

Entrenching Inequity, Eroding Democracy: State Preemption of Local Housing Policy

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Abstract Housing is a fundamental right and a vital determinant of health. Health equity is not possible without widespread access to safe, affordable, high-quality housing. Local housing policy is a central conduit for advancing such ends. However, preemption of local law is a powerful institutional mechanism that state legislatures sometimes deploy to inhibit or nullify municipal efforts to address housing-based inequities. Local housing policies often have high stakes, are ideologically laden, and are politically salient. This makes them a clear target for preemptive action. Political science research to date has focused on broadly explaining the causes of preemption, with scant emphasis on its consequences and minimal attention to the implications for racial and economic equity. This article highlights the political repercussions of state preemption. Drawing on in-depth qualitative interviews, the article examines how local tenant organizations that work to build power within racially and economically marginalized communities perceive and respond to state preemption. The findings demonstrate how both the reality and the threat of state preemption prompt tenant organizations to adjust (and often minimize) their policy goals and to adapt their political strategies in ways that strain their capacity. By burdening local organizations that are crucial power resources in marginalized communities, state preemption of local housing policy risks entrenching inequity and eroding democracy.

Keywords entrenchment, health equity, housing policy, preemption, democracy

Housing and health are profoundly entwined. The COVID-19 pandemic plainly displayed the depth of this relationship. The financial volatility induced by the pandemic left many people facing health-undermining housing precarity. Racially and economically marginalized Americans

were particularly vulnerable to this dynamic, and were increasingly so as the pandemic progressed. For instance, white renters reported nearly doubled eviction rates in 2020, with an increase of 2 percentage points between spring (March–May) and summer (June–August) of that year. Across the same period, eviction rates quadrupled for Black renters and nearly tripled for Latinx renters, jumping by 7 percentage points for each group (Chun and Grinstein-Weiss 2020). Similarly, between spring and summer of 2020, there was a 2 percentage point increase in the number of white renters reporting delinquency in paying their rent or mortgage, and a 7 percentage point increase for Black and Latinx renters (Chun and Grinstein-Weiss 2020). Such patterns were most pronounced for low-income Americans. In the year following March 2020, nearly a quarter of renters earning less than \$25,000 fell behind on rent (JCHS 2021). This included 29% of Black renters, 21% of Latinx renters, and 11% of white renters (JCHS 2021). Evidence predating the pandemic firmly established the negative health implications of housing instability (Desmond and Kimbro 2015; Gold 2016; Hatch and Yun 2021; Hoke and Boen 2021; Vásquez-Vera et al. 2017). Recent evidence has revealed that pandemic housing policies such as eviction moratoria were directly tied to rates of COVID-19 infection and mortality (Leifheit et al. 2021; Sandoval-Olascoaga, Venkataramani, and Arcaya 2021). During a crisis, when sheltering in place was critical for mitigating a viral contagion, the imperative of safe and stable housing surfaced as a foremost public health issue (Benfer et al. 2021; Jowers et al. 2021; Leifheit et al. 2020; Michener 2022a).

The pandemic offers just one example of how health and housing are tethered together. There are many pathways through which housing affects health. Structural defects in housing can create physically unsafe environments where people are at risk for injury; insecure housing causes stress that can compromise physical and mental health; inaccessible housing isolates and endangers people with disabilities; inadequately heated or cooled housing can cause respiratory and cardiovascular illnesses (WHO 2018). Fundamentally, housing is a social determinant of health and health equity (Rolfe et al. 2020; Swope and Hernández 2019).

Like other social determinants, housing is structurally rooted in political choices and institutions (Bambra, Fox, and Scott-Samuel 2005; Dawes 2020). Inequities in housing quality, availability, and cost are the result of historical and contemporary policies such as redlining, restrictive covenants, urban “renewal,” exclusionary zoning, and subprime lending (Coates 2013; Dantzer 2016; Einstein, Glick, and Palmer 2019; Freund 2010; Fullilove 2016; Madden and Marcuse 2016; Massey and Denton

1993; Rothstein 2017; Taylor 2019; Thurston 2018; Trounstein 2018). Knowledge of how political institutions structure housing policy is therefore crucial for advancing health equity. With this in view, I examine an underappreciated institutional mechanism for shaping housing policy: state preemption of localities.

Democracy, Public Health, and the Politics of State Preemption

Housing is largely the responsibility of local government (Kincaid 1992). It is experienced on a local level and is particularly important to local actors (e.g., renters, homeowners, community members, local landlords, property managers, neighborhood councils). Yet in the larger scheme of US federalism, states play a crucial role in setting the terms of local policy and controlling the contours of local authority (Basolo and Scally 2008; Dantzer 2016; Goodman, Hatch, and McDonald 2020; Hatch 2017; Michener 2018; Zimmerman 2012). It is in this capacity that preemption emerges as a policy tool. Preemption is the process by which higher levels of government limit lower levels of government by taking away their authority to enact certain kinds of laws. State preemption of local policy is common, and it has increased in frequency and salience over the last two decades (DuPuis et al. 2018; Riverstone-Newell 2017). Given historic partisan polarization and gridlock at the federal level, states have become more fraught political battlegrounds (Grumbach 2022). In this setting, localities have “jumped into the policy vacuum left by state and federal inaction” to become policy innovators (Riverstone-Newell 2017: 404).

