Saint Louis University Journal of Health Law & Policy

Volume 12
Issue 1 *Public Health Law in the Era of Alternative Facts, Isolationism, and the One Percent*

Article 7

2018

Political Rhetoric and Minority Health: Introducing the Rhetoric-Policy-Health Paradigm

Kimberly Cogdell Grainger
North Carolina Central University, kcogdell@nccu.edu

Follow this and additional works at: https://scholarship.law.slu.edu/jhlp

Part of the Health Law and Policy Commons

Recommended Citation

Kimberly C. Grainger, *Political Rhetoric and Minority Health: Introducing the Rhetoric-Policy-Health Paradigm*, 12 St. Louis U. J. Health L. & Pol'y (2018).
Available at: https://scholarship.law.slu.edu/jhlp/vol12/iss1/7

This Symposium Article is brought to you for free and open access by Scholarship Commons. It has been accepted for inclusion in Saint Louis University Journal of Health Law & Policy by an authorized editor of Scholarship Commons. For more information, please contact Susie Lee.

POLITICAL RHETORIC AND MINORITY HEALTH: INTRODUCING THE RHETORIC-POLICY-HEALTH PARADIGM

KIMBERLY COGDELL GRAINGER*

ABSTRACT

Rhetoric is a persuasive device that has been studied for centuries by philosophers, thinkers, and teachers. In the political sphere of the Trump era, the bombastic, social media driven dissemination of rhetoric creates the perfect space to increase its effect. Today, there are clear examples of how rhetoric influences policy. This Article explores the link between divisive political rhetoric and policies that negatively affect minority health in the U.S. The rhetoric-policy-health (RPH) paradigm illustrates the connection between rhetoric and health. Existing public health policy research related to Health in All Policies and the social determinants of health combined with rhetorical persuasive tools create the foundation for the paradigm.

* Kimberly Cogdell Grainger, JD, MPH, Professor of Law, North Carolina Central University School of Law. I'd like to thank my research assistants Mikayla Mann and Georgia Hezain for their assistance.

SAINT LOUIS UNIVERSITY SCHOOL OF LAW

I. INTRODUCTION

Health policies and non-health policies may impact the health of certain minority groups because of the connection between divisive rhetoric, perceived discrimination, chronic stress, and health. Throughout the Article, examples will be provided of how divisive, rhetoric-driven policies create chronic stress that lead to poor health. Policies such as stop-and-frisk, the Muslim ban, and the zero tolerance immigration policy cause perceived discrimination and negatively impact other social determinants of health.[1] This Article breaks new ground by suggesting a paradigm that connects divisive political rhetoric with chronic stress that results in poor health outcomes in Blacks, Latinos, and Muslims.

Rhetoric is the creative use of language, through the art of persuasion, that invokes emotions, consensus, and compromise.[2] The use of rhetoric is appropriate in many instances to bring people together around a common goal or idea.[3] Rhetoric itself is not a bad thing. However, when it is used to manipulate and deceive, it falls short of its more altruistic characteristics.[4] Rhetoric can also be used to call upon dormant biases and fears to achieve a particular purpose.[5] Divisive rhetoric[6] is both a direct and indirect cause[7] of

1. *See infra* pp. 21–23 and accompanying footnotes.

2. *See* ARISTOTLE, RHETORIC AND POETICS 24–25 (W. Rhys Roberts trans., First Modern Library 1954). In this article, rhetoric includes various writing techniques commonly used to persuade. Many of these methods of persuasion are rooted in Aristotle's *Rhetoric*.

3. Christof Rapp, *Aristotle's Rhetoric*, STANFORD ENCYCLOPEDIA PHIL. (Feb. 1, 2010), https://plato.stanford.edu/entries/aristotle-rhetoric/ (explaining that using commonly-held opinions as a premise for discussion will make a public speaker even more successful). Rhetoric itself is not good or bad; its use defines whether it has a positive or negative connotation. *Id.*

4. *Id.* Rhetoric was taught and used by ancient philosophers such as Aristotle, Plato and Isocrates who each had his own idea about the use of rhetoric. Chloe Balla, *Isocrates, Plato, and Aristotle on Rhetoric*, 1 RHIZAI J. FOR ANCIENT PHIL. & SCI. 45 (2004), http://www.fks.uoc.gr/_/assets/pdfs/balla/balla_rhizai-1.pdf. They all believed it to be used in persuasion, some with more positive associations than others. Rapp, *supra* note 3.

5. By appealing to fear, people may be willing to accept policies that would normally be unacceptable. Consider the descriptions of weapons of mass destruction and support for the Iraq war. Although ultimately, it was determined that the threat was not as presented, the phrasing and repetition created an environment where war was acceptable. Ronald Higgins, *Weapons of Mass Destruction Rhetoric and Realities*, 2 CONNECTIONS 59, 65 (2003).

6. Divisive rhetoric is used interchangeably with coded rhetoric throughout the article. Coded rhetoric is used to divide, because the language used triggers unspoken references that draw on bias and racism. *See generally* Adam Bruno, *Coded Language: The History, the Message, and 2016* (May 4, 2017) (published online at VALPOSCHOLAR: SYMP. ON UNDERGRADUATE RES. & CREATIVE EXPRESSION, https://scholar.valpo.edu/cgi/viewcontent.cgi?article=1621 &context=cus).

7. Rhetoric directly causes negative health outcomes because it may incite violence. An example of this is when President Trump has called for supporters to attack protestors physically at campaign rallies. Individuals suffer physically, which is a health outcome when they are assaulted. Avi Selk, *The Violent Rally Trump Can't Move Past*, WASH. POST (Apr. 3, 2017), https://www.washingtonpost.com/news/the-fix/wp/2017/04/03/the-violent-rally-trump-cant-move

health disparities and poor health outcomes in minorities.[8] This Article proposes a new paradigm—the Rhetoric-Policy-Health (RPH) paradigm—and connects the use of divisive political rhetoric to policies that impact Blacks, Latinos, and Muslims.[9] It will also illuminate the invisible line, which connects the dots between rhetoric and the health outcomes in minorities. In today's highly politicized environment,[10] rhetorical speech initiates a chain reaction of stress causing events that may negatively influence the health of Blacks and Latinos.[11] Stress triggered by perceived discrimination has been linked to negative health outcomes in minorities.[12] Rhetoric is the umbrella under which persuasive techniques and literary devices may promote acceptance of policies that have a disparate impact on certain groups.[13]

This Article will examine the ways in which divisive political rhetoric may trigger stress and stigmatization, negatively affecting minority health. Health policy and legislation, as well as certain non-health related policies (such as

-past/?noredirect=on&utm_term=.40cb6c3eaf46. Rhetoric indirectly causes poor health outcomes when it is used to persuade people to support a policy that has a disparate impact on minority groups. Rhetoric alluding to dangerous Blacks and Latinos garnered support for New York's infamous "stop and frisk" policy. Brentin Mock, *Donald Trump is Wrong About Stop-and-Frisk*, CITYLAB (Sept. 22, 2016), https://www.citylab.com/equity/2016/09/donald-trump-is-wrong-about-stop-and-frisk/501191/.

