

A BIOETHICAL ARGUMENT TO PROVIDE DIRECT PAYMENTS TO UNDOCUMENTED IMMIGRANTS IN A COVID-19 ECONOMIC STIMULUS †

Michael J. Conroy††

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INTRODUCTION

As of January 2021, in response to the COVID-19 pandemic, Americans have been advised to observe social distance, wear masks, and limit interactions as much as possible. These behaviors have negatively impacted the economy leading to a spike in unemployment and the closure of many businesses. The United States has attempted to empower citizens to continue isolating and minimize its negative impact on the economy by passing a series of acts making up the two most expensive stimulus packages in history. The most significant piece of legislation, the Coronavirus Aid, Relief, and Economic Security (CARES) Act, provided direct stimulus payments to eligible individuals and families.¹ Those families without work-eligible social security numbers (SSNs) were explicitly excluded from direct stimulus payments of \$600 to individuals and \$1,200 to families.² Many of these individuals were undocumented immigrants who have been disproportionately affected by COVID-19.

An additional stimulus, with payments of equal value, was later secured by passage of the Consolidations Appropriations Act, 2021.³ One

† This is an honorable mention essay for an interprofessional writing competition held by the *Syracuse Law Review*. To accommodate various professional fields, the citations are a blend of APA and Bluebook style formats. Sources and details have not been independently verified by *Syracuse Law Review* and *Syracuse Law Review* did not complete a peer review of the study or of the conclusions drawn by the authors.

†† MD, MPH candidate SUNY Upstate Medical University College of Medicine (2023); B.S. biochemistry Hobart and William Smith Colleges.

1. CARES Act, H.R. 748, 116th Cong. §§ 2201 (2020).

2. *Id.*

3. Consolidated and Appropriations Act, 2021, H.R. 113, 116th Cong. (2020).

of the major hurdles for a second stimulus was disagreement over eligibility criteria for receiving direct stimulus payments. Some failed propositions, such as The HEROES Act, would have provided direct stimulus payments to some individuals without SSNs.⁴ Opponents believed that providing funding to an undetermined number of undocumented immigrants could pose an unknown tax burden. The Consolidations Appropriations Act, 2021 compromised by providing stimulus payments to families with at least one work-eligible SSN.⁵ This allowed mixed-status families and their children access to direct stimulus payments. Undocumented immigrants and their citizen children remain ineligible, leaving a large segment of society unprotected from the economic and health impacts of COVID-19.

Between 10.5 and 12 million undocumented immigrants reside in the United States.^{6,7,8,9} As of 2015, an estimated 66% of these immigrants are from Mexico, El Salvador, and Guatemala.¹⁰ They are more likely to work essential service jobs (78.3%) than Black (72.0%) or white (69.7%) Americans.¹¹ While COVID-19 morbidity data is unavailable for undocumented immigrants specifically, Latinx Americans have a COVID-19 hospitalization rate 4.2 times that of their white counterparts.¹²

4. Heroes Act, H.R. 6800, 116th Cong. (2020).

5. Consolidated and Appropriations Act, 2021, H.R. 113, 116th Cong. §§ 272, 273 (2020).

6. Migration Policy Institute. (2015, January 15). *Unauthorized immigrant population profiles*. <https://www.migrationpolicy.org/programs/us-immigration-policy-program-data-hub/unauthorized-immigrant-population-profiles>.

7. Passel, J. S., & Cohn, D. (2018). *Number from Mexico continues to decline, while Central America is the only growing region*. Pew Research Center. <https://www.pewresearch.org/hispanic/2018/11/27/u-s-unauthorized-immigrant-total-dips-to-lowest-level-in-a-decade/>.

8. Warren, R. (2020). Reverse migration to Mexico led to US undocumented population decline: 2010 to 2018. *Journal on Migration and Human Security*, 8(1), 32–41. <https://doi.org/10.1177/2331502420906125>.

9. Department of Homeland Security. (2018). *Population Estimates Illegal Alien Population Residing in the United States: January 2015*. https://www.dhs.gov/sites/default/files/publications/18_1214_PLCY_pops-est-report.pdf.