Often (though certainly not always) local policy making has taken the form of politically liberal or progressive cities enacting laws meant to address the specific and sometimes overlooked needs of their residents in the face of more conservative (or at the very least polarized) state legislatures (Riverstone-Newell 2017; Schragger 2009). Such dynamics lay the groundwork for states to leverage preemption as an instrument to limit and control politically divergent localities. In the domain of housing, preemption often impedes the enactment of policies that are intended to address housing inequities, such as rent control and inclusionary zoning (Greene, Ramakrishnan, and Morales-Burnett 2020). This article does not address empirical arguments about whether such policies actually remedy inequities. As yet there is no academic consensus on how to best design housing policies for racial and economic equity (Ambrosius et al. 2015; Diamond, McQuade, and Qian 2019; Early and Edgar 1998; Mukhija et al.

2010; Schuetz, Meltzer, and Been 2011; Sims 2007). I intentionally avoid becoming mired in ongoing debates over the empirical effects of housing policies like rent control. Instead, I focus on the political dynamics of preemption and its implications for an equitable democracy. I particularly concentrate on the policy choices available to the people who are most acutely affected by housing inequities and the channels through which they exercise voice and power.

This emphasis is crucial given the power imbalances that characterize the politics of preemption. State legislatures' decisions about preemption have been "fueled in part by efforts of industry groups and conservative organizations to rein in cities" and to "foster 'statewide stability and prosperity' through uniform, business-friendly policies" (Riverstone-Newell 2017: 406; Russell and Bostrom 2016). At the same time, preemption has been deployed as a "tool of structural racism," increasingly forestalling local efforts to adopt policies designed to improve health and reduce racial inequities (Melton-Fant 2022: 16). These political configurations suggest that preemption is yet another way that powerful elite interests can leverage federalism for their own benefit and to the disadvantage of racially marginalized populations (Grumbach and Michener 2022).

As a potentially countervailing force, race-class subjugated (RCS) populations should be a crucial part of the political process.¹ If people within RCS communities believe that policies such as rent control and inclusionary zoning are necessary for making progress on housing problems, but preemption prevents them from pursuing those policies, then the democratic upshots of preemption warrant scrutiny. The ideal of democracy implies that power is more fluid than it is entrenched, and that people have a meaningful capacity to influence the processes that affect their lives, irrespective of racial or class status. This article probes whether state preemption can undermine such capacity.

A modestly sized but growing group of scholars have set out to investigate preemption. Much of this work describes patterns and correlates of preemption (Barber and Dynes 2021; Boeckelman and Day 2021; Flavin and Shufeldt 2020; Fowler and Witt 2019; Goodman 2019; Goodman, Hatch, and McDonald 2020; Riverstone-Newell 2017; SoRelle and Walker 2016; Weissert et al. 2021). Scholars have found evidence that local policy is more likely to be preempted under certain political conditions, including when states are controlled by Republicans, have more

1. I follow Soss and Weaver (2017: 567) in using the phrase "race-class subjugated" to identify and recognize communities where "race and class are intersecting social structures."

ideologically conservative residents or legislatures, have a stronger presence of conservative interest groups, and have governments that are more ideologically distant from the localities they preempt (Barber and Dynes 2021; Flavin and Shufeldt 2020; Fowler and Witt 2019; Goodman 2019). Though political science research on preemption has been illuminating, it has overwhelmingly studied the *causes* of preemption, with much less attention to its *consequences*.

A parallel public health literature has concentrated on the health consequences of preemption (Melton-Fant 2020; Pertschuk et al. 2013; Rutkow et al. 2019; Wetter and Rutkow 2021). The Institute of Medicine highlighted preemption as an important public health issue in 2011 (IOM 2011). Related literature has stressed the significance of local authority in adopting innovative policy and highlighted the dangers of state preemption as a mechanism that magnifies public health threats such as obesity, gun violence, alcohol abuse, and tobacco use (Babb, Tynan, and MacNeil 2010; Gorovitz, Mosher, and Pertschuk 1998; Mosher 2001; Rutkow et al. 2008). Even in the context of COVID-19, when many public health scholars called for federal preemption of states (e.g., to enforce public health measures such as mask mandates and vaccination), there was continued resistance to state preemption of local policy (Haddow et al. 2020; Treskon and Docter 2020).² Opposition to state preemption centers on a reluctance to restrict the ability of localities to engage in responsive policy making, especially in the face of ever-changing population health conditions, quickly emerging public health threats, and idiosyncratic local health needs (Haddow et al. 2020; Treskon and Docter 2020). A less common but still imperative issue flagged by public health scholars is the possibility that state preemption may dampen civic engagement and grassroots movement building (Pertschuk et al. 2013). Scholars studying politics, power, and democracy have not attended to this prospect. Indeed, research on state preemption has scantily addressed its consequences for democracy.

