Fall 2021

Director's Message

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Director's Message

Welcome to the 17th edition of the SPNHA Review that highlights the best research papers of five recent graduates. Special thanks to Dr. Huafang Li, Editor-in-Chief for leading the organization of this journal for the first time. Dr. Li's work was made easier by Associate Editor Dr. Neal Buckwalter who brought context and historical process to the manuscript review. Both of these professors are excellent scholars in their respective fields who can easily recognize excellent or promising student scholarship. Additional thanks to Drs. Priscilla Kimboko and Dan Balfour who worked with these students in their culminating class on the development of their manuscripts and chose the best manuscripts for submission. Dr. Li has also taken over the responsibility of organizing the annual brown bag lunch where the students share their research findings with the faculty and public. Finally, thank you to Lindsey Bair who ensures all of the papers are formatted, paginated and ready for publication.

This is a transition year for the SPNHA Review. During the past year the College of Community and Public Service merged with the College of Education to form the College of Education and Community Innovation. As well the School of Public, Nonprofit, and Health Administration merged with the Hospitality and Tourism program to form the School of Public, Nonprofit, Health, Hospitality, and Tourism Management. Plans are to continue publishing the journal although the name and some of the content of future editions will likely change to reflect inclusion of our new program.

Raymond J. Higbea, PhD, FACHE
Director, SPNHA
28 July 2021

From the Editor-in-Chief,

It is a difficult time because of the COVID-19. Our students, however, are up for the challenges. They contribute to society by analyzing social issues and providing innovative solutions. I am honored to present to you the 17th edition of the SPNHA Review that highlights five recent SPNHA graduate students' scholarly works.

In "The Advantage of Ethical Leadership over Amoral Management for Nonprofits," Sara Davidson-LeFevre discussed how ethical leadership over amoral leadership could benefit nonprofit organizations.

In "Evaluating Evangelisation in Faith-Based Organisations: A Study of Catholic Educational Centre," Pedro Filipe Gomes studied Catholic educational organizations to understand if they have institutionalized measures of success for Evangelization and found that it was not universally measured and not a primary organizational focus.

In "Evaluability Assessment: Mary Free Bed Sub-Acute Rehab," Andrew Jakubik conducted an evaluability assessment for Mary Free Bed Rehabilitation Hospital and found that Mary Free Bed was indeed receptive to evaluations but perceived them as stressful events to be feared. Andrew suggested recommendations to alleviate the stress.

Kate Potter reminded us of the fundamental rights public employees have in "To Tell the Truth: Public Employee First Amendment Rights in Providing Testimony" and suggested a judicial and administrative rule that should be implemented to ensure that public employees are protected when giving testimony on behalf of their employers.

In "Immigration Federalism: What amount of agency do state and local governments have in immigration related policy areas?" Olivia Rau used cases of four states—Michigan, New York, California, and Arizona—to provide a glimpse into the breadth of accommodating or restrictionist immigration policies employed by state and local governments.

The success of SPNHA Review is always a team effort. First, I want to thank Dr. Danny L. Balfour, who retired from the Editor-in-Chief position at the end of 2020. His enormous contribution to the journal will be missed. Special thanks to Dr. Raymond Higbea and Dr. Neal Buckwalter for their endless support of the journal. Also, thanks to Dr. Rich Jelier, Dr. Priscilla Kimboko, and Dr. Michelle Wooddell for their insightful reviews that better the papers published in this edition. And finally, the journal is not possible without the assistance of our fantastic Lindsey Bair.

Sincerely,
Huafang Li, Ph.D.
Assistant Professor, and Editor-in-Cheif, SPNHA

The Advantage of Ethical Leadership over Amoral Management for Nonprofits

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Abstract

This research paper seeks to identify the difference between organizations that practice ethical leadership methods, and those that do not. This comparative research explores literature on both amoral leadership and ethical leadership methods of nonprofit management. The methods used can be described as research-based analysis between two case studies, personal interviews, and comparative analysis of two theories. A literature review and analysis are the main research methods used in this paper. In addition, two individual case studies are compared in this study, as they exemplify both types of organizational leadership. Findings from the review and analysis show that nonprofit managers who employ ethical leadership methods over amoral management will successfully institute greater cultures of integrity, leading to more effective organizations. Research shows that ethical leadership lends itself to higher productivity within organizations, higher levels of trust of management, and also positively impacts individual work engagement. The two case studies explored in this paper detail the circumstances of both an organization that failed to enact and follow ethical leadership standards, and also of an organization that leads with ethical intentionality. The norms and behaviors deemed as important by organizational management and leadership are reflected throughout organizations, and as a result, is reflected in how successfully a nonprofit meets their mission. Amoral management is a modern concept of management that avoids instituting ethical decision making within an organization. This can lead to moral fall-out and unethical decision making, including fraud or malfeasance. As nonprofit, public, and private leaders look to the future of motivational and intentional leadership, an ethical approach focused on key stakeholders, the public they serve, and those leading the mission will prevail.

Keywords: ethical leadership, social cognitive theory, amoral management, nonprofit leadership, organizational culture, code of ethics, culture of integrity

In the state of Michigan, the nonprofit sector employs close to 11% of the state's entire workforce throughout approximately 43,000 nonprofit organizations ("Independent Sector", 2019). One hopes that those in leadership positions in these nonprofits believe in creating morally and ethically responsible organizational cultures. Ethical leadership behavior in the nonprofit sector has been studied with varying viewpoints. "Ethical leadership refers to the actions, talks, and other behaviors which consist of appropriate norms…also normatively appropriate conduct through personal actions and interpersonal relationships, and the promotion of such conduct to followers through two-way communication, reinforcement, and decision-making (Brown et al., 2005, as cited in Demirtas, 2013, p. 273)". Author John Pucic describes how researchers Brown et al. first validated ethical leadership as a construct in 2005, based on social cognitive theory. This social cognitive theory leans on the concept that people follow the lead of the actions of others, specifically role models in leadership positions.

There is research to argue for the highly positive effects of ethical leadership on organizations. In addition, there is research to argue for the foundational ethical values that nonprofit organizations should follow in order to achieve success and sustainability over time. Lastly, there is also the concept of amoral management to explore, a sort of ethically-neutral theoretical model.

Why We Should Behave Ethically

Ethical leadership demands that there is clear understanding of the *why* of an organizational culture, and its rules and values. People need to understand the *why* behind the expectations in order to follow them. They also need to witness leaders celebrating and emulating clear ethical behavior. "Leaders encourage what they reward and celebrate" (Seidman, 2004, p. 136). Without a vision and framework for ethical leadership, such as codes of conduct, codes of ethics, or statements of values, organizational culture may falter. This process also ensures accountability along with transparency ("National Council of Nonprofits", 2020). Seidman (2004) further maintains that, "Creating and maintaining shared beliefs and common values is not an organic process but one that requires constant vigilance and self-regulation…people need to have frameworks for creating and maintaining self-knowledge" (p. 136). Research shows that leaders need to have vision that leads to commitment to frameworks for shared values and commitment throughout a team and staff.

Trust and the Public Good

Since nonprofits and charitable organizations serve the general public and operate for the benefit of the public good, they also must earn the public's trust. This gained trust leads to sustainability over time for the organization, with clients returning for services, donors continuing to give, and volunteers continuing to invest their time and resources ("National Council of Nonprofits", 2019). Unfortunately, research shows that many Americans lack trust and public confidence in nonprofit performance:

> A 2008 Brookings Institution survey found that about one third of Americans reported having "not too much" or no confidence in charitable organizations, and 70 percent felt that charitable organizations waste "a great deal" or a "fair amount" of money. (Rhode & Packel, 2009, p. 2)

It seems the largest areas that lack public trust surround how nonprofits spend their money, fair decision making, and public belief that charities or organizations are actually helping people. Most nonprofits depend on donors and continued financial giving from many contributors, so these issues of trust should concern leaders and be a priority focus area for philanthropic leaders.

In addition to Rhode and Packel (2009), Walker (2019) also reiterates that a large portion of the worldwide population has a general distrust of nonprofits. This fact is a prime example of why ethical guidance and leadership is so imperative for nonprofit leadership to follow. According to Walker (2019), "Nonprofits cannot possibly avoid conflicts, but that is why it is important to have clear rules, policies, and guidelines to follow (p.2)." Those policies and guidelines that organizations can incorporate include those mentioned above: codes of conduct, codes of ethics, or statements of values that set the tone and foundation for ethical behavior and conduct.

Conflicts of Interest

Conflicts of interest are inevitable, even within the nonprofit sector. Conflicts of interest are among the easiest traps for those working in nonprofits to fall into, according to Renz (2019), and also one of the biggest misunderstood challenges. Renz (2019) also explains that many lack a true sense of what constitutes a conflict of interest, and offers some defining explanations. In the United States, the IRS largely defines a conflict of interest for philanthropic organizations as a situation in which, "…an individual's obligation to further the

organization's charitable purposes is at odds with their own financial interests" (Renz, 2019, p. 2). This model of a conflict of interest views the gain of either a financial sense or personal gain as inappropriate. An organizational foundation focused on shared values, trust, and moral leadership, and based on an adopted code of ethics, is one that has a higher chance of exhibiting ethical decision making.

Practical Application

Creating a culture of integrity is paramount in leading an organization to be ethically driven. Rhode and Packel (2009), refer to research that shows that many American employers (nonprofit or for-profit), "fail to foster a culture of integrity, (p. 2)." This takes work. Without a strongly implemented culture of integrity, workplace misconduct is more likely to occur. Seidman (2004) describes how ethics can be described more simply:

> Ethics can seem like an abstraction, apart if not divorced from the real world. But when framed in terms of how people treat each other-how people get along and behave, how people trust each other-ethics takes on a far more practical application. (p. 136)

Due to the amount of grey area within nonprofit management and decision making, the National Council of Nonprofits advocates for and provides numerous examples of useful codes of ethics, principles, practices and best practices for nonprofit leaders to utilize.

Amoral Management

Amoral management is a concept that is explored and not actually defined as acting unethically; rather, it is a method to study managers who, "do not make an active or implicit intent to be either moral or immoral" (Carroll, 1987, p. 11, as cited in Greenbaum, et al., 2015, p. 27). Ethically neutral management may be more common among for-profit business leaders, who are not serving a mission aimed as directly at the public good as the nonprofit sector. The research explores the major impediments individuals have to ethical leadership, along with why amoral managers themselves may choose to go the other direction, and become an ethical leader. The two main differences that separate ethical leadership from amoral management are: "(a) the use of ethical communication, and (b) the visible demonstration of ethical practices (Greenbaum, et al., 2015, p. 30).

Personal Ethics v. Professional Ethics

Amoral management is not described as lacking moral ethical influence, but rather describes leaders who separate their personal ethics from business ethics (Greenbaum, et al., 2015). Greenbaum, et al. (2015) explain that some managers who do have personal moral awareness actually choose not to practice ethical leadership. Amoral managers may have their own moral and ethical awareness, yet do not communicate ethical expectations to their organization, or purposely function as ethical role models. In a macro-picture, authors Bowman et al. describe what can result if organizational leaders refrain from instituting ethical leadership or a shared code of ethics: "In the absence of an ethics initiative, business-as-usual expediency and an "anything goes" mentality is likely to dominate, condoning questionable behavior, reinforcing amorality or even immorality, and discouraging ethical action" (Bowman, et al., 2010, p. 89).

Amoral managers can have a set of *personal* ethical values that they do or do not follow, but they choose not to utilize a defined set of ethical values in leadership or management practices. Greenbaum, et al. (2015), explain that amoral management is, "…a manager's failure to support a socially salient ethical agenda by not using ethical communication and not visibly demonstrating ethical practices (p.31)." This statement implies that by not using ethical communication standards, conduct, and practices, leaders who practice amoral management potentially lack the establishment of a socially recognized ethical climate. While they may very well have a set of ethical values that they adhere to outside of their organization, amoral managers do not carry that over into their professional lives or serve as role models for ethical values throughout the workplace.

Unethical Management v. Amoral Management

Amoral management is also defined by clearly separating it from unethical management or leadership. Greenbaum et al. (2015) characterize *unethical* managers as overall unethical people who, in turn, also serve as immoral managers. On the other hand, *amoral* managers simply do not incorporate ethics into their leadership methods. This can be either intentional or unintentional. "For example, ethical leaders strive to influence followers to uphold ethical standards. The amoral manager, however, does not provide guidance in terms of ethics" (Greenbaum, et al., 2015, p. 31). The guidance that is missing from amoral leaders may include serving as an ethical role model and instituting a code of ethics or organizational ethical framework.

Psychological Factors

Psychological factors affect leaders who choose to employ amoral management. Greenbaum et al. (2015) describe the possible negative perceptions leaders may have of ethical leadership. The psychological effects these leaders can fear, embody threats that they perceive could impact their professional goals or views of themselves. The perceived threats are, "…potentially unfavorable career and social consequences that could come from promoting an ethical leadership agenda (Greenbaum et al., 2015, p. 32). These psychological factors can affect leaders, driving them to believe perceptions of themselves that they believe are true.

Perception: Impediments to Ethical Leadership

Major impediments that leaders have to ethical leadership are the fear of perceived possible threats to both career and social goals for leaders (Greenbaum et al., 2015). The described threats boil down to the socially created notions that, by being perceived as moral leaders who behave ethically, leaders could appear less competent. The fear is that this could result in threats to both competence and integrity.

When exploring the reasons amoral leaders choose to practice amoral leadership rather than ethical leadership, many appear to have to do with perceptions. Authors Greenbaum et al. (2015), describe why some leaders choose to practice amoral management and avoid ethical leadership frameworks:

> Leaders may perceive that embodying ethical leadership practices may (a) make them seem less competent, (b) open them up to integrity judgments, (c) threaten the harmony of their groups, and generally (d) detract from overall organizational efficiency and effectiveness. Even if these anticipated consequences are only imagined, and unlikely to be real, the mere perceptions of such consequences can encourage leaders to practice amoral management. (p. 34)

It is clear by this description that amoral management may be supported by some leaders to avoid any (negative) public perceptions that could potentially come as a result of upholding ethical standards, or "softness", leading one to potentially appear less competent.

A few additional reasons that leaders may choose amoral management over ethical management are to avoid finger-pointing or scrutiny among organization members as a result of ethical discussions. Ethical thinking and decision making

tends to be more time-consuming, thus using up greater time and energy, which can lead to less efficiency within organizations. Some nonprofits may not be concerned with efficiency, but many are. Socially, leaders may avoid ethical leadership because of its potential to create the image of a strong moral stance that is inflexible or morally superior (Greenbaum et al., 2015). This could cause an anticipated threat to likability that leaders may fear, along with a threat to social capital in the grand scheme. Younger or newer leaders may also lean towards amoral judgement in their quest to gain confidence, build a reputation, and establish their place in the organization.

Nonprofit Accountability

By definition, the new face of public service, including nonprofits and private organizations, serves the public good. Bowman et al. (2010) define public service as, "the 'people establishment' that delivers services to citizens, promotes the collective interest, and accepts the resulting responsibilities" (p. 9). The decision-making skills that nonprofit and public professionals must refine, need to involve good judgement and reflect a strong moral sense for the greater good. For most organizations, there is a substantial list of stakeholders who need to be considered by all leaders.

Stakeholders

Nonprofit organizations are responsible to all of their stakeholders, who include board members, the clients and community they serve, staff, donors, volunteers, and all funders (including government). Accountability varies across the board for individual types of nonprofit organizations, and also varies with the relationships between stakeholders. Legally, nonprofit organizations and charities are also responsible to the IRS and government laws, such as political activities law that control and limit political activity for nonprofits (Renz, 2016).

Areas of Accountability

Some of the main areas nonprofits face in relation to their accountability are: finances, governance, performance, and mission. Many federal and state laws require disclosure statements and reports to be filed regularly to maintain nonprofit status. Nonprofits are also expected to facilitate evaluation and performance assessments to gauge program effectiveness in meeting their

mission. Boards of directors, also called boards of trustees, are the backbone of nonprofit organizations, and, "…need to recognize what is at stake: reputation, image, credibility, and the public trust" (Walker, 2019, p. 2). Without clearly demonstrated ethical guidelines, nonprofit organizations put these four concepts at risk to deteriorate if there is a lack of planning and ethical leadership.

Duties of the Boards of Directors

Before the CEO or executive director position, board members, boards of directors, or boards of trustees are the leading fixtures in nonprofit governance and are obligated to adhering to ethical standards. There are three main legal standards that nonprofit boards are responsible to follow: the duty of care, duty of loyalty, and the duty of obedience.

Duty of care requires that board members act in the best interest of the organization and make decisions both morally and in good-faith. One of the main elements of the duty of care is board members' regular attendance and involvement in board meetings. "The law…holds them accountable for being attentive, diligent, and thoughtful and prudent in considering and acting on a policy, course of action, or other decision" (Renz, 2016, p. 129). Board members should be sure they are preparing for and participating in meetings regularly to apply the duty of care.

The duty of loyalty refers directly to board members avoiding having a conflict of interest with decisions made for the organization. According to Renz (2016), "This standard constrains a board member from participating in board discussions and decisions when they as an individual have a conflict of interest" (p. 129). In this case, example of conflict of interests for a board member would be serving multiple organizations with similar interests or personal interests that conflict with organizational interests.

Lastly, the duty of obedience refers to board members' dedication (and obedience) to the nonprofit's, "mission, bylaws, and policies…and laws, rules and regulations" (Renz, 2016, p. 129). The government and IRS govern board members' adherence to these laws, and can legally hold members to these responsibilities. Board members can have criminal sanctions held against them for failing to follow the duty of obedience.

Factors Conducive to Ethical Leadership

Vision

There are many factors that lead to ethical leadership in organizations and one of those factors that is essential in leaders is vision. "Ethical leadership starts with a vision that making ethics essential and central within the fabric of an organization will enable it to achieve its aspirations" (Seidman, 2004, p. 136). Vision leads to frameworks for organizations that work together to create strategic plans. As author Seidman describes, "To assure a perpetual self-sustaining dynamic of trust, people need to have frameworks for creating and maintaining self-knowledge" (Seidman, 2004, p.136). Many of these frameworks mentioned include codes of conducts, ethical standards and organizational policies.

In order for an ethical framework to be accepted by a staff and team and ingrained into an organization's culture, a team must accept both the integrity and credibility of their leader (Demirtas, 2013). To begin this process as a role model, leaders are responsible for being able to, "define and articulate a vision for their organization…" (Demirtas, 2013, p. 274). Research has shown that leaders can significantly affect overall performance throughout an organization by setting forth and communicating a vision for the organization. By being credible and legitimate in the eyes of others, leaders as role models can create frameworks that lead to cultures of integrity and morality (Demirtas, 2013).

Foundational Factors & Institutionalization

Along with vision and ethical frameworks, a number of pieces of research similarly describe the foundational factors that influence and lead to an ethical climate within organizations. The Ethics Resource Center:

> …categorizes an organization as having a strong ethical culture when top management leads with integrity, supervisors reinforce ethical conduct, peers display a commitment to ethics, and the organization integrates its values in day-to-day decision making. (Rhode & Packel, 2009, p. 11)

The Independent Sector's 2015 Edition of the *Principles for Good Governance and Ethical Practice* is a resource that outlines four fundamental areas of nonprofit ethical leadership: legal compliance and public disclosure, effective governance (the board's role), strong financial oversight, and responsible fundraising. Within

these four areas are 33 principles for all nonprofit organizations to consider following to achieve the highest possible effectiveness and accountability, according to the Independent Sector.

