

HIS 300 - Applied History & Policy

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Applied History and Domestic Public Policy – Four Case Studies

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EXECUTIVE SUMMARY

- This paper examines four Applied History case studies connected to U.S. domestic public policy.
- Case Study 1: Gender Pay Inequality
- Case Study 2: Rideshare Regulation
- Case Study 3: American Exceptionalism
- Case Study 4: Plastics Policy

INTRODUCTION

This paper examines four Applied History case studies connected to U.S. domestic public policy. “Applied History is based on the premise that every contentious policy issue that we face today, whether it be a national issue like gun control or a local issue like the Block Island Wind Farm, has a history. Interrogating historical analogues illuminates the associated public policy and offers the possibility of better-informed and more effective policy solutions. In other words, historical understanding and methods can be ‘applied’ to current policy.”¹

There are several groups interested in this emerging field of Applied History. Early scholarship dates back to historian Peter Stearns’ article in the *Journal of Social History* in 1981.² More recently, at the University of London, the *History and Policy* network looks explicitly at the way history and historical analogues inform current public policy.³ Similarly, the *Applied History Project* at Harvard University’s Kennedy

School concentrates on international, diplomatic, and national security policy issues.⁴ *Historians on the Hill*, an American Historical Association (AHA) initiative, located in Washington DC, provides the federal government with historical understanding and context for current policy debates, but does not provide suggestions for improved public policy.⁵

The *Applied History Lab* at the University of Rhode Island, by contrast, incorporates advocacy combined with deeper historical understanding of current domestic policy. For that reason, this paper presents four case studies on how history can inform policy solutions on the following issues: (1) the gender pay gap, (2) the regulation of rideshare companies, (3) the role of American exceptionalism in school curricula, and (4) plastics pollution.

CASE STUDY 1: GENDER PAY INEQUALITY

“The Personal is Political” has been the rallying cry for generations of American feminists. It signifies the idea that a woman’s personal struggles are the result of the politics of sexism and discrimination. Women have come a long way in their quest for equal rights, yet persistent inequities remain, most notably, the gender pay gap. On average, women in the United States are paid \$0.82 for every one dollar paid to a male worker. The numbers are even lower for women of color, especially black women (\$0.63), Native American women (\$0.60), and Latinas (\$0.55). In 2021, the Paycheck Fairness Act was passed by the House, but died in the Senate. The law would eliminate the gender pay gap, make it illegal for employers to ask about salary history, and protect employees from retaliation for discussing their salary with co-workers.⁶ In recent years, there have been renewed calls to ratify the Equal Rights Amendment. This constitutional amendment, which bans all laws that discriminate based on sex, provides the best solution for closing the wage gap, given the

failure of legislative options to address the issue in the past. One must consider the legislative and constitutional analogues in American history that can best inform the problem.

At several points in American history, the government took action to address gender inequality through legislation. Up until the 1960s, most middle and upper class white married women were primarily housewives. The family income was based on the earnings of the father, the breadwinner. Then, a dramatic change occurred with a surge of white middle-class women entering the workforce in the 1960s and 1970s. At the time, it was common practice for working women to be paid substantially less than their male counterparts. In 1963, Congress passed the Equal Pay Act to ensure that men and women were paid equally while performing the same job. It was not a universal fix; women could still be paid differently based on skills and experience. The passage of this law also coincided with the rise of Second-Wave Feminism and the Civil Rights Movement. In 1964, Congress outlawed racial segregation with the Civil Rights Act. Title VII of the law specifically protected women from being hired, fired, or denied admission to a union on the condition of sex. The law created the Equal Employment Opportunities Commission (EEOC), but it lacked teeth for enforcing Title VII. Mothers were disadvantaged by the statute, as they often lacked the relevant work experience, or they had large gaps in their resumés due to childbearing and child-care responsibilities.⁷

