



# The Local Power & Politics Review

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# Local Power, Partisan Politics, and COVID-19

Lori Riverstone-Newell, *Illinois State University*

Politics, not science, continues to inform a great part of America's response to COVID-19. Rather than set aside the interparty bitterness that has dominated state and national politics in recent decades, the battle simply extended to the pandemic, leading to divergent levels of support for various mitigation and recovery strategies.

Common sense provides that partisanship has no place in emergency response. Indeed, as one team of academics put it, the "...pandemic is an unprecedented crisis... one so severe that many expected bipartisan sentiments to replace partisan animosity, if even for a short time. Unfortunately... that is not the case" (Fowler, Kettler, and Witt 2021). Republicans generally went one way and Democrats the other, each side adopting a particular interpretation of the danger at hand, the extremity of that danger, and the efficacy and political motivation of responsive policies. As a result, the political party in power where one lives played – and continues to play – an important role in determining how well one weathered the pandemic's health, economic, and social effects.

In the absence of national leadership, initial and ongoing efforts to prevent the virus's spread first fell to local leaders, many of whom acted quickly to stem the spread of COVID-19 in their communities. Local activity then slowed as state governors issued a flurry of emergency executive orders that often curtailed local authority over public health, business practices, school policies, and various others with pre-emptions, mandates, and even threats and penalties for noncompliance (McDonald, Goodman, and Hatch 2020). Although all states issued emergency orders, it soon became clear that governors' party affiliation often determined their intent (e.g., VanDusky-Allen and Shvetsova 2021). Republican governors tended to oppose mandated mitigation strategies, such as masking, distancing, school and business closures and other limitations, stay-home orders, and so forth, and so they tended to limit public health officials' and local governmental authority to act in these areas. Democratic governors prioritized controlling the spread of COVID-19, which they sought to achieve through various mandates, or by empowering localities to impose stronger than state requirements, when necessary.

Unfortunately, partisanship continued to drive pandemic policy after state legislators entered the fray, and oftentimes with greater stringency.<sup>1</sup> As a result, a retrospective look at states' response to the pandemic and their effects (as well as the outcomes of those efforts)<sup>2</sup> through 2021 reveals a clear bifurcation along party lines (Quinton 2020) with few exceptions. Fueling the ongoing divide is the politicization of individual mitigation and recovery strategies, for which the conservative media, GOP leaders, and groups like the American Legislative Exchange Council bear much of the blame. These groups continued their pre-COVID attack on cities by, among other things, framing local mandates, such as masking, shut-downs, and now vaccine requirements and the like, as threats to civil rights and liberties, or even a "liberal plot" to strip Americans of their economic security, parental choice, and various rights and freedoms (ChangeLab Solutions and Local Solutions Support Center 2021; Leonhardt 2021).

State leaders' willingness to target their own localities is both disheartening and, given the pre-pandemic trend, sadly familiar. Florida's Governor DeSantis stated in January 2021, "We will categorically not allow any local government to lock people down...kick anybody out of their job...[or] fine individual Floridians" (CBS Miami 2021). This type of messaging not only pits citizens against leaders working to contain the

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1 The Local Solutions Support Center has maintained a series of newsletters covering the intergovernmental response to COVID-19 in their "At a Glance: Preemption and COVID-19" webpage: <https://www.supportdemocracy.org/the-latest/at-a-glance-state-and-city-action-on-covid-19>. Note, too, that many conservative state leaders are taking advantage of the distraction that the pandemic has provided by attempting to pass policies that constrain individual freedoms and protections and/or limit local authority in areas unrelated to the pandemic. See "Under the Cover of Covid: A Survey of 2020-2021 State Preemption Trends." <https://www.supportdemocracy.org/the-latest/under-the-cover-of-covid>.

2 Indexing 17 health, economic, and mitigation indicators from January 2020 through April 2021, a team of researchers out of the University of Oxford ranked the states according to stringency of COVID-19 response. Nine of the ten least stringent states were governed by a Republican trifecta (one party governing both chambers of the legislature and governor's seat) following the 2020 election. Of the most stringent, seven were held by a Democratic trifecta and three were divided (two with Republican governors and one Democrat) (Hallas, et al. 2021). The overall COVID-19 positivity rates for these two groups as of Dec. 11, 2021, show that the least stringent states' rate was 17,572 per 100,000 people. The most stringent states averaged 13,905 per 100,000, and the national average was 15,006 per 100,000. Further, COVID-related death rates are about 5.5 times higher in counties that voted heavily (60 percent or higher) for Trump in the 2020 election (Wood and Brumfiel 2021). Finally, according to the Kaiser Family Foundation, among those who had not been vaccinated as of October 2021, six in ten considered themselves Republican or leaning that way. The remaining forty percent was evenly divided between "pure Independents" and Democrats (Kirzinger, et al. 2021).

**“The political party in power where one lives played – and continues to play – an important role in determining how well one weathered the pandemic’s health, economic, and social effects.”**

virus, but it also encourages citizen resistance and outright defiance of COVID-related policies where they occur (e.g., Collinson 2021). At the end of 2021, at least 19 state legislatures, all Republican, had restricted the power of state and local public health officials, preventing them from safeguarding the public's health with, for example, masking or vaccination mandates (Goldstein 2021). Laws of this type, as well as others already planned for introduction in 2022 (Haddow 2021b), leave it to businesses and citizens, and occasionally local leaders, to do what feels right. As a result, many do nothing at all. When policies are adopted by local leaders in conservative areas, citizens interpret the effort as an affront to freedom. Moreover, some sheriffs have refused to cite violations. An Ohio sheriff's refusal to cooperate with a local mask mandate in August 2021 illustrates the point, as well as the successful conflation of conservative political messaging with pandemic policies: "The more you protect our God-given freedoms," one man commented on the sheriff's Facebook page, "the greater my respect for you. ... Please continue to defy tyrants who are trying to destroy our freedom" (Goldstein 2021).

