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Race and Regulation Podcast Episode 3 - Redlined Forever?

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Podcast Transcript:

Race and Regulation Podcast

Presented by the Penn Program on Regulation

Episode 3: Redlined Forever? With Jessica Trounstine

Released on May 25, 2022

Music: Joy Ike's "The Fall Song"

Jessica Trounstine: Where segregation persists, we see vast inequalities in everything from schools to safe streets to drinking water. White homeowners' preferences have been institutionalized through the vehicle of local public policy, shaping residential geography for more than a hundred years.

Cary Coglianese: That's political scientist Jessica Trounstine, delivering a lecture at the University of Pennsylvania Law School organized by the Penn Program on Regulation. I'm Cary Coglianese, the director of the Penn Program on Regulation and a professor at the University of Pennsylvania Law School. Welcome to our podcast, "Race and Regulation." In this podcast series of conversations, we are focusing on the most fundamental responsibility of any society: ensuring equal justice, and dignity and respect, to all people.

The United States has failed to fulfill that responsibility when it comes to where people can live. As Dr. Raphael Bostic, the Atlanta Fed President, explained in an interview in 2021:

"Official policy that racialized access to mortgage financing and thus decent affordable housing in the post-World War II years is perhaps the most important, though hardly the sole, source of a racial wealth disparity that has not appreciably narrowed over the past half century. Redlining was the explicit practice of drawing maps identifying largely black neighborhoods as unfit places to make federally backed home mortgage loans. Now, this was official policy, not the machinations of a few rogue actors."

Music: Joy Ike's "Home"

CC: To help us understand better this racist past of housing regulation in the United States—and how it contributes to inequality today—Professor Trounstine, a political scientist at the University of California Merced, shares her research findings.

JT: *Segregation by Design* is a book about the ways in which race and class segregation become institutionalized and what the political consequences of segregation are. We know that the quality of services that any person experiences in the United States is largely a function of the neighborhood in which a person resides. When poor people and people of color are concentrated in residential locations apart from wealthier people and apart from white residents, we say that a place is "segregated." It is that segregation that permits unequal access to public goods and services. This is not in dispute, yet the extent of segregation varies from place to place and everywhere has changed dramatically over time. Where people of color and the poor used to be isolated in separate neighborhoods, now they are isolated in separate cities.

CC: This separation has real consequences for the quality of life that people enjoy. And, as Professor Trounstine notes, it reinforces the sharp patterns of inequality observed in the U.S. today.

JT: Segregation creates inequalities between race and class groups because, in a world of scarce resources, the politically powerful deny public goods to those who are politically weak. Segregation has meant that the benefits experienced by racial and ethnic minorities and low-income individuals are inferior to the benefits that are experienced by whites and wealthy residents in the United States. Where segregation persists, we see vast inequalities in everything from schools to safe streets to drinking water.

CC: What explains patterns of racial segregation? Professor Trounstine argues that standard explanations that focus on racial prejudice or disparities in income overlook an important structural factor: local land use regulation.

JT: Conventional wisdom explains segregation along race and class lines primarily as the result of two causal factors: racial antipathy and/or economic inequality. But both explanations rely on individual choices for housing that are made by residents when they are looking to live in a

particular location. And the housing doesn't just magically appear. These explanations completely ignore the underlying set of choices that generated the local geographies in the first place. I argue that local housing geography is created by local policies, property owners, and those who derive their livelihood from property seek to protect and enhance property values and control the quality of municipal services like schools. These goals are public goods; they're collective endeavors. The value of your house or the value of your child's education depends crucially on the value of your neighbor's house and what other children attend your child's school.

Because these are public goods, the maintenance of property values and the provision of public services requires collective action for production and stability. Government plays a fundamental role in the creation of collective action. And here, it is local governments that play the starring role because they alone regulate land use in this way. By invoking their powers of control over land use and making choices about service provision, local governments affect the aggregate demographic makeup of communities and the spatial distribution of residents and services, thereby generating and reinforcing segregation.