The issue of wage inequity once again came to the forefront in the late 2000s with the case of Lilly Ledbetter (Figure 1). Ledbetter, an area manager for Goodyear Tire Co., brought a lawsuit against her employer for pay discrimination, and the case was appealed to the Supreme Court in 2007. The court ruled against Ledbetter, arguing a complaint must be filed within 180 days of the alleged discriminatory incident. This invalidated her claim because she had worked at Goodyear for decades. Ruth Bader Ginsburg, the author of the dissent, felt the Court had reached an “egregiously wrong” conclusion, and urged the legislative branch to take action.⁸ Congress

responded with the passage of the Lilly Ledbetter Fair Pay Act in 2009, which restated the EEOC’s position that each discriminatory paycheck effectively resets the 180-day period to file a claim.⁹ However, the law failed to definitively eliminate the gender pay gap altogether or address many of the inherent flaws in previous legislation such as the Equal Pay Act and Title VII. These problems, as well as the possible judicial barriers, must be taken into consideration should Congress seek a legislative approach to the wage gap.



Figure 1: Lilly Ledbetter watches as President Barack Obama signs the Lilly Ledbetter Fair Pay Act in 2009.¹⁰

Congress must also consider the viability of a constitutional solution to the issue of gender inequality, as well as the historical precedents for amending the Constitution. The Equal Rights Amendment was originally introduced in 1923 to ban all laws that discriminate based on sex, but it was not passed by Congress until 1972. It then required ratification by the states. When the deadline for ratification arrived in 1982, the ERA was three states short.¹¹ The ERA was undermined by Phyllis Schlafly and the “STOP ERA” movement. This conservative group effectively convinced several states either not to ratify or to rescind ratification. Recently, when Virginia became the 38th state to ratify the amendment, calls to extend the deadline for the ERA gained momentum.

To understand the arduous process and possible challenges to ERA ratification, it is informative to review the history of the 19th amendment and the women’s suffrage movement. Following the Civil War, feminists were dismayed that the 14th and 15th amendments, which guaranteed citizenship and

suffrage to African American males, did not grant the same rights to women and they began to agitate for a women's suffrage amendment. Entering the ratification battle, the suffragists had an advantage with the Western states; most of those states had already granted women the right to vote. Wyoming was the first to do so in 1869.¹² With 35 states already under the suffragists' belt, ratification came down to a contentious showdown in Tennessee. Led in their efforts by Carrie Chapman Catt, the president of NAWSA (National American Woman Suffrage Association), the suffragists made the compelling case that women were not equal to men without the vote. The suffragists were opposed by a wide variety of groups, including religious groups, racist Southerners, corporate interests, and the liquor lobby. In the end, the Tennessee state legislature narrowly ratified the amendment.¹³ The 19th amendment did not cure all ills at first. Turnout for women in elections was extremely low in some states at first, and black women faced numerous obstacles to voting, including poll taxes, literacy tests, and the grandfather clauses. Since the 1960s, most of those barriers have been removed, and the "women's vote" is now a crucial voting bloc whose support aspiring elected officials must court.

It is important for Congress to consider these significant historical analogues for legislative and constitutional solutions to gender inequity. The Equal Rights Amendment will likely face strong opposition in its path to ratification, especially from cultural conservatives and business interests. But when one considers the long history of ineffective legislation, a constitutional solution becomes the best possible option. Of course, further legislation can and will likely spring from the amendment after its passage. The ERA will provide a basis for acting on a variety of key public policy issues surrounding gender equality, including reproductive rights, family and medical leave policies, and sexual harassment in the workplace.

CASE STUDY 2: RIDESHARE REGULATION

Uber touts its business model as putting "more people into fewer cars" - in other words, ridesharing. Ridesharing has seen a rise in popularity as new app-based services like Uber and Lyft connect people with drivers to get them where they need to go. Ridesharing is not new, but it has generated new public policy debates, centering primarily on regulation and worker's rights. Some officials believe that problems with passenger safety, disorderly conduct, "surge pricing," and background checks merit stronger government regulation of rideshare companies. Uber has pushed back, arguing that ridesharing will be "regulated completely out of existence."¹⁴ Another focus is on the rights of drivers. In Uber's business model, these workers are considered "independent contractors," meaning they do not have many of the rights and benefits afforded to actual employees, including the minimum wage, worker's compensation, union, and collective bargaining rights. It is illuminative to understand and consider the historical analogues of the Jitneys in the early twentieth century and the taxicab industry. Together these histories inform public policy on rideshare regulation and worker's rights.