This article offers a descriptive assessment of the relationship between state preemption and grassroots organizing in RCS communities. Drawing on in-depth qualitative interviews with tenant organizations, I examine how tenant groups understand and respond to state preemption of local housing policy. I find that both the reality and the threat of state preemption prompts

2. State preemption is the focus of this article. Although federal preemption of state policy is related, the processes, determinants, and consequences of preemption are distinct across levels of government. As such, this article's observations about state preemption cannot be blithely applied to assessments of federal preemption.

local tenant organizations to adjust their policy goals and adapt their political strategies. Such responses demonstrate creativity and innovation, but they ultimately strain organizations' limited capacity and curb policy pathways. Preemption thus burdens tenant groups by attenuating their political options and consuming scarce energy. In this way, state preemption may entrench inequitable housing policies by eroding the political capacity of local organizations that are key institutions for building power in racially and economically marginalized communities.

Preemption as a Mechanism of Entrenchment

I examine state preemption of local policy through the theoretical lens of entrenchment. Entrenchment is a process by which social, economic, and political outcomes become "resistant to pressures for change" (Starr 2019: 2). Entrenchment builds up this resistance by placing "constraints on the reversibility of past decisions, and on paths of future decisions" (Starr 2019: 28). Entrenchment often operates via institutional rules that heighten procedural requirements for change (Starr 2019: 7). In this way, preemption is a clear form of entrenchment. Preemption raises the bar for enacting policy such that local political preferences and institutions are not sufficient for policy adoption. Instead, policy adoption requires state-level action. In the context of a complex federated polity, this can entrench existing policy arrangements. State politics entails a wider heterogeneity of preferences, stakeholders, and processes. Moreover, state politics is an increasingly polarized landscape that reflects national partisan divisions that are too often untethered from the needs or preferences of state residents (Grumbach 2022). Shifting policy making to the more challenging terrain of state politics thus limits options for successful policy change.

Housing and the Democracy-Eroding Possibilities of Preemption

In the case of housing policy, preemption is a means of entrenchment with striking implications for democracy. As I will describe in more detail later, housing is a core issue that motivates grassroots political organizing. Thus, when housing policies are jettisoned from political agendas via state preemption, there are reverberations for the local organizations that operate as power resources in RCS communities. Because housing policies focused on racial and economic equity are a locus for local power building (Michener

and SoRelle 2022; Rodriguez 2021), the domain of housing instructively demonstrates the potential democratic consequences of entrenchment. Building power for change only makes sense if that power can be channeled via the institutional formations of politics (Han, McKenna, and Oyakawa 2021). Entrenchment can stymie the process of community-based power translating into policy change. As Paul Starr (2019: 6) notes in his seminal work on entrenchment: “The democratic idea presumes that power is temporary, conditional on continued public favor, and reversible at elections. . . . The risk of entrenched rules is that they lock in a bias in favor of whatever interests were in control at the time they were adopted. . . . If power is entrenched, those who possess it are able to keep it, use it and enlarge it despite public preferences.”

Entrenching power through institutional rules like preemption means that even when tenant groups organize within RCS communities by building collective support for housing policies and engaging in collective action to achieve those policies—and even if such grassroots movements succeed on a local level—preemption can halt desired change. In this sense, those who have power over housing policy when state preemption is enacted “are able to keep it” and retain the ability to block unwanted policies, even in the face of popular demands otherwise (thus, “despite public preferences”). This means that the “people power” built through grassroots organizing efforts can be quashed or diminished by institutions like preemption. Below, I present evidence that reveals if and how this happens on the ground.

A Balanced View on Entrenchment

Notwithstanding the democratic risks engendered by entrenchment, it is worth noting that entrenchment does not have inherently deleterious consequences (nor does preemption). In some circumstances, entrenchment creates “enabling constraints” that remove “options for later changes that the affected individuals or groups . . . would rationally prefer to have closed off” (29). In the best conditions entrenchment “is a basis for enablement—enabling not the powerful alone but society as a whole, and especially those with less wealth and power, to secure opportunities for greater flourishing” (28). For example, in the domain of housing, unencumbered local control can be a destructive force that perpetuates racial and class-based inequities through policies that intensify segregation, promote wrongful evictions, and hoard local resources among the few at the expense of the many. Under such

circumstances, preemption can forfend against practices that are harmful and disempowering to marginalized communities. For example, the California Housing Crisis Act of 2019 limits the ability of local governments to delay approvals for new housing, reduce density, or impose fees that raise the costs of development for five years (Greene, Ramakrishnan, and Morales-Burnett 2020).

As we keep in mind that state preemption has the potential to entrench equitable policy and buttress democracy, we must also grapple with the possibility that it can do the opposite. Whether entrenchment via preemption offers democratic promise or peril is contingent. That is why scholars must assess preemption in relation to specific policy domains, contexts, and institutions. Here, I examine preemption in the realm of housing and through the lens of local organizations that fight to secure resources and build power in economically and racially marginalized communities. This is a distinctive vantage point that researchers have not considered, and it is important for mapping the institutional contours and political economy of racial and economic marginalization in a federated polity.

