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## Protecting Teachers or Protecting Children? Media Representations of *Vergara v. California*

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# Protecting Teachers or Protecting Children? Media Representations of *Vergara v. California*

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## Abstract

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Over the past decade, the laws governing teachers' employment have been at the center of legal and political conflicts in state courts and elections across the United States. *Vergara v. California* challenged five California state statutes that provide employment protections for teachers. Drawing on the theory of political spectacle, we conducted a media content analysis of 42 print news media articles published prior to the court's decision in June 2014. Two aspects of political spectacle, the use of metaphor and the illusion of rationality were the most salient and deployed in ways that were more closely aligned with the student plaintiffs' claims than the statutes' defenders. We conclude by highlighting how the framing of these and other similar stories may shape subsequent debates about public education in the United States.

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**Keywords:** education policy, teachers, tenure, *Vergara v. California*, media content analysis, newspapers, print news media, political spectacle

# ¿Protegiendo Docentes o Protegiendo Niños? Representaciones de los Medios sobre el Caso *Vergara v. California*

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## Resumen

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En la última década las leyes que rigen el empleo de docentes han estado en el centro de los conflictos jurídicos y políticos en los tribunales estatales y las elecciones en los Estados Unidos. El caso *Vergara v. California* desafió cinco leyes del estado de California que proporcionan protección laboral a los docentes. Basándonos en la teoría del espectáculo político, analizamos el contenido de 42 artículos publicadas en la prensa antes de la decisión de la corte en junio de 2014. Dos aspectos de la teoría de espectáculo político, el uso de metáforas y la ilusión de la racionalidad fueron los más destacados y usados de manera estrechamente alineadas con las demandas sobre los estatutos de los estudiantes en detrimento de las demandas de la defensa. Concluimos, poniendo de relieve la forma en que este tipo de encuadramiento sobre esta y otras historias similares puede afectar futuros debates sobre la educación pública en los Estados Unidos.

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**Palabras clave:** políticas educativas, docentes, medios de comunicación, espectáculo político

The November 3, 2014 cover of *TIME Magazine* featured a dramatic photograph of a gavel in mid-strike over an apple with the headline “Rotten apples: It’s nearly impossible to fire a bad teacher” in stark black-and-white lettering. This story was perhaps the most controversial of the national news media coverage in the United States (U.S.) generated by *Vergara v. California*, a lawsuit that challenged five state statutes that provide employment protections for teachers working in California public schools. The first statute grants teachers permanent employment in a school district after two years of employment.<sup>1</sup> Three of the statutes outline due process procedures for dismissing teachers. The final statute at issue in the lawsuit requires teacher layoffs to be determined via seniority.<sup>2</sup> On June 10, 2014, Judge Rolf Treu of the Los Angeles County Superior Court declared that these statutes were unconstitutional. In this paper, we assess the extent to which *TIME*’s framing of the lawsuit was consistent with print news media coverage prior to the court’s decision. Drawing on the theory of political spectacle (Smith, 2004), we used media discourse analysis (Altheide & Schneider, 2013) to analyze the 42 print news media articles published between May 2012 and April 2014.<sup>3</sup>

## Background

One of the hallmarks of the U.S. educational system is that it is highly decentralized. Authority for education is delegated to states as a “reserved” power under the Tenth Amendment to the U.S. Constitution (Corcoran & Goetz, 2005, p. 31). As a result, the laws governing teacher employment in the United States are encoded in individual state statutes and vary considerably from state to state. Legal challenges to teachers’ employment provisions have to be brought in state courts. In November 2010, Silicone Valley entrepreneur David Welch founded Students Matter, a non-profit organization with the goal of “promot[ing] access to quality public education through impact litigation, communications, and advocacy” (Students Matter, n.d., para. 1). The *Vergara* lawsuit, filed in a California state court, was its first legal challenge. A second lawsuit, *Doe v. Antioch*, was filed in June 2015 in an effort to compel thirteen California school districts to comply

with the Stull Act, which requires districts to use standardized test data to evaluate teachers (Fensterwald, 2015). Students Matter's initial cases, including *Vergara*, targeted laws related to teacher employment and evaluation that its team viewed as barriers to students' educational opportunities. Students Matter also aims to litigate these and other policies "in the court of public opinion where students' rights and voices matter most" (Students Matter, n.d., para. 1).