8. Robert Pearl, *Why Health Care is Different if You're Black, Latino or Poor*, FORBES (Mar. 5, 2015), https://www.forbes.com/sites/robertpearl/2015/03/05/healthcare-black-latino-poor/#122390178695. When referring to minorities, this article is generally referring to Blacks and Latinos.

9. These policies generate both actual and perceived discrimination, which leads to chronic stress in these populations that causes poor health. Rhetoric drives policy, policies have disparate impacts on certain groups, perceived discrimination increases chronic stress, and chronic stress leads to poor health. *See infra* pp.18–24.

10. *See* Kevin Baker, *The Politicization of Everything*, POLITICO (Jan. 31, 2017), https://www.politico.com/magazine/story/2017/01/the-politicization-of-everything-214714. Over time, politics has become more visceral and uncompromising. PEW RES. CTR., PARTISANSHIP AND POLITICAL ANIMOSITY IN 2016 1, 5 (2016), https://www.people-press.org/wp-content/uploads/sites/4/2016/06/06-22-16-Partisanship-and-animosity-release.pdf. Political parties refuse to compromise and vow to block each other; they have even gone as far as shutting down the government in order to make a political point. Robert Costa et al., *Congressional Leaders Refuse to Budge on Shutdown's First Day, but Negotiations Continue*, WASH. POST (Jan. 20, 2018), https://www.washingtonpost.com/powerpost/government-shuts-down-after-senate-bill-collapses-negotiations-fail/2018/01/20/dca0d7e0-fda6-11e7-8f66-2df0b94bb98a_story.html?utm_term=.a05ff2d97343.

11. This is a brief description of how the RPH paradigm connects rhetoric and poor health in minorities. *See infra* pp.18–24.

12. *See* Irina L.G. Todorova et al., *Perceived Discrimination, Psychological Distress and Health*, 32 SOC. HEALTH & ILLNESS 843, 843–44 (2010); *see also* David R. Williams & Selina A. Mohammed, *Discrimination and Racial Disparities in Health: Evidence and Needed Research*, 32 J. BEHA. MED. 20, 20–22, 34 (2009).

13. *See Definition and Examples of Literary Terms*, LITERARY DEVICES, https://literarydevices.net/citation/ (last visited Oct. 17, 2018). In this article, disparate impact is used to describe an impact that is different for some groups than for others.

SAINT LOUIS UNIVERSITY SCHOOL OF LAW

criminal and immigration enforcement policies), may have detrimental effects on the health of Blacks and Latinos because of their links to perceived discrimination.[14] Examples from social science of stigmatization, othering,[15] and the impact of stress on health[16] will be used to show why certain rhetoric-driven policies are problematic for these minority groups. Part II is an introduction to the Rhetoric-Policy-Health paradigm along with background information on the link between rhetoric and health. Part III will explore rhetoric as a persuasive tool and give examples of the use of rhetoric paired with other literary devices to advance divisive policies and empower "citizen soldiers"[17] to act in ways that promote racial discord. Part IV will describe the social determinants of health from a public health perspective. After providing information on social determinants of health, the discussion will narrow to the specific social determinant of health, known as perceived discrimination, which will provide a context from the public health and social science literature about the role of discrimination and separatism on stress and health. Part V will connect the use of politically divisive rhetoric to its manifestation as action by federal, state, and local actors.

II. BACKGROUND

Divisive political rhetoric yields questionable policies and heightened surveillance of minority groups by law enforcement and individual actors.[18] This type of rhetoric may affect the health of minorities in two ways: (1) normalizing the use of stereotypes when the government and individual actors trigger stress, causing perceived discrimination; and (2) promoting the enactment of policies that support the narrative created by the political rhetoric, which

14. Vernellia Randall, *Institutional Racism in US Health Care*, DAYTON SCHOOL OF LAW: INST. ON RACE, HEALTH CARE AND THE LAW, https://academic.udayton.edu/health/07human rights/racial01c.htm (last visited Oct. 31, 2018). According to the American Psychology Association, discrimination causes stress. *See generally* AM. PSYCHOL. ASS'N, STRESS IN AMERICA: THE IMPACT OF DISCRIMINATION 8 (2016), https://www.apa.org/news/press/releases/stress/2015/impact-of-discrimination.pdf.

15. Susan J. Stabile, *Othering and the Law*, 12 U. ST. THOMAS L.J. 381, 382 (2016) (Othering is defined as "a process by which individuals and society view and label people who are different in a way that devalues them.").

16. ANDREA K. BLANCH ET AL., MENTAL HEALTH AMERICA TOXIC STRESS, BEHAVIORAL HEALTH, AND THE NEXT MAJOR ERA IN PUBLIC HEALTH 2, 5–6 (2014).

17. Joan Burbick, *Cultural Anatomy of a Gun Show*, 17 STAN. L. & POL'Y REV. 653, 656, (2006).

18. *See* Kathryne M. Young & Joan Petersilia, *Keeping Track: Surveillance, Control, and the Expansion of the Carceral State*, 129 HARV. L. REV. 1318, 1318–20 (2016) (book review). The actions of individuals can be seen in the examples of the police being called on minorities in public spaces without suspicion that any actual wrongdoing is occurring. John Blake, *How 911 Calls on Blacks are a New Twist on Something Old: White Flight*, CNN (Aug. 20, 2018), https://www.cnn.com/2018/08/10/us/white-flight-911-calls/index.html.

SAINT LOUIS UNIVERSITY SCHOOL OF LAW

disproportionately and negatively affects minorities.[19] Although the rhetoric impacts health, the policies that generate the health response are not limited to health policies. Non-health policies may also have consequences on health.[20] Policies that have a disparate impact on minority groups and policies that trigger perceived discrimination have an impact on health, even though the subject of the policy is not about health, because of the stress related to perceived discrimination.[21] For example, stop-and-frisk was a criminal justice policy, not a health policy, that created actual discrimination in the form of racial profiling by police and other law enforcement.[22] The profiling led to perceived discrimination, which impacted health.[23] The policy created perceived discrimination, which is a chronic stressor that negatively impacts health.[24]

It may seem unlikely that a non-health related policy will impact health. From a broad perspective, all policies impact health. In fact, the concept that health is impacted by both health policies and non-health policies is the basis for the Health in All Policies approach.[25] According to the Centers for Disease Control and Prevention (CDC), "Health in All Policies (HiAP) is a collaborative approach that integrates and articulates health considerations into policymaking across sectors to improve the health of all communities and people. HiAP

19. The examples of the Muslim ban, Dangerous Inner Cities and Blacks, and criminal immigrants will be presented later in the article. *See infra* pp. 22–23 and accompanying footnotes.