The chief historical analogue for evaluating the issue of rideshare regulation is the Jitney: the "Uber before there was Uber" (Figure 2). A Los Angeles car salesman named L.P. Draper pioneered the Jitney in 1915 when he began offering shared rides in his Ford Model T for 5 cents - a "jitney." The jitney cars offered better schedules, faster trips, and lower costs to riders. The "Jitney craze" disrupted the traditional government-supported transit system, the electric streetcar, or trolley, which saw a severe decline in ridership and revenues. Like Uber, the Jitney was not without its problems. Traffic congestion, frequent accidents, issues with passenger safety, disorderly conduct of riders and drivers, and controversial rate increases, similar to Uber's "surge pricing," led to calls for Jitney regulation.¹⁵ Local governments introduced regulation in order to stop Jitneys from stealing revenue from the trolleys, including

pre-approved routes and special licensing requirements for drivers. Liability bonds were particularly onerous. In order to operate legally, Jitney drivers were required to pay between \$1,000 and 10,000 in liability insurance.¹⁶ The number of Jitneys on the street in U.S. cities dropped precipitously over the next few years and they all but disappeared by 1920. Today, Uber argues that similar regulatory and financial burdens could cause their service to be regulated out of existence, just like the Jitneys.¹⁷ Uber's "pay-to-work" rental scheme, which allows drivers to rent Enterprise cars, is also reminiscent of the mass cartelization of the Jitneys during its craze.¹⁸ But despite the more obvious parallels with the Jitneys, Uber is also very different from its twentieth century predecessor. Uber is a large company worth more than \$50 billion and has access to far more capital than the Jitneys. It has immense lobbying power to sway government officials and is also widely popular among its consumers. Uber is also not competing with a government-supported transit system - it is competing with the privately organized taxi-cab industry, who have faced similar challenges with regulation.¹⁹

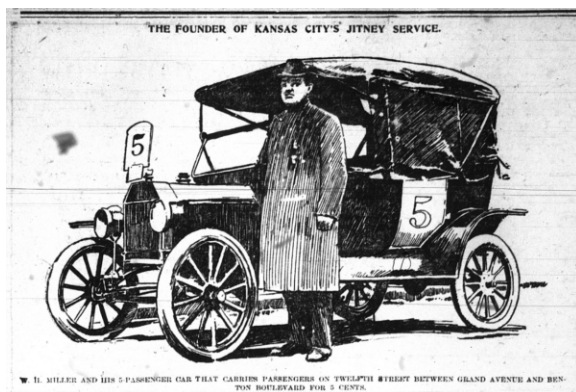


Figure 2: A depiction of W.H. Miller, the founder of Kansas City's jitney service, next to his Ford Model T from the *Kansas City Star*, 1915.²⁰

The history of the taxicab industry provides stronger insight into regulation plus the issue of worker's rights for drivers. Prior to the Great Depression, there was little to no government regulation of taxis. Then, after the Depression struck, a greater number of taxi drivers, desperate for income, entered the business

