy may not be more rigorous or all-encompassing civic

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education, particularly not as it exists in Louisiana (Hilmer, 2015). Hilmer describes continued apathy as a result of a “conceptual disconnect between the ideal of democracy and the reality of the American state” (p. 62). Expectedly, the coursework and content of the Civics course largely allow students to study the many facets of the United States government. This traditional Civics focus may be what contributes to students’ poor dispositional outcomes toward voting and being informed. As the course fails to focus on the citizen as an empowered individual under the liberatory nature of the government, its portrayal of the government as a seemingly alien, far-removed institution leaves students with attitudes of apathy toward an institution that they believe does not greatly influence their lives. Students place little importance on the actions of the government, making them accordingly unlikely to place great importance on the issue of voting.

### *Civic Socialization Strategies*

**Service Learning:** This pedagogical approach intends to integrate relevant service activities into a discussion of classroom material. Service learning, a proven best practice for ameliorating students’ civic outcomes, is absent from the student standards for Civics in Louisiana (Carnegie Corporation of New York & CIRCLE, 2003, p. 26). This fact once again highlights the incredibly traditional or barebones approach to high school civic education in the state. Considering it has been demonstrated that the current state of this course contributes to lowered external political efficacy among students, it is notable that service learning initiatives have been proven to contribute to greater political efficacy (Barnett, 2018). If the Civics course were to incorporate alternate methods of instruction, like service learning, it is reasonable to contend that students’ propensity for formal political participation would be greater. Rather, in the presence of solely traditional means of delivering course content, students’ external political efficacy is diminished, and so is their likelihood of voting.

**Debates and Discussion:** The student standards for high school Civics also do not mandate the inclusion of classroom debates or discussions regarding contemporary issues or, for that matter, any issues. CIRCLE (2011) identifies this strategy to be among other best practices in developing virtuous, multi-dimensional attitudes within students. Their report holds that a practice such as this becomes more significant in the context of “ideologically homogeneous communities” (p. 28). To instill positive attitudes toward government and limit disparities in dispositional outcomes, the implementation of debates and classroom discussions can be used, fostering an environment in which multiple perspectives are offered.

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## *Case Study-Based Learning*

Nokes (2019) offers a curriculum of civic education that intends to identify and provide instruction for various dispositions that are necessary for the longevity of American democracy. Understanding that “teaching civics must be more than understanding the structures and functions of government,” Nokes intends to demonstrate an approach to civic education that is more oriented to developing historically-based attitudes (p. ix). Ellsworth (2020) summarizes and provides commentary on Nokes’ civic-focused history framework. The framework identifies crucial dispositions for democratic participation: “defending the rights of others, uniting with like-minded peers, compromise, diplomacy and working with adversaries, demonstrating disapproval, and civil disobedience” (Ellsworth, 2020, p. 2). An example provided by Nokes is the attitude of civil disobedience and accompanying historical narratives. Nokes “presents the disposition” through telling the story of Susan B. Anthony, who, in the struggle for women’s suffrage, was arrested, convicted, and fined as a result of her illegal voting in the Election of 1872 (Ellsworth, 2020, p. 2). Alternatively, the same disposition is presented through telling the story of the Freedom Riders—a civil rights group that was met with violence for protesting the non-enforcement of progressive Supreme Court decisions. This sort of instruction allows students to realize the historical influence of these dispositions. The inclusion of multiple case studies for a single disposition “affords students with not only a juxtaposition, but also the chance to examine multiple perspectives of the same disposition across time” (Ellsworth, 2020, p. 2). The example of civil disobedience is particularly notable in the context of this study. Students who completed Civics seem to believe to a much lesser degree that civil disobedience is occasionally necessary to spark change (see item 3.1 in Appendix A). Had these Civics students experienced a lesson in which they multidimensionally studied the application of civil disobedience to real social issues, it would be difficult to contend that they would exhibit the same attitude toward civil disobedience. This case study-based learning has real potential to positively influence students’ dispositional outcomes in Louisiana’s secondary schools.

## **VIII. Limitations**

This study, like many other projects in the discipline of civic education, finds itself incredibly limited by its lack of longitudinal data. The conclusions drawn from this study assume that taking a Civics course in secondary school is the single largest predictor of dispositional outcomes. In practice, this is not the case. Student attitudes toward government are shaped by the many social studies programs that they experience throughout their schooling. Without taking into account the social studies curricula of primary and lower secondary courses, a

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holistic view of American civic education is missing. It is reasonable to contend that this study is most notably limited by its lack of consideration of socioeconomic factors. Attitudes toward government and the status quo are wildly different between two citizens of wildly different socioeconomic origins (Manstead, 2018). Even in the presence of the most comprehensive, well-developed civic education programs, it is likely that differences in dispositional outcomes will persist, suggesting that education has a less-than-ideal impact on productive citizenship. Despite the existence of this limitation, the study's conclusions remain valid as there is statistically significant data to support the contention that civic education in Louisiana contributes to a lower degree of external political efficacy among students. Since racial information was not gathered, it cannot be proven that the distribution of races among participants reflects the distribution of races in Louisiana. This limitation becomes even more significant in the context of improving the Civics course. As the course should instill productive dispositions into students, it is necessary that instruction accounts for differences in students' backgrounds; service learning, debates, and other civic socialization tactics allow for this to occur.

It must be noted that this study is limited by the absence of consideration of classroom differences. Members of the treatment group—students who took Civics—were taught by various teachers. These teachers are likely to foster different attitudes within students by virtue of their own attitudes. Additionally, these teachers have some level of control over the pedagogical approaches and activities used in their classrooms. In other words, all members of the treatment group did not necessarily receive the same treatment. Differences in treatment among Civics students are problematic as they remove the ability to deduce whether the standards of the class are the biggest influence on dispositional outcomes.

### *Implications and Best Practices*

Having observed the effect of civic education on dispositions among Louisiana's secondary students, it is clear that the high school Civics course may not achieve its end of fostering beneficial civic attitudes within students. It is accordingly implied that the course should be reformed in order to produce more preferable dispositional outcomes. It has been established that extensive civic socialization strategies can influence these more preferable dispositions. With the aim of improving students' attitudes by the end of the Civics course, the LDOE should enforce alternative pedagogical approaches within the course. This study has discussed service learning, classroom debates, and case study-based instruction as means of delivering course content in ways that are more favorable to developing virtuous attitudes. This study's results imply that action is necessary to implement more complete pedagogical approaches for the sake

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of developing attitudes. The literature strongly supports the notion that, in practice, these attitudes would be effectively developed through the employment of these aforementioned pedagogical approaches.

## **IX. Directions for Future Research**

Attitudes toward government and participation are developed by a variety of factors in students' formative years. These factors include primary and secondary social studies education, pedagogical, socioeconomic origin, parental socialization, geography, and more than would be appropriate to list. A majority of existing literature fails in the regard that longitudinal data is not present. Students' dispositions change throughout the course of their education, and, less frequently, into adulthood. Future research should aim to gather data at various benchmarks in the education of Louisiana students. Additionally, the education that these students receive should be uniform in delivery; pedagogical approaches, class activities, and chosen curricula should be identical. Furthermore, future research should account for students' demographic characteristics. Seeing as students bear different attitudes based on their race or economic status, it is worth researching the extent to which civic education can influence the dispositions of students of various origins.

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## X. References

- Barnett, L. (2018). Service-learning as a tool for increasing political efficacy and civic engagement at a hispanic-serving institution. *Citizenship, Social and Economics Education*, 17(3), 151-167.
- Campbell, D. E. (2019). What social scientists have learned about civic education: A review of the literature. *Peabody Journal of Education*, 94(1), 32-47.
- Carnegie Corporation of New York, & The Center for Information and Research on Civic Learning and Engagement. (2003). *The civic mission of schools*.
- CIRCLE. (2023). *State-by-State youth voter turnout data and the impact of election laws*. <https://circle.tufts.edu/latest-research/state-state-youth-voter-turnout-data-and-impact-election-laws-2022>
- Civics and free enterprise; required; exceptions, La. Rev. Stat. §17:274.1, (n.d.). Ellsworth, T. M. (2020). Teaching civics through stories of those who lived it. *Theory and Research in Social Education*, 48(3), 465-469.
- Ford, B. (2020). The odd malaise of democratic education: Horace Mann, Amy Gutmann and the inordinate influence of business. *Policy Futures in Education*, 18(8), 1075-1116. Free enterprise; elective course, La. Rev. Stat. §17:274, (n.d.).
- Gould, J., et al. (2011). *Guardian of democracy: The civic mission of schools*. Annenberg Public Policy Center at the University of Pennsylvania.
- Hilmer, J. D. (2015). The irony of civic education in the United States. *Civic Education in the Twenty-First Century: A Multidimensional Inquiry*, 61-84.
- Kahne, J., & Westheimer, J. (2006). The limits of political efficacy: Educating citizens for a democratic society. *PS: Political Science & Politics*, 39(2), 289-296.
- Kober, N., & Rentner, D. S. (2020). History and evolution of public education in the US. *Center on Education Policy*.
- Kudrnáč, A., & Lyons, P. (2018). Political inequality among youth: Do discussions foster a sense of internal political efficacy? *Young*, 26(5), 484-504.
- Lopez, F. S., & de Mattos, C. R. (2024). Science education in the USA during the Cold War: From neglect to a national security issue. *Science & Education*, 1-18.
- Louisiana commission on civic education; creation; purpose, La. Rev. Stat § 24:971, (n.d.). Louisiana Department of Education (2022). High school civics. *K-12 Louisiana Student Standards for Social Studies*, 42-46.
- Mansoury Babhoutak, E., Kavadias, D., & Echeverria Vicente, N. J. (2020). Exclusion and antisystem attitudes: The impact of perceived discrimination in attitudes towards democracy and the willingness to use violence among adolescents in Brussels. *Social Sciences*, 9(10), 175.

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- Manstead, A. S. (2018). The psychology of social class: How socioeconomic status impacts thought, feelings, and behavior. *British Journal of Social Psychology*, 57(2), 267-291.
  - Nokes, J. D. (2019). *Teaching history, learning citizenship: Tools for civic engagement*. Teachers College Press.
  - The Office of the White House Press Secretary. (2009). President Obama Launches 'Educate to Innovate' Campaign for Excellence in Science, Technology, Engineering & Math (STEM) Education. In *the National Archives*. The White House.
  - Padilla, Y. A., Hylton, M. E., & Sims, J. L. (2022). Promoting civic knowledge and political efficacy among low-income youth through applied political participation. *Journal of Community Engagement and Scholarship*, 12(2).
  - Print, M. (2007). Citizenship education and youth participation in democracy. *British Journal of Educational Studies*, 55(3), 325-345.
  - Shapiro, S., & Brown, C. (2018). The state of civics education. *Center for American Progress*.
  - Wray-Lake, L., & Ballard, P. J. (2023). Civic engagement across adolescence and early adulthood. *APA Handbook of Adolescent and Young Adult Development*, 573–593.

## XI. Appendix

### Appendix A

**Table 1: Descriptive Statistics, *p*-Values, and Effect Sizes for Outcome Items**

Item	Civics		Non-Civics		Difference	<i>p</i> *	Cohen's <i>d</i> <sup>b</sup>
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>			
1.1.1	4.62	0.94	3.83	0.67	-0.79	0.009	-1.014
1.1.2	4.48	0.97	3.75	0.81	-0.73	0.028	-0.834
1.1.3	4.33	1.15	3.33	0.97	-1.00	0.012	-0.964
1.2	4.14	1.00	2.58	0.85	-1.56	0.000	-1.720
1.3	3.24	0.95	2.00	1.37	-1.24	0.010	-0.997
1.4	4.19	1.76	3.00	1.03	-1.19	0.019	-0.892
1.5	3.62	1.44	2.67	1.24	-0.95	0.054	-0.724
1.6	3.14	0.94	2.83	0.96	-0.31	0.377	-0.324
1.7	3.33	1.31	2.92	1.20	-0.42	0.360	-0.336
1.8	4.67	1.34	3.83	0.58	-0.83	0.018	-0.904
2.1.1	4.95	0.00	5.00	0.22	0.05	0.458	0.272
2.1.2	2.33	1.35	2.00	1.39	-0.33	0.508	-0.242
2.1.3	2.05	1.19	2.17	1.50	0.12	0.816	0.085
2.1.4	3.86	1.48	2.75	1.56	-1.11	0.035	-0.722
2.1.5	2.71	1.38	2.08	1.76	-0.63	0.295	-0.385
2.2	3.86	1.31	3.42	1.06	-0.44	0.301	-0.381
2.3	4.05	1.31	3.50	0.86	-0.55	0.158	-0.523
2.4	3.95	1.06	3.75	0.97	-0.20	0.581	-0.202
2.5	3.10	1.60	2.75	1.26	-0.35	0.498	-0.248
2.6	3.05	1.34	2.83	1.07	-0.21	0.617	-0.183
3.1	4.14	1.07	3.33	0.91	-0.81	0.028	-0.834
3.2	3.71	0.65	3.67	1.06	-0.05	0.889	-0.051
3.3	3.29	1.19	2.83	1.52	-0.45	0.383	-0.320
3.4	3.10	0.72	2.83	1.00	-0.26	0.431	-0.289
3.5	3.25	1.29	3.29	1.15	-0.04	0.937	-0.03
3.6	2.5	0.90	2.05	0.80	0.45	0.165	0.538

Item	Civics		Non-Civics		Difference	<i>p</i> *	Cohen's <i>d</i> <sup>b</sup>
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>			
3.7	3.00	1.04	2.67	0.97	0.33	0.375	0.335
4.1	4.35	1.04	4.00	0.67	-0.35	0.256	-0.423
4.2	3.90	1.0	3.08	0.97	-0.82	0.029	-0.835
4.3	3.45	1.38	3.50	0.89	0.05	0.901	0.046
4.4	4.38	0.67	4.42	0.86	0.04	0.903	0.045
4.5	3.62	1.31	3.08	1.20	-0.54	0.243	-0.431
4.6	3.17	1.40	3.05	1.32	0.12	0.813	0.088
4.7	4.76	0.62	4.75	0.54	-0.01	0.954	-0.021

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*Note.* Differences were calculated by subtracting the mean scores of the control group from the mean scores of the treatment group.