The negative consequences of state hostility toward their localities, particularly when coupled with constraints on local power, were predicted long before COVID-19. These constraints can hinder and even stop the efforts of progressive localities in conservative states seeking to address historic and ongoing in-

equities and discriminatory policies in their jurisdictions. Many of these localities entered the pandemic already burdened by state preemption in a range of important policy areas, causing them to “start from behind in their response to the pandemic” (Haddow 2021a). For example, local governments in 21 states were preempted from helping low-income citizens and others access broadband services before the pandemic (Local Solutions Support Center and Institute for Local Self-Reliance 2020). This preemption prevented some local officials from helping low-income residents adapt to the movement of work, education, and many traditional services from in-person to online. Despite rather heroic efforts by school districts and others, an estimated 9-12 million kids still lacked internet access needed for remote learning in April 2021 (Lieberman 2021).<sup>3</sup>

Similar constraints in various aspects of business practices, housing, employment, budgeting, and many other policy arenas further affected local responsiveness. Making matters worse, the pre-pandemic legacy of intergovernmental hostility in many states made the pursuit of cooperative efforts difficult, and sometimes impossible, to achieve. Finally, the flurry of preemption laws that passed in the decade leading up to 2020 may have “chilled” local responsiveness where it might have occurred out of fear that it would “spark legal challenges or new preemption efforts at the state level” (Haddow 2021a).

The articles that follow deepen the discussion of the challenges presented above within the context of the pandemic through 2021. Each article is authored by a team consisting of one researcher and one advocate. Working together, these experts present research trends, as well as the conditions and needs commonly faced by those advocating



Photo by [Rob Olivera](#)

for change, unanswered questions, and avenues for future research.

Three articles examine recent challenges in Public Health, Housing, and Labor Policy. Jennifer Karas Montez and Francesca Weaks discuss the inequities in our nation’s health policies and outcomes, some of the structural conditions that drive those inequities, and how states have exacerbated health-related inequality by constraining local responsiveness during COVID. Emily Benfer and Rasheedah Philips present the complexities of local housing policy, the ways that housing insecurity has been heightened and addressed since the pandemic, and how state constraints on local authority complicate and impede local efforts to secure housing equity. Hannah Kuhn and Jaimie Worker discuss the pandemic’s impact on labor policy, how state interference in local labor policymaking perpetuates racial, gender, and economic inequities, and how local leaders and community groups are fighting to restore local labor policy authority.

<sup>3</sup> “One Wisconsin district is even using drones tethered to a power source on the ground to expand internet connectivity for families in rural areas” (Lieberman 2021).

The remaining three articles examine the state-local power struggle, the impact of state interference on Civil Rights and Discrimination and Local Authority, and how local leaders are Pushing Back. Ida Eskamani and Donald Haid-er-Markel present state preemption as a tool being deployed by state leaders in the nation's ongoing culture wars, and how state preemp-tion is being used to erode civil rights and fos-ter discrimination. Richard Briffault and Kim Haddow deep-dive into state legislative ac-tivity aimed at limiting local authority in 2020 and 2021. The authors introduce new areas of state preemption and offer structural and political explanations for why the preemption trend is worsening and what it means for the day-to-day operation of cities. Finally, Sabrina Adler and Nestor Davidson introduce sever-al ways that local leaders are pushing back against state interference. The pandemic pre-sented local leaders with conditions that re-quired action, and some leaders, facing state constraints, chose to resist them.

## About the Author

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Lori is an Associate Professor of Politics and Government at Illinois State University. She graduated with a Masters of Public Administration, and a Doctorate in Political Science from the University of Tennessee-Knoxville. Her teaching centers on subnational politics and policy and public administration and her research interests currently include the intergovernmental arrangement, state preemption, and how, despite their legal subordination in the federal system, localities strive to meet their needs.

Lori has published in various journals and is the author of *Renegade Cities, Public Policy, and the Dilemmas of Federalism*. She has presented her work in meetings and conferences across the nation and has been interviewed by national and regional media outlets including *The New York Times* and *The Wall Street Journal*. Her next book, *Built for the Middle Class*, is scheduled for publication later this year.

Lori received support for this project from the Robert Wood Johnson Foundation.

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## Public Health

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Residents of some U.S. states live longer and enjoy more years in good health than do residents of other states.

For example, New Yorkers live 80.5 years on average and spend 68.5 of those years in good health, while Mississippians live 74.7 years and spend 64.9 years in good health (U.S. Burden of Disease Collaborators 2018). Such striking disparities between states have intensified in recent decades.

Under the surface of those growing disparities exists a hyperpolarization in states' policy contexts (Grumbach 2018). Some states have invested in their residents' well-being in recent decades. For instance, New York participated in Medicaid expansion, increased tobacco taxes, raised the minimum wage, provided earned income tax credits (EITC), enacted paid family leave laws, and much more. In contrast, some states have invested little. Mississippi did not participate in Medicaid expansion, retains a low tobacco tax, and does not provide a minimum wage, paid or unpaid leave, or EITC. These types of economic and health policies have consequences for public health, particularly for women, persons of color, and low-income adults.

Partisan hyperpolarization has metastasized in recent decades, affecting local power and policy-making. States like Mississippi enacted preemption laws prohibiting local governments from investing in residents' health and well-being by raising the minimum wage, mandating unpaid or paid leave, and much more. Tragically, local areas with the highest rates of disease, disability, and death tend to be located within states that prohibit local governments from doing much about it. The implications for public health are profound. States engaged in this type of preemption generally have low life expectancies and they made the smallest gains in life expectancy in recent decades (Montez 2018).

This type of state preemption limits people's opportunities for obtaining the social determinants of health. Two key determinants are income and stable employment, yet many states preempt localities from raising the minimum wage or mandating family leave. The public health impact of such preemption extends well beyond workers. One study estimated that, in the 25 states preempting localities from raising the minimum wage, over 600 infants die each year because of that preemption (Wolf, Monnat, and Montez 2021). Higher wages bring benefits for pregnant women, such as better nutrition and economic circumstances, which improves birth outcomes.

The COVID-19 pandemic ushered in a wave of preemption laws targeting public health. In 2020, some states issued executive orders barring local governments from enacting mitigation policies stricter than those of the state. Mississippi is an example, whose order required cities like Tupelo and Oxford to rescind mitigation measures they had already put in place (Davidson and Haddow 2020). In 2021, some states took more drastic measures, passing laws that permanently removed local authority to make vital health decisions for their communities. As of June 3, 2021, 10 states (Arizona, Florida, Indiana, Kansas, Missouri, North Dakota, Ohio, Utah, and West Virginia) passed laws limiting local authority to address public health emergencies. For example, Florida passed SB 2006, preempting local authority to close businesses or restrict in-person schooling, except under a hurricane emergency, and limited local emergency orders to 7-day increments. Several of the new laws are based on the *Emergency Power Limitation Act* promoted by the American Legislative Exchange Council (ALEC 2021), which continues its assault on state and local democracy.

