

This is the second post in a series of six posts. The first post is [here](#).

As I explained in my prior post, the United States (and indeed other countries) has not produced the level of infrastructure for housing or energy required to address housing demand, demand for energy to advance economic development, the needed transition to climate change, or historical inequalities in housing. What diagnosis does the abundance movement have to address those challenges?

In general, the dominant theme of the abundance movement has been to argue that law is the primary obstacle to achieving these goals, and thus legal reform is the most appropriate solution. In particular, abundance advocates highlight complicated and burdensome permitting requirements (from environmental law and other legal areas), obligations for government agencies to facilitate public participation and engage with community members, internal bureaucratic rules constraining public agency operations, and the possibility of litigation to enforce any and of all of these obstacles. Abundance advocates in particular point to the burdens imposed by the National Environmental Policy Act (NEPA) and the Administrative Procedure Act (APA) as key points for future reform.

I think there is much to these critiques. But there are also other important drivers of our inability to produce infrastructure at scale, drivers that are not legal, or at least not regulatory policy or litigation risk. For instance, the inability of American governments to construct mass transit projects on time and on budget is driven in significant part by a long-standing policy of outsourcing projects to contractors, which reduces in the in-house expertise necessary to effectively manage projects.

Zoning regulations that constrain housing are not just driven by Not In My Backyard (NIMBY) neighbors who object to development, but also to a fiscal system that strongly shapes what kinds of developments are feasible for local governments to approve. Indeed, the fact that many of the same crises around housing and infrastructure exist in countries around the world emphasizes the possibility that it is not the specifics of legal forms in particular countries that constrain housing and other infrastructure, but broader and global economic, political and social trends that in turn drive legal dynamics (which vary from place to place) that in turn raise the cost of housing and other infrastructure.

This does not mean that we should not pursue some form of the reforms pushed by abundance advocates. Permitting reform, litigation reform, and other options may be necessary changes to advance housing production, responses to climate change and historical inequalities, and more. But they may well not be sufficient. And that

creates a political risk that abundance advocates will push their reforms, with potentially steep political costs (as I will discuss), but the results may be underwhelming. And that could create a backlash to the reforms themselves. In addition, if broader global trends are driving the policies that we seek to reform, reform may be even harder to undertake.

Given that abundance reforms are necessary, if difficult and insufficient, what kinds of reforms are we looking at, and what tradeoffs might they involve? I will discuss that question in my next post.