<sup>a</sup> This study drew conclusions only from items whose p-value was less than 0.055.

<sup>b</sup> Negative Cohen's *d* values reflect a negative change in response to treatment. In this case of this study, treatment represents completion of the Civics course. A more negative Cohen's *d* value represents a larger adverse effect.

### *Appendix B*

**Table 2:** *Descriptive Statistics and Reliability Values for Outcome Suites*

Item Suite	Civics		Non-Civics		Cronbach's $\alpha$ <sup>a</sup>
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>	
1	3.08	0.768	3.98	0.574	0.862
2	3.03	0.755	3.39	0.651	0.756
3	3.06	0.433	3.18	0.440	0.180
4	3.71	0.499	3.93	0.493	0.479

*Note.* Each suite number represents the corresponding group of outcome items. The first suite measures likelihood to vote, the second suite measures knowledge on contemporary politics, the third suite measures participants' attitudes toward democratic institutions and practices, and the fourth suite measures concern for the civil liberties and welfare of peers.

<sup>a</sup> This study did not draw conclusions from items belonging to a suite with a Cronbach's  $\alpha$  value less than 0.75 unless the individual item offered a great level of statistical significance and a large effect size.

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# *The Politics of Remembrance and Historical Revisionism in Argentina: Memory Politics under Cristina Fernández de Kirchner and Javier Milei*

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*“We’ve reclaimed clandestine centres; we’ve reclaimed places where they tortured our children. We’re very afraid that we would lose all this if another government comes to power and they’d leave us with nothing; like has happened before. This is our worry.”*

- Raquel Marizcurren, June 2009 (in Stockwell 2014)

## **I. Abstract**

The legacy of Argentina's military dictatorship (1976–1983) is an ongoing and controversial issue in the country related to historical memory, violation of human rights, and government accountability. This paper examines the impact of changes in presidential administrations on the legacy of the dictatorship by comparing the presidencies of Cristina Fernández de Kirchner (2007–2015) and Javier Milei (2023–present). It examines how state institutions and policies, as well as individual presidential discourse, affect the preservation or erasure of narratives of state violence. During Fernández de Kirchner's administration, memory was integrated into the government through criminal prosecutions, memorialization initiatives, and policies that highlighted and promoted the concepts of *memoria, verdad, y justicia*. Milei's administration has adopted a strategy of state minimization, involving reducing support for memory institutions and projects and employing revisionist rhetoric that clouds the reality of the crimes of the dictatorship. This comparison demonstrates that memory politics in Argentina are significantly influenced by the executive branch, generating institutions susceptible to changes of administrations. To address this problem, the research recommends implementing a hybrid institutional strategy that includes legislative guidelines for memory institutions, self-sufficient supervisory mechanisms, and strengthened educational initiatives to be able to maintain historical accountability while moderating the risk of political manipulation.

*Keywords:* Argentina, memoria (memory), verdad, justicia, dictatorship

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## II. Introduction

In the most recent political climate of the past two decades, the legacy of the dictatorship has remained deeply politically charged in Argentina's democratic period throughout distinct administrations. This prompts the question: how have political shifts influenced the preservation or suppression of memory in Argentina, specifically the legacy of state violence from the military dictatorship? This paper addressed this question by looking at the presidencies of Cristina Fernández de Kirchner (2007-2015) and Javier Milei (2023-present).

By analyzing the policies, actions, and rhetoric of these two presidents, we can see how state power directly shapes what is forgotten and what is remembered. Under Fernández de Kirchner, memory was institutionalized and celebrated by linking remembrances to national identity, museums, and public commemorations. However, under Milei, memory has been reframed through rhetoric that questions established perspectives and narratives, casting doubt on what happened and fostering a denialist view. In other words, it is clear that collective memory is not fixed but is constructed and redirected by those in power.

Since the return of democracy, Argentina has pursued commemoration and truth-telling; however, there remains limited comparative work that places Fernández de Kirchner and Milei side by side to demonstrate how opposing political plans project remembrance and denial, a comparison that is essential since they stand at opposite ends of Argentina's moral and political spectrum. Moreover, existing scholarship often treats each administration separately, leaving unclear how shifts in presidents recalibrate the narrative of the violence perpetrated by the military dictatorship across institutions, among Argentine citizens, and in discourse, which remains unexplored.

This paper addresses this gap by analyzing how Cristina Fernández de Kirchner integrated remembrance into state policy and national identity, followed by an examination of Javier Milei's rhetoric and governing approach that challenge those practices. Through this comparison, I argue that presidential leadership determines whether the remembrance of state violence in Argentina through the military dictatorship is preserved or suppressed, and I demonstrate this by addressing two specific dimensions: 1) state policy and institutions of memory, and 2) presidential discourse and symbolic policies that shape public understanding of the past.

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### III. Historical Context

After the death of President Juan Perón in 1974, his wife, Isabel Perón, became his successor. There was a rise in violence and instability, inciting the military to intervene, an event that was not new to Argentina, as it had happened five times before in over 35 years (Renzulli 1987). The military junta, led by General Jorge Rafael Videla, launched the “Proceso de Reorganización Nacional” (Process of National Reorganization), in hopes of eradicating guerrilla fighters and any political dissidents causing instability and disorder. This era, also known as the Dirty War, was a time of brutal violence and the spread of fear. The estimated number of desaparecidos (disappeared individuals) was between 10,000 and 30,000, due to the use of torture centers and a secret security force that kidnapped people in the middle of the night (Wiley 2018). Guards and soldiers in the detention centers beat, raped, and electroshocked prisoners, deprived them of basic necessities, buried prisoners in mass graves, threw others from helicopters into the ocean, and even kept pregnant women alive until they gave birth before giving their children to military couples (Renzulli 1987).

In 1982, the Guerra de Las Malvinas (Falklands War) materialized as an armed conflict between Argentina and Great Britain over the control of the Falkland Islands. Tensions escalated on March 19, when Argentine scrap metal merchants landed on the South Georgia Island and placed the Argentine flag on British-administered territory; however, Britain only sent a small number of troops (Stransky 2012). Due to their weak response, Argentina was encouraged to take further action, which led President Leopoldo Galtieri to order the invasion of the Falkland Islands on April 2, 1982 (Lu 2022). After diplomatic negotiations failed in efforts to prevent an armed conflict, the confrontation intensified into a limited war that lasted around ten weeks, ending with Argentina’s surrender and England regaining control of the islands, during which there were 255 British soldiers and 652 young Argentine soldiers (Stransky 2012). The failure of the Falklands War led to a diminishment of trust and support for Argentina’s military dictatorship. Finally, in 1983, the loss of lives and national pride from the result of the Falklands War, the human rights abuses caused by the dictatorship, and the hard economic situation forced the military to call for democratic elections (Natale 2022). On October 30, 1983, Raúl Alfonsín became the legitimate president in an election in which over 85% of eligible voters participated (ADST, n.d.).

Since then, Argentina has opened multiple remembrance centers. For example, President Néstor Kirchner converted one of the former torture centers, the Escuela de Mecánica de la Armada (ESMA), or the Navy Mechanics School, into a remembrance building, set March 24

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as the National Day of Remembrance for Truth and Justice, and even built the Parque de la Memoria (The Park of Memory) to honor the victims of the Dirty War and reinforce the idea of memory politics. However, rhetoric has come to light that diminishes the importance of memory politics and casts doubt on what occurred. Former President Mauricio Macri separated from the idea that human rights were part of the framework of the Dirty War and that they are an international concept. Macri made questionable comments, such as doubting 30,000 as a legitimate number of desaparecidos, as well as budget cuts to programs intended to remember and honor the victims of state violence (Bale 2023; Robles Ridi 2022). His presidency represented that Argentina's collective memory remains fragile, susceptible to denialist interpretation depending on who is in power.

#### **IV. Theoretical Framework: Memory Politics**

Memory politics is defined as a set of political processes through which interpretations and perspectives of the past are shaped and contested within the public sphere for political purposes (Sierp 2025; Errera and DeIuliis 2023). This framework conceives of memory as a social and public construction that relies on particular acts of remembering or of purposefully forgetting. What is silenced or commemorated depends on these acts, which result in connecting memory to networks of political legitimacy and power. When the state participates in the process of memory politics, open and public memory becomes a space of political struggle where the past and collective memory are used to increase support and establish political legitimacy (Errera and DeIuliis 2023; Sierp 2025). Furthermore, collective memory refers “to the memories that individuals have as members of the groups to which they belong, whether small (family, school) or large (political party, nation)” (Roediger 2021, p. 1). It is important to note that it is not static; in fact, it is open to interpretation.

Under this understanding of memory politics and collective memory, the state is a critical actor in promoting and sustaining public memory. Governments can promote interpretations of the past through a multitude of legal actions and institutions, such as memorial sites, educational policies, commemorative days or symbols, and even political discourse. Memory policies function as a form of public action in which the state continually structures memorial frameworks and supports their governance (Gensburger 2024). In other words, since memory is embedded in state institutions, shifts in administrations can significantly change how the past is understood, making memory politics sensitive to any changes in political power.

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Drawing on this framework, the following section examines how memory politics have functioned and shifted in Argentina, focusing on the application of memory under Cristina Kirchner's administration and the challenges of memory politics under Javier Milei.

## V. Policy Analysis

### *Cristina Fernández de Kirchner: Preserving Memory*

#### State Policy and Institutions of Memory:

Cristina Fernández de Kirchner's presidency (2007-2015) represented the unification of a state-led project of remembrance that worked to reconstruct Argentina's democratic and national identity through the lens of *memoria, verdad, y justicia* (memory, truth, and justice) (Torrás et al. 2016). Building on the human-rights-focused agenda built by her husband, former President Néstor Kirchner, she transformed memory into a critical function of governance. Under her leadership, remembrance became a framework and, controversially, a political tool, blended by justice and raising awareness.

Fernández de Kirchner, along with her husband, advocated for new cultural models of commemorating the memory of the past, pushed for numerous presidential decrees that voided laws limiting prosecutions under Alfonsín and other impunity policies from the Menem administration. In fact, by August 2013, 381 criminal cases were ongoing regarding 2,071 military, security, and civilian officials accused of participating in state terrorism during the military dictatorship (Stockwell 2014). These prosecutions not only reflected the government's commitment to accountability and justice but also its effort to maintain these ideals as a foundation of the state's identity as a way of formal, institutionalized memory politics. These trials became public spectacles at an international level, where the Argentine government publicly condemned the crimes of the dictatorship and legitimized the truth from the past (McEvoy 2023). They also demonstrated how her administration worked to prioritize and institutionalize remembrance through the legal system itself. It served as a way to honor the victims as well and properly restore a national and international framework of human rights in Argentina (Stockwell 2014).

Former dictator, Jorge Rafael Videla, was expecting and hoped for the defeat of Cristina Kirchner during the October 2011 presidential elections, as well as for his imprisoned companions, since they would have been freed by a special amnesty that would have been provided by former President Eduardo Duhalde, the other presidential contender (Reato 2012).