10. *Id.*

11. Hinojosa-Ojeda, R., Robinson, S., Zhang, Pleitez, M., Aguilar, J., Solis, V., Telles, E., Valenzuela, A. (2020) *Essential but disposable: Undocumented workers and their mixed-status families*. UCLA North American Integration and Development Center and the Mexican Instituto Nacional de Estadística y Geografía. <https://irle.ucla.edu/wp-content/uploads/2020/08/Essential-Undocumented-Workers-Final-w-Cover.pdf>.

12. Center for Disease Control and Prevention (2020, November 12) COVID view: A weekly surveillance summary of U.S. COVID-19 activity. Key Updates for week 45 ending November 7, 2020. <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/pdf/covidview-11-13-2020.pdf>.

Presumably undocumented immigrants have fared worse than their Latinx counterparts during the pandemic because of challenges they face when seeking out healthcare. Language barriers and poor understanding of the American healthcare system may reduce utilization. Even when undocumented immigrants are more familiar with the system, an estimated 45% are uninsured.¹³ Additionally, stereotypes and incorrect beliefs among healthcare providers persist, contributing to differential medical outcomes.¹⁴ Although many healthcare providers go to considerable effort to offer culturally and linguistically appropriate care,¹⁵ additional training may be necessary for wholistic treatment of undocumented immigrants, such as a trauma-informed approach and legal knowledge.^{16,17}

In addition to barriers within the medical system, non-medical governmental organizations also limit healthcare access for undocumented immigrants. While United States Immigration and Customs Enforcement (ICE) encourages all immigrants to receive care for symptoms related to COVID-19,¹⁸ fear of deportation is believed to limit immigrant utilization of healthcare services.¹⁹ Furthermore, many undocumented immigrants are likely to feel that a reliance on any social support will decrease their chances of ever receiving citizenship.²⁰ Some

13. Artiga, S., & Diaz, M. (2019). *Health coverage and care of undocumented immigrants*. Kaiser Family Foundation. <http://files.kff.org/attachment/Issue-Brief-Health-Coverage-and-Care-of-Undocumented-Immigrants>.

14. Drewniak, D., Kronos, T., & Wild, V. (2017). Do attitudes and behavior of health care professionals exacerbate health care disparities among immigrant and ethnic minority groups? An integrative literature review. *International Journal of Nursing Studies*, 70, 89–98. <https://doi.org/10.1016/j.ijnurstu.2017.02.015>.

15. U.S. Department of Health and Human Services. (2018 October 2). *National CLAS standards*. <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>.

16. Murshid, N. S., & Bowen, E. A. (2018). A trauma-informed analysis of the violence against women act's provisions for undocumented immigrant women. *Violence Against Women*, 24(13), 1540–1556. <https://doi.org/10.1177/1077801217741991>.

17. Samra, S., Pelayo, E., Richman, M., McCollough, M., & Taira, B. R. (2019). Barriers to the right to health among patients of a public emergency department after implementation of the Affordable Care Act. *Health Equity*, 3(1), 186–192. <http://doi.org/10.1089/hec.2018.0071>.

18. U.S. Citizenship and Immigration Services (2020, September 11). *Public charge*. <https://www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge>.

19. Hacker, K., Chu, J., Arsenault, L., & Marlin, R. P. (2012). Provider's perspectives on the impact of Immigration and Customs Enforcement (ICE) activity on immigrant health. *Journal of health care for the poor and underserved*, 23(2), 651–665. <https://doi.org/10.1353/hpu.2012.0052>.

20. Page, K. R., Venkataramani, M., Beyrer, C., & Polk, S. (2020). Undocumented U.S. Immigrants and Covid-19. *New England Journal of Medicine*, 382(21), e62. <https://doi.org/10.1056/NEJMp2005953>.

authors have pointed out the inherent danger of conducting immigration raids during a pandemic.²¹ The raids and border detentions have not subsided despite overcrowding at detention centers, which are regularly criticized for human rights violations such as the separation of children from their parents. For immigrants who are detained, detention centers have been cited for providing suboptimal medical care.²² These non-medical interventions in the healthcare system can kindle an intense sense of fear among undocumented immigrants. This fear has contributed to limited healthcare utilization, including COVID-19 screening, diagnosis, and treatment among undocumented immigrants.