resulting in "rate wars" that broke out between taxi fleets. The ensuing chaos prompted local governments to institute such regulations as fixed rates of fare and entry controls.²¹ During World War II, taxi fleets in several cities instituted shared-riding services that mirrored that of Uber. Shared-riding helped reduce the number of cars on the street while at the same time offering 250 million more rides. Uber claims that its service is similarly reducing the number of cars - but so far this has not panned out. Furthermore, the Vet's Cab dilemma arose when a large number of servicemen returning from World War II entered the taxi business. This influx caused cities and municipalities to implement licensing limits to reduce the number of taxis in the industry.²² In contrast, Uber and Lyft do not currently have any licensing requirements, let alone limits. Then, starting in the 1970s, the taxi fleets began leasing out their taxis to drivers in response to the unionization of their employees. As lessee-drivers, they lost their employee status and became "independent contractors" without the right to organize in a union. Uber and Lyft drivers are also considered independent contractors, and as such, are not entitled to the same benefits as an employee, including the right to organize. The National Labor Relations Board has traditionally associated employee status with the "right of control" - the employers' ability to control and direct the work of its employees.²³ However, in recent years, the NLRB narrowed its definition of independent contractors and ruled that taxi drivers who are sent out in response to dispatch calls are not considered independent contractors.²⁴ This could have implications for Uber as well, since it's app is similar to a dispatch system.

In summary, these two historical analogues, the jitney and the taxi, are both important to understand the current rideshare policy issues with Uber and Lyft; though, taxicab history is especially informative on the issue of worker's rights. The California state legislature took action on this issue with Assembly Bill 5, which extends employee classification status to gig workers, including Uber and Lyft drivers.²⁵ In 2020, Uber, Lyft, and their allies responded with Proposition

22, a ballot initiative that re-classified the drivers as independent contractors. Prop 22 passed with 59% of the vote but was struck down by a district court that ruled that it violated a provision of the state constitution.²⁶ Prop 22 currently controls the status of gig workers pending the appeal of the district court decision.

CASE STUDY 3: AMERICAN EXCEPTIONALISM

Upon settling the Massachusetts Bay Colony in 1630, John Winthrop gave a sermon pronouncing, "... we shall be as a city upon a hill. The eyes of all people are upon us." The concept of a "city upon a hill" became central to American exceptionalism, the idea that the United States holds a unique place in human history and serves as a beacon of hope to the rest of the world. American exceptionalism is now a hot-button topic in the fierce debates over teaching American history. The 1619 Project, first published in the *New York Times* in August 2019, is a series of essays reframing American history in terms of the legacy of slavery and the contributions of African Americans. President Donald Trump devised an initiative of his own to counter the 1619 Project, the 1776 Curriculum, which emphasizes American exceptionalism. The origin of the debate over American exceptionalism and education is rooted in the current political climate but there are similarities to certain analogues from America's past.

During the early Cold War, political concerns over the arms race and national security were linked to education at home. In 1957, the Soviets launched the first satellite into outer space, Sputnik, which became a symbol of the Soviet Union's technological superiority. Coupled with the perceived "missile gap," Sputnik threatened America's stature as an exceptional nation and forced it to grapple with the deficiencies in its education system.²⁷ *Life* published "Crisis in Education," in 1958 and compared the Russian school system with the U.S. school system. In the article, author Sloan Wilson argued that America's schools had "degenerated into a system for coddling and entertaining the mediocre."²⁸ Congress responded by quickly

passing the National Education Defense Act of 1958 to increase federal funding for scientific and technical education.²⁹ Public officials worried that scientific and technological illiteracy among its students would hamper the United States' ability to achieve nuclear and technological superiority over the U.S.S.R. In this way, educational achievement was tied to American greatness, much like it is in the present-day debates over history curricula, but the chief focus of the "Crisis in Education" article and the National Education Defense Act was U.S. national security.



Figure 3: President Ronald Reagan borrowed from the words of John Winthrop and others to craft the image of America as a "Shining City on a Hill."³⁰