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Former dictator, Jorge Rafael Videla, was expecting and hoped for the defeat of Cristina Kirchner during the October 2011 presidential elections, as well as for his imprisoned companions, since they would have been freed by a special amnesty that would have been provided by former President Eduardo Duhalde, the other presidential contender (Reato 2012). This expectation uncovers how the dictatorship's remnants understood the Kirchners' administrations as threats to their freedom and legacy. In Videla's eyes, she symbolized a new era of accountability in Argentina and even reflections of the past. Videla's anticipation of amnesty under the governance of a different president exposes how justice in Argentina, regarding the military dictatorship, relies heavily on who is the leader, even if democracy was already installed.

Furthermore, the *Museo Sitio de Memoria ESMA* (Memory Site Museum ESMA), opened in 2015 during Cristina Fernández de Kirchner's administration, became one of the most essential memorials formed by the Argentine national government (Simonetti 2020). Throughout the former torture center, several buildings now host human rights organizations such as the Abuelas de Plaza de Mayo (Grandmothers of the Plaza de Mayo), Madres de Plaza de Mayo (Mothers of the Plaza de Mayo), and UNESCO's International Center for the Promotion of Human Rights, and posters exhibit information about the dictatorship trials, the importance of testimonies, photographs of *los desaparecidos* (the disappeared), and the site's former use as a military facility (Simonetti 2020). The conversion of the ESMA from a place of torture and death to one of remembrance and honor reflected Kirchner's dedication to reclaiming spaces that were historically used to silence people. Moreover, the presence of human rights organizations within the museum's grounds emphasizes how Kirchner's government deeply strived to strengthen the collaboration between civil society and the state in order to preserve the truth of state violence that occurred during the military dictatorship.

However, it is necessary to consider how the names of Cristina and Néstor Kirchner take the spotlight through plaques in multiple sections of the museum; in other words, there has been a sort of personalization of the takeover of ESMA, meaning that there is a political advantage to these actions by making them openly Peronist and Kirchnerist (Simonetti 2020). This has generated controversy among politicians and scholars who dispute that Fernández de Kirchner has blurred the boundary between political influence and the pursuit of collective remembrance. By placing her and her husband's names so boldly within ESMA, Cristina Kirchner may have also transformed a place of collective memory into one of partisan symbolism. Although her fight to honor the truth and the victims of the Dirty War is undeniable, it may be a tool to promote the identity of Kirchnerism.

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Additionally, the Kirchner governments, specifically Cristina's administrations, faced intense criticism for allegedly instrumentalizing the past by utilizing the party's moral authority and marginalizing dissidents, as well as establishing an official version of what occurred with partisan details such as the praise of revolutionary militancy and the absence of guerrilla organizations' responsibilities (Balé 2020). By framing the dictatorship's history through the perspective of Kirchnerism, Fernández de Kirchner was seen by some as advancing and reinterpreting collective memory and justice as a political tool to advance her interests (Balé & Guille 2025). Her administration's close control over memory discourse raised concerns since it was beginning to exclude alternative interpretations, reducing the intricacy of the past to a single politically charged version.

#### Presidential Discourse and Symbolism:

Besides institutional reform and policy, the fight over the responsibility and protection of memory politics in Argentina is also emphasized through presidential discourse. Particularly, the ways the leaders speak about history, what they accept or deny, as well as what silences they maintain. Presidential discourse shapes the national narrative of state violence and how the dictatorship is remembered. Cristina Fernández de Kirchner and Javier Milei represent two opposite sides of the political spectrum, and it is clear throughout their political rhetoric when discussing the military dictatorship and the importance of remembering.

Under Cristina Fernández de Kirchner, the language of remembrance is highlighted as one that is emphasized when discussing the role of the state and as a moral element of the national identity of Argentina. Her rhetoric and speeches directly touch upon *memoria, verdad, y justicia* as pillars of the democratization and connections between the state and the people. Furthermore, through her discourse, she acknowledges the dictatorship's crimes, meaning that she encouraged the uncovering of the past instead of ignoring it or outright denying it. She also publicly announces civil organizations, such as the Madres de Plaza de Mayo, through her discourses, recognizing the work and effort of social organizations that fought and continue fighting for the truth.

In general, CFK's official discourse was known for the action of *historizar la memoria* (frame history within its historical context); in other words, she legitimized the victims' voices, turning their testimonies into the foundation of the continuation of criminal cases and prosecuting the human rights violations committed during the military dictatorship (Bietti 2009). Her discourse seems to have promoted victims, in all senses of the word, from private individuals to representatives of justice. Cristina Kirchner's discourse seemed to have utilized the trauma of

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thousands of people, for the good of building the collective memory of the past, and even further deepening remembrance as one of the key components of a sense of national belonging. She transformed the legal courtroom, which was once used to pardon perpetrators of the military regime, into a place of restoring the truth and reconfirming the democratization principles of the nation.

On the day that Fernández de Kirchner was sworn in as the new president of Argentina, he honored two specific groups for the essential work and bravery they had demonstrated to the country and the world. She explicitly shows the respect and admiration she has for the “women who with white headscarves dared where no one else dared and did it,” also known as the Madres de la Plaza de Mayo and the Abuelas de la Plaza de Mayo (Vitale 2014, p. 13). The Madres and Abuelas were symbols of resistance and justice, as they were able to convert loss into persistence and the search for the truth. In just a few words, Cristina Kirchner places these women as symbols of the true Argentinian national ethos, as well as Argentinian pride. By openly acknowledging them in her inaugural speech, she established a moral frame for her presidency that is rooted in *memoria, verdad, y justicia*.

As it was discussed earlier, the establishment of institutions to pay tribute to those who were lost and to spread the message to never forget was a critical aspect of CFK’s push for memory politics. March 24th plays a symbolic date with the name of *Día Nacional De la Memoria, por la Verdad y la Justicia* (National Day of Memory for Truth and Justice), where Fernández de Kirchner would advocate for Argentinians to never forget the suffering of their people during the military regime. On this very date, in 2010, she gave a commemorative speech to recognize the inauguration of a new cultural center in ESMA, which was previously established by Néstor Kirchner, where she proudly proclaimed, “...and let me commit myself before you – before all of you and all Argentine that if we do not find justice in Argentina, I as President will accompany it to other international tribunals also demanding justice” (Wiley, p. 43, 2018). Her declaration captures her vision of justice on a national and international level, reiterating her belief that accountability and memory go hand in hand and that country borders pose no limits to finding reparations. Cristina Kirchner applies herself to the national public, instead of separating herself from those who were impacted during the regime, signifying that she sees herself as simply another person who was affected by the state violence that occurred at the time.

Fernández de Kirchner also integrates the importance of the *Guerra de las Malvinas* (Falklands War) into her speeches. She is able to adapt to a dual strategy in some of her speeches of rejection and celebration, where she condemns the dictatorship and the

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*desmalvinización* (a concept that became popular in Argentina to suppress public discussion of the 1982 Falklands War and marginalize its veterans that followed) and combines the memories of victims of the dictatorship with a patriotic identity (Salerno 2019). It is clear how Fernández de Kirchner added remembrance into Argentina's political discourse, utilizing history not only to honor the victims but also to legitimize her leadership through a narrative of moral rehabilitation and national unity. She utilizes two dark moments from Argentinian history and highlights them to unify the country by acknowledging the strength of all Argentinians in overcoming these moments with dignity. This method allows for there to be enough space to integrate memory and establish national pride without standing behind the authoritarian regime responsible for the systemic human rights violations and persisting trauma. In other words, remembrance is used as a unifying political tool within the Argentine public.

### *Javier Milei: Denying Memory*

#### State Policy and Institutions of Memory:

Javier Milei's presidency (2023-present) marks a significant split with the memory politics established by the Kirchners. His administration represents a return to revisionist narratives, similar to former President Raúl Alfonsín's perspective, that seek to minimize and even utterly deny the state violence that occurred during the military dictatorship. Unlike Fernández de Kirchner, Milei views Argentina's memory politics as a political and ideological constraint, questioning its relevance and authority.

During the first year of Milei's administration, the government dismantled Argentina's memory infrastructure by cutting funding for Sites of Memory and firing their workers, discharging hundreds of human rights workers, suspending archeological and conservation projects that served as judicial evidence, and gravely downsizing the staff or closing agencies such as the Archivo Nacional de la Memoria (National Archive for Memory), the Registro Unificado de Víctimas del Terrorismo de Estado (Central Registry for Victims of State Terrorism), the Haroldo Conti Cultural Centre, and even dismantling the Comisión Nacional por el Derecho a la Identidad's (National Commission for the Right to Identify) investigation unit (Layús 2025; Kordon 2022). These actions reflect how Milei's administration has redefined the role of the state concerning the past in a way that separates it from being the responsible entity for remembrance.

The closure, defunding, and dismissal of employees of these institutions stop preservation efforts and disrupt the gathering of evidence that supports trials against human rights

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violations, which threatens to erase the state terror inflicted by the military dictatorship. Moreover, after being inaugurated, Milei stopped funding and the streaming of the program *Madres del la Plaza* (Mothers of the Plaza) from the *Asociación Madres de Plaza de Mayo* (Association of the Mothers of the Plaza de Mayo), which was shown every Saturday morning for the previous 16 years (Chain 2024). The cancellation of the program signals a calculated effort to cut ties with a platform that has represented the fight against the dictatorship, specifically the relatives of the disappeared and the survivors. This decision also reflects Milei's intention of severing ties between the *Madres of the Plaza de Mayo* and civil society. His government reformulates remembrance as an insignificant fragment of the past, converting it into an expression of personal belief instead of a national commitment to justice and truth.

Likewise, Milei's denialist rhetoric and resistance to the preservation of memory, as well as the promotion of human rights in Argentina, were reflected throughout the course of his campaign. More specifically, he promised to close multiple ministerial entities like the Human Rights Secretariat, and he did by downgrading it to an under-secretariat and cutting 30% in their workforce (Lowy 2023; *Buenos Aires Times* 2025). By minimizing the presence of human rights agencies by reducing personnel and resources, it limits their ability to conduct and supervise developing investigations, advance archives, and support survivors of human rights violations, such as the victims of the military dictatorship. These actions reflect the administration's tactic to separate the responsibility of restoring collective memory as part of the state's role and the redirection of the state's moral compass. However, his efforts to reduce and even eliminate human rights agencies have provoked resistance from civil society actors, survivors, and even human rights organizations who argue that these measures oppose Argentina's preservation and dedication to memory, truth, and justice (Cholakian Herrera 2025).

Milei's rejection of "Memoria, Verdad, y Justicia" (Memory, Truth, and Justice) policies as a result of the "genocide" of the last dictatorship, as well as the opposition of human rights, can be compared to Murray Rothbard's extreme libertarian ideas, specifically anarcho-capitalism (Fair 2025). Rothbard's perspective on human rights concentrates on the belief that "the only human rights, in short, are property rights" (Schweigl 1998, p. 2). By comparing liberty with the lack of state intervention, Milei seems to apply a logic that equates the economic market to human rights, meaning that the preservation of the past is an unnecessary function of the state since it intervenes with the state's true role. This politically ideological shift reexamines Argentina's general understanding of the dictatorship and even the importance of remembering what occurred. The administration's defunding of memory programs and firing employees

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from human rights agencies represents that memory politics is an outdated form of policy and that remembrance is wasteful.

#### Presidential Discourse and Symbolism:

Under Javier Milei, the rhetoric towards memory politics seeks to reframe remembrance as an ideological framework that troubles the true role of the state, and even seems to diminish what went on during the military regime. His attempt to weaken the narrative of *memoria, verdad, y justicia* is changing the national identity due to his promotion of historical revisionism. While he belittles human rights discourse, he rebrands the positioning of the state as neutral to the past.

As Milei's government continues to push for a denialist rhetoric, he confronts the complexity of the historical truth of what happened, where he attempts to neutralize the meaning between perpetrators and victims. A main topic during his "presidential ticket", along with his Vice-President Victoria Villaruel, is holding and discussing that state terrorism is simply a political label (Llanos 2023, p. 8). He reframes one of the darkest periods of Argentina's history as a sort of controversial debate, instead of understanding the suffering that was caused by the regime for years. It transforms all those who were disappeared, tortured, killed, and kidnapped into simply a perspective and something that can be minimized since it is in the past. It encourages silence and detachment to sneak back into Argentine politics, ignoring the voice of the relatives of those who are gone and survivors, possibly teaching upcoming generations of Argentines to recount the past in this form. In fact, during his first presidential debate, he declared that there were not 30,000 *desaparecidos*, but only 8,753 (Seco 2024). By reducing the number of *los desaparecidos* to merely a small measurement, Milei commits an act of symbolic violence that combats the mourning and loss of thousands of other Argentines during the military dictatorship. As the executive, by insisting on a smaller figure, he institutionalizes the erasure of those who were never found and contributes to the uncertainty of thousands of families who will, unfortunately, never be able to find their loved ones. He suggests that thousands of other *desaparecidos* never existed in the first place, making the government implicitly take away their right to be honored and remembered as victims of what their own government did. The act of remembrance was one that took precedent in Argentina by unifying the country by pushing Argentines of all regions to seek and strive for the truth. However, through this framing, Milei takes away the state's responsibility to preserve memory and honor it by rewriting history through his discourse. This method of revisionism allows for denial to exist without explicitly prohibiting the concept of memory, which allows for there to be a fake appearance of neutrality while clearly undermining established narratives and numbers of the past.