Welch's organization spent the year and a half after its founding developing the legal strategy for *Vergara* and recruiting plaintiffs (Edwards, 2014).<sup>4</sup> In May 2012, Students Matter's legal team filed the lawsuit on behalf of nine students. While the plaintiffs' complaint noted that the statutes burdened all students who might be assigned a "grossly ineffective teacher," the plaintiffs' key claim was that the employment protection statutes specifically burdened poor and minority students whose "schools have a disproportionate share of grossly ineffective teachers" (First Amended Complaint, 2012, p. 1). As a result, the teacher employment statutes "perpetuate and widen the very achievement gap that education is supposed to eliminate" (First Amended Complaint, 2012, p. 1). In January 2014, the case went to trial, and six months later, Judge Treu declared that the five statutes governing teachers' employment were unconstitutional. In April 2016, the California Court of Appeals reversed Judge Treu's decision, and one month later, the plaintiffs appealed the decision to the state Supreme Court (Medina & Rich, 2016; Szymanski, 2016). In August, after three months of deliberation, the California Supreme Court denied the plaintiffs' request (Aron, 2016). In September 2016, the Contra Costa County Superior Court rejected Students Matter's claims in *Doe v. Antioch*.

*Vergara* can be understood as part of a recent wave of well-funded efforts to roll back the due process and collective bargaining rights of teachers and other public employees (Allegretto, Jacobs & Lucia, 2011; Aronowitz, 2011; Medina & Rich, 2016). Similar cases, *Dauids v. New York*, and *Forslund v. Minnesota* have been filed in New York and Minnesota courts, respectively. Campbell Brown, the former CNN news anchor, was a high-profile proponent of a second New York lawsuit that was consolidated with *Dauids, Wright v. New York*. These lawsuits are spearheaded by the Partnership for Educational Justice, which is funded by the Walton and Broad Foundations (Medina & Rich, 2016). As we highlight

below, because the news media is an important source of information for the general public about significant public policy questions, it is important to document and analyze how *Vergara* and similar cases are presented in the news media. More specifically, the laws governing tenure and due process rights for teachers, the core issue in *Vergara*, affect over 295,000 teachers who teach more than six million students enrolled in California's public schools.<sup>5</sup> Students Matter continues to pursue legislative strategies in California aimed at changing the employment provisions at the center of the lawsuit. More recently, Students Matter filed a lawsuit in a Connecticut federal court arguing that the state's laws and policies reduce students' access to public school choice via limiting the creation and expansion of charter and magnet schools.

### **Literature Review and Conceptual Framework**

As a matter of public policy, education reform has been and continues to be an important topic covered in news media, which is a key source of information for the general public about important public policy questions. For example, Barabas and Jerit (2009) found that different indicators of the level of newspaper coverage of a policy issue (e.g., volume, breadth, and prominence) are more strongly associated with people's policy-specific knowledge than demographic factors. Despite the apparent ubiquity of news stories on social media, a substantial share of the news consumption of the adult U.S. population comes from local media sources (Gentzkow & Shapiro, 2011). Beyond simply providing information to the public about policy questions, the news media also plays an important role in shaping the extent to which a phenomenon is understood as a public problem and how members of the public view the policy interventions that are proposed as solutions (Gabriel & Lester, 2013; Haas & Fischman, 2010; McCombs, 2004; Moses & Saenz, 2008, Saenz & Moses, 2010; Shoemaker & Reese, 2013). Many newspaper reporters and intermediary actors quoted in news media articles—think tank spokespeople, philanthropists, education celebrities, and research firm representatives often frame their assessments of education reform around the stories of helpless public school children (Goldie, Linick, Jabbar, & Lubienski, 2014). A central theme of many of these stories is the ineffective teacher, who is often portrayed as the villain

hindering efforts at education reform (Gabriel & Lester, 2013). Thus media stories about education are not neutral and objective but reflect relationships of power and privilege in the broader society. The media provides cues to the public about how to interpret and understand the people and policies associated with education reform (Cohen, 2010; Goldstein, 2011).