20. KERRY WYSS ET AL., ASTHO, HEALTH IN ALL POLICIES: A FRAMEWORK FOR STATE HEALTH LEADERSHIP 1 (2016).

21. *See, e.g.*, Goleen Samari, *Islamophobia and Public Health in the United States*, 106 AM. J. PUB. HEALTH, 1920, 1921–22 (2016); Saffron Karlsen & James Nazroo, *Relation Between Racial Discrimination, Social Class, and Health Among Ethnic Minority Groups*, 92 AM. J. PUB. HEALTH 624, 624–25 (2002); Anissa L. Vines et al., *Social Correlates of the Chronic Stress of Perceived Racism Among Black Women*, 16 ETHNICITY & DISEASE 101, 101, 106 (2006) (demonstrating discriminatory public policy negatively affects minorities by causing stress related to perceived discrimination). Any policy that causes actual discrimination also includes perceived discrimination. If actual discrimination exists, by default there is perceived discrimination. *See, e.g.*, Castellano B. Turner & Barbara F. Turner, *Racial Discrimination in Occupations Perceived and Actua*l, 42 PHYLON 322, 326, 329–30 (1981).

22. *Racial Profiling: Definition*, ACLU, https://www.aclu.org/other/racial-profiling-definition (last visited Oct. 19, 2018).

23. CENTER FOR CONSTITUTIONAL RIGHTS, STOP AND FRISK: THE HUMAN IMPACT 6–7 (2012). Perceived discrimination caused by the policy created chronic stress in Black and Latino individuals. David R. Williams & Steven A. Mazzie, *Tackle Problems of Policing, Racism as Public Health Issue: Column*, USATODAY (Jan. 2, 2017), https://www.usatoday.com/story/opinion/policing/2017/01/02/blacks-police-and-health/93078464/. Further, chronic stress is known to cause poor health. Elizabeth A. Pascoe & Laura Smart Richman, *Perceived Discrimination and Health: A Meta-Analytic Review*, 135 PSYCHOL. BULL. 531, 532 (2009).

24. CENTER FOR CONSTITUTIONAL RIGHTS, *supra* note 23, at 3; Pascoe & Richman, *supra* note 23, at 547.

25. *See generally Health in All Policies*, CTRS. FOR DISEASE CONTROL & PREVENTION (June 9, 2016), https://www.cdc.gov/policy/hiap/index.html; WORLD HEALTH ORG., HEALTH IN ALL POLICIES (HIAP) FRAMEWORK FOR COUNTRY ACTION 1–4 (2014).

SAINT LOUIS UNIVERSITY SCHOOL OF LAW

recognizes that health is created by a multitude of factors beyond healthcare and, in many cases, beyond the scope of traditional public health activities."[26] HiAP is instructive for policymaking that does not consider the impact on health at the front end of such policymaking. A reverse version of the HiAP approach is that, even when health considerations are not included in policymaking, there will be a health impact.[27] Reverse HiAP acknowledges that, although much of the current policymaking does not directly relate to health policy, nearly all policymaking affects health.[28] Due to the connection between public support and policy implementation, rhetoric increases public support for policy proposals that ultimately impact health. A line can be drawn between divisive rhetoric, governmental and individual action, discrimination (actual or perceived), stress, and health. Rhetoric drives policy. Policies have disparate impacts on certain groups. Perceived discrimination increases chronic stress. Chronic stress leads to poor health. Hereinafter, this cycle will be referred to as the Rhetoric-Policy-Health (RPH) paradigm.[29]

The RPH paradigm consists of the use of coded rhetoric to promote the implementation of public policies that contribute to health disparities.[30] Divisive rhetoric does not intentionally cause health disparities, although health disparities may result when the RPH paradigm applies. The Reverse HiAP modification captures this situation. Rhetoric drives policy by shaping the perspective of the public and its acceptance of the proposed policy. Using the coded rhetoric, the public may accept and approve of policies that have a disparate impact on certain groups. When policies treat groups differently in negative ways, this leads to perceived discrimination in the communities or

26. *Health in All Policies*, *supra* note 25.

27. HiAP is a forward-looking approach meant to bring considerations of health into policymaking. *See id.*, at 1. This article uses the term "reverse HiAP" to refer to a modification of the typical HiAP approach whereby even if health is not considered in policymaking, the policies themselves have an impact on health, whether that impact was considered initially or not.

28. In effect, reverse HiAP is the opposite of the traditional forward-looking HiAP, because reverse HiAP is a retrospective look after the policy has been implemented and has an impact on health.

29. The article is proposing the creation of a newly coined Rhetoric-Policy-Health (RPH) paradigm. RPH is the connection between when divisive rhetoric yields new or changed policies that lead to perceived discrimination in Blacks and Latinos, which causes increased stress and negative health outcomes.

30. This paradigm can also be used more generally where rhetoric affects the acceptance of policies that impact health generally.

SAINT LOUIS UNIVERSITY SCHOOL OF LAW

groups that are treated differently.[31] Perceived discrimination causes stress that has a negative impact on health.[32]

Coded rhetoric is rhetoric that involves language that draws upon prejudice, bias, and fear.[33] Although coded rhetoric has been used by previous presidents, President Trump is arguably the most effective at implementing policies driven by rhetoric in modern history.[34] President Reagan used coded rhetoric related to public assistance, creating the persona of the "welfare queen," though the implementation of the policy driven by the rhetoric was primarily done during the Clinton administration.[35] President Clinton enacted the policies that relied on the stereotypes presented by President Reagan.[36] President Nixon also employed the use of coded rhetoric; however, the references were more indirect.[37] President Obama famously referred to "cling[ing] to guns or religion"[38] to refer to a particular population, though not specifically advocating for a policy. This is one example of the use of coded rhetoric during the Obama administration. President Trump brilliantly utilizes philosophical and literary tools to advance his policy agenda. He has mastered the art of knowing his target audience, using coded rhetoric to persuade by employing persuasive appeals and literary tools such as repetition and hyperbole.[39]

31. *See, e.g.*, S.B. 1070, 49th Leg., 2d Sess. (Ariz. 2010); Lisa J. Hardy et al., *A Call for Further Research on the Impact of State-Level Immigration Policies on Public Health*, 102 AM. J. PUB. HEALTH 1250, 1250–52 (2012) (providing an example of how the controversial S.B. 1070 of Arizona disproportionately impacts Latino individuals).