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Similar to Milei's strategy, there is a similarity between Barros and Morales' (2019) framework of strengthening ideas relating to shutting out events of the past by forgetting and forgiving, as well as Daniel Feierstein's notion of there being a new offensive against the building blocks of memory during the dictatorship since the presidency of Mauricio Macri (2015-2019) (Kordon 2022). Milei takes Macri's position to another level since he has begun a war with remembrance by attacking institutions, data, and even human rights organizations. Although his government frames it as a way to move forward and advance from such a period of terror, he uses the erasure of memory politics as a tool for the benefit of his interests. Through Milei's "conception of rights," his "idea of the State," and the form he "redefines terms historically associated with human rights" in Argentina through his discourse, it highlights the scarcity of human rights and may even deny democracy itself (Kordon 2022, p. 55). His rhetoric demonstrates Milei's political objective to break down the collective responsibility and accountability of the state. He portrays the concept of human rights as a weakness and the fight for justice, in terms of the military regime, as a political bias brought by past presidents, such as the Kirchners, to promote their goals in government. He promotes the logic of memory, advancing division within the country, which can be seen as dangerous and problematic, as it undermines the foundation that the democratization of Argentina was built on. His goal of pressing on the matter is that looking back at the past will interfere with the true interests of the state; he leaves thousands, if not more, families with questions and worries about what forgetting may do to society, since their truth is being silenced by their own government.

Not only has Milei pushed for the revision and erasure of the past, but he also seems to give the military regime some leeway in what occurred. More specifically, through his discourse, it is clear that he downplays the crimes committed during the Argentine military dictatorship, rejecting all the human rights violations that arose, ranging from disappearances, torture, kidnappings, assassinations, and even the stealing of babies (Zilla 2024). This extreme narrative not only undermines the legitimacy of memory institutions and ongoing trials but also cultivates the idea of apathy toward the terror and trauma that thousands had to go through. His replacement of remembrance through his presidential language signals a major shift in how the nation avoids its past and how historical accountability is purely part of a political ideology. He mixes denialism and revisionism into his discourse to create polarization in the Argentine public about what truly happened, which allows for the rise of doubt towards the true violence suffered during the military dictatorship. This erosion of accepted collective memory encourages fragmentation and doubt to take over, threatening the foundations that Argentina's post-military dictatorship, civil society, and government were carefully building in the last four decades through the utilization of "Memoria, Verdad, y Justicia" (Memory, Truth, and Justice)

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mechanisms such as the rebuilding of institutions, accurate discourse, and the promotion of human rights organizations.

## VI. Policy Approaches to Memory Politics

Argentina's experience shows that memory politics is shaped by distinct policy frameworks that define the state's role in shaping or erasing historical memory. In the last few decades, two policy options have emerged: state-led institutionalized remembrance and state retreat from memory governance. Examining these strategies illustrates the extensive policy options available to countries in confronting the repercussions of state violence.

In Cristina Kirchner's administration, memory is treated as a public responsibility of the state. Under this version, institutions strongly regulate remembrance through legal trials, memorial sites, and symbolic commemorations, where memory politics is strongly highlighted. The transformation of the ESMA detention center into a museum and the expansion of trials against perpetrators clearly revealed how the state can integrate historical accountability inside national institutions (Simonetti 2020; Stockwell 2014). These initiatives embody the transition to democracy and Kirchner's administration, during which Argentina adopted the principles of *memoria, verdad, y justicia* in both national and international contexts, inscribing them as essential state-led remembrance policies (Crenzel 2025; Stockwell 2014). This method strengthens democratic legitimacy by publicly recognizing victims, prosecuting perpetrators, and reinforcing human rights, but there are critical trade-offs. Regarding feasibility, it is highly dependent on helpful political leadership, which makes it vulnerable to future administrations. Furthermore, although this model seems to center victims, critics claim that this practice might benefit actors who politicize memory, as governments may shape historical narratives to reinforce partisan support rather than to present a truthful account (Balé 2020; Sierp 2025).

Conversely, Milei's current government is based on a memory politics strategy that seeks to limit the state's role. The government is not actively conserving historical narratives. Instead, it is making institutional engagement less important by cutting funding for memory institutions, cutting funding for human rights organizations, and shifting how memory is viewed from public policy to private interpretation. (Figari Layús 2025; Grainger 2025; Lowy 2023). Individuals who support this perspective say that less government control makes historical records less political, which helps society move on, even if there were problems in the past. This method could be easier to implement in the short term, especially for governments that want to reduce state involvement. However, it has critical trade-offs. By weakening the archival institutions

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and investigative organizations that are supposed to document past wrongdoing, the state may put current transitional justice efforts at risk and make it harder to obtain information about the dictatorship's past. (Figari Layús 2025; Kordon 2022). From an equity perspective, this model inadequately affects victims by limiting access to justice while allowing revisionist accounts to rise. It creates risks towards the country's democracy by weakening state accountability and disintegrating historical memory.

## **VII. Policy Recommendations**

Based on the research above, Argentina should adopt a hybrid institutional paradigm that safeguards memory politics from sudden political changes while minimizing the risk of partisan exploitation. A previous study indicates that memory politics in Argentina have been quite susceptible to changes in political leadership. This dynamic has led different governments to strengthen or weaken the institutions responsible for preserving historical memory (Crenzel 2025; Sierp 2025). This research yields three policy recommendations.

First, Argentina should establish legal protections for memory institutions, including archives and memorial sites. Constitutional or statutory protections could stop future governments from using only administrative action to tear down these institutions; for example, memory institutions like the ESMA site, the Garage Olimpo Project, and the National Archive for Memory are essential for keeping track of state aggression and helping with inquiries into crimes that happened during the dictatorship (Wilson 2016; Simonetti 2020; Figari Layús 2025). Legal protection for these institutions would ensure their continued existence, even in the event of a change in political leadership.

Second, the government should make it easier for independent groups to monitor memory preservation institutes. Advisory panels composed of historians and archivists would ensure that there remains a truthful and accurate narrative of history, not just those of one political party (Jimerson 2008). Researchers in public memory argue that memory systems administered by the government can become political when governments seek to rewrite history to advance their agendas; in other words, they make it clear why individual oversight is a critical standard to maintain public trust and credibility (Errera and DeIuliis 2022; Balé 2020).

Third, Argentina should expand educational initiatives focused on historical memory within national curricula. Integrating testimony and archival research into public schooling can promote awareness of the past and protect human rights (Baumgartner et al., 2016). Educating

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students' historical memory serves as an essential instrument that opens the door to a 'memorial citizenship,' which "advocates for human rights, social and political reforms, and democratic consolidation" (Herrera et al., 2012 as cited in Ardila-Behar & Behar-Leiser, 2024, p. 1).

Combined, these measures would protect the institutional basis of remembrance while promoting a more lasting and inclusive approach to memory politics.

## **VIII. Implementation of Policy Recommendations**

To keep memory institutions in Argentina, reforms would need to address many political and institutional problems. Memory politics have changed with each new president (Crenzel 2025); improvements should focus on making institutions more stable rather than relying on the actions of one president. To protect archives, memorial sites, and investigative entities that have been responsible for tracking crimes committed during the dictatorship, Congress would have to enact memory protection laws to implement legal protections for memorial sites, archives, agencies, and human rights organizations responsible for reporting crimes and violations committed during the dictatorship. It would start in either chamber of Congress: the *Cámara de Diputados* (Chamber of Deputies) with 257 representatives or the *Cámara de Senadores* (Senate) with 72 senators (*Federal Countries*, 2022). In the Chamber of Deputies, it would go through the *Comisión de Derechos Humanos y Garantías* (Human Rights and Guarantees Commission) and then go into session and be passed with a majority of 129 representatives, if all 257 representatives are in attendance. Then it would pass to the Senate and go through the Senate's *Comisión de Derechos Humanos y Garantías* (Human Rights and Guarantees Commission) for approval before going into session, where 37 votes would be needed if all senators are present.

One key obstacle concerns political resistance from the administrations that are yet to come, which may consider memory projects and policies as political projects. These concerns are seen through both presidents, either for the well-being of their political image, a problematic concept during Kirchner's campaign, or simply institutional restructuring and erasure under Milei's government (Balé & Guille 2025; Layús 2025; Kordon 2022). Establishing safeguards in legislative framing would limit the ability of future presidents to produce their own narrative of the past and dismantle vital institutions responsible for preserving historical memories of state violence.

Furthermore, Argentina's forensic institutions, the judicial system, and human rights organizations must be properly funded and autonomous to carry out ongoing investigations

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related to the crimes that stem from the dictatorship. The Argentina Forensic Anthropology Team (EAAF), in partnership with universities across the country and judicial actors, could play a central role in supporting documentation and preservation of evidence related to the military dictatorship's state violence (Identification of desaparecidos at la perla sparks 'bittersweet relief' for relatives - Buenos Aires Herald 2026). Such support is critical since institutions responsible for collecting evidence and holding trials are key components of transitional justice processes and governmental accountability of the past (Figari Layús 2025). Without this reinforcement, the ability to accurately and efficiently document state violence and acquire justice is improbable.

## **IX. Conclusion**

The comparison between Cristina Fernández de Kirchner and Javier Milei demonstrates that memory politics in Argentina is not fixed but determined by shifts in political administrations. Even if state-led remembrance can strengthen accountability and restore justice, it remains vulnerable to reversal and politicization. On the contrary, withdrawing the state from memory initiatives risks weakening institutions essential to state accountability and transitional justice.

These findings highlight the policy challenge of ensuring that memory politics remain stable across transitions in the executive. This requires strong policies that support legal protections for memory institutions, independent supervisory mechanisms, and educational initiatives that ensure that children and young adults have a comprehensive understanding of the past.

Ultimately, Argentina's experience reveals that protecting historical memory, promoting memory politics, is about emphasizing accountability and justice.

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## X. References

- Ardila-Behar, C., & Behar-Leiser, O. (2024). Pedagogical guidelines for teaching the historical memory of the Colombian armed conflict. *International Journal of Educational Research*, 125, 102360. <https://doi.org/10.1016/j.ijer.2024.102360>
- Bale, C. (2020). *¿Who Is Entitled to Remember? Memory Conflicts during Kirchner and Fernández de Kirchner's Administrations in Argentina (2003-2015)*.
- Balé, C. (2023). Dimensiones, actores y sentidos del posicionamiento de cambios frente al pasado reciente en la Argentina (2015-2019). *Estudios Sociales Del Estado*, 9(18). <https://doi.org/10.35305/ese.v9i18.334>
- Balé, C., & Guille, G. (2025). Memory Policies and Uses of the Past during Kirchnerist Governments in Argentina (2003–2015). In B. Bevernage, E. Mestdagh, W. Ramalho, & M.-G. Verbergt (Eds.), *Claiming the People's Past: Populist Politics of History in the Twenty-First Century* (pp. 49–65). Chapter, Cambridge: Cambridge University Press.
- Baumgartner, E., Hamber, B., Jones, B., Kelly, G., & Oliveira, I. (2016). Documentation, human rights and transitional justice. *Journal of Human Rights Practice*, 8(1), 1–5. <https://doi.org/10.1093/jhuman/huw002>
- Bertoia, Luciana. (2024, August 21). *El Gobierno de Milei contra el consenso del nunca más: Nueva Sociedad*. Nueva Sociedad | Democracia y política en América Latina. <https://nuso.org/articulo/el-gobierno-de-milei-coqueta-con-los-militares-de-la-ultima-dictadura/>
- Bietti, L. M. (2009). *Entre la Cognición Política y la Cognición Social: El Discurso de la Memoria Colectiva en Argentina*
- Chain, A. S. (2024). *Historical Reappearance: Tracing the impacts of Argentina Los Desaparecidos to the rise of President Javier Milei* (thesis). San Francisco.
- Cholakian Herrera, L. (2025). *Milei administration escalates attacks on human rights groups on Argentina Coup Anniversary* | Courthouse News Service. Courthouse News Service. <https://www.courthousenews.com/milei-administration-escalates-attacks-on-human-rights-groups-on-argentina-coup-anniversary/>
- Crenzel, E. (2025). Fifty Years on changes and continuities: Constructing a social memory of the last Argentine dictatorship. *Journal of Contemporary History*. <https://doi.org/10.1177/00220094251358860>
- Desimone, A. (2016). *The war on memory begins in Argentina* | openDemocracy. openDemocracy. <https://www.opendemocracy.net/en/democraciaabierta/war-on-memory-begins-in-argentina/>