State Preemption and Local Housing Policy

State preemption of local housing policy is common. Two local housing policies that states regularly preempt are rent control and inclusionary zoning. Both are policies that attempt to address inequities. As noted earlier, there is no clear academic consensus on whether these policies are a boon for health equity. I focus on them here because they are important policy choices for racially and economically marginalized people, who are often locked out of housing opportunities because of rising costs or exclusionary development practices. Observing patterns of preemption in these two policy arenas is thus an instructive place to begin examining the politics of housing policy and preemption.

Rent Control

Rent control regulations limit the rate at which owners can increase rents over time. The aim of these policies is to protect tenants from displacement as a result of inability to pay. Rent control is a politically contentious and salient policy issue (Diamond 2018; Favalukis and Nieuwerburgh 2019; McArdle 2019; Weaver 2021). It is one of the most preempted housing policies in the United States. As figure 1 shows, there are 30 states (across

the ideological and partisan spectrum) that limit localities' ability to enact rent control.³

Inclusionary Zoning

Inclusionary zoning policies take a wide range of forms, but they share the goal of ensuring that low-income Americans have access to affordable housing. Many inclusionary zoning policies provide incentives to developers, offering them tax abatements or other enticements to offset some of the costs of building low-income housing or providing some market-rate units at below-market prices. Some policies require developers to pay a fee in lieu of actually building affordable housing. Decisions about zoning are fundamentally political and are often shaped by racism and class conflict (Trounstine 2018). Inclusionary zoning policies are complex, but they nonetheless inspire preemptive action across the country (fig. 2).

The Organizational Politics of Housing

It is not surprising that policies like rent control and inclusionary zoning are contentious. The issue of housing perennially sparks political contestation (Drier 1984; Marcuse 1981; Michener 2019; Rodriguez 2021; Thurston 2018). In the United States, the supply of housing is the product of a complex policy matrix involving a range of public and private actors. Demand often outstrips supply, leaving many people vulnerable to instability, precarity, and exploitation as they navigate housing markets. Such conditions favor elite economic interests (e.g., landlords, banks, landowners) while disadvantaging low-income and working-class Americans, disproportionately people of color. These structural arrangements instigate durable political antagonisms between those who are profiting from the housing system and those who are pained by it.

In such a setting, the relational formation of housing lends itself to political organizing (Michener and SoRelle 2022). Housing “creates and reinforces connections between people, communities, and institutions, and thus it ultimately creates relationships of power” (Madden and Marcuse 2016: 89). Tenants are an identifiable group who often come into regular

3. Not all these states ban rent control entirely. Some states have even implemented rent control policies on a state level (e.g., Oregon in 2019 and California in 2020) but still have preemptive provisions that limit aspects of rent control policy on a local level. Altogether, there is significant variation in how states preempt rent control.

contact with one another.⁴ They can develop social bonds, commiserate, and engage one another. They also face clear antagonists: landlords, banks, property management companies, and others who have capital interests in the housing market. The conspicuous clarity of such power configurations marks the residential as political and creates a basis for organizing tenants (Madden and Marcuse 2016).

Many local organizations focus on housing as a core issue area. This includes nonprofit advocacy organizations (Al-Turk 2016; Erickson 2006; Lilley 1980; Yerena 2015, 2019), organized groups of residents within public housing (Feldman and Stall 2004; Feldman, Stall, and Wright 1998; Howard 2014; Keene 2016; Rodriguez 2021; Williams 2004), and tenant organizations (Capek and Gilderbloom 1992; Drier 1982, 1984; Marcuse 1980; Maslow-Armand 1986; Michener and SoRelle 2022; Shlay and Faulkner 1984). In this article, I concentrate on the latter organizational type. Tenant organizations work to channel power within RCS communities (Michener and SoRelle 2022; Rodriguez 2021), making them a crucial power resource in the very communities where housing-based health inequities are most acute. Importantly, tenant organizations do not operate in a vacuum. They are embedded in state institutional contexts that shape their capacity, strategies, and power. Preemption is an essential feature of such environments. Below, I draw on data from qualitative interviews with members of tenant organizations to develop knowledge of how such tenant organizations perceive and respond to preemption.

Data and Methods

The findings detailed below are based on participant observation and in-depth interviews. Participant observation is an ethnographic method involving deep engagement with a group or community to observe and learn about phenomena of interest (Burawoy et al. 1991; Gillespie and Michelson 2011). For this research, I attended (virtual) meetings, workshops, and training sessions of tenant groups across the country between September 2020 and May 2021. After the first few months of observing—once I better understood the discourse and processes of tenant groups—I began in-depth interviews. This multipronged qualitative approach reflects a bottom-up methodological tack that centers the voices of nonelites whose

4. The term *tenant* is defined differently by different people. I define a tenant as anyone without the ability to comfortably control their access to and/or quality of housing. This includes renters who pay landlords for their housing, people who are unhoused, and even home “owners” whose ability to stay housed is precariously contingent on terms set by banks and other financial institutions.

perspectives are not adequately incorporated into research on political institutions like preemption (Michener, SoRelle, and Thurston 2022).