One of the greatest impacts of preemption policies since the pandemic began is the heightened mistrust in many communities toward policymakers. Many policymakers made decisions that put their most vulnerable communities at risk of being exposed to the virus. Many sowed doubts about the CDC's recommendations on how to mitigate the spread of the virus. And many did so because of partisan politics, corporate pressures, and an unwillingness to address health equity for residents in the United States. As defined by the Robert Wood Johnson Foundation, health equity means "everyone has a fair and just opportunity to be as healthy as possible," which includes ensuring that there are public health policies and programs centered around the specific needs of communities that are most impacted by the disparities (Braveman, et al. 2017). At a time when many Americans lost loved ones, watched



others become seriously ill, and experienced their own long-lasting health effects from COVID-19, state preemptive policies are demoralizing and do not bode well for the future of the nation's health.

The pandemic has also highlighted existing racial health disparities and racism. Preemption laws weakening local public health authority to respond to the pandemic arose predominantly in southern states, with severe consequences for historically excluded communities. There are clear instances of state preemption laws that restrict communities of

color and/or communities primarily represented by minority elected officials from passing public health laws and policies. In one high profile case from summer 2020, the governor of Georgia sued the mayor of Atlanta over an executive order that she issued to protect the community she serves. The disproportionate death toll from COVID-19 among historically excluded communities is staggering. One study reported that the 20 percent of U.S. counties that are primarily composed of black individuals experienced 52 percent of COVID-19 diagnoses and 58 percent of COVID-19 deaths nationally (Millet, et al. 2020). Another study reported that, between 2018 and 2020, life expectancy declined by 3.25, 3.88, and 1.36 years among black, Hispanic, and white populations, which erased the progress made since 2010 in closing the black-white gap in life expectancy (Woolf, Masters, and Aron 2021).

Throughout the pandemic, grassroots and advocacy organizations across the country have come together to continue to lift the voices of, and fight for, those in the most vulnerable situations and communities. The growing acknowledgment of inequity, racism, and fear in the country drove many to address these public health equity issues by fighting preemptive COVID-19 policies that put communities at risk. Federal legislation, such as the *Families First Coronavirus Response Act* and the *American Rescue Plan* were also critical supports,



especially for vulnerable communities receiving few pandemic protections from their state or local governments. As the country recovers, a rigorous evaluation of pandemic-related policies, and state and local government actions more generally, should be conducted. An evaluation of the benefits or harms of these policies can inform responses to future pandemics and become part of a toolkit for improving public health, reducing health inequities, and achieving the *Healthy People 2030* goals.

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Jennifer Karas Montez is a Professor of Sociology, Gerald B. Cramer Faculty Scholar in Aging Studies, and Director of the Center for Aging and Policy Studies at Syracuse University. Her research investigates trends in population health since the 1980s and the growing influence of U.S. state policies and politics on those trends. A major focus of her work is understanding why the trends are most worrisome for women, for people without a college degree, and for those living in Southern and Midwestern states. Her research has been featured in outlets such as *The New York Times*, *BBC*, *NPR*, and *CNN*. It has been funded by the National Institute on Aging, Robert Wood Johnson Foundation, National Science Foundation, and an Andrew Carnegie Fellowship.

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Originally from North Carolina, she graduated from North Carolina Agricultural and Technical State University with a dual Bachelor of Science in Biology and Secondary Education with a minor in Chemistry. She holds a dual Masters in Health Science with a concentration in Health Administration and Community Health from Towson University and holds her Doctorate in Public Health with a focus in Health Policy & Management from Morgan State University.

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# Housing Policy

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The COVID-19 pandemic exacerbated a preexisting affordable housing crisis and underscored the deep injustice and racial disparity inherent in eviction systems across the country.

In June 2020, 10.4 million adults and 1 in 5 families with children were behind on rental payments, placing them at risk of eviction (Center for Budget and Policy Priorities 2021). This housing insecurity falls unequally across race, class, and gender lines: Black women with children are more likely to be evicted, Black and Latinx households are the most likely to be rent burdened (defined as paying more than 30 percent of their income toward rent), and substandard housing is most prevalent in Black communities (Hepburn, Louis, and Desmond 2020). The COVID-19 pandemic only widened these disparities, putting even more Black and Latinx renters at risk as systems of racial violence converge (Philadelphia Eviction Prevention Project 2021).

As the United States emerges from the pandemic and remaining eviction protections expire, communities across the country will be forced to confront the eviction, affordable housing, and debt crisis that—without intervention—will continue to devastate historically marginalized communities. The lack of renter supportive laws coupled with significant rental debt will only exacerbate existing racial segregation, health inequity, and disadvantage among historically marginalized groups in the aftermath of the pandemic (Himmelstein and Desmond 2021).

The federal government appropriated over \$45.6 billion in rental assistance to help property owners recover rental debt and 70,000 housing choice vouchers through the American Rescue Plan Act (U.S. Department of Housing and Urban Development). The success of these interventions will depend largely on local governments' ability to both distribute funds to the highest risk communities and to prevent source of income discrimination (Yae, Foley, Russel, and Orozco 2021). In the wake

of the pandemic, historically marginalized groups who were the hardest hit by job and wage loss will have the greatest need for rental assistance and vouchers, and the highest barriers to accessing those programs. They will also be the most likely to face discrimination, despite the Fair Housing Act prohibition of discrimination in housing on the basis of race, disability and familial status.

Because housing is a very localized issue, municipal government is often best situated to respond to housing needs. Additionally, community engagement is most effective on the local level and necessary for the successful inception, implementation, and enforcement of interventions. When municipalities are given the flexibility to go beyond state-level protections, multi-prong interventions can be adopted to prevent eviction and increase affordable housing. For example, Philadelphia's home rule charter protects the city from state interference (Drafting Committee 2020). While the city's home rule status is challenged annually at the state level through preemption legislation, it remains intact and provides the local control necessary to respond to the recent acceleration in eviction risk.