- 
- Errera, K., & DeIuliis, S. M. (2022). Public memory: The politics of remembering and forgetting. *Southern Communication Journal*, 88(1), 53–66.  
<https://doi.org/10.1080/1041794x.2022.2139407>
  - *Federal countries*. Forum of Federations. (2022, March 8).  
<https://www.forumfed.org/countries/argentina/#:~:text=Structure,national%20constitution%20and%20federal%20law>.
  - Figari Layus, R. (2025). Never again? the institutionalization of far-right negationism and shrinking space in Argentina: Impacts on transitional justice trials and memory politics. *International Journal for Crime, Justice and Social Democracy*, 14(2), 68–82.  
<https://doi.org/10.5204/ijcjsd.3934>
  - Grainger, J. (2025, May 22). *Milei downgrades human rights secretariat, slashes staff*. Buenos Aires Times. <https://www.batimes.com.ar/news/argentina/milei-downgrades-argentinas-human-rights-secretariat-slashes-staff.phtml#:~:text=President%20Javier%20Milei%20delivers%20a,billion%20pesos%2C%E2%80%9D%20he%20said>
  - Harte, M. I. (2024). *The State's Imprint on Memory*.
  - *Identification of desaparecidos at la perla sparks 'bittersweet relief' for relatives - buenos aires herald*. Buenos Aires Herald. (2026). <https://buenosairesherald.com/human-rights/identification-of-desaparecidos-at-la-perla-sparks-bittersweet-relief-for-relatives>
  - Jimerson, R. C. (2008). *Archives for all: The importance of archives in society*. Texas Lutheran University. <https://my.tlu.edu/ICS/icsfs/JimersonArchivesForAll18pg.pdf?target=0df0c395-ce3e-4678-9ade-19fb68245749>
  - Kordon, L. (2022). *Lo Nuevo al Acecho. Javier Milei, Derechos Humanos y Democracia En Disputa*.
  - Llanos, M. (2023). *They Should All Go (Again)! Forty Years of Democracy in Argentina*. SSOAR.
  - Lowy, M. (2023, December 14). *The resistance of Argentine memory in the milei ERA*. Latin America Bureau. <https://lab.org.uk/the-resistance-of-argentine-memory/>
  - Lu, X. (2022). *Causes of the Falklands War, A Historiography*.
  - McEvoy, B. (2023). *When the Silenced Became the Voice: Argentina's Military Dictatorship and the Fight for Memory and Justice* (thesis).
  - Natale, E. (2022). From Campo de Mayo to Malvinas, and back: The Falklands/malvinas war from the perspective of Argentine veterans accused of crimes against humanity. *Journal of War & Culture Studies*, 15(3), 309–327.  
<https://doi.org/10.1080/17526272.2022.2078541>
-

- 
- Reato, C. (2012). Protagonist of History.  
<https://journals.sagepub.com/doi/pdf/10.1177/0306422012456138>
  - Renzulli, N. D. (1987). *International law-argentine law-criminal law-judgement of former military rulers for human rights violations (Jorge R. Videla et alia)*.  
DigitalCommons@NYLS.  
[https://digitalcommons.nyls.edu/journal\\_of\\_human\\_rights/vol4/iss2/8](https://digitalcommons.nyls.edu/journal_of_human_rights/vol4/iss2/8)
  - Robles Ridi, J. A. (2022b). *El Retorno de La Guerra Sucia: Derechos Humanos y Desaparecidos. Disputas de Sentido y Memorias Discursivas En Enunciados Del Presidente Mauricio Macri*.
  - Roediger, H. L. (2021). Three facets of collective memory. *American Psychologist*, 76(9), 1388–1400. <https://doi.org/10.1037/amp0000938>
  - Salerno, P. (2019). Malvinas, Entre Dictadura e Independencia: La historia Argentina en los discursos de CFK. *Nuevo Mundo Mundos Nuevos*.  
<https://doi.org/10.4000/nuevomundo.76769>
  - Schweigl, J. (1998). *THE CONCEPT OF “HUMAN RIGHTS” IN AUSTRIAN ECONOMICS*.
  - Seco, J. B. (2025). RE)CONSTRUCTION OF MEMORY AND THE PAST IN THE ARGENTINE RIGHT WING OF THE 21ST CENTURY: MILEI AND THE GOVERNMENT OF LA LIBERTAD ADVANCE ON STATE TERRORISM.  
*Universidad Nacional de La Plata*.
  - Sierp, A. (2025). The politics of memory: Between history, identity and conflict. *Government and Opposition*, 60(4), 1464–1483. <https://doi.org/10.1017/gov.2025.10011>
  - Simonetti, L. A. (2020). *Nunca Más: The Evolution of Memory Narratives in Post-Dictatorship Argentina and Uruguay*.
  - Stockwell, J. (2014). “The Country That Doesn’t Want to Heal Itself”: The Burden of History, Affect and Women’s Memories in Post-Dictatorial Argentina.
  - Stransky, S. G. (2012). *RE-EXAMINING THE FALKLAND ISLANDS WAR: THE NECESSITY FOR MULTI-LEVEL DETERRENCE IN PREVENTING WARS OF AGGRESSION*.
  - Torras, V., Zaldua, L. P., & Perelman, M. (2016, September). *Memoria, verdad y justicia como política de estado: Análisis de Políticas Públicas Implementadas Durante Los Gobiernos Kirchneristas (2003-2015) Respecto de los Delitos de Lesa Humanidad Ocurridos en la última dictadura argentina*. Publikationen der Stiftung / Memoria, verdad y justicia como política de Estado. <https://collections.fes.de/publikationen/ident/fes/12772>
  - Vitale, M. A. (2014). *Female Êthos in the Inaugural Addresses of South America’s First Women Presidents: Michelle Bachelet, Cristina Fernández de Kirchner and Dilma Rousseff*.
-

- 
- Wiley, C. (2018). *Collective memory and the Argentine military dictatorship: A discourse analysis*. ScholarWorks. [https://scholarworks.wmich.edu/honors\\_theses/3179](https://scholarworks.wmich.edu/honors_theses/3179)
  - Wilson, K. M. (2016). Building memory. *Latin American Perspectives*, 43(5), 112–130. <https://doi.org/10.1177/0094582x16651083>
  - Zilla, C. (2024, September). Javier Milei's Ideology and Policy. [https://www.swp-berlin.org/publications/products/comments/2024C37\\_Milei\\_Argentina.pdf](https://www.swp-berlin.org/publications/products/comments/2024C37_Milei_Argentina.pdf)

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# Solitary Confinement in the U.S. Civil Immigration Detention and Arbitrary Detention Under International Law

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## **I. Abstract**

U.S. Immigration Detention undermines international human rights law when it restricts liberty without adequate justification or exposes individuals to harmful conditions. The United States is a party to the International Covenant on Civil and Political Rights, which prohibits arbitrary detention and mandates that people deprived of liberty be treated with humanity and dignity. Europe, like the United States, is a primary destination for migrants and relies heavily on administrative detention to manage large migrant populations (Heartland Alliance's National Immigrant Justice Center (NIJC) and Physicians for Human Rights (PHR), 2012). Given that European states have faced similar migration pressures, their legal systems provide guidance on how international human rights standards apply to immigration detention. Under those standards, the routine and prolonged use of solitary confinement in U.S. Civil Immigration Detention constitutes arbitrary detention under international human rights law. Although immigration detention is authorized under domestic law, the use of isolation without individualized necessity determinations, meaningful review, or enforceable safeguards violates the requirements of proportionality and humane treatment under Articles 9 and 10 of the International Covenant on Civil and Political Rights. European case law conveys how these international standards operate in comparable detention systems and ascertains whether current U.S. practices comply with those obligations.

*Keywords:* Immigration Detention, Solitary Confinement, Human Rights

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## II. Introduction

Immigration detention in the United States is classified as a civil, administrative system rather than a criminal one. Immigration authorities detain individuals during pending removal proceedings, often under discretionary authority. (*Immigration Detention: A Legal Overview*, 2025). Within this civil detention system, however, the United States routinely uses solitary confinement, referred to administratively as “segregation” or “restrictive housing” across immigration detention facilities (Physicians for Human Rights, 2025; Cuffari, 2021). According to Physicians for Human Rights, U.S. Immigration and Customs Enforcement (ICE) places thousands of individuals in solitary confinement each year. Individuals in solitary confinement are typically sequestered in their cells for 23 to 24 hours per day, with extremely limited human interaction. Many remain in solitary confinement for weeks or months, and in some documented cases, for even periods as long as 567,652 and 759 days. (Physicians for Human Rights, 2025). ICE uses solitary confinement for a wide range of reasons, among them disciplinary measures, so-called “protective custody,” medical or mental health concerns, and operational issues such as staffing shortages or lack of space within facilities (Physicians for Human Rights, 2025; Cuffari, 2021).

Oversight reports have documented significant harm associated with the use of solitary confinement in immigration detention. Physicians for Human Rights, a U.S.-based non profit, NGO found high rates of mental health deterioration among individuals placed in isolation, including increased anxiety, depression, hallucinations, self-harm, and suicide attempts (Physicians for Human Rights, 2025). The Department of Homeland Security’s Office of Inspector General similarly reported that solitary practices worsen existing mental health illnesses and are sometimes implemented in circumstances where less harmful alternatives are available (Cuffari, 2021).

The use of solitary confinement has also been documented in facilities with records of oversight failures. For example, Eloy Detention Center, a private facility in Arizona operated by Corecivic has been described by advocates as one of the deadliest immigration detention centers in the U.S. A 2024 report documented at least 16 reported deaths in the facility’s history, including 5 suicides along with systemic failures such as medical neglect, delayed treatment, and the excessive use of isolation in environments that already have severe health and safety issues (Immigrant Accountability Project, 2024). Despite these findings and a 2020 congressional investigation that revealed falsified logs to cover up a lack of monitoring for a man in isolation who died of a heart attack, the facility has continued to receive contract

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extensions (Detention Watch Network, 2025).

Judicial records further confirm that solitary confinement functions as a disciplinary tool within civil immigration detention. In *Menocal v. GEO Group*, detainees at the Aurora ICE Processing Center alleged that individuals were threatened with or placed in solitary confinement for refusing to perform cleaning work (22-1409 - *Menocal, et al. v. GEO Group* [11130504] | *Tenth Circuit* | *the United States Court of Appeals*, 2024). These various situations have repeatedly demonstrated that Solitary confinement is not the last measure within U.S. immigration detention. Rather, it is a routine practice used for a variety of administrative and disciplinary purposes, often for prolonged periods of time.

### **III. International Legal Standards Governing Arbitrary Detention**

#### *A. The ICCPR: Articles 9 and 10*

International law sets legal standards governing the deprivation of liberty in the immigration detention context. For instance, ICCPR, Article 9 protects the liberty and security of a person and regulates the withholding of liberty. This statute requires that no one be subject to ‘arbitrary’ arrest or detention, and that any deprivation of liberty follows the procedures established by law. Specifically, that a detained individual be informed of the reasons for their arrest and any charges, that they be brought before a judicial authority, and that they have the right to challenge the lawfulness of detention (ICCPR art. 9 (1)-(4)). Article 9 also mandates remedies for unlawful detention (ICCPR art. 9 (5); Council of Europe, 1950). These protections apply regardless of the classification of the detention, whether that be criminal, administrative, or immigration-related. In addition, ICCPR’s Article 10 requires that all individuals deprived of their liberty be treated with humanity and with respect for their inherent dignity.

#### *B. The European Convention on Human Rights*

Moreover, the European Convention of Human Rights (ECHR) also has measures relevant to immigration detention. Article 5 enumerates when the deprivation of liberty is permissible under the European Convention. Paragraph (f) of this article allows lawful arrest or detention “of a person against whom action is being taken with a view to deportation or extradition” (ECHR Art. 5(1)(f)). Article 5 recognizes that detention may be used in matters of immigration but also has convention procedural safeguards, including the requirement that detention not be arbitrary and that individuals have access to review of the lawfulness of their detention (ECHR art. 5(1), 5(4); Council of Europe, 1950).

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ECHR Article 3 moreover prohibits torture, inhumane or degrading treatment in any circumstance (ECHR art. 3). Article 46 states that parties must abide by final judgments of the European Court of Human Rights in any case to which they are parties (ECHR art. 46). Therefore, ECHR case law interpreting Articles 3 and 5 has binding force on states within the convention system and has authoritative interpretative power for the meaning of those rights (ECHR arts. 3, 5, 46; Council of Europe, 1950).