I interviewed 46 people from 38 organizations. Those organizations were spread across 21 states and 33 localities. The states spanned the country in terms of region.⁵ The localities ranged from big cities like New York and Los Angeles to mid-sized cities like Oakland, California, to smaller cities, counties, and localities. Most of the organizations were in urban areas, but several were in areas with large rural populations.

I followed a methodical process of identifying and engaging organizations. First, my research team conducted systematic searches across several online platforms (Facebook, Twitter, GuideStar, Google) querying the words “tenant” and “renter.”⁶ Once we had a baseline set of organizations, we then used a virtual snowball approach to find more. This involved reviewing and scanning websites and social media. Ultimately, we identified and found contact information for 134 tenant organizations across the country. While this list is not exhaustive, it is extensive. Since tenant organizations are oriented toward building power and capacity, they have incentive to be visible on the internet, on social media, or in databases like GuideStar.

I reached out to all the identified organizations via email, Facebook, or Twitter messages. Email and social media are imperfect communication channels, so it is likely that some of our attempts to contact the organizations were routed to spam folders or were otherwise undetected. I received some “return to sender” messages suggesting that the organization had never received my email. Moreover, several organizations replied to our outreach but were not in the final pool of interviewees because they were unable to coordinate an interview time, did not show up for a scheduled interview, or lacked approval from organizational members to give an interview. Ultimately, I made viable contact with 127 organizations, received responses from 42, and completed interviews with people from 38. This means that roughly 33% of the organizations I contacted responded, and about 30% were part of the final pool of participants.

5. Interviews included people from organizations in the following states: California, Georgia, Ohio, Michigan, New Jersey, New York, Texas, Hawaii, Kentucky, Florida, Wisconsin, Nebraska, Oregon, Indiana, Illinois, Massachusetts, Washington, Pennsylvania, Louisiana, Virginia, and Kansas.

6. I worked with a group of research assistants. To focus these searches, we combined these terms with the names of states and all major cities (top 100 largest) to ensure that we would identify place-specific organizations. This state-based approach very much widened our ambit and helped us locate organizations in less populous states.

It is important to note that this work is based on case-study logic, not sampling logic (Small 2009; Yin 2003). My goal was not to get a “representative sample” of tenant organizations, as I would have to do were I making general claims about the frequency or statistical patterning of outcomes. Instead, this research was designed to locate a wide range of organizational cases that could provide varied perspectives. This is appropriate given the descriptive and process-oriented nature of my inquiries. The data is well suited for exploring *how* organizational actors understand and respond to preemption (as opposed to identifying causal or correlational relationships between preemption and specific outcomes).

The interviews occurred either online via Zoom or over the phone, whichever method the participants preferred (most opted for Zoom). The interviews lasted an average of 56 minutes. The longest interview was 82 minutes, and the shortest was 36 minutes. Most interviews were with one participant, but sometimes multiple organization members would join the call (up to four at one time). On numerous occasions I separately interviewed different people from the same organization.

The interviews were semistructured. They were roughly guided by a short interview protocol, but I intentionally left significant room for the conversations to unfold organically. Preemption was not an explicit focus of the interviews. In fact, I did not ask directly about preemption. Instead, the interviews were meant to collect broader information about the operation and politics of tenant organizations. I asked all interviewees about how the organization got started, what its main activities were, how it was structured, and what challenges it faced. I also asked how state contexts shaped organizational activities and how organizations engaged with broader legal and political systems. These latter questions prompted mention of preemption. Since discussion of preemption was initiated by interviewees, I can be sure that it is prominent on their radar (not simply something they could talk about when prompted). This was one benefit of semistructured interviews. Participants had the freedom to signal the matters that were most salient to them. The interviews thus produced a depth and content that could not be garnered from survey or administrative data.

I recorded and transcribed all the interviews. I then analyzed the transcripts via Dedoose, a web-based software program for qualitative research. Dedoose facilitated comprehensive coding so I could identify the topic of preemption and catalogue related interview excerpts. After initial rounds of open coding to identify broad themes, I conducted a round of focused coding, where I paid particular attention to how and where preemption emerged in the discussions. The findings presented below are based on this analysis.

Tenant Organizing in the Face of Preemption

Tenant organizers located in states that preempted local housing policies brought up preemption without my prompting and discussed it in detail. It was a clear area of concern that had implications for organizations' political strategy, policy goals, and organizational capacity.