Since 2015, eviction filings in Philadelphia communities of color accounted for nearly 81 percent, or 90,500, of filings. Despite eviction moratoria, this trend continued during the pandemic as landlords filed to evict over 4,500 tenants, mostly in communities of color (79 percent). In response to the growing threat of housing displacement, the city adopted a local eviction moratorium, a stay on "lockouts," and a mandatory eviction diversion program. The Philadelphia Eviction Diversion Program (EDP) was created by the Philadelphia City Council in September 2020 (Drafting Committee 2020). The program was extended in April 2021 by the Municipal Court of Philadelphia (First Judicial District of Pennsylvania Philadelphia Municipal Court 2021). The Eviction Diversion Program is comprised of multiple partners working together to help support landlords and tenants in accessing rental assistance, case management, mediation, access to legal representation, and other supportive resources aimed at preventing eviction. When the Municipal Court of Philadelphia extended the program, it required landlords to enroll in the EDP and apply to PHLRentAssist, Philadelphia's online resource for rental assistance, before filing an eviction for nonpayment, thereby ensuring disbursement of rental assistance to high risk households.

**“As the U.S. emerges from the pandemic and remaining eviction protections expire, communities across the country will be forced to confront the eviction, affordable housing, and debt crises that – without intervention – will continue to devastate historically marginalized communities.”**

Early results indicate that this program is effective at preventing displacement: 86 percent of cases either reached an agreement or consented to further mediation (Allen 2020). Similarly, the long-running HomeStart Eviction Prevention Program in Boston achieved long-term housing stability for its clients, preventing 400 evictions a year (HomeStart 2021). Remarkably, 95 percent of these clients have not been evicted for nonpayment of rent four years later. The program now runs concurrently with Massachusetts' COVID-19 Eviction Diversion Initiative, which offers voluntary mediation and access to a variety of rental assistance programs (Mass.gov 2021).

Cities and states across the country have also adopted tenant right to counsel and expanded legal representation measures in response to the eviction crisis. The overwhelming evidence demonstrates the benefits of tenant right to counsel in eviction cases (Stout 2018). In Philadelphia, 96 percent of represented tenants avoided an involuntary move or eviction, saving the city an estimated \$45.2 million in associated costs (Stout). Due to the success of these interventions, the state's legislature is considering a statewide right to counsel in eviction measure, demonstrating the value of local innovation to the state as a whole. Similar

outcomes were seen in New York City, where 84 percent of represented tenants avoided eviction, and are expected in additional states and cities including Connecticut, Washington, Maryland, San Francisco, Boulder, Baltimore, Denver, Louisville, Newark, Cleveland, and Seattle (Stout).

The ability to secure housing equity across communities will largely depend upon states' commitment to empowering local leaders to implement policies that directly target local challenges and conditions. However, the vast majority of states restrict local governments' efforts to adopt best practices for eviction prevention, affordable housing growth, and rental debt relief (Briffault, et al. 2020). For example, two states, Indiana and Texas, preempt municipalities from addressing source of income discrimination locally, and nine states preempt municipalities from adopting inclusionary zoning. Another 30 states prohibit local governments from adopting rent caps (Local Solutions Support Center). These restrictions strip local communities and individuals of the benefits of antidiscrimination laws, rent control, and inclusionary zoning. These benefits include workforce retention, material and social supports, higher educational attainment, and long-term health benefits due to healthier environments and amenities (Beach 2015).

As the country begins the long road to recovery from the pandemic, and local jurisdictions adopt alternatives to eviction, such as community and court-based eviction diversion, it will be important for researchers to assess outcomes and determine which combinations of interventions achieve the goal of housing stability. It will also be important to understand which landlords participate in these programs and which landlords continue to use the eviction system to drive fees and collect rent. For instance, did small, "mom and pop" landlords who provide naturally occurring affordable housing benefit from rental assistance? Or did they elect to evict tenants? Researchers can help to define and identify the small landlords in their cities, the percentage of affordable housing they provide, and the impact of stronger tenant protections on their ability to continue to provide affordable housing. Such research will help to pinpoint and tailor solutions to address the specific issues facing each community. Data that helps to define the nuances and interactions within the housing market and the eviction system can inform legislators who have been reluctant to enact tenant protections that would help stabilize renters beyond the pandemic emergency. In addition, research that incorporates the role of community-based engagement, response, and outreach could encourage state policymakers to support local communities in responding directly to the crisis.



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### Emily Benfer

Emily Benfer is a visiting professor of law and public health at Wake Forest University School of Law. Her clinical practice and research focus on the social determinants of health, racial inequity and poverty, with a focus on laws and policies regulating eviction, housing conditions, stability, and access. Throughout the COVID-19 pandemic, she has been a principal investigator in a study of federal, state, and local eviction moratoria and pandemic mitigation policies that address housing stability.

She has testified before Congress and U.S. Civil Rights Commission Advisory Committees on these topics. Her work has been published in law reviews, peer-reviewed journals, and national media outlets, including *Harvard Environmental Law Review*, *American Law Review*, *Harvard Law & Policy Review*, *Yale Journal of Health Policy, Law, and Ethics*, *Health Affairs*, *Journal of Legal Medicine*, *American Journal of Epidemiology*, *New York Times*, *NBC Think*, *Newsweek*, *Boston Globe*, and *Washington Post*.

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## Labor Policy During COVID-19

Hannah Kuhn, *Stand Up Nashville*  
Jaimie Worker, *Economic Policy Institute*

During the COVID-19 pandemic and subsequent economic recession, state policymakers had the opportunity to remove barriers and support local solutions to further racial, gender, and economic equity. However, even where the federal government failed to provide an adequate floor for workers to thrive, state interference in local decision-making continues, eroding opportunities to strengthen labor policies that level the playing field between workers and employers.

State legislatures, majority white and male, are blocking the votes and voices of local leaders and communities. Often, these are communities where women and people of color, especially Black and Brown people, are disproportionately represented and would benefit from policy changes that support families trying to make ends meet. State interference in these communities is more prevalent in the South and is rooted in a history of anti-Black racism and the ongoing influence of white supremacy in policies, practices, and institutions today (Blair, et al. 2020). Relatedly, state interference is an evolution of the Southern Strategy that has been used to specifically target Black and Brown workers and divide and conquer the working-class majority. In this essay, we highlight trends across the country as they relate to local governments' ability to address labor-related needs during the COVID-19 public health emergency and economic recession, how state and local leaders are responding to help or hinder these efforts. We then suggest opportunities for future research that might shed light on the impact of preemption labor policies and advocacy strategies to defend and strengthen democracy.