Moreover, the Human Rights Committee, General Comment No.35, has an authoritative treaty body interpretation of ICCPR Article 9. General Comment No.35 clarifies key points in the International Law assessment of immigration detention. For instance, the Committee explains that any deprivation of liberty must be authorized by law and carried out in accordance with law (Human Rights Committee, General Comment No. 35, para. 11). The committee also emphasizes that legality requires domestic rules to be accessible, sufficiently precise, and foreseeable when they apply the law (Human Rights Committee, General Comment No. 35, paras. 11-12). The committee states that national law is ‘not always the decisive element’ in assessing whether detention is justified (Human Rights Committee, General Comment No. 35, paras. 15-16).

Additionally, the committee interprets ‘arbitrariness’ to show not only the lack of legal basis but also elements of injustice, lack of predictability, and the failure to respect necessity and proportionality (Human Rights Committee, General Comment No. 35, paras. 7-8, 12). Detention is arbitrary if it is not necessary in the circumstances of the individual case, like if there were less intrusive means that were available and not considered (Human Rights Committee, General Comment No. 35, paras. 12 & 38). The committee also requires an individualized assessment before detention is ordered and a reassessment while detention persists. Detention must also pursue a legitimate objective and be strictly necessary and proportionate to that objective in the individual's case (Human Rights Committee, General Comment No. 35, paras. 12 & 18). For example, mandatory or automatic detention rules that remove assessment are incompatible with Article 9 (Human Rights Committee, General Comment No. 35, para. 39).

The committee also emphasizes that there must be prompt access to judicial review and effective remedies under Article 9 (4)-(5). Judicial review must be ‘without delay,’ allowing access to counsel and relevant information. This requirement allows the individual detained to contest the lawfulness of detention and to have the authority to order release when detention is not justified (GC No. 35, paras. 39 & 46). Additionally, the committee emphasizes that

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lawfulness encompasses the conditions and treatment of people detained. States must give special regard to vulnerable individuals and ensure that detention does not expose them to unacceptable risks (GC. No.35, para. 9 &18).

#### **IV. European Case Law on Solitary Confinement and Immigration Detention**

The European Court of Human Rights has had cases to offer interpretative guidance of Article 3 and Article 5 of the Convention. Their purpose is essentially doctrinal, to clarify when detention conditions cross the threshold of inhumane or degrading treatment and when detention becomes arbitrary or unlawful.

##### **A. *A.B. v. Russia*: Prolonged Isolation and Article 3**

In *A.B. v. Russia*, the court held that prolonged and unjustified separation within detention could amount to inhumane or degrading treatment, in violation of Article 3. The applicant in this case, ‘A.B.’, was held for several years in near total separation from other detainees with extremely limited human contact and no meaningful explanation of why this isolation was necessary. The court emphasized that the length and intensity of the isolation, and the lack of safeguards, were central to its finding of a violation of Article 3 (*A.B. v. RUSSIA*, 2021).

The court also assessed the applicant's situation cumulatively. In particular, the court noted that prolonged isolation can cause serious psychological suffering, even if there was no physical abuse. Its ruling stressed the impact of mental health as a relevant factor in determining whether treatment reaches the Article 3 minimum level of severity (*A.B. v. RUSSIA*, 2021). Another important factor in the case was the absence of individualized justification and consistent review. The authorities failed to demonstrate why continued isolation was necessary in the applicant's specific circumstances, and there was no meaningful mechanism to assess whether these severe conditions were needed over time. The court treated this lack of procedural protection as integral to the Article 3 violation.

##### **B. *S.D. v. Greece*: Conditions of Detention and Arbitrary Confinement**

Similarly, in *S.D. v. Greece*, the European Court of Human Rights examined the detention of a migrant held in facilities for foreign nationals. He was arrested for unauthorized entry into Greece. Furthermore, the court held that the conditions of detention in the Soufli and Petrou Rali holding centers amounted to degrading treatment, violating Article 3, and the applicant's detention was unlawful and arbitrary under Article 5 §§ 1 and 4 due to the lack of an effective mechanism to challenge its lawfulness (*S.D. v. Greece*, 2009). The court based its Article 3

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finding on the conditions of the detention center. For approximately two months, the applicant was detained in a facility where he lacked access to the outdoors and was deprived of basic necessities such as blankets, clean bedding, hot water, and adequate hygiene products. He was confined in an overcrowded room, and he was later transferred to another holding facility where he was confined to his cell continuously for six days (*S.D. v. Greece*, 2009).

Consequently, the court rejected the Government's argument in this case, which was that the detention was too brief to violate Article 3. The court held that even a relatively short period of detention can amount to degrading treatment when conditions are sufficiently severe. This ruling emphasized this especially because the applicant had documented physical and psychological injuries resulting from prior ill-treatment in Turkey and was detained without adequate medical care (*S.D. v. Greece*, 2009). In these circumstances, conditions such as continuous indoor confinement, denial of outdoor exercise and telephone access, and lack of basic hygiene undermined his dignity. As a result, the court deemed that this situation met the Article 3 threshold for degradation. The court also found a violation of Article 5 §§ 1 and 4 because the applicant was detained for the purpose of deportation at a time when deportation was legally suspended under Greek law due to his pending asylum application. Despite this, the authorities continued to detain him (*S.D. v. Greece*, 2009). Moreover, Greek law provided no effective procedure for the applicant to challenge the lawfulness of that detention. The court described this situation as a 'legal vacuum' in which detention persisted without substantive justification or judicial review (*S.D. v. Greece*, 2009). The absence of this prompt and effective review constituted an arbitrary and unlawful deprivation of liberty under Article 5.

### C. Lessons from European Jurisprudence

In *S.D. v. Greece* and *A.B. v. Russia*, the Court made clear that detention conditions must be assessed together. Extended separation from others, heavy restrictions on movement and contact, and the absence of clear justification or review can collectively amount to inhuman or degrading treatment under Article 3. When these conditions persist without proper oversight, detention may also violate Article 5.

## V. U.S. Legal Framework for Civil Immigration Detention

### A. Statutory Authority Under INA § 236(a)

The U.S. also has statutory and administrative laws that authorize civil immigration detention of non-citizens under INA § 236(a) (8 U.S.C. § 1226(a)). This legal code permits the Department of Homeland Security (DHS), through Immigration and Customs Enforcement

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(ICE), to arrest and detain a non-citizen who is “removable” pending a decision on whether they should be released on bond, granted conditional parole, or detained pending removal proceedings. The statute empowers the Attorney General, now delegated to the Department of Homeland Security and Immigration and Customs Enforcement, to make custody determinations, to set bonds, and to parole certain non-citizens on conditions (8 U.S.C. § 1226(a); *The Law of Immigration Detention: A Brief Introduction*, 2025). The statute also authorizes discretionary alternatives to continued custody and does not make detention the default outcome, instead granting the government discretion to detain or release individuals pending removal proceedings (8 U.S.C. § 1226(a)).

However, the statute does not provide procedural safeguards. In particular, INA §236 does not require the government to make an individualized finding that detention is necessary in each case, such as specific proof that the person is a flight risk or a danger to the community (*Immigration Detention: A Legal Overview*, 2025). It also does not set a fixed statutory maximum detention duration for civil immigration detainees under §236, and it does not guarantee the availability of a bond hearing within a set timeframe or require particular procedures for custody review beyond administrative rules (*The Law of Immigration Detention: A Brief Introduction*, 2025). As a result, while the statute authorizes release options, it leaves key questions—among them when is detention necessary, how long will it last, and what procedural safeguards apply—driven primarily by executive discretion rather than statutory command (*Immigration Detention: A Legal Overview*, 2025).

Under §236(a), ICE has authority to set bond and parole in individual cases, and federal regulations and agency guidance implement the procedures for custody determinations, bond schedules, and review procedures (8 U.S.C. § 1226(a); *Immigration Detention: A Legal Overview*, 2025). These processes operate through administrative practice, but the statute itself does not provide a guaranteed right to release, a bond hearing within a fixed timeframe, or a defined evidentiary standard (*The Law of Immigration Detention: A Brief Introduction*, 2025). Importantly, the legal structure separates executive custody authority from judicial oversight. While immigration judges may review bond decisions within the administrative immigration system, §236(a) does not impose substantive statutory limits on the duration or intensity of detention (*Immigration Detention: A Legal Overview*, 2025).

## B. ICE Detention Standards and Oversight Gaps

ICE Detention standards, including the National Detention Standards (NDS) and the Performance-Based National Standards (PBNDS), regulate facility operations and detention

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practices through administrative guidance and through contracts (*National Immigration Forum, 2025*). These standards may shape agency practice through contract compliance, but they are not statutory law and do not carry the force of law. They do not create independent legal rights or change the detention authority granted by §236(a). Therefore, the detention standards reflect agency norms and contract expectations, but not binding statutory safeguards governing the legality of detention.

Thus, §236(a) establishes a discretionary system of civil immigration detention. It authorizes the government to detain non-citizens during removal proceedings and to release them on bond or conditions, but it does not require individualized necessity determinations, impose statutory time limits, or mandate procedural safeguards beyond administrative review. These features of the statutory framework are central in assessing whether the use of prolonged or restrictive detention practices, such as solitary confinement, can result in arbitrary detention under international law.

## **VI. Solitary Confinement in Practice: Evidence from U.S. Case Law**

U.S. case law addressing conditions of civil immigration detention is limited, and courts have rarely evaluated the use of solitary confinement directly. However, several cases describe how solitary confinement is used in practice within immigration detention facilities, particularly as a disciplinary tool.

### *A. Menocal v. GEO Group*

In *Menocal v. GEO Group* (10th Cir. Oct. 22, 2024), civil immigration detainees held at the Aurora Immigration Processing Center in Colorado brought a class action against GEO Group, a private contractor operating the facility under contract with U.S. Immigration and Customs Enforcement (*Menocal v. GEO Group, 2025*). Although the primary claims concerned forced labor under the Trafficking Victims Protection Act, the record also documented the practices and conditions at the facility. GEO Group required detainees to clean shared housing areas, including floors, bathrooms, and common spaces. The record also showed that detainees faced punishment if they refused to perform these tasks. They would lose basic privileges such as access to phones, televisions, and recreational activities, and if their refusal continued, penalties could escalate to solitary confinement. Several former detainees testified that officers threatened them with segregation, and some reported being placed in isolation. The district court cited evidence that detainees were sometimes held in solitary confinement for up to seventy-two hours for refusing to perform cleaning tasks (*Menocal v. GEO Group, 2025*). While

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the Tenth Circuit court did not rule on the lawfulness of these practices, this case documents the use of solitary confinement as a disciplinary measure within civil immigration detention.

### B. *Barrientos v. CoreCivic*

A similar pattern appears in *Barrientos v. CoreCivic, Inc.* (11th Cir. Feb. 28, 2020), which involved detainees held at the Stewart Detention Center in Georgia. The facility is operated by CoreCivic, a private company working under contract with ICE. The detainees challenged how CoreCivic ran the facility's ICE-approved "voluntary work program," arguing that the program was coercive rather than truly voluntary (*Barrientos v. CoreCivic, Inc.*, 2020).

The lawsuit alleged that detainees were pressured to participate in work assignments and faced negative consequences if they refused. According to the complaint, they were threatened with worse living conditions and disciplinary punishment (*Barrientos v. CoreCivic, Inc.*, 2020). The complaint also alleged that solitary confinement, referred to by the court as "disciplinary segregation," was threatened or used as part of work-related discipline. Namely, the plaintiff claimed he was placed in segregation for ten days after threatening to organize a work stoppage (*Barrientos v. CoreCivic, Inc.*, 2020).

CoreCivic moved to dismiss the case, but the district court refused and certified a legal question for appeal, whether the Trafficking Victims Protection Act (TVPA) can apply to work programs in federal immigration detention facilities run by private, for-profit contractors (*Barrientos v. CoreCivic, Inc.*, 2020). The Eleventh Circuit addressed only whether the TVPA could apply to private contractors operating immigration detention facilities and did not assess the legality of detention conditions or the use of segregation. As in *Menocal*, the court left unresolved whether solitary confinement was necessary, proportionate, or lawful in a civil detention context.

### C. *Serrabi v. United States*

The same use of prolonged isolation is evident in *Serrabi v. United States*, a civil lawsuit filed in the U.S. District Court for the Middle District of Florida on November 22, 2024. The case was brought under the Federal Tort Claims Act by Guillermo Antonio De Leon Serrabi, who was detained by ICE at the Baker County Detention Center in Florida. According to the complaint, Serrabi filed an administrative claim with ICE, which was denied in May 2024, and he then filed this lawsuit within the required time period. The case is still at the complaint stage, and the court has not ruled on the claims (*Serrabi v. United States*, 2024).