Adapting Political Strategy: Statewide Coalitions

Ali, an organizer for a tenant organization in a large Southern city,⁷ was one of the first people I interviewed for this research. She was the first to bring up preemption as an important factor shaping her organization's political strategy. I asked Ali about next steps following her group's recent successes in bringing members of the city council to the table to negotiate additional resources for tenants in the city. She told me this:

I'm going to suggest that we create a rent control coalition not just for the city . . . but try to find other *statewide policy organizations that could really help guide us through this . . . because right now at the state level, there's a ban on rent control*. So the goal is to lift that. It's going to be a lot of challenges with that, which is why it's important to create a coalition of people because you're going to have your people that have other relationships with landlords. You have . . . the apartment association that's like no way, you all not putting no rent restrictions on us. I think it's going to be a lot of hard work, but I think it's enough people who were impacted about the issue that can really pressure their elected officials to change. . . . If we can get into the good old boys' system . . . my allegiance is always going to be to the people. The power is with them, but at the same time, if you want systemic change or systematic change, I have to be able to navigate those relationships (emphasis added).

Ali noted two strategies necessitated by state preemption of rent control: coalition building and strategically building relationships with elites ("the good old boys' system"). Coalitional strategies were especially appealing to organizers in liberal cities within states that had politically conservative

7. I often do not name specific cities (or sometimes even states) because doing so would make it easier to identify the organizations and actors in the study. Some localities have only one (or only a few) active tenant organizations. Those organizations could be readily identified through details about their strategies and structure. To protect the study participants, I withhold specifics on location and offer details only on the region and type of locality (e.g., midsized city in the Southwest).

legislatures. In these places, a lone liberal city could not hope to influence a conservatively oriented state legislature without building a broad base that went beyond the city.

For instance, organizers in urban Kentucky said the complex political dynamics created by preemption required statewide coalitions:

We have really regressive tenant policies, really regressive landlord tenant law, most of the state has no landlord-tenant law, aside from common law. So there's absolutely no regulations on what landlords have to do. . . . So it's horrendous, horrendous. And [our city] has a little bit more, because we have the Uniform Residential Landlord Tenant Act [URLTA] . . . [but] there is a provision in URLTA that *no other laws pertaining to the contents of that law can be passed by municipalities*. Which basically . . . city officials have interpreted that as [saying] that they can't pass anything on landlord-tenant law. And we have a super-majority in both the state house and senate of Republicans. . . . The prospects for getting something passed at a statewide level are very long odds. And *state law prevents us from doing a lot of strong things at the local level that we might be able to win . . . so that's a real challenge. . . . I think that that's the real state of politics in our state. And so, it means that if we are going to get any serious change . . . I think that we're going to have to be part of like statewide efforts. . . . I think that there's real potential for like multiracial working-class coalitions in Kentucky moving forward, and I hope that we can be part of it* (emphasis added).

Kentucky has multiple layers of preemption, including a preemptive clause in the state's landlord-tenant law that generally prohibits municipalities from making related laws, and more specific preemptive policies like rent control. In recognition that "state law prevents us from doing a lot of strong things," organizers in Kentucky strategize around statewide efforts.

Even in a comparatively liberal state like Massachusetts, when state legislatures preempt local policies, organizers respond with strategies focused on building larger and stronger coalitions across the state. Riley, an organizer in Massachusetts, described the blockage of legislation through the denial of home rule petitions as the biggest problem that her tenant organization faced:

The biggest challenge is this stupid frickin' home rule petition crap in the state of Massachusetts. It really blocks us from being able to pass "just cause" eviction protection . . . so your landlord could just want you out, and you know, they get to evict you. . . . You know, we have the cities and

towns in Massachusetts that passed their own eviction moratorium, which are illegal ordinances; the minute a landlord challenges that, they're done. Because they don't have a home rule petition, so that is our biggest challenge is getting the legislature to give municipalities powers so that we can protect our community. . . . So growthwise *our goal is to build out [more] chapters [across the state]* (emphasis added).

In Massachusetts, Kentucky, and throughout the South, the specific contours of the politics varied, but the common thread of preemption motivated organizers to pursue statewide coalitional politics.

In states without preemption, the organizers I spoke with tended to be less focused on coalitional politics (e.g., New Jersey) or to pursue it only after having had clear and consistent local victories (e.g., New York). But when preemption limited opportunities for local victories, organizers looked to statewide politics as a primary avenue for action. The downside of this is that statewide coalitions depend on strong local organizations, and strong local organizations are difficult to build up without meaningful local victories. So, many organizations find themselves in a circular dilemma: they need impressive local victories to build the power necessary to fuel statewide movements, but they need statewide movements to overcome the preemption that prevents them from having local victories.

Adapting Political Strategy: Venue Shopping

Not all organizations responded to preemption by developing statewide campaigns. Instead, tenant organizations strategically shopped for favorable venues (Grumbach and Michener 2022). Some went higher (the federal level), shifted across types of local venues (city or county levels), or pursued a combination of approaches (given sufficient capacity). Victor, a tenant organizer in the Midwest, offers an instructive example. Victor works with a statewide organization that was founded in the wake of the COVID-19 pandemic. At its origin, the group's primary goals were an eviction moratorium and rent cancellation. Given those goals, Victor said, they opted for a state-level approach: "None of the cities or even the counties would have had the financial resources to cancel rent. . . . The governor is the one with the eviction moratorium power. [The governor] was our target, so we had to be a statewide org."