Due to the high likelihood of working essential service jobs and low healthcare access, undocumented immigrants are likely disproportionately affected by COVID-19. The remainder of this report addresses the ethical implications of withholding direct stimulus payments from this vulnerable population. Subsequent to an ethical justification for providing direct stimulus payments is an analysis of the impact of such funding on the prevalence of COVID-19 and the benefit to society at large.

I. ETHICS

From a bioethical perspective, four core ethical principles guide decision making: justice, autonomy, beneficence, and nonmaleficence.²³ An ethical dilemma arises when the principles suggest conflicting courses of action. Healthcare providers are taught to select the relevant ethical principles and weigh their individual merits.²⁴ Additional ethical principles may be invoked when confronting broader issues, such as solidarity during a pandemic.²⁵ The principles most relevant to arguments for and against allocating stimulus funds to undocumented immigrants are justice and solidarity.

21. Lopez, M. M., & Holmes, S. M. (2020). Raids on immigrant communities during the pandemic threaten the country's public health. *American Journal of Public Health, 110*(7), 958–959. <https://doi.org/10.2105/AJPH.2020.305704>.

22. Crosby, S. S., & Annas, G. J. (2020). Border babies—medical ethics and human rights in immigrant detention centers. *New England Journal of Medicine, 383*(4), 297–299. [10.1056/NEJMp2003050](https://doi.org/10.1056/NEJMp2003050).

23. Beauchamp, T. L., & Childress, J. F. (2013). *Principles of biomedical ethics* (7th ed.). New York: Oxford University Press.

24. Gillon, R. (1994). Medical ethics: Four principles plus attention to scope. *BMJ, 309*(6948), 184–184. <https://doi.org/10.1136/bmj.309.6948.184>.

25. Pascoe, J., & Stripling, M. (2020) *Surging Solidarity: Reorienting Ethics for Pandemics*. Preprint. <https://kiej.georgetown.edu/surging-solidarity-special-issue/>.

A. Justice for Individuals and Families

The tenant of justice most relevant to this discussion is distributive justice, which describes how to allocate limited resources by resolving tensions between the principles of autonomy and equity. Autonomy would allow workers to decide how the fruits of their labor are allocated. Equity would distribute resources to promote similar outcomes for all members of a society. There are numerous definitions of justice, each attempting to balance autonomy with equity. According to Rawls' definition, justice describes the allocation of resources to maximize those available to the least well-off.²⁶ Justice also claims some level of minimal entitlement for all members of a society, including recompense for harms done to society's most vulnerable members.

The CARES Act stipulated that individuals and families who filed tax returns without work-eligible SSNs are ineligible for stimulus payments. This criterion to receive stimulus payments is unjust in its exclusion of vulnerable groups, particularly undocumented immigrants, undocumented immigrant children, and the citizen children of undocumented immigrants. While only providing stimulus payments to families with SSNs provides some logistical ease in identifying families, those logistic difficulties could easily be overcome for a subset of undocumented families who paid federal taxes using an individual taxpayer identification number, as well as mixed-status families where at least one household member did have a work eligible SSN. Shockingly, mixed-status families with children holding citizenship were also ineligible for the \$500 per-child payments.²⁷ The Consolidations Appropriations Act of 2021 did allow families with at least one work-eligible SSN to receive child-based stimulus payments. Policymakers seem to recognize children as a vulnerable group with \$500 per-child payments but commit a violation of justice by excluding citizen children with undocumented parents. Their reasoning is, at best, a gross oversight of the consequences of basing direct stimulus payments on SSNs.

B. Justice of the Burden of Debt

26. Rawls, J. (1971). *A theory of justice*. Belknap Press/Harvard University Press.

27. Chishti M., & Bolter J. (2020) *Vulnerable to COVID-19 and in frontline jobs, immigrants are mostly shut out of U.S. relief*. Migration Policy Institute. <https://www.migrationpolicy.org/article/covid19-immigrants-shut-out-federal-relief>.