Also, according to research collected by Greenbaum et al. (2015), "Ethical leaders actively promote ethics and go out of their way to demonstrate ethical behaviors (p. 29)." Successful ethical leaders intentionally demonstrate ethical values and behavior beyond the closed office door, they utilize an ethical approach that follows clearly communicated ethical standards. Communication is key here, as leaders must relay the organization's standards for ethical behavior to all stakeholders on a regular basis. Ethics are constantly changing and evolving, and are not black and white. It is evident that the responsibility to create a solid culture of integrity sits on the shoulders of all nonprofit leaders, including the board and executive director. Rhode and Packel (2009) again reinforce this argument:

> Often the most critical determinant of workplace culture is ethical leadership. Employees take cues about appropriate behavior from those at the top. Day-to-day decisions that mesh poorly with professed values send a powerful signal. No organizational mission statement or ceremonial platitudes can counter the impact of seeing leaders withhold crucial information, play favorites with promotion, stifle dissent, or pursue their own self-interest at the organization's expense. (p. 12)

Code(s) of Ethics & Best Practices

Another relevant piece the Independent Sector includes in the *Principles*, is the suggestion that all nonprofits not only reach above the minimum standard of adhering to applicable nonprofit laws, but also create their own code of ethics. This is important because, "The code of ethics should be accompanied by specific policies and procedures that describe how it will be put into practice and how violations will be addressed" ("Independent Sector", Principle 2, 2020). Organizational leaders need to be aware of this and set the policies for individual organizations in order to be most effective at upholding and communicating ethical standards.

In addition to the 33 principles set in place by the Independent Sector, the National Council of Nonprofits also refers to the best practices that nonprofits across the country can follow to ensure top-notch accountability to all stakeholders.

Many individual nonprofit state associations provide online self-assessments that give nonprofit leaders the opportunity to perform a self-audit of their organization. Breaking it down state by state, Michigan has its own Michigan Nonprofit Association that provides guiding resources to suggest ethical and transparent leadership. ("Michigan Nonprofit Association", n.d.)

Case Study: The Healing Arts Initiative, New York

Five years ago, a nonprofit organization in New York City, The Healing Arts Initiative, dealt with a massive ethical dilemma and breach of trust. In 2015, a new executive director uncovered an enormous embezzlement scheme by one of their employees, who was reported as stealing $1000 a day from the organization. The embezzlement damage was reported as at least $750,000 by one employee over the course of three years, prior to the new director's leadership (Sturm, 2018).

After the new director took over the organization, she questioned the employee regarding the missing funds, and was then attacked by another employee who threw liquid drain cleaner on her face in an effort to cover the scam (Sturm, 2018). She survived the attack, yet only after many injuries and subsequent surgeries. This retaliation attack led to the executive director suing the nonprofit's board and asking for their removal from the organization due to negligence to notice and report the financial embezzlement. Unfortunately, soon following this the board fired the new executive director and the organization was closed shortly after. Sturm described this well, as an organization lacking any trust or integrity:

> The sequence of events culminating in shutting down the Healing Arts Initiative suggests a nonprofit culture where basic concepts of oversight, accountability, and responsibility were not exercised by either the professional or volunteer leadership. (Sturm, 2018, para. 9)

This scenario is a prime example of a deeply imbedded and unfortunately negative organizational culture, clearly lacking integrity throughout all leadership.

Case Study: Paws with a Cause, Michigan

In direct comparison, Paws with a Cause, a local Michigan nonprofit, has built a foundation on ethical leadership and on creating a positive culture of integrity. Paws with a Cause's mission states:

Paws with A Cause® enhances the independence and quality of life for people with disabilities nationally through custom-trained Assistance Dogs. PAWS® increases awareness of the rights and roles of Assistance Dog Teams through education and advocacy. ("Paws with a cause", n.d.)

Paws with a Cause has been training and matching assistance dogs with people who have a range of disabilities nationally since 1979. Initially created as a means to help out some close friends, the founders' called the initial organization, *Ears for the Deaf*, ("Paws with a cause", n.d.).

Ethical Issues

Chief Executive Director, Michele Suchovsky, explained that some of the organizational leadership trends discussed above are similar to some that are relevant to her organization (personal communication, November 27, 2019). First, she described the fundamental ethical issues that the nonprofit deals with on a daily basis. These issues include transparency, communicating with donors, and handling donor funds-which mirror issues other research has referenced. Paws with a Cause also handles a very specific set of ethical issues due to the unique nature of their mission. Some of these ethical issues surround dog breeding, (dog) training techniques, and a prison partners program they operate. The new leadership has created an open avenue to allow for discussions and conversation regarding ethical issues as they arise, which has not always been the case for the organization.

PAWS Conflicts & Culture of Integrity

Conflicts of interest also naturally arise for Paws with a Cause. There are competing interests for placements of dogs that do not end up as assistance dogs. Some of the dog breeders request to get the dogs back as a pet if they do not qualify to be assistance dogs, while there are also other working placements that could be possible for these dogs. There are also conflicts that can arise with donors, who occasionally want to "buy" a service dog, to help it go to the top of the waiting list. To create a culture of integrity that holds ethical management in high regard, M. Suchovsky described what they do in her nonprofit organization:

We also talk about our work culture and how we create a work environment that supports the health and welfare of our staff. We handle these issues by having base standards that we can all agree upon and then create safe places for conversation in the gray areas. Our

>management team regularly discusses these issues, and we engage
>in conversations with appropriate teams as needed. (personal
>communication, November 27, 2019)

Paws with a Cause also completes a self-audit through their strategic plan and utilizes two retreat days annually to discuss tough issues with the management team. The worldwide coalition, Assistance Dogs International, also completes an outside audit by completing an organizational assessment every five years. Other than this self-audit, and the external audit every five years, Paws with a Cause does not implement an internal audit process (M. Suchovsky, personal communication, November 27, 2019).

For-Profits vs. Nonprofits

During my interview, I also asked the CEO if she thinks that the executive leader role in nonprofits has a stricter obligation to adhere to ethical standards than leaders in the for-profit sector. M. Suchovsky responded with her opinion that, "they [nonprofits] have a stricter obligation to act within the moral compass set by their organization's mission and reason for existing", but don't necessarily have a stricter obligation to adhere to ethical standards (more than for-profit organizations), (personal communication, November 27, 2019.) The internal moral compass that M. Suchovsky refers to, describes how it drives the work of the nonprofit organization. For-profits can also adhere to ethical standards (as in the professional realm of professions such as the medical profession and law sector), but they, "can exist simply to make money as its end goal" (M. Suchovsky, personal communication, November 27, 2019.) This dedication to the mission reflects the duty of obedience that nonprofit leaders have to follow.

Although Paws with a Cause has a very specific client base and criteria for obtaining and utilizing assistance dogs, it is apparent that without clear ethical leadership values, the organization could struggle with multiple conflicts of interest and lack of discussion regarding fundamental ethical issues. These ethical issues would have the potential to negatively affect the organization if allowed to transpire and go without effective leadership. The management team provides the opportunity for teams to openly discuss the conflicts that arise, so that conversations can take place in order to come to agreement on these issues. The current management of Paws with a Cause exemplifies attempts to create a defined culture of integrity that allows room for open and honest discussion.

The Internal Moral Compass & Judgment Distortion

Unethical behavior exists among both for-profits and nonprofit organizations across the public and private sector. Both corporate and nonprofit misconduct and their moral issues are quick to rise in the public eye throughout all media channels. Chief Executive Officer Michele Suchovsky remarked on the internal moral compass that accompanies her ethical leadership throughout Paws with a Cause. An internal moral compass is more effective if it is innate in a leader or manager, but needs to be combined with established standards and code of conduct in a professional setting.

Additional research points to the same point that judgement distortion can arise in any organization, and that, "A person's ethical reasoning and conduct is also affected by organizational structures and norms (Rhode & Packel, 2009, p.3)." The leaders of a nonprofit organization have the obligation to create, enact, communicate and uphold high ethical standards to all stakeholders, due to the mission-driven priority for nonprofits to serve their community.

The main forces that cause distortion of judgment in organizations include many causes of misconduct. The workplace misconduct that is discussed, shows that there is much grey area surrounding the most common ethical issues organizations may encounter. The grey areas usually are on the edge of being considered to be direct fraud and mostly surround conflicts of interest, as mentioned earlier by Renz (2019).

Rhode and Packel (2009) further dive into four critical moral factors that can influence ethical behavior. These are moral awareness, moral decision making, moral intent, and moral action. It seems that moral awareness is self-explanatory in that it is, "recognition that a situation raises ethical issues" (Rhode & Packel, 2009, p.3). Moral decision making involves determining the best ethical decisions or course of action for the situation. Moral intent identifies, "which values should take priority in the decision"; and moral action is the actual, "following through on ethical decisions" (Rhode & Packel, 2009, p.3). They further describe how individuals widely differ in their ability to navigate these moral factors and the cognitive biases that affect how people deal with ethical scenarios.

Additional Ethical Leadership Recommendations

It seems the biggest areas that lack public trust surround how nonprofits spend their money, fair decision making, and public belief that charities are

actually helping people. Most nonprofits depend on donors and continued financial giving from many contributors, so these issues of trust should be of great concern and be another priority focus area for philanthropic leaders.

Recommended Practices

According to the National Council of Nonprofits, organizations can follow a long list of practices to demonstrate ethical leadership. They argue that these practices lead to gaining public trust. Some of these practices include: formally thanking and acknowledging all donors in a timely fashion; maintaining cyber security for donors and keeping personal information secure; regularly sharing the nonprofit's defined values to all staff and board members (and following the duty of care) to serve the public benefit; adopting a code of ethics or code of conduct; adopting a conflict of interest policy; conducting an ethics audit; conducting a legal audit the organization; developing internal "whistleblower" complaint processes; respecting confidentiality and using responsible photography procedures; being environmentally responsible where possible; and finally exercising transparency financially, in communication processes, and in times of crisis ("National Council of Nonprofits", 2020).

Ethical Framework

In discussions of analytical framework for ethical leadership, Walker (2019) refers to an ethical structure created out of the work of Frederic Reamer, PhD. Walker (2019) states that, "Conflict-of-interest policies are a start, but the real work involves thoughtful deliberations and decision making", (para. 34). Basically, it is great for nonprofit leaders to have black-and-white conflict of interest policies in writing, but a framework to identify possible ethical conflicts and how to handle them separates successful nonprofits from unsuccessful. This framework by Reamer (as cited by Walker, 2019) includes seven bullet points summarized and listed below:

- Identify the ethical issues that could cause controversy;
- Identify who will be affected by the decision;
- Identify the potential courses of action, including possible benefits and risks;
- Examine how these courses of action tie into organizational values, personal values, and organizational ethical principles and guidelines;

- Consult other experts not directly involved with the dilemma for input and advice;
- Make the decision and document the decision-making process;
- Monitor and evaluate the outcome (Walker, 2019, para. 34).

Using the above framework as Walker (2019) describes, provides nonprofit leaders room to make educated decisions on ethical dilemmas that arise, rather than acting impulsively or reactively to these issues. In her article, Walker quotes Lilya Wagner, a philanthropic director:

> Ethics aren't simply a list of behaviors, a set of restrictions on what we can and cannot do. Ethics aren't just something we do because we know people are watching us. Ethics are a reflection of ourselves. Ethical behavior expresses who we are, what values we hold dear and what principles we will always fight for. Our ethics go straight to the heart of who we are. (Walker, 2019, para. 32)

Conclusion

My research shows that by utilizing ethical leadership values and following defined principles and the code of ethics for nonprofit and philanthropic organizations, nonprofits are able to lead more effectively than without implementing ethical leadership methods. At the same time, individual organizational codes of ethics are substantially beneficial to nonprofit and charitable organizations, as Principle 2 in the Independent Sector's (2015) P*rinciples for Good Governance and Ethical Practice* states:

> A charitable organization should formally adopt a written code of ethics with which all of its directors or trustees, staff, and volunteers are familiar and to which they adhere. Each organization should also create or adopt a written code of ethics that outlines the values that the organization embraces, and the practices and behaviors its staff, board, and volunteers are expected to follow, such as the confidentiality and respect that should be accorded to clients, consumers, donors, volunteers, and board and staff members.

Many of the common ethical issues that most nonprofits or philanthropic institutions may run into are less likely to be black and white. The complex issues exhibit greater amounts of grey area that are open to interpretation and contextual examination. Some of these challenges may include misconduct, such as conflicts of interest, possible fraud, lack of accountability and transparency,

and misallocation of resources [funding or revenue] (Rhode & Packel, 2009). Nonprofit leaders who follow the principles briefly introduced above, and also create an organizational code of ethics, may better serve as leaders who are focused on instilling moral integrity. This moral integrity can create an organizational culture of trust and integrity, one that amoral management dismisses. Amoral management methods fail to serve the greater public good or work towards creating a culture of integrity. The nonprofit and philanthropic sector is set on a high mountain of ethics obligated to serve the public good, rather than just a mere profit or bottom line.

The duty of care, duty of loyalty, and duty of obedience all hold nonprofit board members and leaders to high standards that are legally binding. Nonprofit board members are legally obligated to abide by these three duties, and can be held legally responsible for failure to adhere to them. Due to the number of ethical challenges facing nonprofit organizations, including misconduct, conflicts of interest, fraud, lack of accountability and transparency, and misallocation of resources, ethical management techniques can encourage nonprofits to create cultures of integrity. This culture of integrity lends itself to trustworthy and ethical leaders who proactively work alongside the board to create processes and procedures.

As discussed earlier, the conflicts of interest among nonprofits are rarely black and white, but are brimming with grey areas that necessitate close attention and deliberation. Processes and procedures that can assist with ethical deliberation are codes of conduct and clear conflict of interest policies. Ethical management deals with people, and nonprofits need people to run the organizations, support the organizations, serve as volunteers, serve as clients, and maintain the function that the community needs. By aiming to instill cultures of integrity, ethical leaders in the nonprofit world can do their utmost to abide by the three duties, and overall support their communities for the greater good.

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About the Author

Sara Davidson-LeFevre was born and raised in mid-Michigan, and now lives in West Michigan with her husband, three kids, and one dog. She and her husband, Joe, both attended Grand Valley State University, from where she holds both a Masters of Public Administration with an emphasis on nonprofit management and leadership (2020), and a Bachelors of Science in Sociology (2006). Currently working as a proud stay-home parent, Sara previously worked in education, where she served as the Dean of Students for Grand Rapids Learning Center (GRLC), an alternative high school program. While working for GRLC, she led the program while assisting students with completing necessary high school graduation requirements and dual enrollment programming. She plans to continue her career in the education or nonprofit sector within West Michigan.

She currently serves as the Vice President of the Henika District Library Board of Trustees, in Wayland, MI, and is a continuous volunteer in a handful of capacities with Cornerstone Church in Caledonia, MI. Sara is also passionate about supporting NICU parents, and is currently serving as a volunteer NICU mentor parent, to provide emotional and mental support for parents with children in the neonatal intensive care unit.

In 2020, she was honored to be initiated into the Grand Valley State University Chapter of Pi Alpha Alpha International Honor Society. In her free time, Sara enjoys running, reading, yoga, and being outside with her husband and amazing kids.

Evaluating Evangelisation in Faith-Based Organisations:
A Study of Catholic Educational Centres
Pedro Filipe Gomes
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Abstract

Whilst many studies have shown the positive impact which faith-based organisations have contributed to global development, a question arises over the effectiveness of these institutions at imparting to their beneficiaries what makes them unique – their faiths. This study seeks to review the literature and interview key members of Catholic faith-based organisations to better understand the role that evangelisation, which is defined as "bringing the Good News of Jesus into every human situation," plays in their work. The study focuses in particular on Catholic educational organisations and seeks to understand if they have institutionalised measures of success for this component of their ministry. The research finds that there is a great shortage of academic study on this element of the faith-based nonprofit sector. Furthermore, it was found that although faith-based organisations are by their nature defined by their religious aspect, this element is not universally measured, nor seen as necessarily the primary focus of organisations' work. Through brief questionnaires, it was determined that evaluation methods differ amongst Catholic organisations in different geographical regions. Additionally, at times it may simply be impractical or irrelevant to measure the outcome of this evangelisation component of an organisation's work. Notwithstanding this, the questionnaires found that measures of some elements of spiritual development are being used either formally or informally in many Catholic educational centres around the world.

Evaluating Evangelisation in Faith-Based Organisations:
A Study of Catholic Educational Centres

The nonprofit sector is made up of a multitude of different subsects of organisations. A significant yet often understudied subsect of the sector is faith-based organisations (FBOs). These organisations, which are normally linked to a religious community, are present in numerous different places and social sectors all around the world (Clarke & Ware, 2015). Although religious congregations typically have the spiritual health of their community as their most important

and driving objective, they can oftentimes involve themselves in projects seeking to address the physical, material and mental well-being of both those within and outside of their community. For the purpose of this study, the most appropriate definition of an FBO is "an organization, with or without nonprofit status, that provides social services and is either religiously-motivated or religiously affiliated" (Goldsmith, Eimicke, & Pineda, 2006, p. 2).

These FBOs are therefore defined by having an added layer to their work that is not present in comparable NGOs. This layer is one of spiritual expression or evangelisation (Clarke & Ware, 2015). In this way, whilst an FBO may deliver the same good or service as a secular nonprofit, it may do so for either of two reasons; a) to provide a space for expression of the religious faith for those within the religious community who feel called to serve and b) as a means to evangelise to those who are perceived to require spiritual development along with the other social services provided. FBOs therefore operate under a stated dual identity, that of service provider and religious organisation for the needy (Lloyd, 2007).

These faith-based organisations have been found to have several advantages for performing social services over those of their secular counterparts (Goldsmith et al, 2006). These advantages include their deep community involvement and the natural trust that this builds within their constituencies. This is complemented by a potential ease of accessing human and financial capital for its services from within and outside of the community due to sitting in the heart of communal life. This presence also allows them to more easily grow grassroots projects which are developed and driven by constituents of the communities being served.

With the researched advantages that these organisations bring, it may be logical to conclude that when delivering on the organisation's mission, FBOs will endeavour to deliver both their social and religious services as efficiently and effectively as possible. Whilst it has become commonplace for nonprofit organisations to commit energy and resources into measuring their social impact, the question arises whether FBOs, with their dual identity, have also found effective and reliable measures of success for their religious services. Thus, this paper seeks to research if tools also exist to measure the spiritual development component of the work being done by faith-based organisations around the world. In particular, it is of interest to uncover if there are reliable, accurate and relevant outcomes measures. This research seeks to do so by reviewing the available academic literature on the topic as well as through questionnaires to various organisations in the field. Due to time and resource limitations for this

study, the research questionnaires and principle focus of the study has been narrowed to focus in particular on Catholic educational centres which operate in the Grand Rapids (Michigan), Belém (Brazil), Nairobi (Kenya) as well as Cape Town and Johannesburg (South Africa) regions.

Research Questions

- What role does evangelisation play in the work of Catholic educational centres?
- Do Catholic educational centres measure the evangelisation component of their work?
- What tools are most commonly used to measure the inputs, outputs and outcomes?
- Do differences exist between the methods for evangelisation and tools for measurement used across different geographies?

Methodology

The methodology for investigating this question was twofold; conducting an extensive literature review on the topic and sampling a questionnaire to a small group representing Catholic schools and educational centres in Grand Rapids (Michigan), Belém (Brazil), Nairobi (Kenya) as well as Cape Town and Johannesburg (South Africa) regions. The literature begins by looking at the general faith-based sector before narrowing in focus to Catholic educational institutions. The aim of the literature review is to understand the position that these organisations have in many communities, their views on evangelisation, the role this plays in their work, how this has been achieved and whether measures are used to assess the success of this element of the FBOs' work. Subsequent to this, the questionnaire was sent out to targeted groups of Catholic schools and vocational education centres as well as to leaders at the Catholic diocese and provincial office level. These questionnaires were submitted via email and contained two primary questions:

1. Do Catholic social projects that you are involved with measure/track the evangelisation component of their work?
2. If so, what measures do they use?

The purpose of these questions is to gain multiple insights. The first is to understand whether these geographically separated groups of Catholic projects align with the findings of the previous researchers as found in the literature review. Secondly, these questions seek to understand if in this sample, there exists a difference between the methods of measurement done by the Catholic organisations in these three small subsects of three continents – North America, South America and Africa. Furthermore, are these organisations measuring these with respect to inputs, outputs or outcomes. Lastly, they sought to provide insight into whether there is a standard best-practice that has been developed and is being used by multiple or all organisations in a specific field of work, namely Catholic educational centres.