Examining how racism, sexism, and xenophobia shapes inequities helps to support the development of policy solutions that target people who are most impacted, while also

benefiting all workers and their families. Black, Indigenous, Pacific Islander, and Latinx people have experienced the highest death tolls from COVID-19 (APM Research Lab 2021). People of color are also more likely to work in frontline occupations and industries deemed essential during the pandemic. Frontline occupations require in-person interaction at places like health care facilities, childcare and social service providers, grocery stores, and food production sites (Rho, et al. 2020). In addition, Black and Latinx workers, particularly women, tend to be paid less, have fewer workplace protections, and are also less likely to receive paid sick leave to take care of themselves or loved ones due to occupational segregation (Gould and Wilson 2020). These communities would disproportionately benefit from strengthened labor policies in areas where local authority is limited by state interference.

### **State Interference Undermines Local Authority to Address Health, Safety, and Workers' Rights**

State interference in local policy-making in its present incarnation is part of a model bill tactic led by the American Legislative Exchange Council (ALEC), as well as trade associations and corporate interest groups such as the U.S. Chamber of Commerce (ALEC 2021). Conservative state legislatures, especially those with super majorities, are using ALEC's model bill to limit local decisions they oppose as part of an anti-regulatory agenda. Rather than empower local leaders to cope with the COVID-19 public health emergency, conservative states imposed new restrictions on local decision making that further compromised the health and safety of workers and communities while also limiting employers' responsibility and accountability. For example, corporate immunity bills provided legal protections for employers who fail to provide sufficient health and safety protections for workers and consumers at their establishments (National Employment Law Project 2020). State policymakers in many states limited the emergency powers of governors and local public health authorities to restrict business operations or require masks without legislative approval (The Network for Public Health Law and National Association of County & City Health Officials 2021). While many communities have passed or strengthened paid sick day policies since the start of the COVID-19 pandemic, others are prevented from taking similar action at the local level (Peters, et al. 2020). State interference has been used offensively to such an extent that local elected officials shy away from addressing their cities' problems for fear of new restrictions and even punitive measures that stifle local democracy and decision-making (Briffault 2018).



### **Building Local Solutions for Local Power**

In response to state interference in local decision-making, as well as the urgent needs created by the COVID-19 crisis, a growing movement of local leaders and community members are demanding key local decision-making powers to be immediately restored. This includes demands for local resolutions and state legislation to repeal preemption. In 2019, preemption of increasing minimum wage in Colorado was successfully repealed (Huizar 2019). More recently, legislation to repeal policies that interfere with local decision-making regarding raising wages and improving benefits was introduced in Florida, Kentucky, Idaho, Oklahoma, Pennsylvania, Texas, Tennessee, and Virginia, among other states (Haddow 2021).

In many places, diverse and powerful coalitions of community organizations, faith groups, unions, and local elected officials are joining together to create a new conversation around the importance of local decision-making and democracy. For example, led by Tennessee's grassroots community organization, Stand Up Nashville, the We Decide Tennessee Coalition formed at the onset of COVID-19 and joined with 30 local elected officials to demand that the governor



restore key local powers in response to the COVID-19 crisis, including paid sick leave, local hiring, and minimum wage policies (Stand Up Nashville 2020). The coalition has quickly grown to be one of the largest in the state because of widespread, rampant restrictions on local decision-making.

It is also critical that local leaders and communities are not hindered by state interference during recovery, and are permitted to use federal resources for state and local relief to support paid sick leave, premium pay for front-line workers, worker health and safety, and protection from retaliation.<sup>1</sup> In addition, workers and communities most impacted by the public health emergency and recession must be prioritized when allocating federal resources to support critical services such as affordable child care, long-term care, and resilient infrastructure. Federal intervention is also needed to support workers' right to organize and set the bar for family-supporting wages through federal legislation such as the Protecting the Right to Organize Act of 2021, even as workers continue to build power in their communities (Wall and Madland 2021).

## Conclusion

State interference that undermines local authority touches on a wide range of racial, social, and economic justice issues. As communities are organizing for better wages and working conditions, transgender rights, municipal identification cards, preventing discrimination against people with arrest and conviction histories through "Ban the Box" policies, or using state and local resources to invest in their communities, state legislators are limiting local leaders' ability to address crises at the local level. For some lawmakers, preemption has become a way to silence democratic movements.

Future research should continue to analyze preemption trends to identify how interference in local decision-making contributes to economic inequality and deepens racial and gender disparities.<sup>2</sup> Additional state-specific analysis might examine how preemption of larger cities' policies that support affordable housing create harmful ripple effects for communities across the state. Research in this area might also analyze the conditions that supported successful repeal of harmful preemption to date, and how to proactively guard against harmful preemption of local authority, for instance, by strengthening democratic processes for public transparency, participation, and accountability.

<sup>1</sup> See model policies at <https://www.nelp.org/publication/local-governments-can-improve-workplace-standards-frontline-workers-covid-19-beyond/>.

<sup>2</sup> The Economic Analysis and Research Network (EARN) expects to release a regional analysis of preemption practices in Midwestern states in 2021.

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Hannah Kuhn is a freelance cellist and organizer from Tennessee. Currently, Hannah serves as the Lead Organizer on the staff of Musicians Union Local 6 of the American Federation of Musicians. Before joining the Local 6 team, Hannah worked as the Organizer for Stand Up Nashville from Summer of 2020 to Fall of 2021. While living Chattanooga, Hannah served as AFM Local 80's Delegate to the Local Area Labor Council and served as Record Secretary on the Executive Committee from 2018-2021.

### Jaimie Worker

Jaimie Worker is the Senior State Policy Coordinator for the Economic Analysis and Research Network (EARN) at EPI (Economic Policy Institute) where she focuses on building an inclusive, worker-centered economy through state and local policy change and rigorous research. She is committed to ensuring that racial and gender equity is a public policy priority and that the leaders of communities impacted by structural racism and oppression are key collaborators in developing public policy.

Prior to joining EPI, Worker was a senior policy analyst at Community Change, where for more than six years she worked on racial and economic justice campaigns focused on jobs and public investment in partnership with grassroots organizations. Previously, she worked with the New Organizing Institute, as well as the Restaurant Opportunities Center of Michigan, supporting workplace organizing and policy campaigns to win improved working conditions in the restaurant industry. She holds an M.S.W. from University of Michigan School of Social Work and a B.A. in Sociology from the University of Michigan. Worker is the proud daughter of immigrants and hails from Detroit, Michigan.

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# Civil Rights and Discrimination

Ida V. Eskamani, *Florida for All*  
Donald Patrick Haider-Markel, *University of Kansas*

Since 2015, progressive movements have faced increasing state and national government resistance to a variety of civil rights and social justice efforts being pursued at the local level.