The conceptual framework for our analysis is drawn from Smith's (2004) adaptation of Edelman's (1988) political spectacle theory. Smith argued that contemporary political dynamics have caused public policies, and in particular education policies, to become less democratic and distorted by a degenerative politics that is driven by ideological contests rather than substantive efforts to improve public schools. In this view, policymaking is a theatrical act where the primary locus of activity is the political spectacle; actors are involved in largely symbolic activities aimed at winning conflicts over ideas and values. That is, their efforts are focused on promoting their own visions of the problems of education and the solutions they propose in response. Drawing on Smith, we identified five key elements of political spectacle: a) the use of metaphorical language; b) the casting of political actors in character roles (e.g., heroes, villains, and victims); c) dramaturgy or the staging of events; d) efforts to create the illusion of rationality via the use of numerical data, opinion polls, and research to justify policy claims or decisions; and e) a disconnection between means and ends, or indicators that there is a mismatch between the goal of a policy proposal and the possible outcomes.

Metaphors encourage the public to link specific ideas and concepts in ways that “appeal to intuition, emotion, and tacit assumptions rather than to reason” (Smith, 2004, p. 20). For example, in Arizona, politicians interested in promoting a high school graduation test described the existing graduation policy without the test as “seat-time” to suggest that students simply had to pass time in high school to graduate rather than fulfill the more rigorous requirement of taking a test (Smith, 2004, p. 15). Metaphors also create cognitive boundaries for understanding because other information or interpretations that are not aligned with a specific frame are likely to be viewed as irrelevant, thus reinforcing the tacit assumptions that most people use to make sense of policy proposals. Metaphors are closely related to prototypes (Haas & Fischman, 2010; Haas, Fischman & Brewer, 2014). To understand complex, multi-characteristic concepts, individuals create

generalized prototypes or mental models that function as a point of departure for understanding and reasoning about them (Haas & Fischman, 2010).<sup>6</sup> Metaphors and prototypes are powerful because:

They can have a profound effect on how we understand a concept at issue and whether related policies make sense or not. Given the mostly unconscious nature of these understandings, propositions that appear to favor the most prevalent prototype will have political advantage – their policies and programs will have an initial gut-level rationality and importance that others will not. (Haas & Fischman, 2010, p. 535)

Both casting and dramaturgy involve the use of vivid description. In the former, the descriptions are used to associate actors in an event with the roles of heroes, victims, and villains. In the latter, descriptions evoke a dramatic setting or event. The illusion of rationality is fostered by the marshaling of what appear to be hard facts to support claims. Stone (2002) highlighted a range of phenomena that appear neutral on the surface, but are the outcome of highly value-laden political and social processes. These include things that are measured or counted in public policy debates (e.g., employment rates, the homeless population, and the number of beds available in health care facilities) and the findings from scientific research.

In our analysis, we identified three types of facts associated with the illusion of rationality: a) the use of numerical data related to teachers' employment (e.g., salaries, or the number of teachers that had been released from their contracts for unsatisfactory performance); b) descriptions of findings from scholarly research; and c) the use of data from opinion polls to support a claim. Stone (2002) observed that while on the surface numbers are "not ambiguous," the process of arriving at a specific figure entails categorization and counting, which involve decision rules that are masked (p. 165). Likewise, while the common sense view of research is that it is authoritative, researchers understand that research findings are often debated within the research community and are cumulative rather than definitive. Finally, the disconnection between means and ends was used to track claims that a proposed policy solution would not address the underlying problem identified by its proponents. For example, *Vergara's* proponents argued that eliminating teachers' employment protections would increase poor and

minority students' access to high quality teachers, a claim that has been questioned by some observers (Schrag, 2014).

### Methods and Data Sources

We used print news media articles as our main source of data for this analysis because we were interested in understanding how the *Vergara v. California* case was being portrayed to the public. *Vergara* was widely viewed as a test case for similar lawsuits in other states (Medina & Rich, 2016; Sawchuk, 2014). Because print news media is a key source of information for the general public regarding crucial policy questions (Barabas & Jerit, 2009; Jerit, Barabas & Bolson, 2006; Moses & Saenz, 2008), it is important to understand how the media framed the case in its first phase. While judges rather than juries decided the outcomes of the case, it is likely that this initial framing set the tone for the print media coverage in the subsequent phases of the case and will shape the coverage of any future legislation related to the statutes at the center of the case. Moreover, local legal cases do not tend to receive much coverage in national newspapers, so it is striking that there were a substantial number of national stories on *Vergara* published prior to Judge Treu's decision (Barabas & Jerit, 2009).