For more than a hundred years, local policies have insulated the neighborhoods of white property owners, resulting in segregation along race and class lines. And not only is local politics a fundamental driver of segregation, but battles over the control of urban space are the primary driver of local politics. At stake, of course, is the quality of life accessible to residents and the markets available to commercial interests. And the result, I argue, has been segregation by design.

Music: Joy Ike's "Home"

CC: Segregation by design has deep roots in U.S. history. Even before local land use regulation came about, blatant, racial biases were written into many private contracts enforced by the courts.

JT: Historically, race and class segregation was the result of actions in the private market because land use regulations didn't exist a really long time ago and governments, local governments, in particular, were small and poorly funded. Violence and vigilante activity was a very effective means of asserting and defending neighborhood color lines. But more importantly, across the United States, restrictive covenants became a powerful and popular means of maintaining exclusivity. A restrictive covenant is a private agreement that is written into the title,

the deed of the house that you will not sell your house to certain groups. These restrictive covenants were not struck down by the Supreme Court until 1948, and so they had many, many years to work and become part of the fabric of our cities.

CC: As the United States developed, the courts governing role shifted. No longer was housing segregation created just by private contracts, city councils and local zoning commissions started to play a bigger role in entrenching segregation.

JT: As working-class Black migrants and foreign immigrants poured into cities to take advantage of industrialization, and as cities became modern service providers in the early nineteen hundreds, white homeowner neighborhoods became threatened by encroachment. The maintenance of exclusivity required coordination and the constant vigilance against potential violators. Marshalling the power of municipal government became a clear path to creating segregation that was much stickier than the kind of segregation that existed before.

Land use regulations could offer developers and property owners the promise of a protected investment and exclusive access to local public goods. Several southern cities established separate Black and White neighborhoods in the early nineteen hundreds using zoning. The Supreme Court rules race-based zoning where you say this part of town is going to be where the white, single-family homes are going to go, and this part of town is going to be where the apartments that serve people of color are going to go. The Supreme Court rules this unconstitutional in 1917, so cities have to figure out a new way to create segregation that isn't on its face about race.

There are lots of different ways that cities get involved in land use regulation. One example is that sometimes cities would, particularly in the South where public services were segregated, they would think about where they wanted the segregated community to be. And Austin is a perfect example of this. Austin in the early nineteen hundreds had many Black and Latino residents spread throughout the city, but planners wanted to consolidate the Black and Latino neighborhoods. And as schools were segregated at the time, one very effective way of doing this was to close down all of the Black and Latino-serving schools in other parts of town and only open the segregated Black and Latino-serving schools in one section of town. And lo and behold, Black and Latino residents moved closer to these schools in order to be able to send their children to school. And today, Austin still bears that same segregation pattern.

So even without designating specific areas for the city that are to be inhabited by certain demographic groups, cities can and do generate segregation using land use regulations. They can specify lot sizes and housing density. They can put freeways and railroad tracks in certain locations. They can physically separate neighborhoods using many different kinds of strategies.

CC: And on top of these local regulatory and land use strategies that reinforced segregation, the federal government put its discriminatory imprint on neighborhoods across the nation.

JT: Particularly around the New Deal there were a series of programs that were intended to spur construction in the housing industry and increase home ownership through the Federal Housing Administration. The Federal Housing Administration (FHA) implemented a practice that we now know as redlining where they developed a system to evaluate the risks that were associated with lending in certain neighborhoods. Areas that were racially homogenous had a high proportion of white residence, had restrictive covenants, and had single-family zoning were much more likely to be graded as good investments by the Federal Housing Administration. And there's a quote here by the FHA: Zoning, they argued, protected neighborhoods against declines in value or desirability by preventing the infiltration of business and industrial uses, lower-class occupancy, and inharmonious racial groups. It was intended to create segregation.

These federal policies were in place as suburbs exploded with population in the post-World War II period. Along with the fact that race and income are highly correlated in the United States, and that the FHA loans prioritized new development, this meant that early suburbs were much whiter and much wealthier than their neighboring cities. This would change, of course, over time. You can all think of a suburb that today is inhabited by many people of color, but there remain places that are overwhelmingly white and wealthy. So, where does this leave us? Well, this leaves us with two patterns of segregation in the United States. A history where neighborhoods were segregated by race and class, and, more recently, where whole cities are segregated from each other by race and class.