Because the U.S. Constitution grants no legal or policy authority to localities (Goelzhauser and Konisky 2020), local governments exist and create policy with the consent of the state in which they exist. Some states grant local governments broad powers under home rule charters, while others significantly restrict the policymaking powers of local governments (Briffault 2018). Among states that have previously granted local governments extensive policymaking authority, some are enacting new laws that preempt or overturn local measures, especially those focused on social justice issues such as LGBTQ+ rights, worker protections, policing reforms, and protections for immigrants (Hicks, et al. 2018).

Scholars have noted the rising trend in state preemption and remarked on how it tends to reflect the increasing divides in America: Urban versus rural; Democrat versus Republican; white versus non-white; and more educated versus less

educated (Briffault 2018). Levendusky notes that these divides have only widened as Americans have increasingly sorted themselves geographically into partisan and ideological bubbles (2009), a phenomenon that helped Republicans in 2010 to realize their biggest gains within state legislatures (after redistricting) and state executive offices in decades (Hicks, et al. 2018).

The increasing use of preemption legislation has often been driven by corporate and industry interests seeking to secure larger profits. With the help of receptive state leaders, these entities work to repeal or prevent costly local regulations and labor laws that promote racial, economic, health, and social equity. This trend continues. In Florida, preemption of local clean energy goals, earned sick time, rent stabilization, vacation rentals, public works projects, cruise line regulations, and occupational licensing provide clear examples (2021 Preemption Tracker). When successful, these efforts disproportionately impact Black, Indigenous and people of color (BIPOC) communities and low-wage workers.

State preemption authority is now being used across the country for purposes of partisan policy control, often targeting local and statewide civil rights and nondiscrimination policies. Many of these recent efforts have specifically targeted Black and LGBTQ+ Americans, and the intersections therein.



Why all the conflict? The basic dilemma and opportunity offered by federalism as practiced in the U.S. is that local, state, and national governments often have shared policymaking authority in a variety of issue areas, such as education, labor relations, and health care. Shared authority can lead to conflict when different political parties control competing levels of government (e.g., Democrats control a city government within a Republican-held state). The evolving nature of shared authority has led political scientists to characterize federalism in a variety of ways over time, most recently as fractured or fragmented federalism (Taylor, Lewis, and Haider-Markel 2021).

The state preemption of local government public health rules that many of us experienced during the COVID-19 pandemic provides one example of fragmented federalism. Local governments' policies to protect minority communities, such as anti-discrimination laws based on sexual orientation or gender identity, provide another example, as Republican legislatures and governors have increasingly preempted these laws, and sometimes adopted legislation to prevent their adoption in the future (Taylor, et al. 2021).

Rapidly growing cities predominantly governed by Democrats have seen more of their policy decisions overridden by Republican legislatures and governors than other types of localities. In these cases, conservative legislatures have repealed and preempted local decisions on everything from voting laws and police funding levels to policies on homelessness, energy, and zoning, to fees charged to developers. In the City of Key West, Florida, the Republican-controlled state legislature even overturned three local ballot initiatives barring giant cruise ships from docking in the small community (Klas 2021).

Many of these preemption laws reflect the nation's so-called "culture wars," involving anti-protest laws, transgender athlete bans, preemption of local mask mandates, and other COVID-related public health measures

(Brownstein 2021). In 2021, we also saw new state legislation banning public schools from teaching Critical Race Theory in attempt to restrict educators' ability to teach students about the history of racial injustice in the U.S. (Schuessler 2021). Witnessed in "red" states, many of these preemption laws represent a backlash to gains made by historically marginalized communities, and an effort to regain and centralize political power by Republican legislators and governors.

For example, following historic protests for racial justice and policy change to invest in essential services and reform police practices at the local level, conservative state legislatures passed anti-protest laws across the country. Republicans proposed at least 100 anti-protest bills in 33 states from June 2020 to March 2021 (Benavidez, et al. 2021). The intent of these laws is to create new broadly defined misdemeanors and felonies designed to criminalize and disenfranchise protesters, waive sovereign immunity for municipalities, protect confederate monuments, and block cities from reallocating funding from law enforcement to other public safety measures.

Similarly, in 2021, state legislatures across the country introduced more than 100 bills to restrict and erase gains made by the transgender community (Feliciano 2021), including preempting school districts' inclusive policies for LGBTQ+ student athletes (Levin 2021). On June 1, the first day of Pride Month, Florida became the eighth state to target trans athletes, specifically prohibiting transgender girls from playing school sports (Levin 2021). As historically marginalized communities gain governing power and threaten historic power structures, conservative-led legislatures are working overtime to reverse those gains and consolidate power. These measures, along with the recent rise in state voter suppression laws and efforts to stifle ballot initiatives, collectively curtail efforts to advance civil rights and prohibit discrimination.

With partisan political divides showing no signs of decreasing, and Republican structural advantages in redistricting and elections (Goelzhauser and Konisky 2020), state preemption of local laws seeking to reduce inequality will likely continue and may even increase. Progressive advocates in some states might be able to overcome the onslaught of preemption by targeting state constitutional reform, especially in states that allow for direct democracy. However, reducing state preemption of local authority will most likely come when greater attempts are made at influencing state legislative races, registering voters, and increasing diverse representation in state legislatures by turning out voters from low-participation communities.

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Ida V. Eskamani is a first generation Iranian-American and the daughter of working people. Born and raised in Orlando, Ida earned dual degrees in Political Science and Sociology as an undergraduate, as well as a Masters in Public Administration from the University of Central Florida. It was at UCF where Ida cut her teeth in advocacy and organizing.

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She currently serves as Legislative Affairs Director for Florida for All, a statewide coalition of community organizations, including Florida Rising and Florida Immigrant Coalition. In this role she leads legislative efforts and coalition building with an emphasis on expanding democracy, criminal justice reform, and community wealth, as well as efforts to protect local democracy from corporate and partisan misuse of preemption.

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# An Attack on Local Authority

Richard Briffault, *Columbia Law School*  
Kim Haddow, *Local Solutions Support Center*

In the 2021 legislative sessions, Republican state lawmakers introduced a glut of preemption bills aimed at giving states more power over the administration of local government operations, signifying a new, deeper level of state interference into the inner workings of cities and counties.