We constructed our dataset by searching LexisNexis and ProQuest for articles published between May 2012 and May 2014 using the search terms "David Welch," "Students Matter," "teacher tenure," and "Vergara." Our searches yielded 42 news, editorial, and opinion print media articles published in national core and California newspapers.<sup>7</sup> We included articles published in the *Los Angeles Times* in our counts of California newspapers. While the *Los Angeles Times* is considered a core national newspaper, because the Los Angeles Unified School District was one of the defendant school districts, the *Vergara* case was an event in the *Times*' local media market that would merit coverage.

In the first stage of the analysis, we categorized the articles by a set of objective characteristics: a) year published; b) article type (news, editorial, or opinion); and c) news source (California, national, or international newspaper, and other). For the second stage of the analysis we developed a set of substantive codes that addressed the elements of political spectacle as described by Smith (2004). We refined this list of codes and expanded it to

include a set of inductive codes drawn from our initial reading of five articles that represented the range of the dataset by date and type (see Table 1 below). We read the articles and coded them independently, and then compared our initial codes to ensure that we were defining and applying our codes consistently. While we coded all of the articles in the dataset using Dedoose (2014), we coded the news and editorial articles first because these are ostensibly the more neutral and objective accounts of the case (Cook, 1998) before analyzing the opinion pieces, which we viewed as more explicitly partisan.

## **Findings**

### **Objective Analysis**

Table 1 outlines the objective characteristics of the articles. The majority of the print news media articles (31 or 74%) were published in California-based newspapers, while a quarter were published in national core newspapers. Although eleven print media articles were published in 2012, most were published in 2014 and many of those articles covered the hearing, which took place from January to March of 2014. A number of newspapers, including *Education Week* (a national newspaper aimed at a U.S. readership interested in education) and the *Los Angeles Times* (a national newspaper written for a general audience fluent in English) summarized the testimony in some detail, which is not surprising because one of the key witnesses was John Deasy, the superintendent of the Los Angeles Public Schools, the second largest school district in the U.S. and the local media market for the *Los Angeles Times*. More than half of the articles published in California newspapers were opinion pieces, which suggests that there was a substantial effort to shape public opinion about the case in local news markets.

Table 1. *Objective Characteristics of Print News Media Articles*

	California newspapers, N=31	National newspapers, N= 8	International newspapers, N= 1	Other sources, N= 2
Article type				
News	12 (38.7%)	7 (87.5%)	0 (0.0%)	0 (0.0%)
Editorial	4 (12.9%)	0 (0.0%)	0 (0.0%)	1 (50.0%)
Opinion	15 (48.4%)	1 (12.5%)	1 (100.0%)	1 (50.0%)
Year published				
2012	9 (29.0%)	2 (25.0%)	0 (0.0%)	0 (0.0%)
2013	3 (9.7%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
2014	19 (61.3%)	6 (75.0%)	1 (100.0%)	2 (100.0%)

Proponents of the *Vergara v. California* court case wrote eleven of the 18 opinion pieces, five were written by opponents, and two were neutral. Prominent authors wrote five of the proponent opinion pieces: David Welch (two), Theodore Boutros, Jeb Bush, and Michelle Rhee. Theodore Boutros was lead co-counsel of the *Vergara* legal team and had recently gained notoriety for successfully representing the plaintiffs in the 2013 Supreme Court case challenging Proposition 8, California’s ban on gay marriage. When *Vergara* was being decided in 2014, Jeb Bush was the former governor of Florida, the brother and son of two former Presidents, and the founder of the Foundation for Educational Excellence, an organization aimed at promoting education reform by expanding accountability and school choice policies.<sup>8</sup> Michelle Rhee is the former (and high-profile) chancellor of the Washington D.C. public schools and founder of StudentsFirst, an educational advocacy organization.