32. Russell B. Toomey et al., *Impact of Arizona's SB 1070 Immigration Law on Utilization of Health Care and Public Assistance Among Mexican-Origin Adolescent Mothers and Their Mother Figures*, 104 AM. J. PUB. HEALTH S28, S28, S33 (Supp. I 2014).

33. German Lopez, *The Sneaky Language Today's Politicians Use to Get Away with Racism and Sexism*, VOX (Feb. 1, 2016), https://www.vox.com/2016/2/1/10889138/coded-language-thug-bossy; *see generally* Chip Berlet, *Heroes Know Which Villains to Kill: How Coded Rhetoric Incites Scripted Violence*, *in* EXPLORATIONS OF THE FAR RIGHT (Matthew Feldman & Paul Jackson eds., ibidem Press 2014).

34. Alex Altman, *No President Has Spread Fear Like Donald Trump*, TIME (Feb. 9, 2017), http://time.com/4665755/donald-trump-fear/ (comparing the political rhetoric of Donald Trump to that of George W. Bush, Bill Clinton, Barack Obama, and Richard Nixon).

35. Juan M. Floyd-Thomas, *Welfare Reform and the Ghost of the "Welfare Queen"*, NEW POL., Summer 2016, at 29–30.

36. *Id.*

37. Barry C. Feld, *Race, Politics, and Juvenile Justice: The Warren Court and the Conservative "Backlash"*, 87 MINN. L. REV. 1447, 1547 (2003).

38. Mayhill Fowler, *Obama: No Surprise That Hard-Pressed Pennsylvanians Turn Bitter*, HUFFINGTON POST (Nov. 17, 2008), https://www.huffingtonpost.com/mayhill-fowler/obama-no-surprise-that-ha_b_96188.html.

39. President Trump often repeats the same word multiple times for emphasis. Sean Rossman, *Trump's Repetitive Rhetoric is a Trick Used in Advertising*, USA TODAY (Feb. 16, 2017), https://www.usatoday.com/story/news/politics/onpolitics/2017/02/16/mess-fake-news-disaster-trumps-repetition-advertising-tactic/98014444/; George Lakoff, *Understanding Trump*, GEORGE

SAINT LOUIS UNIVERSITY SCHOOL OF LAW

"Rhetoric is the 'art of ruling the minds of men,'"[40] is a quote attributed to Plato, which illustrates the power of rhetoric. Language can be used to persuade by channeling stereotypes and bias. In his book, *Dog Whistle Politics*, Ian Haney López describes the use of racial messaging without directly referring to race, which is clearly understood by its intended audience.[41] Dog whistle is defined as "a subtly aimed political message which is intended for, and can only be understood by, a particular demographic group."[42] A dog whistle may be utilized to trigger stereotyping.[43] By using dog whistles in political rhetoric, the public may approve of policies that affect social determinants of health in ways that disproportionately affect minorities. Black and Latino minorities are particularly susceptible to the effects of the RPH, because they occupy a uniquely vulnerable position. Using almost any measure, disparities exist between the status of Blacks and Latinos and their white counterparts.[44] Social determinants of health negatively affect these groups in the areas of housing, education, and social support.[45] Unique challenges in the health care setting include access to insurance and care, provider bias, language barriers, and health disparities.[46]

LAKOFF BLOG (July 23, 2016), https://georgelakoff.com/2016/07/23/understanding-trump-2/#more-5082.

40. *Society and Solitude*, *in* THE COLLECTED WORKS OF RALPH WALDO EMERSON 32 (Ronald A. Bosco et al. eds., 2007).

41. *See* IAN HANEY LÓPEZ, DOG WHISTLE POLITICS: HOW CODED RACIAL APPEALS HAVE REINVENTED RACISM AND WRECKED THE MIDDLE CLASS 4, 16–17 (Oxford Univ. Press 2014).

42. *Dog whistle*, OXFORD LIVING DICTIONARIES, https://en.oxforddictionaries.com/definition/dog_whistle (last visited Oct. 22, 2018).

43. Ian Olasov, *Offensive Political Dog Whistles: You Know Them When You Hear Them. Or Do You?*, VOX (Nov. 7, 2016), https://www.vox.com/the-big-idea/2016/11/7/13549154/dog-whistles-campaign-racism (providing an example to illustrate the use of dog whistles to trigger stereotypes: "For most people, the stereotypical welfare recipient is black, and so politicians can disparage black people, or appeal to anti-black racists, by disparaging welfare recipients. Relatedly, politicians can defend policies favoring an unpopular group by systematically replacing reference to that group with reference to a related group that enjoys a positive stereotype. I suspect this is the mechanism underlying the use of 'small business' (as opposed to, say, 'international corporations') by capitalists and plutocrats in both parties.").

44. Paula A. Braveman et al., *Socioeconomic Disparities in Health in the United States: What the Patterns Tell Us*, 100 AM. J. PUB. HEALTH S186, S192, S194 (Supp. I 2010).

45. *See* Anne Andermann, *Taking Action on the Social Determinants of Health in Clinical Practice: A Framework for Health Professionals*, 188 CANADIAN MED. ASS'N J., E474, E474–75 (2016) (explaining that the worse social determinants of health experienced by certain racial groups negatively affect the health outcomes of those groups); David R. Williams & Chiquita Collins, *Racial Residential Segregation: A Fundamental Cause of Racial Disparities in Health*, 116 PUB. HEALTH REP. 404, 405, 410, 412 (2001); John R. Logan & Julia Burdick-Will, *School Segregation and Disparities in Urban, Suburban, and Rural Areas*, ANNALS AM. ACAD. POL. & SOC. SCI., Nov. 2017, at 209.

46. *See generally* Christine Bahls, *Achieving Equity in Health. Racial and Ethnic Minorities Face Worse Health and Health Care Disparities—But some Interventions Have Made A Difference*,

Individuals from these groups also suffer from racism and discrimination in the United States.[47] Because of the unique socioeconomic space where many Blacks and Latinos exist, divisive rhetoric may have a heightened impact on these groups.

III. RHETORIC AS A PERSUASIVE TOOL

Often when the term rhetoric is used, the first concept that comes to mind is the rhetorical question.[48] However, rhetoric is a much broader concept than the mere use of rhetorical questions.[49] The *Oxford Living Dictionary* defines rhetoric as "the art of effective or persuasive speaking or writing, especially the exploitation of figures of speech and other compositional techniques."[50] "Language designed to have a persuasive or impressive effect, but which is often regarded as lacking in sincerity or meaningful content."[51] Focusing on the second portion of the definition, the term "rhetoric," at times, has a negative connotation.[52] Though rhetorical language is used to persuade, its veracity and authenticity can also be questionable. Rhetoric, as used in this Article, does not refer to the use of rhetorical questions that do not require answers. Rhetoric, as used here, has its roots in the philosophy of Aristotle.[53] Rhetoric is used as a combination of the philosophical foundations with other techniques, such as methods of persuasion and figurative language.