The use of state preemption to limit local policymaking intensified after the GOP made extensive gains in 2010 midterm elections. Many of those preemption laws were driven by an industry-backed anti-regulatory agenda intended to block a broad range of local initiatives – from minimum wage hikes to fracking bans. In the 2020 midterms, the GOP again made gains in state legislatures. The party now controls 60 of the 99 state legislative chambers (National Council of State Legislatures 2021).

Entering the 2021 legislative sessions, Republican state lawmakers used their power to respond to the events of 2020 – the pandemic, the racial justice movement, the presidential election, and what they perceived to be

local government overreach (Brownstein 2021) – by introducing a surge of preemption bills aimed at appropriating the machinery of local government operations. As a result, some states now dictate how local elections are run, determine the process for issuing local public health orders, decree how much local governments can cut or shift funds in their budgets for policing, and threaten to give state actors the authority to intervene in local criminal cases. Combined, these and other laws constitute an unprecedented state intrusion into the day-to-day management of cities and counties.

## Voting and Elections

In 2021, state preemption came to local election administration. The fundamentals of election law – registration, whether and what kind of ID may be required, availability of early and absentee voting – are set by the states, but elections are actually run by local officials at the county or city level, who conduct registration and balloting processes (Briffault 2020). The successful administration of the 2020 election is a testimonial to the efforts of hundreds of thousands of local officials who – despite facing an unprecedented pandemic – managed to run a virtually fraud-free process that resulted in a record number of Americans casting ballots.

As part of that process, many local election officials, particularly in urban areas, used the discretion they enjoyed under existing laws to make it easier for Americans to vote under pandemic conditions. This included sending absentee ballot applications to all eligible voters; creating mobile voting units; authorizing curbside and drive-thru voting; establishing 24-hour voting; and, to deal with the problems posed by an unreliable postal service, establishing drop-boxes in convenient locations throughout their communities where voters could return their absentee ballots (Corasaniti 2021a; Izaguirre 2021; Weber 2021; Corasaniti 2021b). Rather than reward this initiative, multiple red state legislatures moved to preempt local authority to promote voting and to punish local election officials trying to do the work of democracy.

These preemption measures have taken two forms (States United Democracy Center 2021a). First, states have targeted the democracy-enhancing measures local officials took last year. Arizona, Florida, Georgia, Iowa, and Kansas now prohibit sending absentee ballot applications to voters who do not request them. In addition, Florida, Georgia, Iowa, and Indiana have imposed new limits on the number, location, or availability of ballot drop boxes (Brennan Center 2021). As a result, for example, whereas Georgia provided 94 drop boxes in the four counties of metropolitan Atlanta in 2020, those counties could provide, at most, 23 drop boxes today. Additionally, local officials provided 24-hour access to drop boxes in 2020; however, the new law requires that drop boxes be positioned indoors, in government buildings and early voting sites, thus making them unavailable to voters after business hours. Mobile voting centers, which were provided by Fulton County in 2020, are now prohibited unless the governor authorizes their use (Corasaniti and Epstein 2021).

Iowa now limits the discretion of local officials to establish satellite polling stations (Gruber-Miller 2021). A pending Texas bill – which Democrats managed to block by a parliamentary maneuver in the regular legislative session, but which will be taken up in a special session – would outlaw 24-hour voting, drive-thru voting, and sending absentee ballot applications to voters who have not requested them (Weber 2021). Finally, five states have barred or tightly limited the ability of local election administrators to accept non-

**“Entering the 2021 legislative sessions, Republican state lawmakers used their power to respond to the events of 2020 by introducing a surge of preemption bills aimed at appropriating the machinery of local government operations. These and other laws constitute an unprecedented state intrusion into the day-to-day management of cities and counties.”**

partisan philanthropic donations for election expenses; such donations were critical in enabling some chronically underfunded election offices to meet the costs of running a pandemic election (Brennan Center 2021).

Second, states are now applying “punitive preemption” to election law by providing for the removal of local election officials and the criminalization of official actions deemed contrary to state code (States United Democracy Center 2021b). Georgia authorized the State Elections Board – now controlled by the Republican state legislature – to suspend and temporarily replace local election officials (Corasaniti and Epstein 2021). Local election officials who disobey guidance from the Iowa Republican Secretary of State are subject to fines of up to \$10,000 for “technical infractions” of the election law. The state also made it a crime for election officials to obstruct partisan poll watchers (Rakich 2021; Brennan Center 2021). Arkansas authorized the State Board of Election Commissioners to decertify local election officials and take over local election administration (Brennan Center 2021). Arizona made it a felony to modify an election-related date or deadline unless ordered to do so by a court (States United Democracy Center 2021b). A pending Texas bill, S.B. 7, provides for criminal penalties for election administrators and workers in fourteen situations that involve activities such as “counting ballots, dealing with mail in ballot applications, mailing early voting material...” and more (States United Democracy Center 2021b). Similar legislation is pending in other states.

## Local Prosecution

Preemption has opened another new front – local prosecution. Decisions concerning which laws to enforce, and how vigorously to enforce them, has long been left to locally-elected prosecutors. The rise of urban “progressive prosecutors” who have signaled a disinclination to prosecute certain offenses such as low-level drug crimes, sex work, or activities in connection with political protests, has triggered a state response (Murray 2021). In a measure blatantly targeting the current Philadelphia district attorney, Pennsylvania has granted the state attorney general concurrent jurisdiction to prosecute certain crimes, but only in Philadelphia, and only during the term of the current district attorney (Goldrosen 2021). No similar law has been enacted in any other state, but bills have been introduced in Indiana and Missouri that would either grant the state attorney general concurrent jurisdiction with the district attorney to prosecute certain crimes in certain cities, or to appoint a special prosecutor for crimes the district attorney has declined to prosecute as a matter of policy. The Ohio, Pennsylvania, and Tennessee legislatures have considered measures – introduced in the aftermath of the 2020 Black Lives Matter protests – that would give the state attorney general concurrent statewide jurisdiction over crimes related to protest and damage to monuments.

These measures differ from other uses of preemption in that they do not formally prohibit local action, which is what preemption typically does. But by giving state officials power with respect to a matter which has long been locally controlled, they preempt the discretion of locally elected and accountable officials to *decline to act* and so also effectively preempt local authority.



## Public Health

This year, in response to local public health actions taken during the pandemic, ten states passed bills to curtail local public health authority and orders (National Association of City and County Health Officials 2021). In five of these states, Florida, Indiana, Missouri, Montana, and Ohio, the power to approve the scope and duration of local public health regulations – even when there is no public health emergency – was taken by the state.