In contrast, the authors of the opinion pieces opposing the case were less well-known: Joshua Pechthalt, vice president of the California Federation of Teachers; Ann Katzburg, president of the San Ramon Valley Education Association; Geoff Johnson, a retired superintendent of schools in British Columbia; Mark Takano, a U.S. Congressman from California; and Walt Gardner, a former classroom teacher and lecturer. Research in advertising has indicated that high-profile or celebrity writers or product endorsers have more perceived credibility with the general voting public than people with less name-recognition (Agrawal & Kamakura, 1995; Mittelstaedt, Riesz, & Burns, 2000). This suggests that an article written by Michelle Rhee or Jeb

Bush may have more influence on public opinion than an article written by a local classroom teacher or president of a teachers union.

### **Thematic Analysis**

Our initial thematic analysis focused on the 20 news articles as the more neutral and objective accounts of the case and yielded considerable evidence that *Vergara* might be better understood as a political spectacle rather than a substantive effort to change education policy. Indeed, the Student Matters website explicitly states that one of the organization's goals is to change public perceptions of teacher employment laws and policies. Although Judge Treu's 2014 ruling was overturned in the appeals court in April 2016, as we suggest below, Students Matter has made some headway on this secondary goal.

*"Bad teacher"*: First, we examined the way that the term "teacher" was qualified in the news articles. In the vast majority of instances when the word teacher was used, it was paired with a negative term. These included: "ineffective teacher," "bad teacher," "insufficient teacher," and "lazy teacher." In comparison, more positive terms such as "effective teacher," "good teacher," and "motivated teacher," were less prevalent. In a few instances teachers were referred to in neutral terms such as "average," "probationary," "tenured," and "more and less effective." The phrase "ineffective teacher" was used the most frequently throughout the articles. While the terms "effective" or "ineffective teacher," are ambiguous, they are also associated with value added models for measuring teachers' performance, which are a popular policy proposal (see, for example, The Measures of Effective Teaching Project (MET) (2015)), and a core component of the plaintiffs' legal argument. One of the plaintiffs' central claims is that teachers' continued employment should be based on their "effectiveness" as measured by value added models rather than seniority. While the American Statistical Association (2014) released a statement in April 2014 that raised significant concerns about the use of value-added models for high-stakes purposes, these have been largely ignored in the policy debates about the use of value-added models for teacher evaluation, and were not explained in any depth in the initial phase of the print news media coverage of the *Vergara* case. We return to this point in our

discussion of political spectacle below.

The consistent pairing of negative qualifiers with the word “teacher” in print news media stories about the case could have implications for how the public understands teachers and their work by activating people’s unconscious perceptual schema related to moral values (Lakoff, 2008). Bad teachers need to be removed from classrooms while their students deserve our empathy. Rules that enable “bad” teachers to continue teaching students are cast as illegitimate, while the methods used to determine who is a “bad” or “ineffective” teacher are not deeply scrutinized.

*Political spectacle:* Our analysis indicated that many elements of political spectacle were present in the articles, however, two aspects of political spectacle were the most salient: a) the use of metaphor, and b) the illusion of rationality. While we did not identify a single metaphor that was used exclusively or predominated, the teachers’ employment protections that were at the center of the case were consistently described as a problem for schools and school administrators. This theme is reflected in Theodore Boutros’ claim that the laws are “handcuffing school administrators” (Jones, 2012). The statutes were characterized as requiring procedures for dismissing teachers that were cumbersome, time-consuming, and expensive. The latter points were highlighted in multiple articles that reported the testimony of John Deasy. While the Los Angeles Unified School District was originally a defendant school district until it reached a settlement with the plaintiffs, Deasy was repeatedly described as supporting the plaintiffs’ claims. An excerpt from a story in the *San Jose Daily News* that recounted Deasy’s testimony illustrates this theme. Note also how in this short excerpt, the term “grossly ineffective teacher” was used three times.