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Although Baker County Detention Center is a county-run facility, the complaint places responsibility on ICE. It alleges that ICE officers directed and supervised the actions that led to Serrabi's confinement in segregation and that those officers were acting within their federal duties. The complaint asserts that when Serrabi was transferred back to Baker on October 29, 2021, he was placed in solitary confinement and was kept there for about 88 days (*Serrabi v. United States*, 2024). ICE officers controlled both the decision to place him in segregation and the decision to keep him there. The complaint also alleges that Serrabi was told multiple times that he would remain in solitary confinement unless he agreed to sign documents related to his removal from the United States (*Serrabi v. United States*, 2024).

While in segregation, Serrabi alleges that he was denied phone calls, recreation, and contact with other detainees. The complaint states that officers repeatedly visited him to ask whether he would sign removal-related paperwork. It also describes an incident in December 2021 in which a correctional officer allegedly struck Serrabi in the ear, causing a ruptured eardrum and lasting hearing problems. According to the complaint, medical care after this incident was delayed and limited (*Serrabi v. United States*, 2024).

The complaint also described Serrabi's mental health concerns when he entered detention, given his status as a moderate risk. During the time he spent in segregation, the complaint claims that his mental health worsened. He experienced hallucinations, increased anxiety and depression, and suicidal thoughts. Serrabi alleges that he asked for medical and mental-health care during this period and that those requests were denied. The complaint also alleges that the required documentation and review were missing. According to the pleading, Serrabi's file does not contain written segregation orders, regular reviews, or records showing individualized reasons for keeping him in isolation. ICE did not document required mental-health reviews, suicide-risk assessments, or follow-up reviews after the alleged use of force in December 2021 (*Serrabi v. United States*, 2024). Although the case remains pending, the record documents prolonged, unreviewed isolation within civil immigration detention and the serious harm that can result.

## **VII. Arbitrary Detention Under International Law: Application to the U.S.**

Under international human rights law, detention becomes arbitrary not only when it lacks a legal basis, but when it is unnecessary, disproportionate, or carried out in a way that hurts human dignity (ICCPR art. 9; Human Rights Committee, General Comment No. 35). Article 9 of the ICCPR requires that deprivation of liberty be justified in the individual case and subject

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to meaningful review (ICCPR art. 9). Article 10 further requires that all detained individuals be treated with humanity and respect for their dignity (ICCPR art. 10). These standards apply regardless of whether detention is classified as civil or criminal (Human Rights Committee, General Comment No. 35). The evidence shows that U.S. immigration detention practices, particularly the use of solitary confinement, fail to meet these requirements (Cuffari, 2021; Physicians for Human Rights, 2025).

Although U.S. law authorizes civil immigration detention under INA § 236(a), that authority is framed broadly and leaves critical safeguards to executive discretion (Immigration Detention: A Legal Overview, 2025). The statute does not require the government to show that detention is actually necessary in each case, does not impose time limits, and does not guarantee prompt or effective review of restrictive conditions such as solitary confinement (*The Law of Immigration Detention: A Brief Introduction*, 2025). International law, however, makes clear that legality under domestic law is not enough (Human Rights Committee, General Comment No. 35). Detention may still be arbitrary if it is unjust, unpredictable, unnecessary, or disproportionate in practice (ICCPR art. 9).

Oversight findings show that ICE's use of solitary confinement consistently lacks the individualized justification required under international law. The DHS Office of Inspector General found that ICE failed to document consideration of alternatives to segregation in the majority of cases and often did not even record segregation placements as required under its own policies (Cuffari, 2021). In more than 70% of reviewed cases, there was no evidence that ICE considered less restrictive measures before placing individuals in isolation, and reviews for prolonged segregation were frequently not conducted (Cuffari, 2021). These failures undermine the necessity and proportionality requirements under ICCPR Article 9 (ICCPR art. 9; Human Rights Committee, General Comment No. 35).

The problem is not limited to isolated failures, but reflects a structural pattern. ICE detention standards describe segregation as a serious measure that should be used only as a last resort, especially for individuals with mental-health vulnerabilities (National Immigration Forum, 2025). Yet those standards are not legally binding, are unevenly applied across facilities, and carry little consequence when violated (National Immigration Forum, 2025). As the National Immigration Forum explains, detention standards operate largely as guidance rather than enforceable law, creating a system in which compliance depends on contract terms and internal discretion rather than legal obligation (National Immigration Forum, 2025). This weak system allows prolonged isolation to occur without meaningful legal restraint (Cuffari, 2021).

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International law also requires that detention not expose individuals to serious harm (ICCPR art. 10). The Physicians for Human Rights report documents that solitary confinement in U.S. immigration detention is used extensively, often for weeks or months, and frequently against people with known medical or mental-health vulnerabilities. The report shows that prolonged isolation causes severe psychological harm, including hallucinations, suicidal ideation, and lasting trauma, and that ICE continues to use solitary confinement despite well-documented risks and international condemnation of the practice (Physicians for Human Rights, 2025). Under Article 10 of the ICCPR, detention that predictably causes such harm cannot be considered humane (ICCPR art. 10).

The use of solitary confinement as a tool of control or coercion further supports a finding of arbitrariness in U.S. immigration detention. Documentation from detention facilities shows that isolation is frequently used in response to behavior that does not pose a genuine safety threat, including rule violations, refusal to comply with staff demands, or requests for basic needs (Cuffari, 2021; Physicians for Human Rights, 2025). The pattern described in multiple reports where segregation is used to punish, pressure, or silence detainees conflicts with the civil nature of immigration detention and mirrors punitive practices (Cuffari, 2021; Physicians for Human Rights, 2025; Immigrant Accountability Project, 2024). Detention used in this way exceeds what is necessary to ensure appearance at immigration proceedings and, therefore, fails the proportionality requirement under international law (ICCPR art. 9).

Conditions at facilities such as the Eloy Detention Center show how detention becomes arbitrary when oversight fails. The record of deaths, suicides, medical neglect, and use of segregation at Eloy demonstrates how prolonged isolation operates within an already harmful detention environment (Immigrant Accountability Project, 2024). Despite repeated documentation of abuse and systemic failures, ICE has continued to operate the facility and extend its contracts, reflecting a lack of effective accountability or corrective action (Immigrant Accountability Project, 2024). When detention conditions reach this level of severity and persist without meaningful reform, continued confinement loses any claim to legitimacy under international standards (ICCPR arts. 9–10).

Thus, U.S. law and practice allow a form of civil immigration detention in which individuals may be placed in prolonged solitary confinement without individualized necessity determinations, without enforceable limits, and without effective review. The consistent failure to consider alternatives, document justification, protect vulnerable individuals, and prevent serious harm shows that solitary confinement is not used as an exceptional measure but as a

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routine management tool (Cuffari, 2021). Under ICCPR Articles 9 and 10, detention carried out in this manner is arbitrary because it is unnecessary, disproportionate, and incompatible with the requirement of humane treatment (ICCPR arts. 9-10).

## **VIII. Government Justifications and International Law Responses**

The U.S. government could argue that immigration detention, including the use of segregation, is lawful because it is authorized under domestic law and classified as civil rather than criminal (Heartland Alliance's National Immigrant Justice Center (NIJC) and Physicians for Human Rights (PHR, 2012). From this perspective, the government may argue that solitary confinement does not automatically violate international law so long as detention itself is lawful and segregation is framed as administrative, protective, or necessary to manage large detention populations. This argument relies heavily on the formal legality of detention under INA § 236(a) and on the government's discretion to manage detention facilities during periods of large numbers of migrants arriving at American borders.

International law, however, rejects the idea that formal legality alone is sufficient. The Human Rights Committee has been explicit that arbitrariness includes detention that is unjust, unnecessary, disproportionate, or insufficiently reviewed. This means the relevant question is not whether the United States has the legal authority to detain migrants, but whether detention and especially restrictive measures like solitary confinement are justified in each individual case. When solitary confinement is enforced without individualized reasons, clear necessity, or meaningful review, detention becomes arbitrary regardless of its civil classification.

In addition, the government may argue that solitary confinement in immigration detention does not violate human rights because detention is civil and segregation is used for safety or operational purposes (Heartland Alliance's National Immigrant Justice Center (NIJC) and Physicians for Human Rights (PHR, 2012). This overlooks an important element of international law: the distinction between the legality and the conditions of detention. Even when detention is lawful under Article 9, the conditions of confinement must still comply with Article 10 of the ICCPR and Article 3 of the European Convention, which prohibit inhumane or degrading treatment.

European Court of Human Rights case law is especially clear on this point. In cases such as *A.B. v. Russia* and *S.D. v. Greece*, the Court did not require proof of criminal punishment or physical abuse to find violations. Instead, it examined whether isolation was necessary, how

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long it lasted, whether it was justified in the individual’s circumstances, and whether authorities provided safeguards and review. The Court held that prolonged or severe isolation can, on its own, violate Article 3, and that detention may simultaneously violate Article 5 when it lacks proper justification or review. International law requires this distinction, with Article 9 addressing whether detention is arbitrary and Article 10 addressing how detained individuals are treated.

The U.S. government may also face unique migration pressures and operational constraints, including overcrowding, staffing shortages, and limited detention capacity. While international law recognizes that states face practical challenges in managing migration, it does not permit states to shift the burden of those failures onto detained individuals. Both the Human Rights Committee and the European Court have rejected resource constraints as a justification for degrading treatment or arbitrary detention. In *S.D. v. Greece*, the Court held that even short-term immigration detention can violate Article 3 when conditions are severe, and it made clear that administrative difficulty or overcrowding does not excuse inhuman or degrading treatment.

Solitary confinement is argued to be used “appropriately” in immigration detention, but that assertion does not resolve the arbitrariness question. International law does not assess practices in the abstract—it assesses how they are used in reality. The record in the United States documented by oversight reports, medical experts, and litigation shows that solitary confinement is routinely used without individualized justification, often for prolonged periods, and frequently against people with known vulnerabilities. When a restrictive measure is used in this manner, it’s not exceptional and becomes systemic. Detention no longer satisfies the requirements of necessity and proportionality under Article 9, and the conditions of confinement fail to meet the humanity and dignity required under Article 10.

## **IX. Oversight and Accountability: U.S. and European Comparison**

These patterns persist in part because of how immigration detention is overseen. In the U.S., detention standards are not legally binding, and oversight is largely internal. Inspections are conducted by or on behalf of DHS, and even when serious violations are documented, detention facilities are often not legally required to change their practices. Judicial review of detention conditions is also limited, leaving little external scrutiny of whether restrictive measures such as solitary confinement are necessary or proportionate in individual cases (National Immigration Forum, 2025).

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By contrast, European detention systems operate within an external oversight system. The European Committee for the Prevention of Torture (CPT) conducts unannounced inspections of immigration detention facilities as an independent monitoring body, and its findings are publicly reported (*European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)*, 2014). CPT reports are frequently relied upon in proceedings before the European Court of Human Rights, and when the Court finds a violation of the European Convention, those judgments are binding on states under Article 46 (*European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) CPT Standards “Substantive” Sections of the CPT’s General Reports*, n.d.). This structure does not eliminate abuse, but it creates enforceable pressure to justify detention practices and to correct violations when they occur. The absence of external and binding oversight in the U.S. system reinforces the risk that solitary confinement will be enforced without the safeguards required under international law.

European systems also face migration pressures and detention-related problems, but European courts have made clear that administrative difficulty or lack of capacity does not excuse violations of fundamental rights. European case law shows how international standards are applied in practice. In contrast, the absence of binding detention standards and external oversight in the United States allows solitary confinement to be used with little accountability. Thus, U.S. law permits a system in which civil immigration detention can operate arbitrarily, in violation of ICCPR Articles 9 and 10.

## **X. Recommendations for Compliance with International Law**

To bring U.S. immigration detention practices into compliance with international human rights standards, several reforms are necessary. First, the use of solitary confinement in civil immigration detention should be limited through binding rules. Segregation should be used only as a last resort, for the shortest time possible, and only when there is a clear and individualized safety need. Prolonged isolation, especially for people with mental-health conditions, should be prohibited. Further, meaningful procedural safeguards must accompany any use of segregation. This includes written justification for placement, documented consideration of less restrictive alternatives, prompt review by an independent decision-maker, and regular reassessment of continued confinement. Without enforceable review mechanisms, detention decisions cannot meet the necessity and proportionality requirements under international law. Thus, oversight of immigration detention must extend beyond internal agency monitoring. Independent external inspection mechanisms should be strengthened, and findings of serious violations should carry

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enforceable consequences. Increased judicial oversight of detention conditions would further help ensure that civil detention does not move into punitive confinement without accountability.