Prior to delving into the ways that rhetoric impacts policy, a few basics are presented about the historical presentation of rhetoric in philosophy. There are three types of rhetoric: forensic, deliberative, and epideictic.[54] Each type can be used as a persuasive mechanism in various contexts. Commonly, forensic oratory is found in legal settings.[55] Deliberative oratory is found in the political

HEALTH AFF. (2011), https://www.healthaffairs.org/do/10.1377/hpb20111006.957918/full/healthpolicybrief_53.pdf.

47. *See* Todorova et al., *supra* note 12, at 845, 852.

48. *Rhetorical Question*, OXFORD LIVING DICTIONARIES, https://en.oxforddictionaries.com/definition/rhetorical_question (last visited Oct. 22, 2018) (defining rhetorical question as "A question asked in order to create a dramatic effect or to make a point rather than to get an answer.").

49. *See generally What is Rhetoric?*, SAN DIEGO STATE U.: RHETORIC & WRITING STUDIES, https://rhetoric.sdsu.edu/resources/what_is_rhetoric.htm (summarizing various definitions of rhetoric by philosophers throughout history) (last visited Oct. 22, 2018).

50. *Rhetoric*, OXFORD LIVING DICTIONARIES, https://en.oxforddictionaries.com/definition/rhetoric (last visited Oct. 22, 2018).

51. *Id.*

52. The idea that rhetoric lacks sincerity and meaningful content frames it as a way to present information without depth that may not be accurate or truthful if sincerely is used to represent accuracy and truth.

53. *See generally* ARISTOTLE, RHETORIC (Random House Inc., 1954).

54. *See* MICHAEL BURKE, THE CAMBRIDGE ENCYCLOPEDIA OF THE LANGUAGE SCIENCES 715 (Patrick C. Hogan et al. eds., 3d ed. 2010).

55. *Id.*

arena and epideictic oratory is used to praise or blame.[56] Modern rhetoric blurs the lines between these three approaches. Forensic oratory is often used in policymaking, because policymaking requires reliance on existing rules and laws.[57] However, the methods of persuasion implemented by President Trump tend to fall closer to the deliberative and epideictic oratory.[58]

The structure of rhetoric is comprised of five canons: (1) discovery, (2) arrangement, (3) stylization, (4) memorizing, and (5) delivery.[59] Today, rhetoric is taught in a more narrow way that may not include all five canons.[60] This Article uses the historical canons as background for analyzing modern political language used today. The first canon, discovery or invention, is most relevant to this discussion and the only canon on which this Article will address because of the focus on persuasion.[61] The first canon provides a method of persuasion and may incorporate the three appeals: *logos* (deductive or inductive), *pathos* (triggering emotions), and *ethos* (moral character).[62] Each of the appeals serves a role in persuading an audience. The appeals are seen throughout President Trump's rhetoric. Rhetorical devices (including the appeals) may generate skepticism when they are used to exaggerate or minimize circumstances at inappropriate times.[63]

56. *Id.*

57. *See id.* at 716.

58. Andrew S. Crines & David P. Dolowitz, *The Oratory of Donald Trump*, *in* RHETORIC, POLITICS AND SOCIETY, REPUBLICAN ORATORS FROM EISENHOWER TO TRUMP 291, 301, 309 (Andrew S. Crines & Sophia Hatzisavvidou eds., 2017).

59. BURKE, *supra* note 54, at 715–16.

60. James E. Porter, *Recovering Delivery for Digital Rhetoric*, 26 COMPUTERS & COMPOSITION 207, 211 (2009) (explaining that the cannon "delivery" was "never deemed all that important compared to other canons" and thus disappeared over time); *see also* TOM C. HUNLEY, TEACHING POETRY WRITING: A FIVE-CANON APPROACH 10–11 (Graeme Harper ed., 2007) (explaining that poetry writing instructions would benefit from the five-canon paradigm of classical rhetoric, rather than the workshop approach commonly used today).

61. *See, e.g.*, JOHN ARTHOS, *Rhetorical Invention*, OXFORD RES. ENCYCLOPEDIA COMM. 2 (2017) (noting that invention, also known as discovery, is grounded in practice and adaptation, unlike other rhetorical resources). For the purposes of this Article, the canon of discovery is most relevant because it incorporates the three appeals: ethos, logos and pathos.

62. BURKE, *supra* note 54, at 716.

63. *See, e.g.*, Susan McCloskey, *Rhetoric is Part of the Lawyer's Craft*, N.Y. ST. B. ASS'N J., Nov.–Dec. 2002, at 8, 8; *See, e.g.*, Deena Zaru, *It Took FOIA for Park Service to Release Photos of Obama, Trump Inauguration Crowd Sizes*, CNN: POL., (Mar. 7, 2017), https://www.cnn.com/2017/03/07/politics/national-park-service-inauguration-crowd-size-photos/index.html (describing President Trump's exaggeration of inauguration crowd size); Linda Qiu, *Trump Exaggerates MS-13 Deportation Numbers and Other False Claims from Nashville Rally*, N.Y. TIMES, (May 29, 2018), https://www.nytimes.com/2018/05/29/us/politics/trump-exaggerates-record-ms-13.html (demonstrating Trump's exaggeration of the number of gang members deported and of terror suspect family members being sponsored through chain migration).

The political rhetoric used by President Trump in his speeches, press conferences, and tweets heavily relies on the first canon.[64] Appeals to *logos*, *pathos*, and *ethos* can be found in virtually every oration made by the President. Considering *logos*, the language follows from inductive reasoning, or taking a specific circumstance and making a broad generalization about it.[65] By pairing inductive reasoning with stereotyping and bias, the desired effect is achieved. The unique example becomes the rule. The speaker, in this case, the President, begins with a conclusion in mind and carries the listener through an inductive exercise, which is later used to justify policies and actions that would not traditionally be acceptable. The connection between the use of rhetoric and perceived discrimination may flow in this way in a speech—describing an immigrant from a certain country that has committed a crime—suggesting that all immigrants from the country commit crimes, and using this as the reasoning for creating an exclusionary policy towards individuals (both immigrants and citizens) from that country.[66] An example of this is the rhetoric-driven Muslim ban.[67]

The rhetoric creates an "us" against "them" narrative. This narrative employs the use of othering and stereotyping in political speech to trigger fears and justify policies that increase stress and perceived discrimination in minority groups.[68] It appears irrational to think that an example that relies on stereotyping and bias, unsubstantiated by additional data and statistics, forms the basis for a new rule.[69] But, this is exactly what is occurring today. The new rule is the initial conclusion presented in the rhetoric, yet it is devoid of the theory, hypothesis, and testing commonly required before a new rule is adopted as truth.