However, as Victor's organization moved through the pandemic and began to consider policy goals outside the governor's purview, they faced a tenuous set of political choices. The state legislature would not budge in

their opposition to tenant protections, so Victor's organization had to figure out what they could do on a local level that was meaningful but would stay below the radar of preemptive action. Victor said this line of thinking led the group to emphasize a "coalition of county groups. . . . We kind of have to target the county to get the benefit of actually having an enforceable policy." The combination of insufficient power to influence the state legislature and the threat of preemption led the group to focus on "building a critical mass of people to move a county commission," Victor said, despite his admission that counties had relatively small budgets and a constrained scope of influence.

Tanvee, an organizer in a large, high-capacity Midwestern tenant group, took a much more multifaceted approach. In part because of the resources, numbers, and capacity Tanvee's group had developed over years of organizing, she described the group's ambit in terms of federal, state, and regional strategies, each of which was a response to the limits of local gains in the context of state preemptive action:

It's a realism that leads us to think about national work, because there's a hard ceiling on what we can win locally. . . . You know, I think we can build a shit-ton of power. I think we can transform politics in this town. We already have. And there's a ban on rent control at the state level. Our state legislature is a fucking mess. We can build all the power we want locally; the state legislature is still not going to let us have nice things. So part of the reason that we need to be connected to national movement is because there's a ceiling on what we can win at the state and local level if we're not also fighting for structural reform at the federal level.

Notwithstanding this emphasis, Tanvee also laid out a rationale for statewide efforts:

We have built a lot of power across the state in the last year during COVID because we had statewide demands. . . . The lesson was that we don't have any power in the state, so now we're launching a statewide base-building experiment. We're actually going to hire canvassers . . . across the state to try to build a real multiracial base of poor and working-class tenants.

On top of this, Tanvee was aware of the work that Victor's group was doing in a bordering state and was keen on supporting cross-state regional coalitions: "Meanwhile, there was a coalition in [a bordering state] that started. . . . So there's a whole collective of people [there] that are now organizing around this stuff too, so we kind of have like a corridor of Midwestern tenant revolts."

On the one hand, the constraint of preemption included potentially “enabling” elements (Starr 2019: 29). Tanvee, Victor, and other organizers may ultimately build more powerful and effective organizations because of their efforts to strategically build power across cities, counties, and regions, and even nationally. However, organizers consistently describe these strategies as being born of necessity, not because they were ideal. The kind of organizing required because of preemption is resource intensive and uncertain. It makes for a heavier political lift than organizations are sometimes ready for. In this way, the specter of state preemption created political barriers.

Policy Goals and Ambitions

In addition to shaping the political strategies that organizations pursued, preemption also informed the substantive content of the policies that groups supported. For example, Lance, an organizer from a tenant union in California, explained that his organization had initially been formed many years prior, but after some big wins that gave tenants strong protections and rent control, the union went dormant because of a lack of real political demand. However, state preemptive action created conditions that led to the union’s revival, and the organization focused its goals accordingly:

[The tenant union] went kind of into hiatus because rent control was passed. People got complacent with housing. They figured, okay, we did what we needed to do, right? It’s done. What else can we do? The problem was, Costa Hawkins was passed, a state law that preempted local authority over rent control past a certain point. So, a new development can’t be rent controlled because of Costa Hawkins. So it’s only old stock housing, and sooner or later we lose all of those; I mean, just by attrition you lose those, right? So we decided . . . we had to reinvigorate the tenants union because we saw what was going on, the loss of old stock housing—the demolition stuff going on. . . . We’re losing rent-controlled units. So, what’s the purpose of rent control if you don’t have any rent-controlled units, right? It’s an empty ordinance, if you will.

Once this tenant union was revived, it zeroed in on the goal of retaining as many rent controlled units as possible—a decision made in response to state preemption. While it is common for organizers to shape policy campaigns in response to prevailing political conditions, this strategy takes on significant consequences in the context of preemption. For example, tenant

organizations in more conservative states severely limit their policy goals because of preemption. An organizer in Texas said that preemption (and the threat of preemption) had made the state policy context so arduous that his organization was solely focused on directly pressuring landlords. The logic was that landlords could be pushed to negotiate through rent strikes and other direct-action tactics without having to rely on legislation that would ultimately be undermined via preemption. He explained his organization's strategy this way:

Our main goal [is] just basically helping tenants to strike back from the abuse of landlords. Basically, stopping the theft of deposits, things like [that]. . . . [The goal is] not even to advocate [for policy] but just to have tenants fight against abuse of landlords. Landlords and property management that don't maintain their apartments, that's our main goal, is just to continue helping tenants to try to fight back against it. Right now, *that's really the only option we have as far as at least getting some kind of fairness, because the laws in this state are not changing any time soon* (emphasis added).

Although this organizer worked in a large, liberal, and overwhelmingly Democratic city, he was reluctant to pursue legislation at either the state or local level because it would be at the mercy of preemptive state laws.