In the latter half of the 20th century, several political and economic crises undermined confidence in American exceptionalism. The 1970s saw decisive events such as the Vietnam War, widespread anti-war protesting, the Watergate scandal, and an economic recession. All of these led to a divisive political environment, as well as disillusionment within the country.³¹ As a reaction to the tumultuous 1970s, President Ronald Reagan sought to restore America as the "shining city on a hill" and saw education as one way to achieve his goal (Figure 3).³² In 1983, the Department of Education report *A Nation At Risk* connected education to "America's position in the world." The report outlined how the U.S. had fallen behind the rest of the world in educational achievement. The aim was to revamp the American education system.³³ In some ways, the origins of the current 1776 curriculum are similar to the *Nation At Risk* report. Both were a

response to political and social upheaval. Black Lives Matter protests in the summer of 2020 forced a reckoning about race relations and the 1619 Project became a central part of the activists' goal of correcting institutionalized racism. Conservatives presented the 1776 Commission and associated curriculum as a counterargument to the 1619 Project, bemoaning that schools do not emphasize American exceptionalism enough.³⁴ However, the 1776 curriculum is inherently different from *A Nation At Risk*, which focused on scientific and technological literacy which were central to national security.

Perhaps the most similar analogue to the current debate over American exceptionalism is the partisan fights over the revised 2014 AP US History curriculum. The 2014 APUSH framework was not much different from past versions, though it specified the contributions of lesser known figures and added more diverse primary source material.³⁵ Nevertheless, the changes were significant enough to prompt a response from the Republican National Committee, who decried the new curriculum as a "radically revisionist view of American history that emphasizes the negative aspects while omitting or minimizing the positive."³⁶ The "negative aspects" of American history included such topics as the history of slavery, the persecution of Native Americans, and Japanese American internment in World War II. Much of the conservative backlash to the 1619 Project mirrored that of the 2014 APUSH debacle. This is primarily because these debates over American exceptionalism and history curricula were intensified by partisan divisions. Culture clashes between liberal and conservatives over such issues have escalated over the last few decades to the point of extreme political sectarianism.³⁷

Given these points, it is clear that the recent debates over American exceptionalism are more reflective of the increasing political polarization of our time. However, analogues from America's past are useful to understand the way in which the concept of American exceptionalism is linked to education. It is also important to note that both major initiatives discussed, the 1619 Project

and the 1776 Curriculum, have already been adopted by some schools. 1776 was notably developed into a K-12 curriculum by administrators and faculty at the conservative Hillsdale College. Neither of these curricula are mandated by the federal or state governments, so it will be interesting to see whether schools choose to implement either of these initiatives, or neither.

CASE STUDY 4: PLASTICS POLICY

Plastic pollution is the most defining environmental problem of the present generation. There is no doubt that plastics have become critical to modern life, making possible the development of computers, smartphones, and other technological advancements. However, the ubiquitous use and disposal of single-use plastics contributes to towering mountains of waste in landfills and suffocates the world's oceans with endless garbage patches. Environmental activists in the U.S. have called for the regulation of plastic products, achieving limited successes at the state and local level. The plastics lobby has fought hard against plastic bag bans and other restrictions at the federal and state levels. In 2021, the Break Free from Plastic Pollution Act was introduced in Congress to phase out the use of certain plastics. But, in order to inform the difficulties of passing environmental reform, it is important to understand the history of past environmental disasters.

The Donora Smog of 1948 is an example of an environmental disaster that resulted in successful environmental reform in the long term. The smog occurred in October 1948 in Donora, Pennsylvania as a result of poisonous gases, metals, and fine particulate matter emitted by Zinc Works and the American Steel & Wire Company mills. In the end, 20 people died from complications due to the smog, which was trapped in the town for several days due to a temperature inversion. Many of the town's residents and its town council members worked at these mills, and they did not want to place the blame on their employers.³⁸ For decades, the mill

owners used their special influence to shield themselves from responsibility for the disaster. Comparably, the plastics industry dominates the narrative on plastics policy today with the support of not just employees, but retailers, consumers, and legislators as well. Therefore, almost none of the state-level regulations on plastics target the responsibility of producers. As the Donora tragedy proved, the fight for air quality and emissions standards lasted years, with only minor successes, such as the Air Pollution Control Act of 1955. This legislation allocated funds for air pollution research.³⁹ Finally, President Richard Nixon signed the Clean Air Act into law in 1970. The law authorized the EPA to establish National Ambient Air Quality Standards (NAAQS).⁴⁰ As with the issue of air pollution, plastics reform will be a long-term struggle against an even more entrenched industry.