Many Americans worry about the long-term viability of the United States economy and the size of the national debt.²⁸ Concerns of fairness generate questions, such as, who pays for a stimulus, and how much burden will this create for future generations? To answer the first question, the burden of debt will be disproportionately borne by the younger generations, who are more likely to pay off the debt in their working careers. Therefore, when deciding whether to generate additional stimulus funds, the principle of fairness dictates that the younger generation's voice should be given additional weight, as they will be responsible for managing the debt. Among multiple generations, millennials are the least concerned about the size of the federal debt,²⁹ minimizing the burden of paying off debt as a deterrent for generating additional funds.

C. Solidarity

Solidarity ethics has been urged as a response to the overwhelming suffering caused by the pandemic.³⁰ Solidarity is a form of mutual responsibility, most relevant when a group works together towards a common goal (e.g., defeating a pandemic). Solidarity enumerates that the suffering of one segment of society can be detrimental to the whole if hardship faced by one group impedes their ability to help overcome a collective challenge. Focusing resources to this specific area will allow more individuals to contribute to the collective effort, combat the problem, and effectively overcome it. Policies based on solidarity must acknowledge the hardship of others and approach them with empathy and compassion. An example of a policy based in solidarity is the T and U-visas, which are available to immigrants who came to the United States due to human trafficking or being victims of other serious crimes. These visas allow immigrants to legally reside in the United States and allow law enforcement to persecute violent criminals without worrying if witnesses will be deported. These visas exemplify how policies based in solidarity can be mutually beneficial to those providing resources and those receiving them.

28. Parker, K., Morin, R., & Horowitz, J.M. (2019) *Looking to the future, public sees an America in decline on many fronts*. Pew Research Center. <https://www.pewsocialtrends.org/2019/03/21/america-in-2050/>.

29. Desilver, D. (2020). *The U.S. budget deficit is rising amid COVID-19, but public concern about it is falling*. Pew Research Center. <https://www.pewresearch.org/fact-tank/2020/08/13/the-u-s-budget-deficit-is-rising-amid-covid-19-but-public-concern-about-it-is-falling/>.

30. Pascoe, J., *supra* note 25.

Solidarity strengthens the argument for providing funds to undocumented immigrants, who share the common goal of ending the pandemic. The ability of undocumented immigrants to contribute to the collective effort against the virus is hindered by their limited resources available to reduce interpersonal interactions. This argument intensifies if undocumented immigrants are more likely than the general public to come into contact with and transmit the virus. In fact, the greater risk undocumented immigrants are subjected to, the greater the potential payoff for mitigating their risk is for all. Contextualizing the impact of the economic stimulus on COVID-19 epidemiology details how a more uniform allocation of funds could benefit all members of society by reducing the chance they will be exposed to COVID-19.

II. STIMULUS FUNDS IN PRACTICE

Compared to other wealthy nations, the United States has had more cases of COVID-19. Many western European countries and Canada had fewer than 20 cases per million residents per day during the summer months of 2020.³¹ The policy approach of the United States to reduce the spread of COVID-19 could be grossly characterized as far more heterogeneous than that of many European nations. In particular, individual states have taken varying approaches to policies enforcing mask mandates and banning large social gatherings. One of the principal actions taken at the federal level, and enacted in unison across the country, was the provision of direct stimulus checks and enhanced unemployment benefits. An intended result of these provisions was to enable actions to mitigate the spread of the virus, including minimizing interpersonal interactions, working from home, taking time off of work, and quarantining if one came in contact with a case of COVID-19. The economic stimulus appeared to enable these actions, at least temporarily.

One way to assess the impact of the economic stimulus on American's ability to quarantine is by analyzing cell phone data which shows passage of the CARES Act in March of 2020 was followed by a two-month period with the lowest nationwide metrics of mobility, non-essential visits, and the number of interpersonal interactions.³² When

31. Almukhtar, S., Aufrichtig, A., Barnard, A., Bloch, M., Cai, W., Calderone, J., Collins, K., Conlen, M., Cook, L., Gianordoli, G., Harmon, A., Harris, R., Hassan, A., Huang, J., Issawi, D., Ivory, D., Lai K.K.R., Lemonides, A., McCann, A. [...] Yoon J. (2020, December 20). Coronavirus World Map: Tracking the Global Outbreak. *The New York Times*. <https://www.nytimes.com/interactive/2020/world/coronavirus-maps.html>.