## Budgets

Three states, Georgia, Florida and Texas, responded to last year’s wave of racial justice protests by enacting local budget control bills to prohibit, hamper, or punish localities that attempt to reallocate and reduce police budgets. The Wisconsin legislature has sent a local budget control bill to the governor who is expected to veto it. A Texas bill punishes cities for reallocating police funds by freezing property tax rates and redirecting local sales tax dollars to state law enforcement (Engel 2021). In Florida, West Palm Beach Mayor Keith James opposed the state’s budget control bill saying, “This is the evisceration of home rule on steroids” (Palm Beach Post 2021).



Local officials and policy advocates are fighting back. Public health advocates and their allies in Alabama and Oklahoma successfully lobbied against bills that would have transferred local public health authority to the state. In Florida, the anti-preemption coalition weakened the state's "Combating Public Disorder" act (HB1) (2021) by having a section removed that would have allowed any citizen to challenge a local budget; now only elected officials have that authority.

Litigation is also being used to challenge these bills. In Florida, for example, advocates are challenging new voting restrictions (Calvan 2021). Florida's HB1 is also facing multiple suits in federal court (Ferdman 2021). And the City of Gainesville has taken steps to authorize a challenge to protect its local budgeting authority from infringement.

Long-term, there are two structural fixes that would slow or stop state interference with local authority. First, current administrations need to be elected out of office. In Colorado, now a blue trifecta state, minimum wage, firearm, and plastic bag ban preemptions have all been repealed in the past two years and the power to make policy in these realms has been returned to local governments. Second, home rule needs to be reformed. To that end, the National League of Cities partnered with the Local Solutions Support Center to provide local governments with a new vision and legal framework for updating and reforming home rule to meet the challenges of the 21st Century (Local Solutions Support Center 2020).

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# Local Governments “Pushing Back” in the Pandemic

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Although the precise division of authority between state and local governments varies from state to state, the response to the COVID-19 pandemic illustrated the important roles of both levels of government in protecting the public’s health in the face of major emergencies. For the most part, states and municipalities worked in tandem throughout the crisis, but frictions developed when state and local policies diverged. Much of this divergence, albeit not all, resulted from localities taking measures more protective of public health than their states. Where states sought to rein in localities, local officials found a variety of ways to push back, with varying degrees of success. Understanding the landscape of local government resistance to state interference during the pandemic sheds light on the state-local relationship in public-health policy and beyond.

## A Taxonomy of Local Resistance

Localities challenged state authority during the COVID-19 pandemic in ways that ranged from using the media to build public pressure to defying state mandates. We categorize this resistance into three broad categories: outright defiance, litigation, and advocacy.

### Outright Defiance of State Mandates

During the pandemic, many states imposed statewide mandates that set minimum public health standards that localities could build upon or that created ceilings that left no room for local variation. Other states failed to take action while also preventing localities from doing so, thus creating a policy vacuum. Under each state approach, there were local officials who refused to comply, setting their own local standards for public health. Masking and stay-at-home orders became critical focal points for such defiance. In Georgia, for example, Governor Brian Kemp issued an executive order explicitly voiding local mask mandates after an earlier order sought to bar localities from imposing any measures more protective of public health than the state. Atlanta Mayor Keisha Lance Bottoms, who had issued a local masking order a week prior, refused to capitulate, even in the face of a lawsuit filed by the governor, which was eventually dropped (Flynn and Ilati 2020). In California, Governor Gavin Newsom issued a curfew and then a strict stay-at-home order as cases surged in late 2020. Multiple sheriffs, from Sacramento to Orange Counties, refused to enforce these statewide orders, citing reasons ranging from a preference to educate to claims that compliance with the orders was a matter of personal responsibility (Slisco 2020).

### Litigation

Unsurprisingly, state-local frictions during the pandemic led to litigation, as in the Georgia-Atlanta masking conflict. Much of this litigation involved states suing local governments to enforce state mandates—not just in Georgia, but also in Arizona, New Mexico, Texas, and other states—but in some instances, as with a suit brought by the mayors of Tucson, Phoenix and Flagstaff over election procedures during the pandemic, local governments took to the courts themselves (Fischer 2020). Suits also involved private parties invoking state preemption (among a wide variety of other claims) as a defense against local public health measures. In Pennsylvania, for example, landlords sought (unsuccessfully) to override local pandemic-related tenant protections by arguing that the measures conflicted with state landlord-tenant law. The results across these varied cases were mixed, but courts did provide a venue for local governments to assert and protect local autonomy.

### Coalition building, legislative advocacy, and broader public advocacy

Beyond formal local policymaking in defiance of the state and litigation, local governments were hardly passive actors in the landscape of state-local public health law and policy. They advanced arguments for local authority through formal and informal coalitions, legislative advocacy, and broader campaigns to influence public understanding of the local role in public health. Local governments turned to associations, such as the state municipal leagues and organizations like the National Association of County and City Health Officials, all of which devoted significant attention to the pandemic. Localities and local officials also operated through informal collaboration, as when a group of Arizona cities pushed for specific state-level policies (Shapiro 2020). Some of this advocacy involved efforts to influence legislation and executive orders, but local officials also sought to raise the general profile of local public health authority and influence the state-level policy conversation through op eds, broadcast-news appearances, social media, and other channels of communication. This broader advocacy focused directly on public health as well as on broader areas of structure and policy—such as home rule and election law—and had the potential to influence the state-local allocation of authority.

“Local efforts changed the salience of public health measures and, in some instances, provided critical protection for public health.”

## Implications

Though much of the tension between local governments and their states over public health during the pandemic involved local governments seeking to protect public health at levels beyond the state, some instances involved skeptical local officials resisting state public health measures. The wide array of steps that local governments took during the pandemic to assert local policy priorities and resist state interference stands in contrast to a popular perception of localities as powerless in the face of state oversight. Through policy entrepreneurship, coalition building, creative use of local authority, and other tools, local governments asserted agency. Empirically, the extent to which these efforts materially altered the policy landscape and their attendant health outcomes remains unclear. However, at least anecdotally, it appears that local efforts changed the salience of public health measures and, in some instances, provided critical protection for public health. This echoes a broader and longer-standing dynamic in state preemption where the policy valence of state-local conflicts can be complex, but local governments find formal and informal ways to advance policy and the welfare of their constituents.

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