The plaintiffs called as their first witness Los Angeles Unified School District Superintendent John Deasy, who testified about the difficulty of weeding out "grossly ineffective teachers" in the 18-month probationary period before they are granted tenure. Deasy was asked whether because of the short time for evaluation, the nation's second-largest school district has been unable to avoid granting tenure to some grossly ineffective teachers. "That is my opinion," he said. Under questioning by plaintiff's attorney Marcellus McRae, Deasy said the district has been in the position of dismissing tenured teachers when they turned out to be grossly ineffective. He said it was a long

and expensive process. "An average successful termination is one to two years," he said. "But some cases have taken slightly less than 10 years." Deasy said the cost to the school district for each dismissal ranges from \$250,000 to \$450,000. If misconduct is involved, it can cost even more, he said, because "you're preparing a court case." Deasy said the dismissals have been so arduous that "on more than one occasion a principal has said they'd think twice before going through this process again." (Deutsch, 2014)

The defense team was comprised of lawyers for California state education officials and teachers unions defending the statutes, who argued that the employment statutes did not prevent school districts from terminating the employment of ineffective teachers before or after being awarded tenure. Rather, ineffective teachers remained in classrooms because of how schools and school districts were managed. If schools were better managed, the existing procedures for due process would be followed, and ineffective teachers would be dismissed. However, this counterargument was not only less prevalent in the articles, but also less sharply drawn. An excerpt from a story published in the *Los Angeles Times* illustrates this counterargument:

Deputy Atty. Gen. Nimrod Elias countered that the laws themselves do not pair students with ineffective teachers. It is districts and administrators who have the opportunity and sole discretion to remove ineffective teachers from classrooms and decide whether to grant tenure. The laws are crucial safeguards, he said. "It does not take 18 months to identify those incompetent teachers," he said. (Ceasar, 2014b)

A second theme was often paired with the metaphor of teachers' employment protections as a problem and that we believe also functioned as a metaphor. The statutes were also framed as an undeserved benefit that exceeded the fringe benefits provided to other workers as part of their compensation packages. Many of the descriptions of the employment protections as an undeserved benefit were explicitly identified as arguments made on behalf of the plaintiffs, but this characterization was also evident in more general descriptions of the case. For example, a *Los Angeles Times* article covering the hearings contained the following description in the

opening paragraph:

Local school districts, state legislators and even a California governor have tried to limit teachers' job protections, *among the most generous in the country*. Efforts have all failed to rid public schools of ineffective teachers by making it easier to fire them and tougher for them to gain tenure and by stripping them of seniority rights. Now proponents are taking their fight to another venue: the courtroom. (Ceasar, 2014a, italics added)

This description from the *New York Times*, while ostensibly balanced because it presented the claims of both parties, also seemed to privilege the plaintiffs' assertions:

In many ways, the case echoes the political debate over tenure that has gone on for years. Some school superintendents and education advocates have pushed to loosen laws granting teachers permanent employment status, which they argue are *anachronistic and harmful*. Unions and their allies, however, say such laws are necessary to protect teachers. (Medina, 2014, italics added)

Both quotations suggest that teachers receive unearned benefits as a result of out of control and highly politicized processes. In the second quotation, the opponents of the statutes are framed in positive and neutral terms as "education advocates" when the deep-pocketed policy entrepreneurs such as Welch that are bankrolling this effort are powerful political actors.

A second key aspect of political spectacle that was evident in the print news media stories was the illusion of rationality or the marshaling of what appear to be hard facts to support claims, the majority of which were numbers and descriptions of findings from scholarly research. One estimate that was repeated across four stories was drawn from Deasy's testimony, which was quoted three times (see excerpt from the *San Jose Daily News* above for an example) and summarized once. Deasy argued that building a case to dismiss a teacher cost the LAUSD between \$250,000 and \$450,000. This estimate was also reported in a story that appeared in the *Christian Science Monitor*, which included a figure for the number of teachers that had

been dismissed in California in the last decade.

The combined effect of the five laws costs school districts hundreds of thousands of dollars through years of legal procedures to remove teachers who are hindering academic development, said plaintiff lawyer Mr. McRae. Asked how much it costs the LAUSD to dismiss a grossly ineffective teacher, Superintendent Deasy testified, as seen on Courtroom View Network (CVN), “between \$250,000 and \$450,000.” Asked if that is a deterrent in dismissing teachers, he said, “It is my opinion that it is.” Because the termination process requires years of documentation, it not only is costly but it also seldom works – 91 teachers have been dismissed over 10 years in the entire state. Of those dismissals, 19 were based on unsatisfactory performance, while the vast majority were for egregious conduct. (Wood, 2014)

Two additional stories cited a cost of \$350,000 to dismiss a teacher, the midpoint of this large range. The journalists did not question these figures nor did they provide information that would allow readers to critically assess Deasy’s claim.