32. Unacast. Schema for Covid-19 social distancing scoreboard. <https://www.unacast.com/covid19/social-distancing-scoreboard>. Accessed December 3, 2020.

Americans engaged in their most stringent period of quarantine, during March, April, and May of 2020, COVID-19 incidence declined.³³ Hsiang et al. have shown that economic policies and government interventions decreased COVID-19 incidence in multiple countries at various points in time.³⁴ Initially the stimulus was intended as a temporary measure so that less extreme policies such as mask wearing, social distancing, and robust contact tracing may be able to contain the virus. However, the COVID-19 incidence in the United States never declined to the extent observed in Western Europe and Canada, leaving Americans susceptible to a subsequent COVID-19 spike when social distancing was relaxed throughout June and July.

The CARES Act was the most prominent COVID-19 control effort enacted simultaneously across the country, but it was not carried out uniformly across social classes. Undocumented immigrants and mixed-status families were ineligible for direct stimulus payments. This left a sizable segment of society unable to fully engage in COVID-19 mitigation efforts. Without direct stimulus payments, if workers were laid off, they would have been forced to search for alternative forms of employment, regardless of the risk of contracting COVID-19. For those who were not laid off, many were essential workers who were asked to work additional hours and risk daily exposure. Undocumented immigrants are more likely to be essential workers than citizens.³⁵ As other Americans stayed home, many undocumented immigrants continued to work in positions such as homecare and agriculture. Even if they had felt ill and desired a COVID-19 test, fear of interacting with the healthcare system may have limited accessibility.

Excluding this marginalized group from a government stimulus hindered their ability to control the virus. At the time of this writing, efforts to control the spread of COVID-19 in the United States have largely failed. It remains unclear how additional stimulus funding from the Consolidations Appropriations Act will impact the pandemic. The bill compromised the arguments for and against providing stimulus funding by appropriating funds for mixed status families. Undocumented immigrants who have paid income taxes using individual taxpayer

33. *Id.*

34. Hsiang, S., Allen, D., Annan-Phan, S., Bell, K., Bolliger, I., Chong, T., Druckenmiller, H., Huang, L. Y., Hultgren, A., Krasovich, E., Lau, P., Lee, J., Rolf, E., Tseng, J., & Wu, T. (2020). The effect of large-scale anti-contagion policies on the COVID-19 pandemic. *Nature*, 584(7820), 262–267. <https://doi.org/10.1038/s41586-020-2404-8>.

35. Kerwin, D., Nicholson, M., Alulema, D., & Warren, R. (2020). *U.S. foreign-born essential workers by status and state, and the global pandemic*. Center for Migration Studies. <https://cmsny.org/wp-content/uploads/2020/05/US-Essential-Workers-Printable.pdf>.

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identification numbers remain excluded, although no ethical justification for such action is available.

CONCLUSION

Previous efforts to control COVID-19 inappropriately rely on ethical principles which are less relevant during the pandemic, resulting in the inconsistent use of mandates and allocation of funds. The weakness of these arguments and our failure to combat the virus are a clear signal to invoke alternative reasoning. The principles of justice and solidarity would suggest a more uniform distribution of resources, including direct stimulus payments for undocumented individuals, mixed-status families, and the citizen children of undocumented parents. From an epidemiologic point of view, this policy is logical and from an ethical point of view, this policy is readily defensible. The case to provide funding to undocumented immigrants in California has been mentioned, but the proposition lacks widespread support.³⁶

COVID-19 continues to cause pain and suffering across all segments of society. While a vaccine offers hope, direct stimulus payments are a much-needed temporary protection measure. The Consolidations Appropriations Act will reach more citizens, and more residents, than the first stimulus but still leaves out vulnerable groups. It is unclear if stimulus funds will successfully recreate the decline in incidence observed following passage of the CARES act. Regardless, undocumented immigrants seem to have an elevated risk of exposure to COVID-19 and depriving them of stimulus payments is not only unethical but a poor approach to combat a pandemic.

36. Torres-Pinzon, D. L., Solorzano, W., Kim, S. E., & Cousineau, M. R. (2020). Coronavirus disease 2019 and the case to cover undocumented immigrants in California. *Health Equity*, 4(1), 500–504. <https://doi.org/10.1089/hecq.2020.0049>.