A small and non-representative total of seven responses were received from the sample group. The responses received were from individuals in the following positions:

Table 1.

Grand Rapids (USA)	Southern Africa	Belém (Brazil)
Director of Family, Youth and Young Adult Ministries – Diocese of Grand Rapids	Head of Formation – Org #1 Formation Centre for Africa & Madagascar (Nairobi, Kenya)	Auxiliary Bishop – Archdiocese of Belem do Pará
Director of Religious Education for Grand Rapids Catholic School #1	Head of Youth Ministry – Org #2 Provincial Office of Southern Africa (Cape Town, South Africa)	
Religion and Social Sciences Teacher – Grand Rapids Catholic School #2	Director of Org #3 Planning and Development Office – Southern Africa (Johannesburg, South Africa)	

These responses were analysed and compared to those of the literature review to ascertain a deeper understanding of the research question. The results were compared and conclusions drawn in relation to the research questions of the study.

Literature Review

Lack of Academic Literature

Analysing the existing academic literature on the topic of faith-based nonprofit organisations it is quickly concluded that there is a significant lack of academic writing on the issues which affect the faith-based nonprofit field. This phenomenon is discussed by numerous researchers who have joined the growing wave attempting to better understand the missions, composition, and effectiveness of these unique organisations.

Kurt Alan ver Beek proposes that this may be due to faith-based organisations being considered a development taboo topic for many years (Ver Bleek, 2000). This led to an absence of academic study of the sector subsect as both researchers and practitioners in the field ignored these institutions due to aversion towards them. This has been identified as a significant paradox of the nonprofit field – that despite the significant size and importance of the faith-based sector, for many years there was a lack of academic attention paid to it. (Deneulin & Rakodi, 2010). In a research report for Harvard University, Berger ascertains that "an understanding of FBOs' operations and influence has been limited by the lack of documentary data and available literature about these organizations" (Berger, 2003, p. 3). Further to this, a report for the US Department of Housing and Community Development highlights how empirical analysis of this sector is in short supply. The report indicates how the academic literature provides "no comparisons of similar types of secular and faith-based activities, no analyses of the outcomes of any of the activities conducted, and hence no assessments of the factors that influence the scale or quality of outcomes" (The Urban Institute, 2001, p. 12).

Fortunately, subsequent researchers have highlighted that his taboo was broken after the beginning of the 21st century and can be viewed to have reversed from a taboo to a fashionable research topic after that point (de Kadt, 2009). Whilst this uptake in interest has spurred a wave of academic attention on the success of these organisations, there are still prevalent gaps in the academic research. Thus, it is imperative that researchers continue to administer broad-based surveys of FBOs in order to ascertain reliable empirical data of the field (Petersen, 2010).

Advantaged Position of FBOs

Adding to this paradox is the point that FBOs hold positions of strategic importance and value in delivering community services. This theme was discussed by Tyndale in an article which describes "no other organizations as more firmly rooted or with better networks in poor communities than the religious ones" (Tyndale, 2003, p. 26). This is a crucial point which indicates how these organisations, often being at the very centre of community life in every corner of the world, are especially well placed to drive successful, beneficiary-led programmes. Further to this, Tyndale elaborates how religious leaders already have a large degree of community buy-in and trust which places them at an advantage when attempting to implement projects in their areas.

This aspect has been reemphasised repeatedly in development literature and further confirmed when the United Nations High Commissioner for Refugees issued a 2014 report that highlights these attributes. This report emphasises the important contribution and position that FBOs and those who lead them occupy; positions which make them one of the most influential global INGO sectors (United Nations Refugee Agency, 2014). The advantages that faith-based organisations and their leaders have in their position within the constituent communities visibly implies that they cannot be ignored as partners, implementers and catalysts for social development and change. Furthermore, this highlights the need for sufficient time and financial resources to be commitment to the academic study of this field and its measures of success, especially in the area which makes it unique – its faith/religious element.

With new and more effective mechanisms for implementing development strategies being constantly sought after, it is critical to note that in the developing world the "growing churches are reflective of a deeper adoption of a Bible that speaks to everyday, real-world issues of poverty and debt, famine and urban crisis, racial and gender oppression, state brutality and oppression, and persecution," (Jenkins, 2006, p. 5). Confirming that FBOs will continue to be fundamental players in the development field for years to come.

Position of FBOs Towards Evangelising

In order to fully understand this faith/religious element of FBOs work, an investigation was conducted into both the academic literature and documented Catholic church views on evangelising through these means. The academic literature indicates, as is to be expected, that with countless FBOs, each with

their own mission, geographical focus area and religious foundation, there is no one sole idea of evangelisation shared by all of these social service agencies. The literature rather points to each FBO sitting somewhere along a spectrum of 'religiosity' (Goldsmith et al., 2006). This spectrum ranges from purely faith-focused organisations on the one end to almost exclusively secular-orientated on the other (pg.5).

The academic literature does not indicate in any way that this is problematic. Matthew Clarke for example demonstrates through a case study of churches involved in community development in Vanuatu that there is no clearly demarcated line "between what they are doing in terms of religious ministry and what they are doing in terms of development ministry" (Clarke, 2013). His study finds that whilst there is a higher goal of evangelisation, there is a dynamic blurring between the two ministries. Therefore, the churches in these communities' view "working to improve health and education important both in and of itself as it provides an opportunity to live the Gospel" (Clarke, 2013). Furthermore, this approach was found to reflect that of the "church's early missionaries who saw physical and social well-being as being complementary in value to spiritual development" (pg.9).

Importantly, the literature does indicate that, along this spectrum, those organisations which view the religious component of their work as core to their operations are the least likely to compromise on their principles. These are also less likely to partner with secular organisations whose values may be in conflicted with their own. On the other hand, it is found that some FBOs have little religious element to their programs and only loose links to the religion to which they are affiliated (Goldsmith et al., 2006). These organisations may in practice be almost identical to their secular counterparts.

Catholic Church's Views on Evangelising

In an attempt to narrow the scope of this study, particular focus was paid to the literature and writings concerning the Catholic Church. Pope Benedict XVI wrote in both the Deus Caritas est and Caritas in Veritate encyclicals that the church is not merely an NGO and exists with a mission to evangelise (Benedict XVI, 2005). This implies that any activity that it does should be directed towards this aim. That being the case, the activities of Catholic organisations should not be limited to purely charity or philanthropy. Notwithstanding this, it is common that a Catholic social service institution is created not with the express intention to evangelise but as a direct result of a community's evangelisation - an

expression of their faith through works of service (Catholic Bishops of the United States of America, 2008). These acts of service are however in themselves an indirect form of evangelisation. In accordance with this the US Catholic Bishops note that evangelisation is often effectively done "through simple living of the faith," which calls on believers to make this manifest through their works of service (Catholic Bishops of the United States of America, 2008, para. 3). Finke & Bader in their 2017 book *Faithful Measures: New Methods in the Measurement of Religion*, use the term "social evangelism" to describe these FBOs which are more concerned with service than evangelisation (Finke & Bader, 2017, p. 269).

An important annotation to this with respect to FBOs which line up predominantly in the 'secular' zone of the religiosity spectrum, is that as the church's mission is to evangelise, the work performed by Catholic FBOs should in no way impede or be contrary to evangelisation. Lest this be a form of mission drift which directly diminishes the wider church's capacity to perform its mission.

Evangelisation Goals in the USA as Stated by the US Catholic Bishops

The United States Conference of Catholic Bishops (USCCB) has developed three primary goals for the evangelising efforts of the church within the United States. These goals are based on the Biblical example of evangelisation methods used by Jesus, as well as the contemporary reality of the 21st Century United States. The stated goals are:

> to develop such enthusiasm of the faith within Catholics that they will freely share it with others; to invite all people in the USA to hear the message of salvation of Jesus Christ so they may come to join in fullness of the Catholic faith; and to foster gospel values in our society, promoting the dignity of the human person, the importance of the family, and the common good of our society, so that our nation may continue to be transformed by the saving power of Jesus Christ. (Catholic Bishops of the United States of America, 2008, para. 2).

These goals establish a clear mission for Catholic churches and faith-based organisation in the USA. Likewise, in other countries similar goals for evangelisation have been outlined by bishops' conferences in their geographical

regions. We can therefore deduce that as a direct extension of the church, Catholic social projects will in some way work to achieve one or more of these goals, either directly or not.

The USCCB make an important note that "Catholics cannot proselytize - that is, manipulate or pressure anyone to join our Church" (Catholic Bishops of the United States of America, 2008). They emphasise that all evangelising efforts should, much like Jesus' be guided by a spirit of invitation.

Complementary to the USCCB's goals, the US National Directory for Catechesis (NDC) draws from the Biblical scriptures of the life of Christ to likewise highlight the importance of Christ's methods of formation (Belleville, n.d.). This directory identifies six dimensions of the Catholic faith as continued from the teaching and life of Christ (United States Conference of Catholic Bishops, 2005). These dimensions are therefore the critical practical elements which those evangelising the Catholic faith should seek to transfer unto others. The NDC notes that "all efforts in evangelization should incorporate these tasks" (United States Conference of Catholic Bishops, 2005). These six tasks are: "promote knowledge of the faith, provide education on the liturgy, moral formation, teaching to pray, education for community life and promote missionary action" (Belleville, n.d.). An important note that the establishment of these six elements highlights, is the Catholic church's view on evangelisation. This view is not, as is often misunderstood, about interfaith conversion, but rather about the spiritual development of both insiders and outsiders to the faith, using a multi-pronged, Biblical approach based on the life of Jesus. Furthermore, it reiterates that all efforts to evangelise should incorporate these various dimensions of the faith.

Evangelising Through Educational Institutions

Catholic schools are possibly the most visible Catholic social projects in many parts of the world. The impact of the educational services provided by religious organisations throughout history has been astounding and continues to be so today (Deneulin & Rakodi, 2011). In a 2004 article Kim & Placier highlight the findings of certain researchers that "Catholic schools serve the common good by producing more than test scores. Catholic schools, these authors contend, are moral communities that emphasize equity and social justice rather than individual self-interest" (Bryk, Lee, & Holland, 1993, p. 2). The Diocese of Phoenix has further documented a clear idea of the role which Catholic schools play in the church's mission (Bishop Olmsted, 2017). In his writings the Bishop

breaks down the evangelisation role of Catholic schools into five responsibilities; "to be places of encounter with the living Jesus Christ, which are Spirit-filled communities, that impart a Catholic worldview, which assist students in becoming free and sends them out as missionary disciples to transform culture" (Bishop Olmsted, 2017, para. 4).

These writings indicate in a very clear way that in every level of the Catholic church's structure there is a clear guidance and mission towards evangelisation as a critical component of its work. This is evident in literature pertaining to both the global and diocesan level. It is therefore logical to infer that all Catholic social projects directly or indirectly affiliated to the church would seek to align to this mission of evangelisation, in the most appropriate way possible for the community and culture which they operate in.

Methods of Evangelisation

Having analysed the available literature to understand the value and ends of evangelisation in Catholic schools, the focus is shifted to understanding the methods which have been developed to evangelise in these educational organisations. However, there is a lack of academic study on this component of the faith-based nonprofit sector. In spite of this, there were still several informative articles which provide insights into methods used by various churches in different geographical regions.

In his study in Vanuatu Island in the South Pacific, Matthew Clarke finds the use of the facilities of the sacred place of worship as a powerful tool for evangelisation (Clarke, 2013). He attributes this to the "ownership which the community feel towards this sacred space in their community" (pg.3). The study shows that even if little explicit evangelisation is done, the presence of the beneficiary in this space is already an invitation to participate and engage more fully in the practices of the church. This is a more indirect and acceptable form of introducing the beneficiary to the faith that does not involve manipulative proselytizing as warned against by the US Catholic Bishops (Catholic Bishops of the United States of America, 2008).

The most comprehensive study found on the evangelising methods used in social projects is a study on protestant churches in Philadelphia. In this 2004 study, four principle strategies were found to be used by the large number of churches surveyed (Unruh, 2004). These strategies aligned with other writings which indicate that each institution has a different intensity of evangelisation in

its programmes. The first strategy used by a number of FBOs was termed "implicit" – where the program was known to include a religious team but no direct evangelisation occurred. The second strategy is "invitational" – the beneficiary is invited to a religious event occurring outside of the social project. The third strategy is "relational" – where members of the church will directly share information about the church during or in the vicinity of the social service. The fourth and most direct strategy is "integrated optional." This strategy involves disclaiming the expressly religious components of the programmes to beneficiaries and providing them with the option to opt-out of the participation of those components of the service. Although in some programmes full participation in all activities is required (Unruh, 2004). In that study, Unruh goes one step further to also include a list of the tools used by these organisations to introduce and share their faith to beneficiaries. This list can be summarised into these categories: "Religious self-descriptions, religious objects in program environment, invitation to religious services, prayer, use of sacred texts, worship, personal testimonies, religious teaching and invitation to personal religious commitment" (pg.7).

The above two studies whilst informative about the methods being used in these particular circumstances are still insufficient to generalise to a wider FBO audience. Furthermore, it points to a great need for further investment into the research of FBOs by the academic community.

Adaptation of Methods Based on Circumstances

In a globalised world the interactions between individuals from every walk of life become common place and even the norm. This, along with the global phenomenon towards urbanisation means that communities are now more integrated and mixed than ever before. Faith-based organisations in many parts of the world do not only provide assistance to those within their own religious communities but serve beneficiaries of every race, religion, nation and gender. Academic research unanimously states that FBOs serve a wide range of beneficiaries. Ferris in particular, highlights that "the majority of Christian NGOs help everyone, regardless of religion" (Ferris, 2005). This help is predominantly focused on material services. In the USA 19% of students in Catholic schools are non-Catholic (National Catholic Education Association, 2020). This reality not only affects who the beneficiaries are, but also influences the type of evangelisation which organisations engages in. The faith development side necessarily changes when the beneficiaries of the services do

not belong to that religious group. In these cases, different strategies for evangelisation take place. Brunn (2015) also found that the growth in secularisation "has pushed some Christian NGOs to downplay their religious identity" (p. 3118). In these contexts, some Christian FBOs have felt compelled to change their strategies from explicit to implicit. In other cases, almost completely doing away with the religious elements of their programmes and being practically indistinguishable from comparable secular NGOs. This raises the question of whether these organisations should still identify themselves as FBOs with a religious affiliation.

Religious leaders, beyond the need to know whether these affiliated FBOs are working as an efficient method for providing social services to the needy, have a dual concern for the operation of these faith-based organisations. Firstly, that they are serving as an outlet for their religious congregation to express their faith through works. Secondly, that these affiliates are operating in a manner that evangelises faithfully and effectively, in accordance with the mission of the religion, using either explicit or implicit strategies. Herein lies the need to have effective, reliable and accurate measures of the spiritual components of the work of Catholic educational institutions and other FBOs.

Measures of Evangelisation

With the increase of the demands on accountability within the nonprofit sector over recent decades, a strong push towards professionalisation has been witnessed across the board. With this, higher demands have been placed on all institutions to reliably demonstrate the effectiveness of their programs. Fischer (2004) notes how this has driven organisations towards predominant use of outcome measurement as a means to display programme effectiveness (p.31). In what is one of the most comprehensive reviews of the literature on FBO effectiveness Johnson, Tompkins, & Webb (2008) found that "measures of religious commitment, religiosity, or a quantifiable measure of the key independent variable that defines the nature of the FBO, are still a surprisingly undeveloped area of research" (p.21). This finding is repeated consistently throughout the academic literature and is surely the most poignant conclusion of the review of the literature of FBOs. Thus, Johnson et al. (2008) concludes the need for the academic community to take care in developing measures that adequately reflect the degree to which faith is included as a structural element of programs (p.21). Researchers have found that this phenomenon is not limited to the faith-based sector, but prevalent too in the social services sector where like

maturity in other human characteristics, difficulty is experienced in measuring the development of personal characteristics without a comprehensive psychosocial analysis, which lies far beyond the capacity of most FBOs (Johnson & Siegel, 2008). Furthermore Fischer (2004) agrees when he concludes that "both the environment and type of work done in human service environments makes rigorous evaluation approaches infeasible or even unacceptable" (p.7).

Notwithstanding the dearth of available research on the topic, researchers found that church attendance, however imperfect this measure may be, has most often been utilised as the measure of "religiosity" (Johnson & Siegel, 2008, p. 8). They go onto present what they believe to be the most reliable, whilst potentially still unsophisticated, measure of the effect of evangelisation (p.9). They identify a method of analysing the outcome of evangelisation which includes both a behavioural element - religious service attendance, as well as an attitudinal one – the perceived importance of one's religion in one's life. They do this in order to negate some of the weaknesses of using religious attendance as a sole proxy for effective evangelisation and in so doing bolster the capacity to truly understand the beneficiary's self-perceived growth in religious fervour. This attitudinal indicator was tested using the question "How strong a role does religion play in your life?" Response categories were: very strong; strong; somewhat strong; weak, and none" (Johnson & Siegel, 2008, p. 9).

This simplistic dual indicator model is therefore the most comprehensive that has been found in the academic literature with respect to the evaluation of the outcomes of the evangelisation component of faith-based organisations. Similarly, there is an absence of academic literature on the evaluation of the outcomes of evangelisation in the Catholic educational setting. In the subsequent results section, the findings of the literature review will be used to assist in understanding and comparing the conclusions drawn from the questionnaires to a sample of practitioners in the field.

Results - Questionnaires

Questionnaires were submitted to individuals who were identified as leaders in the field of Catholic educational projects, in three geographically dispersed regions of the world – Grand Rapids (Michigan), Belem (Brazil), Nairobi (Kenya) as well as Cape Town and Johannesburg (South Africa). These interviewees occupy the following positions: religious education teacher, religious education director, director of family, youth and young adult ministry at a diocesan level, head of formation in Africa for a religious order focused on

education, head of development and planning for a province of a religious order focused on education, head of youth ministry for a province of a religious order focused on education, auxiliary bishop of a large Catholic archdiocese. These interviewees, although in no means a representative sample of the population of Catholic educational institutions, have a vast range of experiences and expertise on the subject matter, together with a diversity of roles in the Catholic education sphere in various regions. Their responses can be found in the Appendix to this article. Two questions were asked of each interviewee:

1. Do Catholic social projects that you are involved with measure/track the evangelisation component of their work?
2. If so, what measures do they use?

The purpose of these questions was to elicit responses which would allow us to answer the four research questions of this study:

1. What role does evangelisation play in the work of Catholic educational centres?
2. Do Catholic educational centres measure the evangelisation component of their work?
3. What tools are most commonly used to measure the inputs, outputs and outcomes?
4. Do differences exist between the methods for evangelisation and tools for measurement used across different geographies?

The answers were then analysed both individually and collectively (per geographic region) to allow for comparison both with the existing academic literature and between the regions.

USA

There were three responses received from the USA. Of these responders two worked in different Catholic schools in Grand Rapids, one as a religious education director and the other as a religion and social sciences teacher. The third respondent works as the director of family, youth and young adult ministry for the Catholic Diocese of Grand Rapids. The responders from the Catholic schools both replied with similar answers to the questions - that Catholic schools

in the area, along with a growing number around the country, have their students take standardised tests which measure their faith development in 5th, 8th and 10th grade.