Finally, the United States should reaffirm its obligations under the ICCPR by aligning domestic detention practices with international standards governing deprivation of liberty and humane treatment. Immigration detention systems that rely on prolonged isolation without justification or effective review undermine both human dignity and the rule of law. Addressing these practices is necessary not only to comply with international legal obligations but to ensure that civil immigration detention proceedings do not operate as a form of arbitrary punishment.

## **XI. Conclusion**

The routine use of solitary confinement in U.S. civil immigration detention cannot be reconciled with international human rights law. Although U.S. law authorizes immigration detention as a civil measure, international standards require that any deprivation of liberty be necessary, proportionate, and subject to meaningful review. The cases examined demonstrate that solitary confinement is frequently imposed without individualized justification, enforceable limits, or effective oversight, and often results in serious mental and physical harm. European case law interpreting Articles 3 and 5 of the European Convention on Human Rights asserts that prolonged or severe isolation, especially when unreviewed, can amount to inhuman or degrading treatment and render detention arbitrary. When applied to U.S. practices, these standards make clear that prolonged solitary confinement in civil immigration detention violates Articles 9 and 10 of the ICCPR. Without binding safeguards, external oversight, and meaningful review, the continued use of solitary confinement undermines both the civil character of immigration detention and the United States' obligations under international law.

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## XII. References

- Barrientos v. CoreCivic, Inc, (2020).
- *22-1409 - Menocal, et al. v. GEO Group [11130504] | Tenth Circuit | The United States Court of Appeals.* (2024). Uscourts.gov. <https://www.ca10.uscourts.gov/opinion/22-1409>
- *A.B. v. RUSSIA*, (July 2021).
- *Anthology of Abuse A Legacy of Failed Oversight and Death at the Eloy Detention Center Background.* (n.d.).  
<https://www.detentionwatchnetwork.org/sites/default/files/reports/Anthology%20of%20Abuse-%20Eloy.pdf>
- *Barrientos v. CoreCivic, Inc., No. 18-15081 (11th Cir. 2020).* (2020). Justia Law.  
<https://law.justia.com/cases/federal/appellate-courts/ca11/18-15081/18-15081-2020-02-28.html>
- Boswell, C. (2005). *Migration in Europe a Paper Prepared for the Policy Analysis and Research Programme of the Global Commission on International Migration.*  
<https://www.iom.int/sites/g/files/tmzbd12616/files/2018-07/RS4.pdf>
- Council of Europe. (1950). *European Convention on Human Rights.*  
[https://www.echr.coe.int/documents/d/echr/Convention\\_ENG](https://www.echr.coe.int/documents/d/echr/Convention_ENG)
- Cuffari, J. V. (2021). *ICE Needs to Improve Its Oversight of Segregation Use in Detention Facilities.* <https://www.oig.dhs.gov/sites/default/files/assets/2021-10/OIG-22-01-Oct21.pdf>
- De Leon, G. (2024). *UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA.* [https://www.acluf.org/app/uploads/2024/12/1\\_complaint.pdf](https://www.acluf.org/app/uploads/2024/12/1_complaint.pdf)
- ECHR. (2005, October 6). *HUDOC - European Court of Human Rights.* Coe.int.  
<https://hudoc.echr.coe.int/eng#>
- *ECtHR- S.D. v. Greece, Application no. 53541/07, 11 September 2009 | European Database of Asylum Law.* (2021). Asylumlawdatabase.eu.  
<https://www.asylumlawdatabase.eu/en/content/ecthr-sd-v-greece-application-no-5354107-11-september-2009>
- *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).* (2014). <https://www.coe.int/en/web/cpt>
- *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) CPT standards “Substantive” sections of the CPT’s General Reports.* (n.d.). <https://policehumanrightsresources.org/content/uploads/2016/06/CPT-Standards.pdf?x80005>
- European Court of Human Rights. (2024). *A.B. v. RUSSIA.* Hudoc.echr.coe.int.  
<https://hudoc.echr.coe.int/#>

- 
- European Union Agency for Fundamental Rights. (2018, October 25). *European Convention on Human Rights - Article 5*. European Union Agency for Fundamental Rights. <https://fra.europa.eu/en/law-reference/european-convention-human-rights-article-5>
  - *Foreign Relations of the United States, 1977–1980, Volume II, Human Rights and Humanitarian Affairs - Office of the Historian*. (n.d.). History.state.gov. <https://history.state.gov/historicaldocuments/frus1977-80v02/d79>
  - *GUILLERMO ANTONIO DE LEON SERRABI, Plaintiff, vs. THE UNITED STATES OF AMERICA, Defendant - ACLU of Florida*. (2024). ACLU of Florida. <https://www.aclufll.org/guillermo-antonio-de-leon-serrabi-plaintiff-vs-united-states-america-defendant/>
  - Heartland Alliance’s National Immigrant Justice Center (NIJC) and Physicians for Human Rights (PHR). (2012). *About the Authors*. [https://immigrantjustice.org/sites/default/files/Invisible%20in%20Isolation-The%20Use%20of%20Segregation%20and%20Solitary%20Confinement%20in%20Immigration%20Detention.September%202012\\_7.pdf](https://immigrantjustice.org/sites/default/files/Invisible%20in%20Isolation-The%20Use%20of%20Segregation%20and%20Solitary%20Confinement%20in%20Immigration%20Detention.September%202012_7.pdf)
  - Immigrant Accountability Project. (2024). *Anthology of Abuse A Legacy of Failed Oversight and Death at the Eloy Detention Center Background*. <https://www.detentionwatchnetwork.org/sites/default/files/reports/Anthology%20of%20Abuse-%20Eloy.pdf>
  - *Immigration Detention: A Legal Overview*. (2025). Congress.gov. <https://www.congress.gov/crs-product/R45915>
  - International Covenant on Civil and Political Rights. (2025). *General comment No. 35 Article 9 (Liberty and security of person)*. Un.org. <https://docs.un.org/en/CCPR/C/GC/35>
  - *Menocal v. GEO Group*, (2025).
  - National Immigration Forum. (2025, June 18). *Explainer: U.S. Immigration Detention and Custody Standards*. National Immigration Forum. <https://forumtogether.org/article/explainer-u-s-immigration-detention-and-custody-standards/>
  - Physicians for Human Rights. (2025). *Cruelty Campaign: Solitary Confinement in U.S. Immigration Detention*. <https://phr.org/wp-content/uploads/2025/09/PHR-Report-Cruelty-Campaign-ICE-Solitary-Confinement-September-2025.pdf>
  - Red Cross EU Office. (2025). *Reducing the use of immigration detention in the EU*. Redcross.bg. <https://en.redcross.bg/news/view?nwid=23979>
  - *S.D. v. Greece*, (September 11, 2009).
  - *Serrabi v. United States*, (2024).
-

- 
- *The Law of Immigration Detention: A Brief Introduction*. (2025). Congress.gov. [https://www.congress.gov/crs-product/IF11343?utm\\_source](https://www.congress.gov/crs-product/IF11343?utm_source)
  - U.S. Immigration and Customs Enforcement. (n.d.). *National Detention Standards Revised 2025*. <https://www.ice.gov/doclib/detention-standards/2025/nds2025.pdf>

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# Author Bios

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Clara Ng et al.  
Jax Giammanco  
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## Clara Ng



Clara Ng is a student at the London School of Economics, currently completing a year-long exchange program at the University of California, Berkeley. She strongly believes in the power of research to strengthen our policymaking processes. Her academic interests range from labor to international economics as she explores the intersection of data science and public policy. Outside the classroom, Clara serves as a Research Assistant at the Institute for Research on Labour and Employment (IRLE), where she manages large-scale datasets to develop a measurement mechanism for equitable policies. Her experiences involve strengthening policy research with other research institutions, Singapore's Ministry of Social and Family Development, and the UNCTAD. Grounded in a commitment to bridging the gap between technical rigor and empathetic policy design, Clara pursues research to develop more data-driven and representative interventions within the global social safety net.

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## Ellie Sohn



Ellie Sohn is a freshman at UC Berkeley, majoring in Legal Studies and Korean. Her academic interests focus on criminal justice, social policy, and mending housing gaps that are affecting low-income residents in California. Outside the classroom, Ellie works as a development intern with the Inner City Law Center, focused on providing aid for those affected by housing disparities in Los Angeles, and is part of the board at the Student Policy Institute at Berkeley.

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## Asiya Siddiqui



Asiya Siddiqui is an undergraduate at UC Berkeley studying political economy and public policy. She currently leads programs and development at Salaam Food Pantry, a Bay Area nonprofit fighting food insecurity. She is also the Director of Corporate Relations at Muslims of Haas and a Web Designer for Muslimahs in Policy, a nonprofit dedicated to empowering Muslim women in civic spaces. In the future, she aims to work at the intersection of policy and enforcement, advancing equitable systems and strengthening accountability through community-centered solutions.

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## Jax Giammanco



Jax Giammanco is a junior at La Salle College Preparatory. His interests intersect between municipal governance, urban planning, and government efficiency. He is particularly interested in how public institutions can deliver more effective and accessible public services to local communities. Jax serves on the Leadership Council of LA2050's Youth Ambassador Program, is a Community Captain for the RaeforLA campaign, and leads his school's Green Teens Club as President. For his commitment to community service, he was awarded a Certificate of Congressional Recognition by Congresswoman Judy Chu. Grounded in a curiosity for how political and economic systems shape daily life, Jax is drawn to public service as a way to help improve people's everyday lives.

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## Kristy Chan



Kristy Chan is a high school student, policy researcher, and supranational governance/AI policy enthusiast in Hong Kong. Her academic and professional interests center on regional affairs, human rights, and policy analysis. She was also selected as a summer research intern at the USC Dornsife CPF & the Wrigley Institute, where she conducted research on carbon markets in Hong Kong. As an international relations analyst at Logos Research Centre and an editorial secretary at GROW Think Tank, Kristy enjoys connecting with other people who work in policy and think tanks. She has also published policy research through policy and essay competitions, such as a policy brief on predictive policing in Hong Kong through LegalEagleBee and a brief on Project Vault through the Stratagem Initiative. Kristy is dedicated to developing an interdisciplinary understanding of policy through engaging with different perspectives.

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## Alex C. Guillot



Alex Guillot is a recent graduate of East Ascension High School in Gonzales, Louisiana. Beginning in the fall of 2026, he will attend the University of Virginia to study political and social thought as a Jefferson Scholar. Alex's policy and academic interests are wide-ranging, spanning domains from access to justice to equitable school assignment. As a Boys Nation senator, Alex advocated for reforming jury selection processes in U.S. federal courts. His work as a clerk at Southeast Louisiana Legal Services provided tangible help to vulnerable people facing eviction or navigating estate law issues in the greater Baton Rouge area. Most recently, Alex worked as a legislative aide in the Louisiana State Senate. He is a Louisiana Department of Education Student of the Year finalist. Alex aspires to pursue a career in public interest appellate advocacy with a particular focus on looking after those who otherwise remain left behind by our legal institutions.

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## Maria Igarza



Maria Igarza is a senior at the University of Florida, majoring in Political Science and International Studies, with academic interests focused on Latin American politics, human rights, democracy, and public policy. As a participant in the University of Florida's Undergraduate Scholars Program, Maria conducts comparative research on memory politics, transitional justice, and enforced disappearances in Argentina, Colombia, and Mexico, examining how governments respond to enforced disappearances and the efficiency of each government's implemented mechanisms against this human rights violation. Separately, she has also served as a Junior Research Fellow in Political Science at UF, further strengthening her experience in academic research and policy analysis. Her and her team's work has been presented at the Latin American Studies Association (LASA), in Bogota, Colombia, where she was able to engage with experts in Latin American affairs. Outside the classroom, Maria has gained experience in governmental affairs, legal research, and policy advocacy through positions with the Florida Senate, Corcoran Partners, the Minaret Foundation, and Student Legal Services at UF, and she also participated in the Public Policy and International Affairs Program at University of California, Berkeley. Grounded in a passion for research and public service, Maria hopes to pursue a career in international affairs, law, and policy dedicated to supporting democratic institutions and marginalized communities.

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## Gaby Lazo



Gaby Lazo is a junior at The George Washington University, majoring in International Affairs, with a concentration in Global Public Health and a minor in Law and Society. Her academic interests focus on housing justice, immigrant rights, public policy, and the ways legal and political institutions shape outcomes for communities. Gaby serves as a Judicial Intern at the Superior Court of the District of Columbia for the Honorable Kenia Seoane López and has worked with organizations including the National Low Income Housing Coalition, the Legal Aid Justice Center, and La ColectiVA, supporting tenant organizing, legal advocacy, and civic engagement efforts. Committed to public service, she seeks to bridge law, policy, and community organizing in pursuit of more equitable communities.