A hyperlocalized landlord-centric approach was especially appealing for organizers in cities with large Black populations, where tenant groups perceived preemption as a racialized policy tool reflecting state legislatures' disregard for the needs and preferences of Black residents. For example, Marcy, an organizer for a tenant union in a midsized Midwestern city, noted that the scope of the union's policy goals was limited to "more direct actions, just going straight to the source, with landlords. Just because, historically speaking and even more recently, we've seen that . . . these laws can be very easily stripped away." As a Black woman, Marcy understood the threat of preemption as racialized: "We are majority Black city, you know, and we're looked at as a city that is full of violence, crime, a lot of negativity . . . the state don't give a damn."

In the context of preemption practices perceived as racist, organizers supplemented the targeting of landlords and reliance on direct action with a turn toward establishing legal rights, echoing the tactics of civil rights movement leaders (Francis 2014). Phil, a Black organizer in a majority-Black Southern city, described an organizational strategy that included these elements:

Yeah, [this state is] bad. But that's our Jim Crow, Confederacy, white stubbornness legislature. *Our legislature can preempt everything*. And so consequently . . . our strategy for organizing is we want to do this great building-by-building organizing work. But we realize fundamentally our laws are so effed up that trying to hold power over a landlord, even if we are able to get 80% of the people on the same page, they easily can just do mass eviction, right? And so, we would have to be willing to step on the level of direct action, which like more and more is our strategy. Like, what would it be like if there was a mass eviction? What do we do to physically stop that? But ultimately realize the power and the amount of time it would take. . . . And so, we were like, 'let's look at critical policies that are in place and respond to that.' So, for example, we are doing a right-to-counsel campaign.

Like other organizers I spoke to in predominantly Black cities, Phil views the racism of the state legislature combined with the power of preemption as severely constraining. Phil underscores the logic of a hyper-localized approach (“building-by-building”). However, he does not stop there. Recognizing that landlords are powerful enough to retaliate (through mass eviction), Phil notes the importance of direct action to “physically stop” landlords. Going even further, Phil concedes that direct action is not enough and points to efforts to secure legal rights through establishing a right to legal counsel for tenants in housing courts. Though this latter effort does involve a policy effort, it is framed around legal protections, not rent control, zoning changes, or direct regulation of landlords (these policy pathways are impossible in Phil's state as a result of preemption). The structure of Phil's narrative was typical: organizers often started with the reality of preemption. Given that constraint, they reasoned their way through the most appropriate tactics and policies in the face of preemption.

Conclusion

Grassroots organizations in RCS communities are a critical component of the American political economy. Such organizations are essential for fostering an equitable polity that protects the rights of people within marginalized groups and incorporates their voices into political processes (Han, McKenna, and Oyakawa 2021; Michener 2022b; Michener and SoRelle 2022). Such organizations also support policies meant to reduce inequities in social determinants of health, like housing (Michener 2019). Weakening grassroots organizations by stifling their ability to build and

exercise power is one way of entrenching inequity. This article considers how local organizations respond to state preemption of local policy. Drawing on in-depth qualitative interviews with tenant organizations, I examine how such organizational actors understand and respond to state preemption. I find that state preemption pushes tenant organizations to adjust their policy goals—often by narrowing or minimizing them—and adapt their political strategies. Such responses are often innovative, creative, and strategically wise. Yet, they place a burden on tenant groups, stretching their capacity and limiting their room to maneuver. By attenuating a key avenue for channeling political voice in racially and economically marginalized communities, state preemption can entrench inequity and erode democracy.

The implications of these findings are nuanced, but important. State preemption can be a useful tool against racist or otherwise inequitable local practices. For example, state civil rights laws preempt discriminatory local laws, and statewide smoking bans have advanced health equity (Belanger and Pierce 2022). Moreover, preemption also forfends against the proliferation of local laws that produce a patchwork of geographic inequity that makes rights and resources arbitrarily dependent on where a person lives (Michener 2018). Indeed, the burgeoning “critical federalism” literature gives us sound reason for skepticism toward decentralized policy-making institutions, and one could argue that both federal and state preemption limit the extent of decentralization (Grumbach 2022; Grumbach and Michener 2022; Michener 2018; Miller 2008).

Notwithstanding such arguments, state preemption has long been used as a tool for the maintenance of white supremacy and economic inequality (Blair et al. 2020; Melton-Fant 2022; Schragger and Retzloff 2019). It is even more troubling that state preemption risks entrenching inequity by limiting the policy options of racially and economically marginalized communities. None of this points to easy or unequivocal answers. Instead, it suggests the need for closer attention to the racial political economy of preemption and its role in the larger structure of a federated polity. Both scholars and policy makers must undertake the work of studying and designing institutions like preemption to enable equity-enhancing possibilities on the one hand (e.g., allowing localities to set distinctively “high ceilings” in terms of the social and political rights and resources), and to constrain the entrenchment of inequity on the other (e.g., preventing states from mandating “low floors” in terms of the social and political rights and resources).

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