These evaluations, known as the NCEA ACRE tests, are designed and promoted by the National Catholic Education Association (NCEA) as a means to standardise the evaluation of the level of faith formation taking place at Catholic schools across the country. These tests are notable in that they are a clear sign of a move by Catholic educational centres in the USA towards measuring some outcomes of the evangelisation element of the work they perform. According to the responses of the religious education director, "the ACRE Test gives them some data to gauge the faith development (doctrine & morals) of their students." This information is then used to "grasp how well the schools are handing on the faith to their students." There are several important conclusions that can be taken from these answers. The first, is that although the academic literature contains large gaps in its description and understanding of the work of Catholic and other FBOs, this does not mean that evaluation of the elements of evangelisation is not taking place. The second, is the advantage of having a national association which allows for the creation of a standardised national test which can provide easily comparable results from year to year as well as amongst different institutions. These comparable results allow institutions and decision makers to quickly identify the effectiveness of a programme in their effort towards evangelisation. Most notable, as indicated by the religious education director, is the indication that these tests allow an institution to understand the development of "doctrine and morals." This assertion links directly with the findings in the literature review that catholic evangelisation should develop "knowledge of the faith and moral formation" along with the four other dimensions. Upon further research of the NCEA ACRE tests it was found that they are also able to measure "attitudes, and practices among the youth" (Archdiocese of Newark, n.d.). This is significant as it aligns with the findings of (Johnson & Siegel, 2008) that measuring the attitudes and practices of beneficiaries is the most effective known way in the academic literature to measure the effectiveness of a program.

The response from the director of family, youth and young adult ministries of the Diocese of Grand Rapids provided a complementary, yet far different answer to the questions relative to the two school-based respondents. This answer focused more on the documents that have been created by the USCCBs, as well as those of the universal church, which underline the need for evangelisation, the goals of evangelisation and the method of evangelisation; the

objectives, inputs and activities of evangelisation in Catholic educational centres. The respondent was however unaware of the actual tools or indicators used within the field to measure the progress towards this. A referral was made to a colleague who unfortunately was unable to be reached. This response highlighted several findings recognised in the academic literature – the identified third goal of evangelisation by the USCCB which "reflects that social action springs from having been evangelized and in turn engagement in social action is a witness to our faith." Furthermore, the respondent quotes the Compendium of the Social Doctrine of the Catholic Church, which states that the social work done by the church is in itself a form of evangelisation. They further referenced this when stating that the work of Catholic organisations form "part of the Christian message, since this points out the direct consequences of that message in the life of society and situates daily work and struggles for justice in the context of bearing witness to Christ the Savior" (Pontifical Council for Justice and Peace, 2004, para. 67). Therefore, whilst these two sets of answers were significantly different, they each shed light to the understanding of the evaluation of evangelisation in Catholic educational centres in the Grand Rapids area.

Brazil

The Auxiliary Bishop of the Archdiocese of Belem, Brazil was the only respondent from the survey who was from Brazil. This conversation was translated to and from Portuguese. The questions of whether measures exist was not answered. The respondent chose instead to outline the difficulty in doing so, the components which should be measured and that what one can measure is the fruits of this faith. The respondent noted that faith, not being a material substance, cannot be measured in and of itself. However, the way we can measure its development is through measuring the attitudes, behaviours, knowledge and virtues of individuals exposed to it. What is most striking about this Brazilian auxiliary bishop's response is its similarity to the views as expressed by the US Conference of Catholic Bishops. His response intertwines scriptural passages with several of the dimensions of Catholic evangelisation as also described by the USCCBs. This is insightful in that it allows us to see that in practice, there appears to be an alignment between the views of Catholic bishops in different areas of the world with respect to the key elements for evangelisation of the Catholic faith. Whilst this response does not allow us to draw any conclusions as to whether measures of success of evangelising are being used in

the region, they provide useful insight nonetheless. Furthermore, these dimensions, which have been listed as the most appropriate to be measured, are the very ones which are sought to be measured by the NCEA ACRE evaluations. This allows us to conclude that it is possible that transference of these tools to other regions could be done with a strong likelihood of success.

Southern Africa – Kenya, South Africa and Others

There were three responses from Southern Africa, each from a priest working in a different part of the region. Each of these priests serve in a missionary Catholic order which focuses on educational projects for at-risk youth. The order – the Salesians of Don Bosco, have a stated mission to educate and evangelise to youth, especially those who are poor and at risk (Salesians of Don Bosco, 2020, para. 2). These educational centres range from universities and high schools to vocational education and workplace readiness centres.

The three responses received point a light to the lack of a standardised measurement of the outcomes of the evangelisation component of projects in the region. One respondent stated the difficulties in reliably obtaining data on the faith formation of participants, as well as the difficulties in evangelising in non-Christian environments. Another respondent indicated that he was unaware of any level of measurement being conducted but did make a referral to an individual in a better position to answer. This third person was the final respondent from the region and he acknowledges that in some projects only informal measurements are used whilst in others some degree of formal evaluation is conducted.

What is overwhelmingly clear is that the measurement of the faith element of the projects in this region is certainly not standardised, unlike what was seen in the USA. To add to this, the first respondent indicated the difficulty and in fact "impossibility" of measuring this faith-based element in some projects. The particular projects that he refers to are projects where beneficiaries have a very limited time of as little as two weeks where they are involved with the program. The respondent proposes that in this situation, it may be inappropriate to attempt to measure the level of faith development. This respondent is the head of formation for a religious order in a region which includes many countries. From this position he highlights the difficulty experienced in evangelising as a Catholic FBO in countries which utilise Sharia law or where certain religious groups rebuff their work. Furthermore, the response sheds light that small doses of implicit evangelisation are still present even in these mission areas where

Christian actions are controlled and looked down upon. This mirrors some of the findings of the literature review which indicate that in areas where the FBO's specific religion is dominated by another religious group then FBOs by necessity move toward the "secular" side of the religiosity spectrum.

On the other hand, this same respondent highlights how in environments conducive to the Catholic educational centre moving up the religiosity scale, evangelisation is being done with great fervour. The respondent provides the example of students of high schools in Tanzania and Kenya where students attend Mass, multiple prayers and other religious activities every day. In those settings, even the non-Catholics participate, and he indicates how there are conversions every year. He reiterates that this would not be possible in other environments.

What is therefore clear from the Southern African perspective is that the level of implicit evangelisation of the faith varies dramatically depending on the circumstances the institution finds itself in. Furthermore, some level of measurement is being done, even if just informally via sporadic observance of church records.

Conclusions

The questionnaires assisted in shedding further light on the real-world application of evangelisation and evaluation of such in various regions of the world. These responses, although miniscule in their number relative to the size of the FBO and Catholic education population, showed evidence in line with and contradictory to that of the academic literature. Perhaps the most surprising discovery was that of a highly professional and nationally used NCEA ACRE assessment for evaluating the spiritual development of Catholic school children in the USA. This system, which is widely used by schools, parents and Diocesen administrators to understand the strengths and shortcomings in their children's faith formation, was completely absent from the academic literature. What was evident along every step of the literature review is the great gap in academic research being performed on FBOs, organisations which global role players such as the UN have identified as being critical to the global development agenda (United Nations Refugee Agency, 2014).

The findings of both the literature review and the questionnaires show that clear goals for evangelisation have been laid out for Catholic FBOs, both by the universal church bodies and through individual Bishops' Conferences. This is visibly evident in both the USA and Brazil, but little evidence was found of this

in the three answers from Southern Africa respondents. The study also found that evangelisation plays a critical role in the work of Catholic FBOs as direct extensions of the work of the church. This evangelisation as a practice can take different forms, from very explicit to implicit and it was found that this depends very much on the environmental context of the individual organisation. Evangelisation as an objective also varies from being the sole purpose for the existence of the organisation to being exclusively expressed through the practice of a social service. With some Catholic organisations concluding that the act of social service itself is seen as both a form and a measure of evangelisation itself. This is especially relevant in environments where Catholic organisations are not allowed to or have limited time to explicitly evangelise. This is particularly prevalent in regions where certain religious practices may be frowned upon or open to experience hostilities. In these cases, evaluation of outcomes is considered implausible by practitioners.

Importantly, the research found that there are clear dimensions of the faith which can be categorised and broken down for comprehensive Catholic formation. These six elements are directly derived from the life and teachings of Jesus. This is a critical finding as it sets clear what the faith element of Catholic formation should be. Indicators for growth within these categories can and have been found in practice to be good measures of faith formation and evangelisation in Catholic schools in the USA via the NCEA ACRE assessment. At this moment in time professional evaluation tools such as this are not believed to be widespread. The research did not find any other such tools in the academic literature nor in the Brazilian and Southern African regions where participants were interviewed. According to the primary and secondary research conducted it is apparent that in many scenarios there is an absence of measurement of this crucial and distinctive element of the work of Catholic educational centres globally. It was found that some institutions loosely measured their efforts, at times through indicators such as church attendance, or records of those receiving First Holy Communion or Confirmation, whilst others do not use any evaluative measures at all.

In conclusion, these findings make it evident that there are Catholic educational centres around the globe who view evangelisation as a part of their mission. These organisations have been given clear guidelines and measurable outcomes for formation from the Church. Furthermore, professional tools to measure the progress towards these outcomes now exist and are being used across the USA. Therefore, based on this research, it is highly recommended that Catholic educational centres who view evangelisation as a critical part of their

organisation's mission should seek to ensure that this is being objectively measured through some of the professional tools available today. It is further recommended that church leaders across the globe seek to invest in and promote the use of these tools in order to fruitfully spread the benefits that effective evaluations can bring to their evangelisation efforts.

Recommendations for Further Study

There are a large number of potential avenues for further study in this field. The most pressing with respect to this topic would be to perform a widescale investigation into the other available tools and measurement methods used by FBOs around the world. A particular emphasis could be placed on Catholic FBOs and even more so on educational institutions as they play a primary role in formation. The second potential research path would be on the aspects of culturally responsive evaluation that need to be taken into account and developed in order for effective evaluation practices to be sustained in faith-based organisations. A further potential research path would be on the most successful dissemination avenues for the knowledge of these methods and development of these tools and skills. Doing so would provide a platform from where universal sharing of such tools could take place to enable students, teachers, religious education directors, principals, parents and Bishops, to easily measure the progress of spiritual development achieved in centres across the world.

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<u>About the Author</u>

Pedro was born and raised in Johannesburg, South Africa. After studying towards an Honours degree in Finance and Investments he began his career in Johannesburg's financial sector. After transitioning into the nonprofit sector, Pedro accumulated experience at over a dozen nonprofit organisations in various parts of the world. These included a youth center in the Brazilian Amazon, working as the project manager for the Salesian and Porsche Training and Recruitment Center in Cape Town, and as a house father in a home for street youth in Johannesburg. Pedro has a particular interest in faith-based nonprofit organisations, where the majority of his experiences have been. He has recently completed a Master's degree in Philanthropy and Nonprofit Leadership at Grand Valley State University and is currently working at Catholic Charities West Michigan.

Evaluability Assessment:
Mary Free Bed Sub-Acute Rehab
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Abstract

Program evaluation is a field of study that is used to find opportunities for improvement to improve the public value of the program (Newcomer et al, 2015). However, to determine if an organization or program can truly benefit from an evaluation and generate action from the results the organization or program can undergo an evaluability assessment, which looks at aspects such as culture or systems in place. This research paper conducts an evaluability assessment for Mary Free Bed Rehabilitation Hospital to determine how receptive its Sub-Acute Rehabilitation unit would be to an evaluation, followed by recommendations that are supported by program evaluation models and theories. After learning about the organization's cultures, operations, and practices, a literature review of journals and textbooks on evaluation and evaluability was conducted to determine that Mary Free Bed was indeed receptive to evaluations but perceived them as stressful events to be feared. To alleviate this, recommendations were made to the unit to get more exposure to evaluations through working with an evaluation coach, going through an empowerment evaluation, or learning more about the Evaluation Capacity Building process.

Key words: evaluation, rehabilitation, sub-acute, improvement, program

Introduction

Mary Free Bed is a rehabilitation hospital with its headquarters located in Grand Rapids Michigan and a number of satellite offices throughout the state of Michigan. Mary Free Bed also has a number of partnerships and joint ventures with hospitals throughout the state of Michigan, including Munson Healthcare, Covenant Health, and Trinity Health. Throughout all of these locations, Mary Free Bed provides rehabilitation services for both in-patient and out-patient treatments and an array services that support the rehabilitation process, such as psychological and nutritional services. With all of these services that are offered

and the number of locations that provide treatment, and similar to all other healthcare organizations, there is a need to assess the programs and locations to ensure that they are meeting the needs of the patient; in other words, there is a need for evaluations.

This assessment will look at Mary Free Bed's background followed by examining the organization evaluability as a whole and how its Sub-Acute Rehab (SAR) unit demonstrates those evaluability characteristics. With this information, recommendations for future evaluation work will be made so that the SAR unit at Mary Free Bed can improve its work and enhance patient care to ensure their needs are met in an effective and efficient manner.

Organization Background

Mission and Histsory

Mary Free Bed started in 1891 when a group of women in Grand Rapids identified a need from those in the community who were not able to receive the care they needed; to help these individuals, the women mentioned above started campaigning to raise funds to purchase a single bed in a hospital that the individuals in need could use for free. To raise funds, these women asked for donations from "everyone named Mary, as well as from those having friends or relatives with the same name" (Mary Free Bed, n.d.-a, para 1). Once enough funding had been secured for the hospital bed, that specific bed was named Mary Free Bed. As the funding grew along with the community needs, the number of beds acquired increased until Mary Free Bed became its own hospital.

Today, the rehabilitation hospital operates towards its mission which is "restoring hope and freedom through rehabilitation" (Mary Free Bed, n.d.-c, para 1) to its patients. This mission is guided with the vision of being "a national leader in high-value rehabilitation and post-acute care and to develop an integrated system of care" (Mary Free Bed, n.d.-c, para 2). The staff at Mary Free Bed help support the hospital's mission by incorporating specific values which are(Mary Free Bed, n.d.-c, para 3):

- **W**ork collaboratively
- **I**nnovate to offer unique possibilities
- Be **t**ruthful and respectful
- **H**eal with our hands and treat with our hearts
- Approach our work with **joy**

The bolded letters in the values come together to make the phrase "with joy", making the statement that the staff at Mary Free Bed work with joy in supporting their goal. The goal is also supported by the different avenues of support that help the organization operate.

Sources of Support

Mary Free Bed has two main sources of support, the first of which being volunteers. Mary Free bed accepts volunteers to help with a number of functions while also giving experience and insight into the world of healthcare for college student volunteers. General volunteers can assist by being greeters for the main entrance of the hospital and assisting certain areas by facilitating activities for the patients. College students can volunteer specific units of the hospital that they have interest in and assist with prepping rooms for therapy sessions and maintaining the activity gyms (Mary Free Bed, n.d.-e).

The hospital also receives support from the Mary Free Bed Foundation. This foundation is a donation center where individuals can support the hospital with financial donations. The foundation hosts events for patrons to attend while contributing to the hospital and offers monthly tours for those who wish to see the hospital and where their donations are going. In the last year, the Mary Free Bed Foundation raised over $13 million in charitable donations ("Mary Free Bed Rehabilitation Hospital Foundation", n.d.-b) which goes to the different programs within the hospital.

Programs and Delivery Methods

Mary Free Bed has a number of programs that it offers through its main campus, satellite offices, partnerships, and joint ventures. For example, the hospital has pediatric, brain injury, amputee, orthopedic, spine injury, and sub-acute rehabilitation programs offered for in-patient stays. The hospital also offers out-patient programs such as pediatric, pain management, physical therapy and sports therapy. The organization also offers a telehealth option for minor needs.

However, having all of these programs available across a number of locations creates a need for leadership to support a culture that of evaluation within the organization.

Organizational Evaluability Assessment

Before conducting an evaluation, it is important to examine a multitude of factors to determine if the organization will be able to fully utilize the findings from the evaluation. To do this, one can measure the organization's evaluation capacity building which is defined by Preskill and Boyle as "the design and implementation of teaching and learning strategies to help individuals, groups, and organizations, learn about what constitutes effective, useful, and professional evaluation practice" (2008, p. 444). ECB can be built and measured through different avenues, such as the leadership of an organization, the culture, learning opportunities, and structures put into place while using resources to create evaluation practices that are sustainable.

Leadership

Mary Free Bed's leadership structure is similar to that of other healthcare organizations; the hospital is governed by an executive board composed of Kent Riddle, Chief Executive Officer, Michael Jakubowski, MD, Chief Medical Officer, Andrew Kuldanek, MD, Chief of Staff, Randy DeNeff, Chief Financial Officer, Ingrid Cheslek, Chief Operating Officer, Maria Opoku-Agyeman, Chief Nursing Officer and Jeff Garber, Chief Strategy Officer. Kent Riddle, the Chief Executive Officer reports up to the Board of Trustees, a board made up of 23 individuals that is led by David Muir. This board oversees the executive body and ensures that the hospital's activities align with its mission and values. What separates Mary Free Bed's leadership dynamic from that of other hospitals is that both the Board of Trustees and the executive body within the hospital are both governed by the Mary Free Bed Guild. Developed in 1911, the Guild acts as a role model of the values of Mary Free Bed and ensures that the operations of the hospital are in line with the values while maintain a culture that supports the restoration of hope and independence in patients (Mary Free Bed, n.d.-a). Today, the Guild consists of 120 women led by a Board of directors with Laura Puff as the President.

Having leadership that supports evaluation practices and its benefits is a necessity for building ECB. With the executive leaders and the Guild modeling values such as working collaboratively, innovating, and being truthful, Mary Free bed is able to set the stage to work with accrediting bodies and innovate workflows to utilize the results while being truthful with them. This is further seen in the leadership of the SAR unit, Kiersten Cudney, employing ECB strategies such as having written materials displaying evaluation results and lessons learned and involving her team in evaluations by having them involved in the preparation and debriefing of annual surveys. Through previous leadership, the SAR unit was named by U.S. News & World Report as one of the best nursing home facilities in the US for 2017-2018 with a five-star rating awarded by Nursing Home Compare (Mary Free Bed, 2017). ECB is further seen in how leaders throughout the hospital share research and best practices while discussing evaluation results, demonstrating a culture that supports ECB.

Culture

Culture is an integral part of the ECB process; if the organizational culture does not support ECB activities, it will not be able to maintain evaluation practices, whether the dissonance occurs at the top level or the bottom level. One challenge that is common among healthcare systems is having a culture of anxiety and stress around evaluations; with the penalizations that are possible with negative evaluation results such as fines, revoked licenses, and even prohibiting new patients, evaluations can seem more like an exam than an opportunity to improve. This is somewhat the case with the SAR unit, as the leadership states that they have to dedicate time to calming the staff by providing reassurance to frontline staff. The stigma that comes with evaluations can make it difficult for an organization's culture to embrace evaluations and evaluative practices with buy-in at all levels.

When shaping an organization's culture, words are not enough to incorporate a characteristic in the culture; the organization must also believe and follow up on what it says. The culture of Mary Free Bed is shaped and maintained by the Mary Free Bed Guild and the executive body, both of which encourage transparency and truthfulness. This can be seen in a multitude of ways, one of which being open with their accreditation and evaluation results. While all healthcare organizations are obligated to share accreditation scores online, Mary Free Bed goes a step further and has evaluation results in the

the hospital in public areas. For example, the SAR unit has their annual survey results in a book outside the elevators to their floor, available for any patient or family member to look at. Doing this shows that Mary Free Bed is open with their results and utilizes them for both the public to see and to create a sense of accountability to improve in areas highlighted in the evaluation.

The culture at Mary Free Bed emphasizes the importance of evaluations and the need for everyone to participate. Demonstrating the importance of evaluations, the SAR unit has different forms of evaluations conducted throughout the year; for example, Trinity Health comes in and conducts mock surveys, doing an in-depth analysis of the systems and workflows in place. SAR also has a pharmacy team come in quarterly and observe medication flows within the unit. Everyone in the unit is involved in these different types of evaluations, ranging from increasing rounding to ensure that clinical staff have the resources they need and are following procedures and inspecting facilities, making sure that fire code compliance is being followed. Both the different forms of evaluation and the involvement from different levels shows a culture that believes the importance of evaluation, further demonstrated in the learning aspect of their culture.