64. Demonstrating Trump's ability to use discovery, or invention, which is the process of coming up with material for a text, to make speeches in order to have an effect on the audience. Theodore Roosevelt Malloch, *Trump the Aristotelian: Why He's Winning*, WND (Feb. 10, 2016), https://www.wnd.com/2016/02/trump-the-aristotelian-why-hes-winning/.

65. John Vickers, *The Problem of Induction*, STAN. ENCYCLOPEDIA PHIL., https://plato.stanford.edu/archives/spr2018/entries/induction-problem/ (last visited Sept. 20, 2018).

66. *See, e.g.*, Russell Berman, *Donald Trump's Call to Ban Muslim Immigrants*, ATLANTIC (Dec. 7, 2015), https://www.theatlantic.com/politics/archive/2015/12/donald-trumps-call-to-ban-muslim-immigrants/419298/.

67. *See, e.g.*, *Trump Travel Ban: What Does This Ruling Mean?*, BBC NEWS (June 26, 2018), https://www.bbc.com/news/world-us-canada-39044403 (citing significant terrorist presence as reason for travel ban, though recent terrorist attacks have not come from those countries.).

68. *See* Joshua Holland, *Yes, Donald Trump is Making White People More Hateful*, NATION (May 2, 2018), https://www.thenation.com/article/yes-donald-trump-is-making-white-people-more-hateful/.

69. *See, e.g.*, Berman, *supra* note 66 (explaining that a total shutdown of Muslims entering the United States was based on a controversial six-month-old survey from the Center for Security Policy).

SAINT LOUIS UNIVERSITY SCHOOL OF LAW

The second of Aristotle's models of persuasion (three appeals) is *pathos*, which deals with creating an emotional response.[70] The two emotions that the President's rhetoric seem to trigger most are anger and fear.[71] A subset of the population—poor, rural, white voters, which makes up a large portion of the President's base—fear losing their status as leaders of the country. They fear being displaced by immigrants and minorities, and they feel angry about their individual living conditions.[72] This is not to suggest that individuals who do not fit this demographic do not also support the President's policymaking and agenda.[73] However, the political rhetoric is geared towards a specific target audience.

Knowing your audience is a requirement for effective oral persuasion.[74] By fostering a sense of resentment in this group against minorities and immigrants, support for policies that target and negatively impact minorities and immigrants can be more generally supported.[75] The rhetoric is not targeted to convince or persuade educated, high earners that live in cities and university towns. It is likely most effective to those that would be swayed by code words and dog whistles.[76]

The most interesting method of persuasion in this context is *ethos*, which concerns the credibility and authority of the speaker.[77] President Trump's business acumen is thought to make him qualified to run the country in the same way that he has run his businesses.[78] President Trump is a carefully created caricature of a strong businessman, tough negotiator, strident patriot, and

70. ARISTOTLE, *supra* note 2, at 3, 25.

71. Molly Ball, *Donald Trump and the Politics of Fear*, ATLANTIC (Sep. 2, 2016), https://www.theatlantic.com/politics/archive/2016/09/donald-trump-and-the-politics-of-fear/498116/.

72. Danielle Kurtzleben, *Rural Voters Played a Big Part in Helping Trump Defeat Clinton*, NAT'L. PUB. RADIO (Nov. 14, 2016), https://www.npr.org/2016/11/14/501737150/rural-voters-played-a-big-part-in-helping-trump-defeat-clinton; Ball, *supra* note 71.

73. *See, e.g.*, Emily Ekins, *The 5 Types of Trump Voter: How a Fractured Coalition Can Lead to Broken Promises*, CATO INSTITUTE (Aug. 8, 2017), https://www.cato.org/publications/commentary/5-types-trump-voter-how-fractured-coalition-can-lead-broken-promises.

74. Dean Brenner, *Communicating Respect: Know Your Audience*, FORBES: COMMUNITYVOICE (May 16, 2018), https://www.forbes.com/sites/forbescoachescouncil/2018/05/16/communicating-respect-know-your-audience/#2c0a902f4067.

75. *See* Luiza-Maria Filimon, *From the Dog Whistle to the Dog Scream: The Republican Party's (Ab)Use of Discriminatory Speech in Electoral Campaigns and Party Politics*, 11 ROM. J. SOC'Y & POL. 25, 36 (2016).

76. *Id*. at 30, 39.

77. ARISTOTLE, *supra* note 2, at 3, 25.

78. James Campbell, Trump Supporters: In Their Own Words (Mar. 19, 2016) (unpublished M.A. thesis, University of Washington) (on file with SSRN at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2750480).

champion of the people.[79] He portrays himself as larger than life and often speaks using terms that emphasize exceptionalism, such as "very," "best," "great," and "top."[80] Despite numerous instances of being fact-checked and providing gross exaggerations of the truth, a core group of supporters remain convinced that President Trump is credible.[81] Press Secretaries and other members of the cabinet have found ways to explain factual inaccuracies. For example, the term "alternate facts" has been used to describe situations in which information was presented in a less than truthful way.[82] President Trump effectively uses rhetoric to create a narrative. He employs the appeals—*ethos*, *pathos*, and *logos*—in conjunction with dog whistles and code words to bring out the worst in the American public.[83] The simmering bias and racism that is just below the surface can be harnessed for support of policies that ultimately impact health.

IV. SOCIAL DETERMINANTS OF HEALTH

Factors other than the obvious presence or lack of insurance play a role in overall health. Social determinants of health also impact health, even if access to insurance is available.[84] In addition to having insurance and visiting a doctor, other factors also play a role in the health of individuals and groups.[85] When individuals from different groups have similar access to health care, but different

79. *See* S.A. Miller, *Donald Trump Takes Charge: "I Will be a Champion of the People,"* WASH. TIMES (Aug. 18, 2016), https://www.washingtontimes.com/news/2016/aug/18/donald-trump-takes-charge-i-will-be-champion-peopl/.

80. *See, e.g.*, Gary Nunn, *Winning Words: The Language That Got Donald Trump Elected*, GUARDIAN (Nov. 11, 2016), https://www.theguardian.com/media/mind-your-language/2016/nov/11/winning-words-the-language-that-got-donald-trump-elected; Jean Card, *The Larger Than Life Presidency*, U.S. NEWS & WORLD REP. (Jan. 18, 2018), https://www.usnews.com/opinion/thomas-jefferson-street/articles/2018-01-18/donald-trump-is-larger-than-life-and-takes-up-all-the-national-oxygen; Kurt Andersen, *How to Talk Like Trump: A Short Guide to Speaking the President's Dialect*, ATLANTIC (Mar. 2018), https://www.theatlantic.com/magazine/archive/2018/03/how-to-talk-trump/550934/.