While less frequent, the findings from scholarly research were also invoked by both the plaintiffs and the defendants to support their claims; five of the 20 news articles addressed research findings to some degree. One article that discussed the role of research in the hearing extensively was a February 2014 *Education Week* article, which provided profiles of the researchers for both sides. While overall the article was balanced, the only researcher whose testimony was described in the story was an expert witness for the plaintiffs:

The very definition of a "grossly ineffective" teacher is being contested. The plaintiffs are basing their case in part on research showing that students' achievement varies greatly depending on the teachers to whom they're assigned. Those studies hinge on a statistical method known as "value added," which aims to isolate the effect of each teacher on his or her students' standardized-test scores. But that method has proved controversial as states and districts, prodded by federal incentives, adopted it in systems for evaluating individual teachers. ... Nimrod Elias, a California deputy attorney general, said in his opening statement that value-added measures were

"methodologically flawed" and "limited in what they purport to show." Both the plaintiffs and defendants in the Vergara trial have lined up competing expert witnesses to testify on whether the measures are valid—a fact that highlights the deep ideological divides on teacher quality even among scholarly researchers. Raj Chetty, a Harvard University economics professor, took the stand late in the week to testify that students taught by teachers with low value-added scores were at risk of "substantial harm." (Sawchuk, 2014)

This quotation also highlights a key dilemma for the defendants. When value-added models were discussed, the debates about the efficacy of value-added models for measuring teachers' performance were often noted. More relevant for the issues raised in *Vergara* is that many scholars have identified significant methodological and practical issues that make the use of value-added models for high-stakes decisions about teachers' employment problematic (Amrein-Beardsley, 2008; Baker, Oluwole, & Green, 2013; Darling-Hammond, Amrein-Beardsley, Haertel, & Rothstein, 2012; Pivovarova, Amrein-Beardsley, & Broatch, 2016).

However, this more complicated and nuanced argument is not explained in any depth, while the plaintiffs' experts' concise and compelling statistics from their own research were reported. For example, *The New York Times* highlighted the following finding: "Students who are taught by such teachers lose up to \$1.4 million in lifetime earnings compared with those who are taught by average teachers, according to a study by Raj Chetty, an economics professor at Harvard who testified on behalf of the plaintiffs" (Medina, 2014). This figure refers to the estimated gain that would occur from replacing the teachers with the lowest value-added scores with average-scoring teachers (Chetty, Friedman & Rockoff, 2014). While this figure seems straightforward and impressive, it amounts to a lifetime earnings gain of \$50,000 per student for the average class size in their sample (28 students) or \$1,250 per year over 40 years.<sup>9</sup> Moreover, this estimate does not account for the monetary and non-monetary costs of implementing this policy at scale. As Stone (2002) highlighted, while numbers are "symbols of precision, accuracy, and objectivity," they mask the assumptions and choices involved in measuring social phenomena and interpreting the findings (p.176; see also Adler, 2013).

## **Discussion and Conclusion**

Our preliminary analysis of the media coverage of *Vergara v. California* suggests that the case is best understood as a political spectacle. While more dramatic and stark than the majority of the print news media articles we analyzed, *TIME*'s framing of *Vergara* was consistent with coverage prior to the court's decision. Rather than a substantive policy aimed at improving educational conditions and opportunities for poor and minority students, the more significant outcome from the case is likely to be its influence on how the public understands teachers' employment protections and the teaching profession more generally. During the early stages of the case most of the print news media articles were from California newspapers. Once the hearings were underway, national newspapers covered the case in some depth. Over half of the print news articles were opinion pieces, and the majority of these were written by proponents of the lawsuit, many of whom were high-profile public figures. This highlights how *Vergara*'s proponents were engaged in a sophisticated and sustained effort to shape public opinion about the case (McCombs, 2004).