Learning

Learning is an important aspect of the ECB process; if an organization undergoes an evaluation and does not utilize the lessons learned, the evaluation would be fruitless and the organization would continue to operate as it has. This could result in a deficiency in resource allocation, practices that are not up to date with evidence-based research, or performing activities that are detrimental to the organization in terms of reaching its goal or their stakeholders. Mary Free Bed offers a number of avenues for its employees to learn. Like other hospitals, it has annual compliance training and training modules, but it also offers continuing education opportunities for its clinical staff in the form of Grand Rounds; these events offer education that counts as credits for clinical staff in the form of presenters discussing a number of topics regarding evidence-based practices.

Different areas of the hospital also have education specific for their unit. For example, the SAR unit creates education and training based on evaluation results that are then incorporated into the daily standards of the staff. An example of this is after undergoing an evaluation, it was found that the documentation process was not as complete as it could be; while the process did capture the

main information such as diagnosis and treatment plan, it was not as detailed as it could be. The SAR unit is now conducting a process improvement project, aimed to create a holistic picture of the patient, that will educate staff on how to document comorbidities and the effect they create on the treatment plan and treatments administered to patients per day. This process improvement project was developed not only to improve reimbursement from Medicare and Medicaid, but to also improve communication and capture patient information so as to provide better care to the patient.

The SAR unit also engages in learning with Trinity Health, creating an opportunity for diffusion from both parties in sharing lessons learned. The hospital creates opportunities for diffusion through having different units and areas host read and learn events and giving areas a chance to speak at the monthly quality improvement meetings mentioned above. Through multiple avenues of information sharing from multiple sources and a culture that supports learning, Mary Free Bed has an enormous opportunity to incorporate evaluation learning to further its ECB. However, an organization or unit needs the necessary resources in order to respond to these lessons learned.

Resources

Newcomer et al. define resources as "human and financial resources as well as other inputs required to support the program" (2015, p.64); this states that resources are not just financial in nature, but also staff and activities that help the program operate. Having adequate resources is imperative in the evaluation process and building ECB for a number of reasons, one of which being the ability to utilize evaluation results; if an organization does not have the necessary resources to respond to the results of the evaluation, then they will not be able to act upon them and improve the program. Resources are also necessary for the ECB process in the sense that resources can help with the education and training.

Mary Free Bed employs a number of resources in its operations; it has the clinical and administrative staff required to treat patients, it has income in the form of revenue and the Mary Free Bed Foundation, the facilities needed for a rehab hospital including treatment rooms, patient rooms, and therapy gyms, and the equipment and supplies needed for hospital operations and therapy treatments. Among those, it also has resources in the form of education for its staff, including training modules, information on its employee website, and

seminars on best practices. These resources are also used to employ structures that further build upon the organization's ECB.

Structures

Structures, in the context of evaluation and ECB, are "mechanisms within the organization that enable the development of evaluation capacity" (Volkov and King, 2007). With Mary Free Bed being a hospital that is required to meet federal and state regulations, there are a number of structures already in place. One such structure is simply the policies and procedures employees follow; these set guidelines while demonstrating best practices. They are updated as needed following evaluation results, incorporating the results into everyday standards. Another structure put into place is the SAR unit displaying its evaluation results outside the elevator to the unit, demonstrating accountability and transparency while emphasizing the importance of evaluation and that evaluation activities involve the whole unit.

Mary Free Bed also has a structure in place for different areas to share their evaluation findings and practices with others in the form of their monthly quality improvement meeting; this is an integral piece of the hospital's evaluation work, especially as it is a chance for the different areas to discuss the environment of healthcare and how it affects their evaluation process.

Environmental Analysis

An important piece of evaluation is understanding the context surrounding an organization, so that an evaluator can understand how the evaluation affects the organization, how to best generate utilizable results, and how to make recommendations. One piece of organizational context that is absolutely necessary to understand, especially in healthcare, is the organization's environment. Healthcare organizations need to understand their surrounding community and its needs so as to develop a program that best meets their needs while monitoring other healthcare facilities, for both competitive reasons and to stay current on best practices. There is also the political aspect of the environment that must be taken into account, as legislation can affect how the hospital must operate, how it is reimbursed through Medicaid and Medicare, and what standards it needs to meet. The standards that need to be met goes hand-in-hand with the need to pay attention to standards set by accrediting and evaluating bodies such as The Joint Commission, Center for Medicare and

Medicaid Services, and the Commission on Accreditation of Rehabilitation Facilities, all of which have a large impact on Mary Free Bed's current work in evaluation.

Current Work in Evaluation

As a healthcare organization, Mary Free Bed already works in evaluation consistently. As mentioned in the previous section, the hospital undergoes evaluations from accrediting bodies such as The Joint Commission and The Commissions on Accreditation of Rehabilitation Facilities as well as evaluations based on regulations and standards put in place by the Center for Medicaid and Medicare services. These evaluative bodies examine healthcare organizations in their operations, facilities, and outcomes, determining how effective they are as a healthcare provider and ensuring that state and federal benchmarks are being met. Among these evaluations that encompass the entire organization, units have evaluations that are specific to their respective areas. The SAR unit, for example, undergoes evaluations by Trinity Health to evaluate the systems in place in the unit, making sure that their partner is operating up to their standards as well as their annual survey conducted the Licensing Affairs and Regulatory Agency, who is contracted by the Center Medicare and Medicaid Services to ensure that federal and state nursing home requirements are being met.

The SAR unit also has other less formal forms of evaluations. One such form of evaluation is working with the pharmacy team; every quarter the pharmacy team comes to the SAR unit to examine observe medication management, checking that the right procedures are being followed and identifying any areas of improvement. They also conduct discharge surveys either right before the patient leaves or right after, asking them what worked well during their stay and what could be improved. This is complemented by the SAR's resident committee that reaches out to past patients to ask them about their overall experience and any improvement suggestions they may have.

Program Evaluability Assessment

While not quite fully delving into the world of evaluation in terms of having their own evaluation materials such as a program theory or logic model for their unit, the SAR unit at Mary Free Bed is already heavily involved in evaluation practices and utilizes the results, in turn creating a large evaluation capacity. It seems that all of the internal pieces for a strong ECB process are in place in the

form of supportive leadership, being able to provide the necessary resources, has a few structures in place, and is especially prominent in the learning aspect. With all of these aspects, there are also the four standards of evaluability: 1) program goals are agreed on and realistic, 2) information needs are well defined, 3) evaluation data are obtainable, and 4) intended users are willing and able to use evaluation information (Newcomer et al., 2015).

While the unit did not have a program theory or logic model of its work, the SAR unit does have clear indication of what its goals are, the main of which being providing quality care to the patient so as to restore their independence and return them to their home or job as soon as possible (Mary Free Bed, n.d.-c); there is agreement on this goal throughout the unit and it is evident through not only asking the staff, but it is also prominently displayed on the SAR unit's website as well as being part of the organization's mission statement. Given the resources available to the unit, this is a realistic goal as well.

The information needs for the unit are well defined; the staff have access to policies and procedures that explain the activities and inputs needed by the clinical staff to reach the unit's goal and the staff is aware that these activities are being measured during evaluations. The evaluation results have agreed upon intended use as well in the form of being incorporated into daily standards of work, being used to update policies and procedures, as well as even creating a new training program. The measures being analyzed in evaluations are made known to staff through the policies and procedures given to them and they also have access evaluation results used to update policies and procedures is available to the staff in the form of reports and in the book of the evaluation results for public view that has been mentioned earlier. Finally, clinical staff, or the intended users, are both willing and able to utilize evaluation results and improve their work.

Based off how staff know the goal of the unit, have access to the information needed to reach the goal, the availability of the evaluation measures, and the willingness to incorporate the results show that the SAR unit leads to a positive evaluability assessment. The unit does a fantastic job of making evaluation requirements and measurements known to its staff and is able to effectively utilize the lessons learned, demonstrated in the documentation process improvement project mentioned earlier. However, there are always improvement opportunities for programs, even if they are high performing.

Proposed Evaluation Plan

While the SAR unit undergoes an annual survey from the Licensing Affairs and Regulatory Agency and a number of less formal evaluations, there are always opportunities for incorporating additional evaluative practices that can lead to improvements in the clinical work performed. This section will look at the program theory and logic model that was developed with SAR leadership and propose a new type of evaluation that may improve reaching the unit goal of returning the patient to their home or job while restoring their independence.
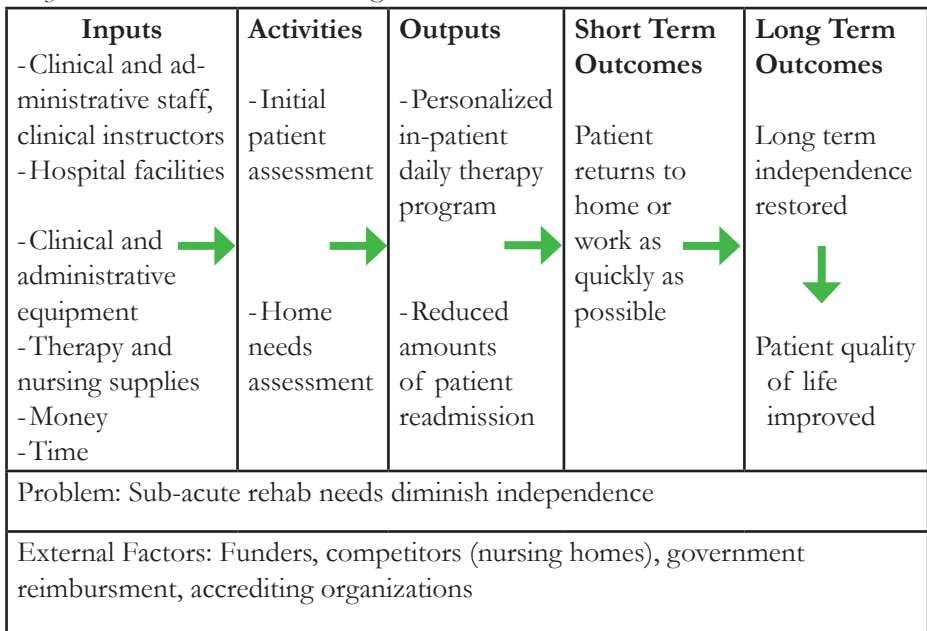
Program Theory and Logic Model

When the initial work started with the SAR unit at Mary Free Bed, it was found that they did not have a formal program theory or logic model. After understanding their goals and current evaluation work, the SAR leadership was willing to work on developing a formal program theory and logic model. A brief definition of program theory is provided by Newcomer et al., stating that it is "assumptions about resources and activities and how these are expected to lead to intended outcomes" (2015, p.68), while a logic model is a visual summary of the program theory, showing how resources put into activities can be assumed to result in desirable outputs which in turn create short- and long-term outcomes that are in line with the goals of the program. For Mary Free Bed's SAR unit, the resources included: personnel in the form of therapy, nursing, administrative, and human resource staff and clinical instructors; hospital facilities such as patient rooms, therapy gyms, social areas, dining areas, stage apartments for practicing living skills; clinical and administrative equipment including computers for charting and training, vital sign monitors, patient lifts; supplies for medical and therapy needs and activities; and funding and time needed to conduct treatment.

The two categories of activities decided upon were individualized therapy programs and home needs assessments. By using the resources listed and combining them with an initial patient assessment when they arrive at the hospital, the SAR unit is able to produce the output of a personalized therapy program that is comprised of daily therapy treatment for up to seven days a week based on the patient's condition and ability. With a home needs assessment analyzing the patient's home situation before their discharge and the listed

resources, the SAR unit is able to gauge the patient's needs post discharge and in turn create the output of reduced levels of patient readmission.

The outputs of the personalized therapy program and the home needs assessment will then result in the short-term outcome of the patient being able to return to their home or their job as soon as possible. The intended long-term results of this combination of inputs, activities, and outputs is restoring independence to the patient, so that they are able to return to their normal routine before their incident or improve upon it, in turn resulting in improved quality of life. However, it is important to note that there are external factors, such as government regulations, accrediting bodies, funding sources, and competitors that can affect this program theory. The logic model visual of this program theory can be seen in Figure 1. With this program theory and logic model, the SAR unit can further hypothesize how to reach their short- and long-term outcomes as well as their goal, making improvements to either these tools or their programs for future evaluative work.

Figure 1.
Mary Free Bed Sub-Acute Rehab Logic Model

Inputs	Activities	Outputs	Short Term Outcomes	Long Term Outcomes
- Clinical and ad-ministrative staff, clinical instructors - Hospital facilities - Clinical and administrative equipment - Therapy and nursing supplies - Money - Time	- Initial patient assessment - Home needs assessment	- Personalized in-patient daily therapy program - Reduced amounts of patient readmission	Patient returns to home or work as quickly as possible	Long term independence restored Patient quality of life improved
Problem: Sub-acute rehab needs diminish independence				
External Factors: Funders, competitors (nursing homes), government reimbursment, accrediting organizations				

Models for Evaluation

When developing a framework for evaluation, it is crucial to develop it so that it will work so that resources will not have gone to waste on an ineffective evaluation program. To ensure that it is developing the evaluation correctly, the SAR unit can follow different models or frameworks that have been proven to be effective and guide decision makers in the process, such as the CDC's framework for program evaluation or the Kirkpatrick framework.

The CDC's framework for program evaluation was developed in 1999 to help guide organizations in implementing evaluation programs, focusing on four program standards and six cyclical steps (U.S. Department of Health and Human Services Centers for Disease Control and Prevention, 2011). The four standards in the framework are utility, feasibility, propriety, and accuracy. Utility refers to the ability of the evaluation to generate actionable results for the appropriate audience or stake holder. Feasibility is meant to gauge how realistic the evaluation is, with the allocated amount of time and resources. Propriety is meant to ensure that the evaluation is conducted ethically, that it protects the rights of the involved stakeholders and receives input from the impacted groups. Accuracy refers to the need for the results to be valid and reliable so that those who use the result have correct information. Keeping these four standards in mind, leaders can begin the evaluation cycle which starts with engaging stake holders; this means getting input from relevant parties, including frontline staff, those treated/served, organization leaders, and a number of other possible sources so that their input is gathered and represented. The next step in the process, describe the program, is where the program that will be evaluated is analyzed; note that this does not include the description of the evaluation, but rather the program theory or logic model behind the program. Once an organization completes steps one and two, they will have created an encompassing overall picture and be able to start the third step, focusing the evaluation design, to ensure that the right questions are being asked by the right people and that the information will have next steps. Once this is laid out, evaluators can start gathering credible evidence, which is step four in the process. The evaluators will then justify the conclusions, where claims can be made by analyzing the data and evidence gathered against the stakeholder input. The final step in the process is to ensure use of evaluation findings and share lessons learned; in this step, the results of the evaluation are taken and used to generate actionable next steps and that any important findings are shared with the appropriate parties, such as new

evidence-based practices that would benefit other similar organizations. While this is the last step in the process, the process is not yet over; because it is a cycle, it only ends that round of evaluation and should begin again with engaging stakeholders to further improve the program (U.S. Department of Health and Human Services Centers for Disease Control and Prevention, 2011).

Another option that organizations can use to guide the development of their evaluation process is the Kirkpatrick framework. The CDC framework model looked at the evaluation process as a whole whereas this framework analyzes different levels of the program to target areas for improvement, helping improve on program theory. The first level of the program that is examined is the experience, determining if the experience of the program is at an acceptable level. The second level analyzed is learning, referring to what specifically the users learned from the program. The third level, process, looks at behavior modifications in participants that completed the program. Lastly, outcome is examined, measuring effectiveness or improvement in results (Parry et al., 2013). This particular framework would be most useful in tandem with the framework developed by the CDC and used during step four of that process.

SAR Evaluation Framework

While the SAR unit already engages in a number of forms of evaluation that measure compliance, treatment, patient satisfaction, and systems, there was one thing that I did not see that is currently being evaluated; patient improvement after discharge. SAR leadership stated that they used to have a student therapist perform follow-up calls 30 days after a patient was discharged but now they look at claims data and are told by accountable care organizations if a patient has been readmitted to a hospital up to 90 days after their discharge. There is also a discharge survey that is either just before or just after a patient is discharged as well as a Resident Committee that asks patients what went well and what could be improved, but it seems that there is not an option for long-term progression. Due to these factors, I propose that the SAR unit conduct assessments to measure how effectively the unit is in restoring independence in the long run. By utilizing the above program theory in tandem with post-discharge measurements and the models for evaluation discussed previously, it is believed that the SAR unit will be able to improve their already strong program in achieving their desired patient long-term outcomes.

Data collection

Data collection is an integral part of all evaluations and this evaluation framework is no different. Measuring patient conditions can be conducted in a few different ways but conducting surveys would most likely be the easiest. To truly measure patient progression, these surveys could be conducted 30 days after discharge, 90 days after discharge, and one year after discharge. The survey could comprise of questions such as is the patient able to resume their daily routine prior to coming to Mary Free Bed, has there been difficulty in daily activities, and how active has the patient been in social activities or exercise. The responses to these questions can be measured using a numeric scale, with 1 being the lowest and ten being the highest, with the measurement value being dependent on the question. At the end of the survey, there could be an option for any additional comments that the patient may have.

One way that the survey could be conducted is via phone; the interviewer could call the patient, have the questions and numbered scale for responses in front of them while talking to the patient, and mark the appropriate responses and a free-text field for any comments they may have. If the patient does not answer the phone survey, the interviewer could do one of two things: they could leave a voicemail asking the patient to call back at their convenience or send them the survey electronically over email. This does create some additional work on the SAR unit's end though. They would need at least one staff member or volunteer to conduct the initial phone interviews, record responses, and send out electronic surveys as well as have a phone number dedicated to these surveys for patients to call back. A system will also have to be put in place to monitor when individual patients should be called based on their discharge date, record the answers from the survey, and store these answers for analysis. A survey with a numeric scale is not the only way to get this information; the SAR unit could get this information through one-on-one interviews, focus groups, or other methods that may work better for the unit depending on available time and money.

Data Analysis

Because the data will be primarily quantitative, the analysis will not be overly complex. With a system that houses the data, the data can then be exported into a spreadsheet or a reporting software and then made into graphs or other easy to read formats. With these reports or graphs, the SAR unit can see aggregate data of patient conditions and if they are improving and able to live their life as they

were prior to being admitted or if it has been enhanced. With the option of additional comments, there will have to be qualitative analysis; using an enumerative method for categorizing and analyzing the data, such as a classical content analysis, will help to make the qualitative data quantitative and easier to compare with the other questions. By having the surveys and the data broken up into 30 days, 90 days, and one year after discharge, the SAR unit can see the patient's progression over time. The unit will also be able to see through the data if discharged patients are struggling post-discharge which may warrant a review of systems or post-discharge considerations to help patients achieve the long-term outcomes of restored independence and improved quality of life.

Conclusion

The SAR unit at Mary Free Bed is a high performing area of the hospital that already undergoes a number of evaluative practices while displaying an exceptional ECB potential. They meet the four standards of evaluability, showing that they are able to effectively utilize results and have a number of factors to support those results, such as a culture that supports improvement, education that incorporates the results, supportive leadership, and the resources needed to act on the results. However, there are still some areas where the SAR unit could improve from an evaluative standpoint.

Possible Issues Facing the Organization

While the SAR unit undergoes a number of evaluations from different sources and is quick to act upon the results, there is one issue that can be seen from an evaluative standpoint: there is a possible imbalance between internal and external triggers for evaluations. As mentioned earlier, evaluation can be a word that carries a stigma in the healthcare world due to the stress it can create and the possible penalties that can be placed upon an organization. This stigma can make healthcare staff at all levels wearisome when evaluations are coming up if there is not an internal advocate for the benefits of evaluation. Due to this perception, staff may not see evaluation as a good thing, as opportunities for improvement that better and strengthen the unit, and instead see them as a hassle or even an exam coming up, causing anxiety and high levels of tension as it approaches; this in turn can reduce the value of ECB practices and efforts. However, there are some recommendations to combat this stigma.