81. David A. Graham, *Why Fact-Checking Doesn't Faze Trump Fans*, ATLANTIC (July 5, 2017), https://www.theatlantic.com/politics/archive/2017/07/the-strange-effect-fact-checking-has-on-trump-supporters/532701/.

82. Marilyn Wedge, *The Historical Origin of "Alternative Facts": Kellyanne Conway Says Press Secretary Gave "Alternatives Facts,"* PSYCH. TODAY (Jan. 23, 2017), https://www.psychologytoday.com/us/blog/suffer-the-children/201701/the-historical-origin-alternative-facts.

83. Filimon, *supra* note 75, at 26 (arguing that Donald Trump's approach to coded and strategic, discriminatory policy positions is to be more overt than other politicians).

84. *See* Samantha Artiga & Elizabeth Hinton, *Beyond Health Care: The Role of Social Determinants in Promoting Health and Health Equity*, KAISER FAM. FOUND. 2 (2018), http://files.kff.org/attachment/issue-brief-beyond-health-care.

85. *What Drives Health*, ROBERT WOOD JOHNSON FOUND. COMM'N TO BUILD A HEALTHIER AM., http://www.commissiononhealth.org/WhatDrivesHealth.aspx (last visited Oct. 23, 2018).

SAINT LOUIS UNIVERSITY SCHOOL OF LAW

health outcomes, other factors may play a role in these disparities.[86] The Affordable Care Act extended access to health care around the country.[87] Individuals who had never had insurance were able to enroll in an insurance program and see a health care provider. Despite this new access to health care, health disparities persisted.[88] This means that factors other than insurance impact health, which is the basis of social determinants of health. Returning to the idea of the unique vulnerabilities of Blacks and Latinos, even with insurance, health disparities exist.[89] Many times these can be accounted for by social determinants of health.[90]

The Kaiser Family Foundation (KFF) defines social determinants of health as "the conditions in which people are born, grow, live, work, and age."[91] Social determinants are further broken into six additional categories: economic stability, neighborhood and physical environment, education, food, community and social context, and health care system.[92] The category involving community and social context involves social integration, support systems, community engagement, discrimination, and stress.[93] Hospitals have recognized the role of social determinants, and many providers screen patients to identify health-related social needs.[94] KFF also suggests that "evidence shows stress negatively affects health across the lifespan."[95] Healthy People 2020 follows some of these same categories and drills down within each category.[96] For example, the social and community contexts cover discrimination, incarceration, and social cohesion. The economic stability determinant includes employment and poverty, and the neighborhood determinant addresses crime and violence, quality housing, and access to healthy food.[97]

Each of the six social determinants (economic stability, neighborhood and physical environment, education, food, community and social context, and health care system) is affected by legislative policies. For example, the massive

86. Kendal Orgera & Samantha Artiga, *Disparities in Health and Health Care: Five Key Questions and Answers*, KAISER FAM. FOUND. 4 (2018), https://www.kff.org/disparities-policy/issue-brief/disparities-in-health-and-health-care-five-key-questions-and-answers/.

87. Benjamin D. Sommers et al., *Changes in Self-Reported Insurance Coverage, Access to Care, and Health Under the Affordable Care Act*, 314 J. AM. MED. ASS'N 366, 370 (2015).

88. Orgera & Artiga, *supra* note 86, at 9.

89. Pearl, *supra* note 8.

90. Artiga & Hinton, *supra* note 84 at 2.

91. *Id.*

92. *Id.* at fig.1.

93. *Id.*

94. *Id.* at 8.

95. Artiga & Hinton, *supra* note 84 at 2.

96. *Social Determinants of Health*, HEALTHYPEOPLE.GOV, https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-of-health (last visited Oct. 23, 2018).

97. *Id.*

tax cut passed in 2017 may impact economic stability.[98] Cuts by the Department of Housing and Urban Development may undermine *neighborhood and physical environment*.[99] The selection of Betsy Devos as Secretary of Education was unusual, because her primary focus has been to push vouchers that decrease funding for public *education*.[100] Proposed changes to the Supplemental Assistance and Nutrition Program may increase *food* insecurity in certain minority groups.[101] *Community and social context* sometimes refers to social support.[102] The adoption of the zero tolerance approach to undocumented individuals reduces social support in some communities when individuals from the community are detained and/or deported.[103] Policies that impact social determinants of health may also impact health.[104] The negative impact on social determinants of health caused by divisive rhetoric-driven policies causes stress in minority groups.[105]

Stress can be acute or chronic, and it places a demand on the body that can negatively impact health.[106] A chronic stressor associated with health disparities is perceived discrimination.[107] "Long-term activation of the stress-response system can disrupt almost all of the body's processes and increase the risk for numerous health problems."[108] Not only are there physical manifestations caused by the stress response system, there are also behavioral impacts caused

98. Sherry Glied, *Implications of the 2017 Tax Cuts and Jobs Act for Public Health*, 108 AM. J. PUB. HEALTH 734, 734 (2018).

99. Ralph McLaughlin, *How HUD Budget Cuts Could Hurt Housing*, TRULIA (Mar. 9, 2017), https://www.trulia.com/research/hud-cuts/.

100. Brett DeGroff, *Betsy DeVos and the Voucher Vision of Education*, 74 NAT'L LAW. GUILD REV. 33, 33 (2017).

101. Robert Greenstein, *Conaway SNAP Proposals Would Increase Food Insecurity and Hardship*, CTR. ON BUDGET & POL'Y PRIORITIES (Apr. 12, 2018), https://www.cbpp.org/press/statements/greenstein-conaway-snap-proposals-would-increase-food-insecurity-and-hardship ("The bill contains changes that would cause more than a million low income households with about 2 million people- particularly low-income working families with children- to lose their benefits altogether or have them reduced.").

102. HARM SCHERPBIER & CAITLIN BREANNE SMITH, COMMUNITY VITALS: THE IMPORTANCE OF SOCIAL DETERMINANTS IN POPULATION HEALTH 4 (2017), https://www.usa.philips.com/c-dam/b2bhc/master/landing-pages/phmnurture/social_determinants_3.20.17.pdf.

103. San Juanita García, *Living a Deportation Threat: Anticipatory Stressors Confronted by Undocumented Mexican Immigrant Women*, 10 RACE & SOC. PROBS. 221, 226, 231 (2018) (where living a deportation threat can harm critical aspects of social support, which causes stress).