While we found evidence of most of the elements of political spectacle in the print news media stories published prior to the decision, the use of metaphors was the most pronounced. Two key metaphors framed teacher employment protections as barriers to progress for schools and school administrators and as undeserved benefits. The plaintiffs' legal team consistently characterized the state statutes as cumbersome, time-consuming, and expensive, and argued that students are harmed when teachers are awarded tenure at an early stage in their careers. While the legal team for the defendants countered with the argument that the problem was management, or how the statutes are being implemented by school and school district administrators, this argument was less consistently represented in the print news media and also less crisply drawn. In addition, plaintiffs were regularly able to draw upon compelling statistics and summaries of research findings to support their claims, both aspects of the illusion of rationality. Moreover, the numbers cited by proponents were not rebutted. For example, the claim that effective teachers increase students' future earnings by \$1.4 million is an estimate derived from a complex statistical analysis. While a detailed analysis of the assumptions and

methodological choices involved in this and similar analyses are outside the scope of many news stories (see, for example, [Pivovarova, Amrein-Beardsley, & Broatch, 2016](#)), journalists should also report that these figures are estimates and averages when relevant to allow the public to critically assess them.

Finally, the term “teacher” tended to be linked with negative qualifiers. Our thematic analysis suggests that even the most ostensibly balanced news coverage of the *Vergara* case was more consistently aligned with the plaintiffs’ arguments. This negative portrayal of teachers and their conditions of employment may influence the general public’s views about teachers and teaching beyond this court case and in other similar cases regardless of the final outcomes. That is, because the print news media is an important influence on the general public’s perceptions and understanding of policy questions, we expect that the negative perceptions of teachers and teachers’ work that dominates these articles, including those that are aimed at presenting balanced accounts of the case, will persist. As [Lakoff \(2008\)](#) reminds us, these and similar phenomena have long term implications on policy making and politics by contributing to a broader ideological shift that has fostered mistrust in U.S. public institutions. Contesting and recasting these powerful narratives about teachers and teaching will remain a significant challenge for U.S. public school advocates in the twenty-first century.

## Notes

<sup>1</sup> The lawsuit also claimed that these provisions exceeded those generally granted to public employees.

<sup>2</sup> In this context, seniority refers to the status a teacher gains for the length of time he or she has worked for a school district. The longer a teacher has worked for a school district, the higher the seniority level he or she holds.

<sup>3</sup> To assess how the case was portrayed in the media in its initial phase, we analyzed print news media articles one month before the *Vergara v. California* lawsuit was filed through Judge Treu’s decision. Our searches did not yield any newspaper articles discussing *Vergara v. California* that were published during the month of May and in the ten days in June prior to the outcome of the case. The last article in our database was published in April 2014.

<sup>4</sup> Welch consulted with a prominent constitutional scholar, Kathleen Sullivan, former dean of the Stanford Law School, to develop the legal strategy used in the case ([Edwards, 2014](#)). Little information is available about how the plaintiffs were recruited, although profiles of the students are available on the Students Matter website and on blogs promoting the case. An

early newspaper article reported that Welch started the organization with \$200,000 of his own funds and received donations from more than 100 supporters (Sawchuk, 2012).

<sup>5</sup> The figures reported here are for the 2014-15 school year and are available at <http://dq.cde.ca.gov/dataquest/>.

<sup>6</sup> Haas and Fischman's (2010) discussion of prototypes draws extensively from Lakoff's discussion of metaphors as a central characteristic of our conceptual system which "structure how we perceive, what we think, and what we do" (Lakoff & Johnson, 1980, p. 4).

<sup>7</sup> We did not include three articles in these counts that duplicated others in the dataset. The following newspapers are categorized by ProQuest as the national and expanded core of newspapers: *The New York Times*, *The Wall Street Journal*, *The Washington Post*, *USA Today*, and *The Christian Science Monitor* ([www.proquest.com/products-services/nationalsnews\\_shtml.html](http://www.proquest.com/products-services/nationalsnews_shtml.html)). We also included *Education Week* in this group because it is a major national newspaper focusing on educational issues.

<sup>8</sup> While Bush was a candidate for the 2016 Republican Presidential nomination, his candidacy post-dates the media coverage analyzed here.

<sup>9</sup> While a more technical point, the \$1.4 million in earnings refers to *undiscounted* lifetime earnings (Chetty, et al., 2014), which does not account for the decline in the value of money over time. The present value of \$1.4 million in estimated lifetime earnings discounted at three percent (the discount rate used by Chetty et al.) for 40 years is approximately \$430,000 or \$15,350 per student.

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