Recommendations

One recommendation for the SAR unit is to balance internal and external triggers for evaluation. While in an evaluation period, a healthcare organization will always have work that needs to be done before hand; by changing the perception of evaluation staff will be able to see evaluations in a better light and possibly even approach evaluation work with enthusiasm. However, this can be easier said than done; changing perceptions takes time and work. To get this process started, leaders can work to advocate for evaluative practices by showing its benefits, how it can improve the unit overall, and improve the evaluation process. To help this process leadership can do a few things, such as work with an evaluation coach or mentor, work with an external evaluation organization to conduct an empowerment evaluation, or simply educate themselves on the ECB process.

By bringing on an evaluation coach or mentor, the unit can be shown and taught first-hand how evaluations are not exams but opportunities. The coach/mentor can also assist with shaping the culture of evaluation around the program/organization, thus changing the perception while putting more structures into place to nurture evaluative process. The mentor/coach can demonstrate the ECB process and discuss how models such as the ECB multi-disciplinary model can enhance both evaluative work and the program as well. The organization or unit can also work with an external evaluation organization to go through an empowerment evaluation. This type of evaluation helps to incorporate evaluation as a major part of the strategic planning process of an organization or program through giving the recipient the tools needed to conduct and implement a self-evaluation (Fetterman, 2005), further improving their perception of evaluations. There is also the option of simply self-educating on the ECB process and its benefits; by learning first-hand about how the ECB process works and what it can do for an organization, leadership can best convey these findings to their team and build support for the ECB process. Any of these recommendations will help the SAR unit and Mary Free Bed as a whole further their evaluative capacity and develop a culture that embraces evaluations rather than seeing them as stress-inducing events; this in turn can improve prep work done before evaluations, create a positive impact on evaluation results, and further improve upon utilizing evaluation results.

One final recommendation for the SAR unit is to use appreciative inquiry to enhance their fantastic efforts in utilizing evaluation results and educating on them. From what has been seen, it is evident that unit heavily values the results and quickly incorporates them into daily standards and developing education. By capitalizing on these, the unit will surely improve its work and practices, in turn improving evaluation practices while helping to restore independence in their patients.

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About the Author

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Andrew received his undergraduate degree in Healthcare Administration from Central Michigan University. He recently completed Grand Valley's MHA program and was the recipient of the Graduate Dean's Citation for Academic Excellence.

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To Tell the Truth:
Public Employee First Amendment Rights in Providing Testimony
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Abstract

The ideals set forth in the First Amendment of the Bill of Rights encapsulate what it means to be an American citizen: freedom. However, this freedom is not absolute. ince its inception, the judicial system has placed limits on this freedom in order to balance the freedom of speech of some against the freedoms of life, liberty, and happiness of others. One area in which these limits have been placed concerns the Freedom of Speech of public employees. The Supreme Court has issued rulings which have sought to find a balance between the rights of the employee and the rights of the employer. In attempting to find this balance, the Court has dissected the public employee into two distinct personas: employee and citizen. The Court has failed to recognize that there are specific times when employee speech cannot be separated from citizen speech, namely in giving sworn truthful testimony. The following analysis tracks the historical jurisprudence of the First Amendment free speech rights of public employees to determine the current constitutional protections for public employees who provide sworn truthful testimony as part of their official job duties. This analysis will also suggest a judicial and administrative rule that should be implemented to ensure that public employees are protected when giving testimony on behalf of their employers.

Introduction

The ideals set forth in the First Amendment of the Bill of Rights encapsulate what it means to be an American citizen: freedom. One of the most significant aspects of the First Amendment is the freedom of speech. This freedom is engrained into the psyche of the American public, and is sought by immigrants traveling across American borders. As with anything, however, freedom of speech is not an absolute. Since its inception, the judicial system has placed limits on this freedom in order to balance the freedom of speech of some against the freedoms of life, liberty, and happiness of others. "While the language of the amendment appears unambiguous, the United States Supreme Court has nevertheless grappled with numerous constitutional questions on

the breadth of the amendment. The court has been forced to balance the importance of protecting free speech, with ensuring that some limits on hateful, hurtful, or potentially dangerous speech exists" (Dallago, 2016, p. 240).

For public employees, the conflict that resides within the freedom of speech listed in the First Amendment is centered on the employee's identity as a citizen and as a public employee, as well as the employer's identity as a government agency and as an employer. Court cases involving freedom of speech have created different classes of speech. Each category is given a different level of scrutiny dependent upon the value society places on this speech (Farley, 2007, p. 608). "The least valuable speech, such as public employee speech, is protected by rational basis scrutiny, which requires the government to merely have a legitimate interest in suppressing the speech and that the restriction be reasonably related to that interest" (Farley, 2007, p. 609). It is based on this low level of scrutiny that public employees find their freedom of speech limited by the public agencies that employ them.

A little over fifty years ago, the Supreme Court began creating a complex system of analysis to determine which public employee speech is protected under the First Amendment. The Court sought to find a balance between the rights of the employee and the rights of the employer. In attempting to find this balance, the Court has dissected the public employee into two distinct personas: employee and citizen. The Court has failed to recognize that there are specific times when employee speech cannot be separated from citizen speech, namely in giving sworn truthful testimony. The Court has determined that citizen speech when spoken on a matter of public concern is protected by the First Amendment (Pickering, 1968; Connick, 1983; Garcetti, 2006). The Court, however, has refused to address employee speech when it is given as part of the employee's official duties. Although, the Court has stated that employees who give sworn testimony outside of normal duties, even if the testimony pertains to information the employee learned on the job, the testimonial speech is constitutionally protected (Lane, 2014). The Court has failed to protect employees who are required to testify as part of their ordinary duties, such as police officers, crime scene technicians, and child welfare workers. These employees have been placed in a precarious position when testifying on matters concerning their jobs and employers when the potential testimony is damaging to the employer: testify truthfully and face retaliation from the employer or commit perjury and face criminal repercussions from the judicial system. The following analysis tracks the historical jurisprudence of the First Amendment free speech rights of public employees to determine the current constitutional

commit perjury and face criminal repercussions from the judicial system. The following analysis tracks the historical jurisprudence of the First Amendment free speech rights of public employees to determine the current constitutional protections for public employees who provide sworn truthful testimony as part of their official job duties. This analysis will also suggest a judicial and administrative rule that should be implemented to ensure that public employees are protected when giving testimony on behalf of their employers.

Dichotomies of Public Employment

Public entities find themselves in a unique and precarious position. Unlike private companies, public agencies are bound to uphold the rights guaranteed within the Constitution, while simultaneously operating a business-like operation that provides services for the citizens of the United States. As with any employer, government agencies must be able to operate in the most efficient and effective way possible. This includes exerting control over the responsibilities and duties of their employees. "Government, like any employer, needs greater authority over its employees than it can exercise over is clients, customers, or the general public" (Rosenbloom, 2015, p. 48). The dichotomy of the government agency to act as both sovereign and employer can bring conflict between its need to function efficiently and the First Amendment freedoms of its employees.

Like their employers, public employees also find themselves in a unique position. Public employers depend on the expertise of their employees to implement and enforce the laws of the state or nation. The expertise of these employees is required for the agency or department to run efficiently and to provide services for the public. This expertise is also required for democracy to operate at its fullest extent in representing the whole of society. Public employees must utilize their knowledge and expertise in their respective fields to "…practice bureaucratic representation…" which "…involves the exercise of 'constructive discretion' by bureaucrats, which consists of conveying insights gained during the process of implementation to policy makers as a source of appropriately adjusted content" (Goodsell, 2005, p. 33). It is in this role of policy implementer that public employees are in the best position to have knowledge and a comprehensive understanding of the employer's operations. This position gives the employee insight as to behavior of the employer that, in terms of accountability to the public, is inefficient and potentially corrupt and damaging. It becomes the responsibility of these employees to bring these valuable and necessary pieces of information to the public. This responsibility, however, is

counteracted by fear that the employee will face retaliation for speaking on subjects that could be detrimental to the employer. This fear becomes apparent when the employee's responsibilities as an employee, collide with their responsibilities as a citizen.

As citizens, we have responsibilities to our states and nation. It is a citizen's responsibility to participate in the democratic process, obey the laws of the government, and participate in the judicial process when called upon. It is the responsibility of each citizen to aid in police investigations and provide sworn truthful testimony when required. Public employees do not relinquish these responsibilities when they accept public employment. These responsibilities are compounded with their responsibilities as an employee. The responsibility of a citizen is intrinsically linked to a public employee's responsibility to provide sworn testimony when subpoenaed as a citizen or as a public employee. "Every citizen-irrespective of employment status-bears the obligation to provide truthful testimony whenever he or she takes the stand. This is a legal duty and one not easily escaped. Because of this duty, it is necessary to recognize the concurrent roles the employee occupies when testifying before an adjudicatory body: government employee and citizen" (Deloney, 2016, p. 171).

Public Employee Speech: Precedent Setting Jurisprudence

Prior to the second half of the twentieth century, the Supreme Court issued decisions that stripped public employees of their Constitutional rights. They operated under what became known as the "privilege doctrine". "Simply, the doctrine held that because no public employee had a constitutional right to a public job, a public employer may impose upon the public employee any requirement it sees fit as conditional to employment" (Roberts, 2007, p. 173). It was not until the late 1960s that the Court began to recognize and respect the dichotomy of a public employee as both an employee, as well as a citizen. The Court began to balance the interest of the employee with the interest of the employer.

The government is an employer. As an employer, it must be able to run its business in a way that is both efficient and effective for its stakeholders while remaining accountable to the citizens it serves. "Government employers need some leeway when dealing with their employees. After all, the primary function of a government agency is to provide efficient services to the public, and if a government employer were second guessed every time it disciplined a public employee, services could grind to a halt" (Hudson, 2002, p. 2).

The right of the government, as employer, to maintain efficient operation of its business, however, does not give the government carte blanche over deciding what their employees can or cannot express. A public employee is also a citizen, and therefore entitled to certain First Amendment protections. A key turning point in the First Amendment Protection for public employees came in the 1968 ruling of *Pickering v. Board of Education.*

Pickering v. Board of Education

In 1968, the Supreme Court issued a landmark decision concerning the Freedom of Speech rights of public employees. Marvin L. Pickering was a teacher from Illinois. After writing a letter to his local newspaper expressing concern and criticism over the way in which the school board and superintendent allocated school funds, Pickering was terminated from his position (Pickering v. Board of Education, 1968). Pickering filed suit against the board of education citing infringement of his first amendment rights.

The majority opinion for the case established a new criterion for judging whether or not a public employees' speech could be protected on constitutional grounds. The Court rejected the concept that a public employee's freedom of speech was uniformly denied based solely on their chosen profession (Pickering v. Board of Ed., 1968). Citizens do not forgo their constitutional rights when they procure employment with a government employer. The Court ruled that although Pickering was a public employee, he was not speaking as a public employee when he wrote and submitted the letter. Instead, he was a citizen expressing an opinion on a matter of public concern, in this case school funding and spending.

> …It cannot be gainsaid that the State has interests as an employer in regulating the speech of its employees that differ significantly from those it possesses in connection with regulation of the speech of the citizenry in general. The problem in any case is to arrive at a balance between the interests of the teacher, as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees" (Pickering v. Board of Ed., 1968).

With those words, the *Pickering* balancing test was born. In determining if speech made by a public employee is protected by the First Amendment, courts need to determine if the employee's interest as a citizen speaking about a matter

of public concern outweighed the interest of the employer to run an efficient organization (Deloney, 2016, p. 715).

In *Pickering* the Court made clear that public employees do not forfeit their First Amendment rights based solely upon their choice of employer (Cooper 2006, p. 74). Although, not the first case to address the freedom of speech of public employees, *Pickering* established the balance test against which other freedom of speech cases would be judged.

Based on the *Pickering* test, the needs of both the employee and employer are balanced. A government agency is able to protect its quality of services by limiting speech that is injurious and not useful to the public. At the same time, public employees, as citizens, are able to provide valuable and insightful information to protect the public when situations call for it. An appropriate balance has been met which protects "…the creation and dissemination of valuable and necessary information to the public- to protect matters of public concern…If public employees are not able to speak on these matters, the community will be deprived of informed opinions on important public issues" (Farley, 2007, p. 623).

Connick v. Myers

If *Pickering v. Board of Education* created a balance between the public employer's need to operate as an efficient business, and the public employee's right to speak freely as a citizen, *Connick v. Myers* was the tipping point on the balancing scale. The *Pickering* test created a balance between the interests of the employer and the employee. In *Connick*, an additional test was added to the battle over freedom of speech.

In 1980, Sheila Myers, an Assistant District Attorney in New Orleans was informed that she was being transferred to a different section of the District Attorney's office. Highly dissatisfied with the transfer, Myers composed a survey "…concerning office transfer policy, office morale, the need for grievance committee, the level of confidence in supervisors, and whether employees felt pressured to work in political campaigns" (Connick v. Myers, 1983). Myers was terminated after distributing the questionnaire to her coworkers.

The majority opinion in *Connick* created a preliminary test that would now have to be applied to freedom of speech disputes concerning public employees. The Court found that only when an employee's speech involved a matter of public concern would it be subjected to the *Pickering* balancing test. "When employee expression cannot be fairly considered as relating to any matter of

political, social, or other concern to the community, government officials should enjoy wide latitude in managing their offices, without intrusive oversight by the judiciary in the name of the First Amendment" (Connick v. Myers, 1983). To determine if speech would pass the new public concern threshold, the Court indicated that the speech's content, form, and context must be examined (Robertson, 2016, p. 297). The *Connick* decision "…indicated that if the content involves a larger audience, possibly outside the workplace, the speech is more likely to be protected. If the speech appears more like a disgruntled employee complaining about personal employment issues, the less likely the speech will be protected" (Robertson, 2016, p. 297)

In *Connick*, the Court emphasized that a public employee's free speech rights only protect speech that regards matters of public concern. The new public concern test would have to be passed prior to the court weighing the speech in the *Pickering* test. By creating a new tier to the balancing test, the Court places stricter limits on public employees' right to speak freely by indicating that protection would only cover matters of public concern (Alter, 1984, p.173).

Unfortunately, the Court left open the definition of "public concern," and the decision of what should or should not be considered public concern remains a subjective matter that employers and the courts can use to arbitrarily restrict the speech rights of employees. "Equally disturbing is the Connick majority's willingness to rely upon the employer's view that the employee's actions will be detrimental to office functioning, rather than 'make their own appraisal of the effects of the speech in question.' In the absence of any tangible evidence of disruption, the Court will rely upon the employer's estimation of the harmful effects of the speech" (Alter, 1984, p. 195). A perceived disruption should not be grounds for disciplinary action. The *Connick* Court gave the employer greater grounds in limiting employee speech. Essentially, an employee's speech can be deemed unprotected if a direct connection to public concern is not made, and the employer believes a future disruption could occur.

Garcetti v. Ceballos

The unbalance created by *Connick v. Myers* was further exacerbated by the Supreme Court in *Garcetti v. Ceballos*. Richard Ceballos was an employee with the Los Angeles District Attorney's office. During the course of his normal duties, Ceballos was asked to review an affidavit that was used to obtain a search warrant for a criminal case. During his review of the case, Ceballos found inaccuracies in the affidavit. Ceballos informed his supervisors of his findings

and prepared a memorandum recommending that the involved case be dismissed. Despite his concerns and recommendations, the case preceded to trial, where Ceballos was called to testify about his observations (Garcetti v. Ceballos, 2006). "Ceballos claims that in the aftermath of these events he was subjected to a series of retaliatory employment actions. The actions included reassignment from his calendar deputy position to a trial deputy position, transfer to another courthouse, and denial of a promotion" (Garcetti v. Ceballos, 2006).

In *Pickering*, the Court previously found that if a public employee spoke on a matter of public concern, as a citizen, the speech could be protected under the First Amendment (Pickering v. Board of Ed., 1968). The Court in *Garcetti* focused on whether or not the speech was made as a citizen. They found that if the speech was made as a public employee, the speech was then outside the scope of the First Amendment. "We hold that when public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline" (Garcetti v. Ceballos, 2006). Under the *Garcetti* ruling, the content, form, and context of the speech established in the *Connick* public concern test (Connick v. Myers, 1983) is moot if the speech was made as part of the employee's official job duties.

In *Garcetti*, the Court drew the proverbial line in the sand between the public employee's job as a civil servant, and their role as a citizen. Public employees hold knowledge and information learned through their positions that are inherently a matter of public concern. Any speech made pursuant to their job duties would, therefore, seem to pass the public concern test, and the decision over whether the speech was protected would fall to the *Pickering* test. However, in *Garcetti*, another test was added which distinguished between speech made as a citizen and speech made as an employee. "The majority reasons that when a government employee goes to work and performs those tasks which he has been paid to perform, he is not acting 'as a citizen,' but as an employee of the government. As a government employee one is not vested with the right to perform a job as one sees fit" (Cooper, 2006, p. 87). The Court justified this stance by stating that there was no precedent for having judicial review of human resource matters (Garcetti v. Ceballos, 2006) and that it is within the employer's rights to review their employees work product and performance (Garcetti v. Ceballos, 2006).

The *Garcetti* Court further acknowledged that public employees are at the center of exposing governmental inefficiency and corruption. However, as this knowledge would be learned pursuant to an employee's job duties, the speech

falls outside the jurisdiction of the First Amendment. The Court stated that the legislature was the proper arena to address such issues by public employees, not the court system. "Exposing governmental inefficiency and misconduct is a matter of considerable significance…The dictates of sound judgement are reinforced by the powerful network of legislative enactments-such as whistleblower protection laws and labor codes-available to those who seek to expose wrongdoing" (Garcetti v. Ceballos, 2006). What the Court naively did not take into account when making such a broad and sweeping statement concerning employee speech is that while it is true that both state and federal governments have laws pertaining to whistleblowing, many of these laws, however, "…contain serious gaps and omissions. More often than not, an employee who engages in whistleblowing speech will quickly find herself in the unemployment line" (Krotoszynski, 2018, p.299). Furthermore, the Court put too much faith in the people responsible for writing these laws. The Court ignored the fact that those responsible for writing the laws are often motivated to keep the information learned by these public employees quiet (Kitrosser 2019, p. 1700).

Although the *Garcetti* decision may have been made to preserve and protect the governments autonomy in its function as an employer, the decision was far reaching and overly broad. It failed to consider that, by nature, the speech made by a public employee may be of the utmost importance and value to the public based on the employee's knowledge and role within the government. The ruling has allowed public employers to place further limitations on employee speech, even if that speech may be the most valuable of all.

Public Employee Testimony

The outcome of the *Garcetti* case has left public employees in a precarious position which may be detrimental to some of the core functions of democracy. If, according to *Garcetti*, any speech a public employee makes in the course of his or her job functions is unprotected speech, what happens when that employee is called to testify in court as an employee? What happens to the employee if the employer considers the sworn testimony to be averse to the efficiency of the government agency? Based on the decision that the *Garcetti* Court made, a public employee must decide between testifying truthfully under oath, risking discipline, including termination, or perjury. "In order for the judicial system to function properly, people must have confidence that the system is just. Failure to protect someone who has been called to testify may compromise the truthfulness of his or her testimony" (Dallago, 2016, p. 268).

Lane v. Franks

Edward Lane worked as the director of Community Intensive Training for Youth (CITY) with the Central Alabama Community College (CACC). During the course of a financial audit, Lane discovered that an Alabama state representative was on CITY's payroll, however, she had not been performing any duties with the organization. Lane fired the state representative, which drew the attention of the Federal Bureau of Investigation. After further investigation, the representative was charged with mail fraud and theft. During her trial, Lane was subpoenaed to testify concerning his audit and reasoning for terminating the representative from CITY (Lane v. Franks, 2014). Shortly after testifying, Lane's supervisor, Steve Franks, terminated 29 probationary employees, including Lane, due to financial difficulties of the organization. The terminations, however, were all rescinded expect for Lane and one other employee. Lane sued Franks citing infringement on his First Amendment Rights. He contended that the termination was retaliation for testifying in the trial of the state representative (Lane v. Franks, 2014).