CC: And these differentiated cities provide differentiated services. School funding, for example, is systematically skewed across the United States. Professor Trounstine argues that because of the regulatory roots of housing segregation, it will continue to persist if we don't do anything. She shared some new research showing a clear connection between regulation and patterns of segregation.

JT: We also show that land use regulations are associated with demographics at the census block group level. Higher zone density and multi-family designations are associated with much more diversity, fewer white residents, more renters, and more residents living below the poverty line. These regulations are also associated with more building permits, which all suggests that these segregation patterns are going to continue to replicate in the future.

CC: One of the difficulties is that zoning regulations affect housing prices. And as long as income disparities exist, and are correlated with race, zoning will reinforce structural patterns along racial lines.

JT: So when cities engage in the land use regulation process, they effectively change the price of land. They change the value of land. They can increase the value of land and they can decrease the value of land.

So, a very basic example would be if you zone, if your city says, in this neighborhood, every house that is going to be built has to be built on a half-acre or more. The cost of that housing is going to be much higher than housing that is built on a third of an acre or a quarter of an acre or an eighth of an acre. And so, by creating that regulation of having large lot zoning in a particular location, they have said, the houses in this neighborhood are going to be more expensive than the houses in this other neighborhood.

On the flip side, if a city makes high-density zoning possible, if they say, we can build upwards of forty units on an acre in this particular neighborhood, the cost of each unit will be lower, more affordable to people who have lower incomes. And of course, in the United States, race and income are highly related. And so because white wealth is so much greater than the wealth of people of color, what that means is that the higher-price housing is largely going to be available to white residents as opposed to people of color. We can also talk about the ways in which cities can do things to bring down housing value. Cities do things like run a freeway through a neighborhood, or they do things like put a garbage dump near a neighborhood. Right? We have to have places where we put the garbage dumps, where are they going to go? They are going to go in next to the places that are politically the weakest in the community. And historically speaking, that has been lower-income and people of color in the United States. And so there is a cyclical process here. If you’ve got a garbage dump in your neighborhood, nobody wants to move to that neighborhood, and the value of the housing goes down over time in addition to the initial shock that’s created by the government placing the garbage dump next to that neighborhood.

CC: And Professor Trounstine explains that people's preferences for segregation vary along racial lines.

JT: One of the ways that land use regulation operates is that it protects exclusivity and allows the market to function everywhere else. That is one of the ways that segregation becomes so entrenched. Whites and people of color have different views over how much they are willing to pay for exclusivity. So, white residents and wealthy residents are willing to pay a housing price premium on the same and exact house if that house is located in a white and exclusive neighborhood.

Music: Joy Ike's "Home"

CC: What can be done? It will not be easy, but Professor Trounstine does see a path forward.

Music: Joy Ike's "Home"

JT: The first step for policy solutions is to recognize really and truly in our heart of hearts, to understand that segregation is not an accident. Segregation is purposeful. The geography of our communities did not happen accidentally. And the people who create segregation, maintain segregation, and benefit from segregation are always those who are the most opposed to undoing it. But undoing it is possible. One of the most important policy levers that we have is to integrate our housing stock and to prevent exclusive neighborhoods and exclusive cities from remaining off-limits to lower-income families and families of color. Lower-income residents could be given housing subsidies also to increase their integration into communities.

If breaching segregation proves unworkable, more can be done by state governments to spread and redistribute public goods, just as many states have done with school funding. But garnering state support for either desegregation or redistribution of public goods will require tremendous political pressure from marginalized groups and their allies, an admittedly daunting task. However, we may see some movement in both of these arenas in the near future. Advocacy groups, citizens organizations, and concerned policymakers must build coalitions in order to make a more equitable society in the future. America's future depends on their success.

CC: And in some places, glimmers of success can be observed.