The Cuyahoga River fire and the Santa Barbara oil spill, on the other hand, contributed to more immediate environmental reform. The Santa Barbara oil spill occurred in January 1969 as a result of a blowout on an offshore oil rig. The oil created a miles-long slick on the water and caused huge damage to the ocean wildlife. At first, Union Oil, who owned and operated the rig, attempted to cover up the spill and then minimized it when it became publicized.⁴¹ Similarly, the plastics lobby has downplayed the harmful effects of plastic pollution and claim that plastics are environmentally friendly.⁴² The Cuyahoga River was heavily polluted by waste from nearby industrial plants in Cleveland and Akron, and it caught fire at least 11 times between 1868 and 1969 (Figure 4). The June 1969 fire, although brief, brought renewed attention to the issue of water pollution.⁴³ The following year, these two incidents led President Nixon to create the Environmental Protection Agency (EPA). Nixon also signed into law a series of reforms aimed at water pollution, including the Clean Water and the Ocean Dumping Acts in 1972.⁴⁴ These immediate reforms directly contrast the slow and limited progress on air pollution in the 1950s and plastic pollution today.

To date, plastic pollution regulations occur mainly at the local level.



Figure 4: The Cuyahoga River fire of 1952.⁴⁵

A similar story played out in the community of Love Canal in New York due to a chemical waste disaster in 1978. In the 1940s and 1950s, the Hooker Chemical Company dumped and buried their chemical waste in the Love Canal of Niagara Falls. Decades later, those chemicals seeped into resident's homes and caused birth defects and miscarriages. The state's health department at first recommended that pregnant women and children evacuate the area. However, many of the residents were working class and did not have the money to move. The women of Love Canal organized a Homeowner's Association to aid relocation. The state responded by buying the first two rows of homes and evacuating them. Those living outside the evacuated area were told that they were not in danger. In 1980, a leaked EPA study showed that many of the remaining residents had chromosomal abnormalities and the federal government had no choice but to evacuate the families.⁴⁶ In response to this environmental disaster, Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. The act created a "Superfund" to clean up chemical waste sites and gave the EPA the power to enlist the responsible parties in the cleanup.⁴⁷ The Superfund is a prime example of successful legislation that ensured producer responsibility and informs the current debate on plastics policy.

All three of these historical analogues are valuable to understand the difficulties in passing

legislation to curb plastic pollution. The Break Free from Pollution Act will face opposition in Congress by the plastics lobby. But there are also other reasons that plastic pollution is dismissed or ignored, which largely have to do with the characteristics of plastics themselves. Plastics are lightweight and inexpensive. Many people believe that these benefits outweigh the drawbacks. It is likely that it will take a shocking and highly publicized disaster, like the Donora smog or Santa Barbara oil spill, to galvanize the general public and politicians to take strong action like they did in the 1970s and 1980s, though, retroactive policy-making is dangerous; it is unwise and irresponsible to wait until hundreds and thousands of people have died before enacting change.

CONCLUSION

These four case studies highlight the numerous insights that can be gleaned from applying history to contemporary policy debates. Certainly, there are other relevant and applicable issues that benefit from being examined through the lens of Applied History. The world is currently amid a global pandemic that has posed new challenges and exacerbated existing problems. Both epidemiologists and historical scholars alike have pointed to the Spanish flu pandemic between 1918 and 1920 as a point of comparison for COVID-19. In what ways did the government's response to these two pandemics differ, and how might the political climate of the time have helped or hindered it? These are two questions that historians might ask to better understand the politics of the present public health crisis. One might also interrogate historical analogues for such issues as immigration, gun control, and healthcare. Applied History is based on the premise that every major public policy debate has a history. Understanding that history and interrogating the past can illuminate issues, reframe policy questions, and ultimately help improve public policy.

NOTES

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