In deciding whether or not Lane's testimony was protected speech, the Court aimed to clarify what the *Garcetti* Court had previously deemed outside the scope of Constitutional protection by stating that speech made "pursuant to" one's job was not protected. The *Lane* Court stated that the speech in the *Garcetti* case was fundamentally different from the speech in the *Lane* case (Lane v. Franks, 2014). In *Garcetti* the speech involved a memorandum that was written as part of Ceballos's ordinary job duties. In *Lane*, the testimony he provided was based on information he learned during his official duties, however, testifying was not a part of those duties. "In other words, the mere fact that a citizen's speech concerns information acquired by virtue of his public employment does not transform that speech into employee-rather than citizen-speech. The critical question under *Garcetti* is whether the speech at issue is itself ordinarily within the scope of an employee's duties, not whether it merely concerns those duties" (Lane v. Franks, 2014). The Court thus limited the scope of *Garcetti*, by stating that speech about job duties does not automatically classify the speech as employee speech.

Although the Court in *Lane* narrowed the scope of what is considered employee speech, the Court failed to go far enough in its decision. In the majority opinion, Justice Sotomayor acknowledges that "Sworn testimony in judicial proceedings is a quintessential example of speech as a citizen for a simple reason: anyone who testifies in court bears an obligation, to the court and

society at large, to tell the truth" (Lane v. Franks, 2014). Testimonial speech is citizen speech regardless of who is providing the testimony. Public employees are citizens and their testimonial speech should be protected under the First Amendment. The Court recognized this fact, however, specifically made a ruling that would only include public employees who were providing testimony outside of their ordinary duties (Lane v. Franks, 2014). The Court chose to limit their decision to only these employees. Justice Thomas acknowledges this in his concurring opinion:

> We accordingly have no occasion to address the quite different question whether a public employee speaks 'as a citizen' when he testifies in the course of his ordinary job responsibilities… For some public employees-such as police officers, crime scene technicians and laboratory analysts- testifying is a routine and critical part of their employment duties. Others may be called to testify in the context of particular litigation as the designated representatives of their employers… The Court properly leaves the constitutional questions raised by these scenarios for another day (Lane v. Franks, 2014).

By refusing to address all employee testimony, the Court only extended constitutional protection to a limited number of employees called to testify, and essentially ignored employees who are required to put their faith into the justice system on a constant and consistent basis. "…Public employees who testify as a critical part of their employment duties should not be fearful that they could be terminated or retaliated against for providing truthful sworn testimony" (Roberts 2007, p. 309).

First Amendment Constitutional protection should be afforded to all public employees concerning sworn testimony regardless if the employee is providing the testimony outside of the normal duties, or as part of their typical duties. The Court should adopt a rule that states all testimonial speech is considered citizen speech. Based on this undeniable categorization that all testimony is citizen speech, each time a public employee takes the oath to tell the whole truth during the course of a court proceeding, whether given as part of their official duties, or outside their normal job functions, or as a representative of the employer, the speech should unequivocally be considered citizen speech. This is not to say that employers will have no recourse in terms of holding employees responsible for the jobs they perform while providing the testimony. Based on a Court ruling in favor of First Amendment protections for public employees who testify as part of their job duties or on behalf of their employers, the public employer needs to educate itself, as well as its employees on the legal precedent and on what speech

can and will be called into question by the employer in order to maintain efficient and effective operations. Public managers at all levels of administration need to have a reasonable knowledge of Constitutional law in order to make decisions that do not harm the Constitutional rights of public employees and citizens. Public managers need to be able to utilize this knowledge to appropriately train and inform their employees of what the employee's rights and responsibilities are in relation to their employment duties. By having a basic understanding of Constitutional law, public employers will have direction on how to address employee speech that the employer feels may be detrimental to its operations. Employer's will need to follow the guidelines set forth by the *Connick* court in determining if the speech is a matter of public concern. Employers will need to focus on the content, form, and context (Connick v. Myers, 1983) of the speech to determine the public's interest in the speech. If it is determined that the speech is of public concern, the employer will then need to establish that their interest as the employer in prohibiting the speech outweighs the employee's interest in speaking. Public employers have a right to run effective organizations, however, employees, also have a right to be treated in a fair and transparent manner. By declaring all testimonial speech to be citizen speech, one hurdle can be removed in the employee/employer relationship concerning freedom of speech rights of public employees.

As it stands now, the line between citizen and employee is blunt. "Future employees who speak as citizens about a matter of public concern, but concurrently speak pursuant to their official duties as employees will be beyond the protection of the First Amendment" (Farley, 2007, p. 605). The Court has failed to recognize that making a distinction between speech made as an employee and speech made as a citizen is sometimes impossible, because they are one in the same. Public employees do not give up their citizenship when they enter into employment with the government. Public employees are, therefore, also citizens that the government is accountable to. For the good of the democracy, their speech made on matters of public concern should be protected above all else.

Conclusion

Freedom of speech is not an absolute. The Supreme Court has made rulings concerning the harmful nature of some types of speech. In the course of these decisions, the Court has addressed the freedom of speech of public employees in order to balance these rights with the needs of the government to

operate as an employer. These decisions have attempted to balance the needs and rights of the public employee and the public entity.

Pickering v. Board of Education created a test that, if left alone, would have created a balance between employer and employee. However, in the subsequent cases of *Connick v. Myers* and *Garcetti v. Ceballos*, the balance found in *Pickering* was lost. Public employees now face retribution for speaking on matters of public concern when they speak as employees, rather than citizens. "The First Amendment, above all else, rejects laws that favor some ideas or viewpoints while excluding others. Such laws limit the scope of the 'marketplace of ideas'" (Hudson, 2002, p. 3). The Supreme Court has ruled that despite the knowledge and expertise public employees are equipped with, speech made as an employee is unprotected under the First Amendment, and thus, they have created an unbalanced system that will harm not only the public employee, but also the general public and the rule of law.

Current case law continues to separate the public employee into two categories: employee and citizen. It is time for the Court to recognize that this dichotomy is not absolute. All citizens are required to provide truthful sworn testimony. If providing testimony is the responsibility of all citizens, speech made during the testimony must be afforded First Amendment protection regardless of the employment position of the citizen giving the testimony. In order to protect the integrity of the judicial system, and the accountability of the government, public employees need to be able to provide sworn testimony without fear of retaliation from their employers when the testimony is being provided as a part of the official duties or simply as a citizen.

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Immigration Federalism: What amount of agency do state and local governments have in immigration related policy areas?

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Abstract

This analysis will seek to provide data on the modern topic of immigration federalism and will examine the question; what amount of agency do state and local governments have in immigration related policy areas? To start, a discussion on the evolution of the contemporary U.S. immigration system will set the context of the analysis and will lead into scholarly considerations on the dynamics of federalism and the emerging notion of immigration federalism. Following this, we will outline areas that state and local governments have used to encourage or discourage migration into their communities. Findings and trends will then be drawn from case studies pertaining to four states—Michigan, New York, California, and Arizona—providing a glimpse into the practice of sub-national immigration policy tactics. While these cases provide an example of the breadth of accommodating or restrictionist immigration policy employed by state and local governments, this analysis should not be viewed as an exhaustive report on the state immigration federalism in the country. Further research is needed to fully examine and apply quantitative data and legal rulings pertaining to the topic in order to generalize.

Background

The Contemporary U.S. Immigration System

Immigration is, and has always been, one of the most continuous and contentious topics in American politics. As a nation made up of sequential waves of immigrants, the desire to migrate towards new opportunity, education, and work is engrained in our cultural identity. However, as each new wave of immigrants emerges, our citizens more frequently respond with backlash than with the welcoming sentiment found on the base of the Statue of Liberty "give me your tired, your poor, your huddled masses longing to be free" (Lazarus, 1883). We are quick to forget the many economic, innovative, and cultural benefits that immigrants bring to our organizations, towns, and country—instead many choose to focus on hypothetical threats posed (Pedraza & Rumbaut, 1996).

The United States is undeniably a nation of immigrants. According to data gathered from the most recent U.S. Census, it was estimated that the immigrant population in the U.S was 42.4 million, comprising 13.3 percent of the total U.S. population (Karreth & Kryzanek, 2018). This number has fluctuated over time with policy changes, public opinion, and shifts in the global landscape.

Data shows that Americans remain generally open to immigrants who follow U.S. immigration laws and process. However, tolerance for those who enter the United States illegally is low, with most Americans wishing for forced deportation or imprisonment of undocumented immigrants (Karreth & Kryzanek, 2018). While the true number of unauthorized arrivals into the U.S. is impossible to know, it is estimated that there are currently around 12 million undocumented individuals living in the country. With this estimation, officials predict that nearly 300,000 babies are born to undocumented immigrants each year (Karreth & Kryzanek, 2018).

In addition to inflow from undocumented immigration, the U.S. experiences high rates of legal immigration with temporary and permanent statuses. In 2018, 1.1 million individuals received Lawful Permanent Resident (LPR) status from U.S. Citizenship and Immigration Services (USCIS) and there were 186.2 million admissions under temporary visas (DHS, 2018). Temporary admissions can range from short business trips and tourism to employment visas, which are typically valid for a few years at a time.

Contemporary presidential administrations have undertaken various efforts to curb unauthorized immigration into the U.S. In 2002, Under President George W. Bush the immigration system saw the implementation of a $2 billion Strategic Border Initiative, which sought to increase technology-based border security and made use of video surveillance, drones, heat sensors, and more to detect possible unauthorized individuals. Following this, the 2006 Secure Fence Act resulted in $2 billion spent on 700 miles of fencing along the southern border in California and Arizona, along with a ramp up in raids on businesses suspected of employing workers without documentation (Karreth & Kryzanek, 2018).

In 2007, Bush's immigration reform proposals to address illegal immigration included: further developments to the Secure Border Initiative, increases in detention facility capacity and expedited removal processes of undocumented individuals, harsher fines for business who employ unauthorized workers, the introduction of a new Temporary Worker Program, and a pathway for undocumented immigrants (Karreth & Kryzanek, 2018). Ultimately, the Senate Bill drafted in response to these proposals divided party coalitions and the legislation never made it out of the chamber.

During President Barack Obama's two terms in office, immigration remained a highly divisive topic throughout the country and the legislature, along with emerging issues with an influx of unaccompanied minors and the rise of 'sanctuary cities.' The adopted federal budget in 2010 included $27 billion dedicated to border security, efforts to boost U.S. Citizenship and Immigration Services (USCIS) bureaucratic efficiency with immigration case processing, and training for state and local law enforcement. In addition, the U.S. issued $150 million to Mexico to help the country's efforts to limit the flow of youth from Central America by increased monitoring of Mexico's southern border (Karreth & Kryzanek, 2018).

The remainder of President Obama's tenure was characterized by executive action due to increasing gridlock when attempting to pass immigration related issues through Congress. In 2012, Obama announced the Deferred Action for Childhood Arrivals (DACA), a program preventing the deportation of 720,000 individuals who were brought to the country without documentation as youth. DACA was later expanded in 2014 to include Deferred Action for Parents of Americans (DAPA), seeking to delay the deportation of five million undocumented parents of U.S. citizens (Karreth & Kryzanek, 2018). Federal courts later blocked the implementation of this program.

Contradictorily, President Obama's tenure was also known for high rates of deportation. During his eight years in office, there were over three million removals of unauthorized migrants from the United States, an average of 383,307 people per year. This is higher than any other administration to date. For comparison, as of 2019, President Trump was only averaging 275,725 removals per year (Nowrasteh, 2019).

The Presidency of Donald Trump continues the increasing trend of utilizing executive action to make immigration system reforms that would be unlikely to receive significant Congressional support. President Trump kicked off his administration's unilateral immigration policy actions by signing an executive order temporarily banning foreign nationals from Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen from entering the U.S just one week after taking office in 2017. This action and its subsequent adaptations and expansions became known as the "Muslim ban" due to the affected countries being predominantly Muslim (ACLU, n.d.). Several federal courts were quick to act in response, issuing injunctions to block the implementation of the orders while the constitutionality of each were under review, including a class action lawsuit filed by the American Civil Liberties Union of Washington (ALCU, n.d.).

Also, in 2017, Trump announced that the DACA program was not to expand as planned by the Obama administration and set a deadline for Congress to decide on the fate of DACA (Karreth & Kryzanek, 2018). A myriad of court systems stepped in again to block the order and the potential removal of DACA protections that allowed young DACA recipients to maintain legal status as the case was held up in courts.

Throughout his Presidency, Trump has tried to craft ways to secure funding for his ardently promised border wall—in 2019, going so far as to declare a national emergency to garner funds. Most recently, as of March 2020, over a dozen states are suing the Trump administration in an attempt to block $3.8 billion that the administration is planning to divert from military funding towards the border wall construction (Larson, 2020). The states involved are arguing that the fund diversion is in violation of the separation of powers outline in the U.S. Constitution.

Despite the actions taken by contemporary Presidential administrations and Congressional efforts, there remains no comprehensive immigration reform on the horizon. With the most recent major reform being the Immigration Reform and Control Act of 1986, there is a significant need to update the policy and parameters of the U.S. immigration system to reflect changes of the past 34 years. Perhaps this is why we are seeing unprecedented levels of action from state and local governments relating to immigration—a phenomena becoming known as immigration federalism.

Review of the Literature

Considerations on Federalism

Lower levels of government may choose to get involved in a traditionally federal policy area in order to represent their local values or priorities or to better regulate externalities of federal policy. Externalities can be thought of as side-effects of an action that positively or negatively impact the surrounding population (Weimer & Vining, 2017). Governments may attempt to influence actions, and thus their externalities, by enacting policy to promote or discourage a behavior. Regarding immigration matters, local and state officials may act in a variety of ways to promote the values of legality, representation, efficiency, social equity, human rights, economic vitality, inclusivity, and public safety, among many others.

Immigration Federalism

These values and how they are prioritized inform decision making at every level of government. When considering intervening into federal legal realms, public officials must also evaluate how these values are represented in the national legal framework and how they align with or are in tension with the potential intervention. Ultimately, these values can be used to justify why lower levels of government should become involved in immigration related policy areas if they believe federal legislation to be misrepresenting the values of their constituents.

It is also important to account for the dynamics of federalism in analyzing which level of government is best positioned to act. In an *Essay on Fiscal Federalism*, Wallace Oates describes how 'fiscal decentralization' in general has become increasingly popular in the public sector. This means that the federal government is deferring more fiscal responsibility to states, who, in turn, delegate control over some areas to counties, cities, townships, and other subunits of government. While Oates writes in terms of economic decentralization, much of his reasoning can be applied to the overarching decentralization of power from federal to lower jurisdictions in several policy subjects.

Oates suggests, "state and local governments, being closer to the people, will be more responsive to the particular preferences of their constituencies and will be able to find new and better ways to provide [certain] services" (Oates, 1999). In essence, it can be argued that state and local levels of government have a greater capacity to address the unique needs of their populations and may be better situated to address micro level intervention on previously considered federal issues. While in an ideal world the centralized nature of the federal government better positions itself to address macro market issues or social welfare policy, U.S. immigration policy (or lack thereof) in the past thirty years indicates it may be time to rethink the way we approach the topic of decentralized immigration policy.

Regardless, we must consider the legal ability for each level of government to address the aforementioned policy areas and functions based on authority, jurisdiction, and constraints. As each level of government derives its authority from constitution, charters, or through delegation, and with immigration, international relations, and border control being an inherently federal duty, the legality of many lower-level actions are often brought into question. However, as we will review later, contemporary cases are rapidly setting new legal precedent for what state and local governments are able to do concerning immigration and immigrant communities.

Immigration Federalism

In *Fiscal Federalism and The Politics of Immigration,* Boushey and Leudtke (2006) write on the relationship between federated systems of government and the degree to which immigration policy is concentrated between levels of government. The U.S.'s immigration system is highly centralized, especially when compared to the neighboring Canadian system, but this has not always been the case. In the early twentieth century, state and local governments had much more say in the inflow of populations of immigrants to their communities (Boushey & Luedtke, 2006). However, the variation in policy from state to state, as well as increasing tensions between levels of government, encouraged developments that resulted in the centralized system, namely, The Basic Naturalization Act of 1906 and subsequent developments. The Basic Naturalization Act standardized forms and encouraged the consolidation of immigration jurisdiction towards the Federal government and courts.

In recent years, state and local governments have sought to reclaim some authority in the realm of immigration and have become increasingly vocal regarding immigration policy preferences. Boushey and Leudtke theorize that while the transactional costs of processing immigrant admissions and visa applications is best addressed by the central government, there are areas where sub-national levels are best situated to act. Due to their closer proximity to communities, lower levels of government can more efficiently determine local values and needs. As such, policies pertaining to integration, cultural preservation, and language are often addressed at the sub-national level. Similarly, while issues of security and legal enforcement are largely characterized as functions of the federal government, recent times have seen state and local governments ranging from supplemental enforcers to blatantly defiant of federal policy (Boushey & Leudtke, 2006).

Goelzhauser and Konisky follow this trend in their article *The State of American Federalism 2018-2019* and write how the increasing political polarization in the United States has changed the way that power is located within the federation. The inability of Congress to pass comprehensive immigration reform has led to reliance on unilateral action from the executive branch and the growing trend of state and local action regarding immigration policy.

The authors cite the 2018 midterm election as further influencing the growing partisan divisions in Congress and introducing a divided legislature to the Trump administration (Goelzhauser & Konisky, 2019). Further, controversial

unilateral actions by Trump, along with federal prosecution for unauthorized entrances into the country (which led to the family separation crisis) have emboldened sub-national levels of government to act.

Perhaps the most debated action that sub-national levels of government have taken is that of declaring 'sanctuary' jurisdictions to offer a haven for immigrant populations. In the U.S., there are now over 550 'sanctuary' jurisdictions, including, cities, counties, and entire states. As of 2018, eleven states had enacted overarching measures to restrict law enforcement resources from being used for immigration enforcement or cooperation with immigration agencies (Henderson, 2018). Trump has goaded the development of 'sanctuary' policies with incendiary language and threats to send floods of migrants and withhold grant funds to sanctuary jurisdictions. In response, nine states passed 'anti-sanctuary laws' requiring all their subordinate municipalities to fully cooperate with federal immigration authorities (Goelzhauser & Konisky, 2019). Several other states and cities have tried and failed to change their pro or anti sanctuary laws in recent years.

In *Immigration restriction in the states: Contesting the Boundaries of Federalism*, Barth and Reich (2012) attribute the variances in success or failure of states' ability to implement immigration related policies to the political constraints associated with the attempt to rework the power dynamics of immigration authority. Political constraints may include partisan control of governing entities, legal authority, and constituent perspectives, among others.

Barth and Reich explain "state and local governments influence immigration patterns through policy choices that affect the ability, and willingness, of immigrants to live and work within their jurisdictions" (2012, p. 424). They classify such policy into two categories, restrictionist or accommodating, and note that the "strength of [each] impulse reflects the degree to which a coalition of local and national groups have placed immigration restriction [or support] at the top of the policy agenda" (p. 423).

Further, the tenor of immigration policy within a region or state varies by community. As states increase their activity in immigration related policy areas, they not only change dynamics of the state-federal relationship, but also inter-state power distribution. Obviously, not all communities within a state share identical perspectives, labor shortages or surpluses, or even cultural patterns. When state-wide legislation is passed, it forces all subordinate entities to comply, negating community-level preferences towards restrictionist or accommodating policy.

While the literature on the decentralization of immigration policy within the United States is relatively underdeveloped given the newness of the trend, new evidence is being generated everyday as the country remains bound to its outdated system. The Trump Presidency's attitude towards immigration enforcement has inspired more action by state and local governments than any other period in modern history (Henderson, 2018). However, it remains to be seen whether or not the U.S. is truly headed for a new form of immigration federalism as actions taken by state and local governments work through court challenges. Forthcoming literature must incorporate updated legal rulings to determine the accurate predictions regarding the future extent of immigration decentralization.