JT: The most visible move at the local level was made by Minneapolis. The City of Minneapolis made a statement that said that they recognized that their zoning policies had historically racist roots and they up-zoned—the entire city. Up-zoned means now more than a single-family home is located on every parcel throughout Minneapolis. So, they are by right, which means you can, without a lot of red tape, build a triplex anywhere in Minneapolis. The problem is that there are lots of pathways to blocking development. Having the zoning in place in order to develop denser housing is the first step, but it's not the last step. There are lawsuits that people can file for environmental violations. People can oppose the development on a whole variety of grounds, whether it has too high a floor-area ratio, or it's going to violate the height limit. But we do see a very strong connection between high density zoning and changes in the demographics of a community. So it's highly likely that it will result in that positive outcome.

CC: And replicating what Minneapolis has done won't be easy. Part of the problem stems from the local nature of land use regulation.

JT: A hundred percent of the reason why segregation is the way that it is in the United States is because of local control. Local control allows segregation to happen. And just as you pointed out, the cities that need to densify, are not the cities that are most likely to densify. Right? So, Philadelphia could zone for more dense housing, but that is not who needs to densify their zoning. It is the cities that are across the boundary from Philadelphia that need to densify, and they don't want to densify, that's the whole point. Right? (**CC: Mm hm, mm hm**) Their land use is how they want it, and so the only solution—really, the only solution is a state solution.

CC: This doesn't mean the federal government has no role to play. As we know, federal redlining policies contributed to the segregation that remains today. If the federal government helped create the problem, maybe it can help solve it. That's what the Biden Administration appears to believe. Here's Attorney General Merrick Garland from 2021:

"Today, we are committing ourselves to addressing modern-day redlining by making far more robust use of our fair lending authorities. Through the Justice Department's 'Combating Redlining Initiative' the civil rights division will partner with the U.S. Attorneys' offices. They will mobilize resources focused on making fair access to credit a reality in under-served neighborhoods across our country."

CC: Professor Trounstine also sees value in strong federal laws, especially those that allow for private enforcement of housing rights.

JT: There are also a lot of examples where the cities have been sued under the Fair Housing Act. The federal government has brought lawsuits against many cities, and I have other work that shows that those lawsuits are very effective at integrating communities. They're very effective at increasing diversity in communities. So, there are pathways, there are success stories.

CC: But in an increasingly polarized political environment, following these pathways may not come easily. The situation is self-entrenching, self-reinforcing, argues Professor Trounstine. She even sees housing segregation as one of the contributors to ideological polarization today.

JT: One of the arguments that I make is that segregation in residential patterns has been a big contributor to the increasing polarization in the United States. So, as our neighborhoods have remained exclusive or remained not exclusive, we have seen both because the politics of those places become more polarized but then, as people move, they move to places that match their politics better. So, we have seen sorting of the population and I can show that in places where you had exclusive, white homeowner neighborhoods in the 1970s, those places are much more likely to remain politically conservative today and vice-versa. Places that had high-density, high populations of people of color in the 1970s are much more likely to be extremely polarized toward the Democratic Party today. So, this lack of integration in our housing, because our politics are tied to our demographics, means that we then have polarization in the broader political world at the state and federal level in addition to polarization at the local level. Look at what's going on in school boards today. Right? The amount of politicization bringing in these external political forces into local politics is only going to get more dramatic over the next couple of decades, I think.

CC: Is there anything that we, as individuals, can do? Professor Trounstine offers some advice.

JT: You can advocate that your city government build denser housing and zone for denser housing. There is only so much that can be done in any small period of time, but local government is very accessible, and getting involved in your local planning commission and your local government is a great first step and not preventing dense development from coming to your neighborhood is another first step that a lot of people, a lot of communities could take.

Music: Joy Ike's "Walk"

CC: Thank you for listening to this episode of "Race and Regulation." I hope Professor Trounstine has informed you of the regulatory roots of housing inequities and how to end them.

This podcast has been adapted from Professor Trounstine's lecture in the fall of 2021. She spoke in the Penn Program on Regulation's series on race and regulation, co-sponsored by the Office on Equity and Inclusion at the University of Pennsylvania Law School.

I'm Cary Coglianese, the Director of the Penn Program on Regulation. For more about our program and free public events, visit us at pennreg.org.

This podcast was produced by Patty McMahon, with help from Andy Coopersmith, our program's managing director. Our music is by Philadelphia-based artist, Joy Ike.