Immigration and State-level Implications

As noted above, scholars tend to classify sub-national actions regarding immigration policy into two camps, restrictionist and accommodating. Barth and Reich (2012) categorize restrictionist laws under three overarching goals: "(i) deny immigrants' access to employment, housing, and state public services; (ii) create penalties for business transactions involving unauthorized immigrants; or (iii) broaden state authority to identify and apprehend unauthorized immigrants" (p. 424). Accommodating laws seek to do the opposite—they attempt to make communities more welcoming and accessible for immigrant populations. Language laws, voting rights, housing ordinances, and employment policy are a few popular battlegrounds for supporters of each preference.

Balfour and Gray (2018) frame the dilemma in terms of an ethical obligation, "The ethical challenge for nations like the U.S. that benefit from a globalized economy is whether or not to accept responsibility to provide safe haven for people disadvantaged and displaced by economic and political forces beyond their control" (p. 7). While border security and public safety are important, the ability to respect the inherent human right to the freedom of movement and the way that we treat immigrant populations within the country says a lot about a governing system's values.

Language Laws

One policy area that states can use to promote or discourage migration is through bilingual education. Historic conflicts between the state and federal government on this subject begin with the 1923 *Meyer v. Nebraska* court case

regarding a Nebraska state law that sought to prohibit teaching in any language other than English (Brown & Rodriguez, 2014). The U.S. Supreme Court eventually ruled that the law was unconstitutional as the Fourteenth Amendment protects the right to teach in any language. Subsequent legal actions include the 1968 Bilingual Education Act, which attempted to level the playing field for non-English speaking students, as well as the 2002 No Child Left behind Act, which was arguably the first to set accountability measures to "hold state educational agencies, local educational agencies, and schools accountable for increases in English proficiency and core academic content knowledge of limited English proficient children" (Brown & Rodriguez, 2014).

The United States has also attempted to create an official national language at both the federal and state levels. Despite the constitution having no verbiage to indicate that the country is a 'monolingual' nation, the topic has occupied considerable space in the political arena. Quotes by Theodore Roosevelt in 1907 evidence some of the historic arguments to support declaring English as the national language in an effort to create a more homogenous society. Fast-forwarding to the present, the debate continues with Congressional leaders echoing Roosevelt's push for unity and assimilation during the 2006 immigration reform movement (Brown & Rodriguez, 2014).

Regardless of the tides of support, no movement has succeeded in achieving a national language declaration at the federal level; however, 30 states have enacted laws stating English as their official languages (Brown & Rodriguez, 2014). New anti-immigrant legislation is often a catalyst for or shortly follows efforts by states to mandate English. Political pushes for assimilation requirements come in response new flows of immigration and the fear of 'otherness' that accompanies increased diversity.

Voting Rights

Immigrant voting rights is another policy area that is impacted by state action. Increasingly common state-led voter identification laws conflict with equal access to participation in voting. Politicians attempt to frame voter identification requirement laws as critical to keeping unauthorized people from voting, despite little evidence to suggest the severity of the problem. Due to the drastic increase in the implementation of state voter identification laws, it is estimated that up to 11 percent of eligible immigrant voters lack 'eligible' forms of identification (Brown & Rodriquez, 2014).

Immigration and Local-level Implications

Immigration policies are becoming more frequently addressed by local levels of government. Communities around the country vary in the way they approach policies and ordinances relating to immigrant communities, with values of inclusivity, legality, security, and representation often at odds.

Housing Ordinances

One way that local municipal efforts seek to control populations is through housing ordinances, which arguably target immigrant populations at a disproportional rate. Associated housing ordinances include requiring all tenants provide proof of authorized residence in the U.S., changing the definition of 'family' to limit the number of tenants in a unit, and strict penalties for landlords housing 'illegal aliens.' Brown and Rodriguez (2014) argue that these policies are particularly discriminatory to certain immigrant communities because of their typically larger and more extended family structures.

Employment

Reich and Barth outline two major frameworks, one that views immigrants as "a morally neutral reflection of a free market that matches employers with a labor force, to the benefit of producers and consumers," and one that "assesses immigrants primarily through the lens of law and order, often reinforced by underlying racial/ethnic cues" (2012, p. 495). U.S. immigration policy at all levels incorporates aspects of both. Many recognize the benefits of labor mobility to benefit shortages in certain communities and redistribute in areas of surplus, while others see immigrant labor as a threat to the U.S. workforce.

Globalization has made it possible for our nation, and all others, to look internationally in recruiting top talent to fill highly skilled and specialized positions, as well as to fill positions in industries that experience seasonal labor shortages. The Society for Human Resource Management (SHRM) reports that in December 2018 there were 7 million jobs available in the U.S. with only 6.3 million unemployed people seeking work. These numbers make it clear that "foreign-born talent is a necessary component to the U.S. workforce, particularly as the workforce continues to age and the skills gap widens" (SHRM, 2019).

SHRM conducted a study in 2018 surveying its membership on the topic of employment-based immigration. Of the nearly 800 respondents to the survey, 52

percent reported that their organizations had petitioned for at least one employment-based visa within the past five years and 10 percent reported their organizations sponsoring over 100 visa petitions over the same time period. The most frequently utilized employment visa type was H-1B, distantly followed by J-1, F-1/OPT, and L-1. Over 85 percent of those surveyed responded that they believe that it is important to recruit talent to fill unmet needs of the business and that foreign workers are crucial to supplementing the talent in the domestic workforce (SHRM, 2019).

The reality of using immigration to fill professional or specialized positions is perceived differently than the utilization of migrant workers for lower-level labor, which could be viewed as a proxy for legal status. Because unauthorized immigrants seek to remain undetected from authorities, they tend to gravitate towards industries that have significant need for cheap, unskilled labor and are less likely to follow hiring regulations (e.g. construction, landscaping, restaurant/lodging services, farming) (Kryzanek & Karreth, 2018).

Aside from the clear economic contributions and costs associated with the 42.4 million immigrants in the country, the economic implications of the approximately 12 million undocumented immigrants are popular in anti-immigrant debates. Kryanek and Karreth report it cost approximately $113 billion in 2014 to provide social services, health care, and education to the undocumented population in the U.S. Alternatively, the authors share that predictions of the positive economic impact of these immigrants through labor, taxes, and costs of living far surpasses the cost, especially when including the billions of dollars it would take to process the removal of each person (Kryzanek & Karreth, 2018). Still, it seems everyone in the country has strongly held beliefs on the subject and request their local, state, and federal officials to act accordingly.

Research Design - Case Studies

As previously discussed, state and local governments have varied widely throughout the country with their response to immigration policy. To provide a sample which should demonstrate this variation, I have selected four states to analyze—Michigan, California, New York, and Arizona. These states were chosen based on their geographic and ideological distances represented. For each, we will examine characteristics of the local immigrant population, state law regarding immigration policy, examples of local governments acting in immigration related areas, and other relevant contextual information. It is my

assumption that these data will demonstrate the variance in state-level legislation across the accommodating/restrictionist spectrum and provide a glance into the scope of actions sub-national governments have taken in the past five years, shining a light on the current state of immigration federalism in the country.

Much of the information cited for each of the below states is based on reports compiled by the American Immigration Council (AIC), which crafts state-by-state analyses with data from the most recent U.S. Census (2010) and the U.S. Census Bureau's American Community Survey (2015). Legislative developments and contextual legal information were gleaned from annual reports by the National Conference of State Legislatures, scholarly articles, and news sources, as cited. Please note, this is not meant to be an exhaustive list of all legislative developments within each state, but rather the highlights that demonstrate the tenor of the immigration landscape and the resulting sub-national actions within each of the four states.

Findings and Analysis

Michigan, Neutral

Michigan is not well known as a state of immigrants—in fact, only a small portion of its population are foreign-born (6.6 percent). However, this number is growing, and the immigrants who do live in Michigan play an important role in highly technical industries, as well as in agriculture. Nearly 40 percent of immigrants in Michigan have at least a college degree, whereas only 28 percent of native Michiganders do. Notably, the immigrant population in key urban areas make up a significant portion of total business owners, accounting for 20.3 percent in the Detroit/Warren/Livonia metropolitan area and 17.3 percent in the Grand Rapids/Wyoming metropolitan area (American Immigration Council, 2017c).

State and local legislation in Michigan on immigration and immigrant rights is standard in keeping with national trends. All things considered, state-level actions are relatively neutral in securing rights for legally documented immigrants and refugees, while not stepping into the territory of federal enforcement of undocumented individuals. Local government action has veered towards more pro-immigrant and anti-federal enforcement in urban areas, with five cities and counties now considered sanctuary jurisdictions. The balance in values demonstrated by Michigan's policies may be attributed to its split political composition.

Table 1.
Immigration in Michigan

Immigrant Population	652,090 (6.6% of state population)
Undocumented Population	130,000 (19.9% of immigrant population, 1.3% of state)
Naturalized Immigrant Population	342,465 (52.5% of immigrant population)
Immigrant Education Level	College degree (39.9%) Some college (18.9%) High school diploma (19.7%) Less than high school diploma (21.4%)
Top Countries of Origin	Mexico (11.5%) India (10.1%) Iraq (8.1%), China (5.9%) Canada (5.4%)
Industry Category (% of all workers in sector)	Agriculture/Forestry/etc. (16.1%), Professional/Science/Tech. (10.5%), Manufacturing (9.9%)
State and Local Tax Contributions (2014)	$1.5 billion (immigrant households) $86.7 million (undocumented immigrants)
Notable State Action	• MI H 5686 allows residents to apply for a personal identification card, noncitizens must show documentation to prove legal status • MI H 5579 affords equal protections under the Education Omnibus Budget for economically disadvantaged migrants • MI S 848 appropriates funds for programs relating to refugee assistance

Notable State Action, Continued	• In 2019, MI passed legislation to create a task force to provide services and resources to new immigrants, specifically on state resources available to new arrivals and to report on state of federal enforcement in MI. • MI HR 155 resolution declares Sept. 13-22, 2019 as Welcoming Week, for new immigrant and nonimmigrant Michiganders PENDING • HB 4090/4083 Local Government Sanctuary Policy Prohibition Act • HB 4220 Equal Language Access to State Services • HB 4679 Home Loan Eligibility (limits access to certain loans to citizens and Legal Permanent Residents only)
Notable Local Actions	• While the state of Michigan has not passed any laws regarding undocumented immigrants and ability to enroll pay in-state tuition rates, the University of Michigan and others have created internal policy to remedy affordability. • The following counties and cities have enacted some level of policy to deter certain collaborations with federal immigration agencies and are thus classified as sanctuary jurisdictions: Ingham County, Kalamazoo County, Kent County, Lansing, and Wayne County.

(American Immigration Council, 2017c), (National Conference of State Legislatures, m.d.), (MIRC, 2020), (Center for Immigration Studies, 2020)

New York, Accommodating

The state of New York has played an important role in the United States' immigrant history and was traditionally the first stop for immigrants arriving in the country, being home to the infamous Ellis Island. Today, immigrants continue to comprise a huge portion (22.9 percent) of the state's population and contribute to its reputation as a cultural center of the country. The state's more than 4.5 million immigrant residents make up a significant portion of its workforce and business owners. Unlike other regions in the U.S., which see clear trends in immigrant education or occupation levels, New York's foreign-born population is evenly distributed across the spectrums (American Immigration Council, 2017d).

Legislative action in New York surrounding immigration and immigrant rights is already well established, but the state is now taking more action to provide protections for refugee populations and family separation cases. New York's state legislature also takes into consideration funding burdens for immigrant and nonimmigrant programs at the local levels and appropriates funds to support local government initiatives. The state of New York is considered a sanctuary jurisdiction, and eight additional cities and counties within the state have proclaimed themselves as sanctuary jurisdictions to supplement the state's pro-immigrant sentiment.

Table 2.
Immigration in New York

Immigrant Population	4.5 million (22.9% of state population)
Undocumented Population	775,000 (17% of immigrant population, 3.9% of state)
Naturalized Immigrant Pop.	2.5 million (55.2% of immigrant population)
Immigrant Education Level	College degree (30.2%) Some college (18.3%) High school diploma (25.4%) Less than high school diploma (26.2%)
Country of Origin	Dominican Republic (11.2%) China (8.7%) Jamaica (5.2%) Mexico (5.2%) Ecuador (4.2%)

Industry Category (% of all workers in sector)	Transportation/Warehousing (37.1%) Lodging/Food Service (35.8%) Construction (35.5%) Health Care/Social (31.7%)
Tax Contributions	$26.5 billion (immigrant households) $1.1 billion (undocumented immigrants)
Notable State Legislation	Note, the entire state of New York is considered a sanctuary jurisdiction. • NY S 2003/2006 provides aid to state and locality budgets for programs related to English learning and education of migrant children • NY S 5349 economic development law that, in part, creates an advisory panel with provision to evaluate the role of immigrants in employee-owned enterprises • NY A 7899 'Appointment of a Standby Guardian' provisions for prompt communication regarding childcare if a parent or guardian is detained for a federal immigration matter • NY S 7500/7503 appropriates funds and to refugee resettlement programs and secures funding support for localities • NY S 1250 DREAM Act allows for in state tuition and financial aid for legal and undocumented immigrants
Notable Local Legislation	The following counties and cities have enacted some level of policy to deter certain collaboration with federal immigration agencies, and are thus classified as sanctuary jurisdictions: Albany, Franklin County, Ithaca, Nassau County, New York City , Onondaga County, St. Lawrence County, Westchester County

(American Immigration Council, 2017d), (National Conference of State Legislatures), (Center for Immigration Studies, 2020)

California, Strong Accommodating

California boasts the largest immigrant population in the U.S. As such, immigrants play important roles in the state's workforce and community functions. More than one quarter (10.7 million) of the population of the state are immigrants and another 9.3 million Californians have at least one immigrant parent (American Immigration Council, 2017b). This means at least 50 percent of the population either are immigrants or have an immediate family member who is an immirgant.

On the policy front, Californian representatives and public officials are widely pro-immigrant and are seen by the nation as the innovators in legislating to protect immigrant rights, documented or not. California exists on its own playing field when it comes to immigrant rights legislation. In fact, the California's legislature frequently passes resolutions to urge changes in federal policy or to condemn federal actions, bucking traditional immigration roles within the U.S. federation. Naturally, the state of California is considered a sanctuary jurisdiction, and 20 of its cities and counties have followed suit in their commitments to sanctuary policy.

Table 3.
Immigration in California

Immigrant Population	10.7 million (27.3% of state population)
Undocumented Population	2.4 million (22% of immigrant population, 6% of state)
Naturalized Immigrant Population	5.3 million (49.7% of immigrant population)
Immigrant Education Level	College degree (27.4%) Some college (18.6%) High school diploma (19.6%) Less than high school diploma (34.4%)
Country of Origin	Mexico (40%) Philippines (8%) China (5.9%) Vietnam (4.8%) India (4.5%)

Industry Category (% of all workers in sector)	Agriculture/Forestry (77.1%) Grounds/Maintenance (61.7%) Production (53.3%) Construction (43%) Computer science (41.3%)
Tax Contributions	$26.4 billion (immigrant households) $3.2 billion (undocumented immigrants)
Notable State Legislation	Note, the entire state of California is considered a sanctuary jurisdiction. Legislation within the past five years includes: • CA A 72/74 includes budget funding for services relating to unaccompanied minors and human trafficking victims • CA A 1645 provides for 'Student Support/Dreamer Resource Liaison' at all community colleges and certain universities • CA S 160 law requires cities and counties to incorporate cultural competency into their next emergency plan • CA S 225 Citizens of The State, law which permits anyone who is of age to be eligible to hold an appointed civil office, regardless of immigration status • CA AJR 9 & 11 resolutions which condemn actions of federal government regarding unnecessary Immigration and Customs Enforcement (ICE) detentions and tactics and urges protection for undocumented minors • CA S 785 law which prohibits the inclusion of immigration status in evidence for public court records

Notable State Legislation, Continued	• CA SJR 16 resolution to express the need for the federal government to extend Temporary Protected Status (TPS) for certain migrant populations • CA SR 16 resolution which condemns President Trump's executive orders seeking "travel bans"
Notable Local Legislation	Twenty (20) cities and counties in California have enacted sanctuary policy to supplement state-wide sanctuary practices

(American Immigration Council, 2017b), (National Conference of State Legislatures), (Center for Immigration Studies, 2020)

Arizona, Strong Restrictionist

Although the immigrant population in Arizona is growing, the state has a reputation as one of the most fervent in restrictionist immigration policy. Despite the state's actions at the state and local levels to restrict migrant flows, Arizona is home to 914,400 foreign born individuals. Likely, the state's geographic position along the U.S.-Mexico border and ports of entry impact both the flow and resulting backlash towards migrants. Immigrants in Arizona make up significant portions of the agricultural and forestry workforce (52.5 percent), as well as the building and grounds cleaning and maintenance occupation workforce (42.1 percent) (American Immigration Council, 2017a).

Arizonian policy must balance the state's values to restrict the flow of migrants from Mexico, while acknowledging immigrant (both legal and unauthorized) contributions to the workforce. Like California, state-level resolutions are used often utilized to pressure the federal government into action, but for opposite values--Arizona's resolutions urge more assistance with border security and immigration enforcement. Despite the variances in intent, the implications remain that there exists shifting power dynamics pertaining towards immigration federalism in the country.

Table 4.
Immigration in Arizona

Immigrant Population	914,400 (13.4% of state population)
Undocumented Population	325,000 (35% of immigrant population, 4.9% of state)
Naturalized Immigrant Population	380,187 (41.5% of immigrant population)
Immigrant Education Level	College degree (21.2%) Some college (19.4%) High school diploma (22.5%) Less than high school diploma (36.9%)
Country of Origin	Mexico (56.1%) Canada (4.2%) India (4.1%) Philippines (2.9%) Vietnam (2.7%)
Industry Category (% of all workers in sector)	Agriculture/Forestry (52.5%) Building Grounds Cleaning/Maintenance (42.1%) Construction (31.6%)
Tax Contributions	$1.7 billion (immigrant households) $213.6 million (undocumented immigrants)
Notable State Legislation	The Arizona State Legislature passed 72 restrictionist immigration bills between 2005 and 2011, recent developments include: • AZ SB 1070 law which makes it a misdemeanor to travel at anytime without proof of immigration status, prohibits state/local entities from enacting sanctuary policies, and requires state law enforcement to determine immigration status during routine stops or interactions, among other efforts to curb illegal immigration • AZ SCM 1006 /1012 resolutions urging the federal government to send more border security personnel and resources for border security

Notable State Legislation, Continued	• AZ H 2540 law to appropriate funds towards the Gang and Immigration Intelligence Team Enforcement Mission • AZ H 2747 General Appropriations Act to the border security strike force and funds positions for 200 immigration and border security workers • AZ HCM 2001 requests that U.S. Congress to include deported veterans in legislation regarding medical care
Notable Local Legislation	• It is prohibited by state law for local jurisdictions to enact sanctuary policy. • Local governments echo the sentiment of the state to increase border patrol and enforcement of federal policy.

(American Immigration Council, 2017a), (National Conference of State Legislatures) (Center for Immigration Studies, 2020)

Conclusion

The United States is seeing unprecedented levels of state and local action when it comes to immigration policy. The new immigration federalism dynamics in the country have emerged after years of gridlock at the federal level. With the past eight years characterized by national immigration policy via executive order, sub-national levels of government have sought to reclaim some power in the realms of immigration enforcement, immigrant rights, employment regulations, and undocumented populations.

As several scholars have noted, states and communities vary in their legislative responses—from strongly accommodating to strongly restrictionist, and everything in between. Also discussed is the notion that sub-national entities entering this traditionally federal territory is inherently complex and presents many legal challenges. In the coming years, courts must dictate the boundaries of immigration policy powers within the U.S. federation and reexamine the question of who is best positioned to act on each facet of policy impacting immigrants.

While this analysis seeks to add to the body of literature on immigration federalism, further research is needed to uncover the true scope of the situation. A thorough quantitative analysis on all 50 states examining correlations in population percentages and public opinion would be valuable, as well as studies addressing legal decisions surrounding immigration federalism. As Congress is nowhere near to passing comprehensive immigration reform, discussions and literature surrounding unconventional immigration policy creation will assuredly continue to develop.

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