104. Theresa L. Osypuk et al., *Do Social and Economic Policies Influence Health? A Review*, 1 CURRENT EPIDEMIOLOGICAL REPS. 149, 149–50 (2014).

105. *See generally* Maria A. Gurrola & Cecilia Ayón, *Immigration Policies and Social Determinants of Health: Is Immigrants' Health at Risk?*, 10 RACE & SOC. PROBS. 209 (2018).

106. *Fact Sheet: Health Disparities and Stress*, AM. PSYCHOL. ASS'N., http://www.apa.org/topics/health-disparities/fact-sheet-stress.aspx (last visited Oct. 23, 2018).

107. *Id.*

108. *Id.*

SAINT LOUIS UNIVERSITY SCHOOL OF LAW

by stress.[109] Individuals who suffer from stress turn to coping behaviors, such as smoking, eating, and drinking, to deal with the stress.[110] The direct and indirect causes of poor health outcomes caused by the social determinants of health are exacerbated when policies are driven by divisive rhetoric.

A particularly troubling social determinant of health is discrimination.[111] "Racism reliably produces and reproduces social and economic inequities along racial and ethnic lines, and, as such, it is a fundamental cause of disease which intersects with other forms of oppression and marginalization to influence the health of immigrants."[112] Racism has a similar effect on non-immigrant minorities.[113] In the case of discrimination as a social determinant, the discrimination can be actual or perceived. Perceived discrimination is a more subtle, chronic type of discrimination.[114] Because of the history of racism and discrimination in the U.S., minority groups may feel more chronic stress from perceived discrimination than Whites.[115] Perceived discrimination has been shown to contribute to hypertension and diabetes caused by chronic stress, mental health disorders, adverse birth outcomes, and unhealthy behaviors.[116] Perceived discrimination also impacts risk factors for diseases such as substance abuse, obesity, and high blood pressure.[117] In the CARDIA study,[118] a study of self-reported health and perceived racial discrimination, "[d]iscrimination was statistically significantly associated with worse physical and mental health in both men and women, before and after adjustment for age, education, income, and skin color."[119]

109. *Id.*

110. *Id.*

111. *See* Todorova et al., *supra* note 12, at 843–44; *see also* David R. Williams & Selina A. Mohammed, *Discrimination and Racial Disparities in Health: Evidence and Needed Research*, 32 J. BEHAV. MED. 20, 21, 39 (2009).

112. Edna A. Viruell-Fuentes et al., *More Than Culture: Structural Racism, Intersectionality Theory, and Immigrant Health*, 75 SOC. SCI. & MED. 2099, 2100 (2012).

113. *See, e.g.*, Vickie M. Mays et al., *Race, Race-Based Discrimination, and Health Outcomes Among African Americans*, 58 ANNUAL REV. PSYCH. 201, 206 (2007).

114. Pascoe & Richman, *supra* note 23, at 531.

115. R. Jay Turner & William R. Avison, *Status Variations in Stress Exposure: Implications for the Interpretation of Research on Race, Socioeconomic Status, and Gender*, 44 J. HEALTH & SOC. BEHAV. 488, 499–500 (2003) (where African Americans show greater levels of stress than non-Hispanic Whites).

116. *Fact Sheet: Health Disparities and Stress*, *supra* note 106.

117. Pascoe & Richman, *supra* note 23, at 531.

118. Coronary Artery Risk Development in Young Adults (CARDIA), is "a 15-year longitudinal study of the evolution of cardiovascular risk among young adults." Luisa N. Borrell, et al., *Self-Reported Health, Perceived Racial Discrimination, and Skin Color in African Americans in the CARDIA Study*, 63 SOC. SCI. & MED. 1415, 1417 (2006).

119. *Id.* at 1415.

Perceived discrimination may result from both government action via the enactment of policies[120] that disparately impact minorities and also individual action.[121] The divisive rhetoric fosters feelings of discrimination by using inflammatory language, code words, stereotypes, and dog whistles to drum up support for new policies that codify the rhetoric.[122] In addition to the impact that the coded rhetoric has on state action, it also affects individuals. By stereotyping minorities in rhetoric, individuals are emboldened to demonstrate othering behavior toward minorities.[123] This behavior could have existed in the past, but the proliferation of cell phone videos brings the behavior to light.[124] There has been an increase in the visibility of the police being called on Blacks carrying out daily activities, such as: waiting for a friend in Starbucks, grilling at a public park, swimming at a community pool in the person's own neighborhood, and napping in a university common area where the individual was a student.[125] Racial profiling of Blacks, Latinos, and Muslims is on display via social media and in the news.[126]

There has been an increase in the number of police shootings of unarmed black men covered by the media.[127] Viral videos of racial slurs being shouted at

120. Douglas S. Massey et al., *The Changing Bases of Segregation in the United States,* 626 ANNALS AM. ACAD. POL. & SOC. SCI. 74, 88 (2009).

121. Ian F. Haney-López, *A Nation of Minorities: Race, Ethnicity, and Reactionary Colorblindness,* 59 STAN. L. REV. 985, 989 (2007).

122. *8 Sneaky Racial Code Words and Why Politicians Love Them,* THE ROOT (Mar. 15, 2014), https://www.theroot.com/8-sneaky-racial-code-words-and-why-politicians-love-the-1790874941.

123. Stabile, *supra* note 15, at 381, 383.

124. Anthony Brooks, *Racism, Discrimination and Calling the Police on Black People,* WBUR (July 19, 2018), http://www.wbur.org/onpoint/2018/07/19/racism-discrimination-and-calling-the-police-on-black-people. Today, social media provides an avenue to quickly publish examples of stereotyping. Because of the ease of presenting the information on social media, more visibility is given to behavior that has occurred in the past without being recorded and presented.

125. *See, e.g.*, Daniel Victor, *When White People Call the Police on Black People,* N.Y. TIMES (May 11, 2018), https://www.nytimes.com/2018/05/11/us/black-white-police.html; Chris Perez, *White Man Calls Police on Black Family at Neighborhood Pool,* N.Y. POST (July 5, 2018), https://nypost.com/2018/07/05/white-man-calls-police-on-black-family-at-neighborhood-pool/; Carla Herreria, *Woman Calls Police on Black Family for BBQing at a Lake in Oakland,* HUFFINGTON POST (May 11, 2018), https://www.huffingtonpost.com/entry/woman-calls-police-oakland-barbecue_us_5af50125e4b00d7e4c18f741.

126. Holly Yan, *This is Why Everyday Racial Profiling is So Dangerous,* CNN (May 11, 2018), https://www.cnn.com/2018/05/11/us/everyday-racial-profiling-consequences-trnd/index.html; Cyril Julien, *Social Networks Help Combat Racial Bias,* MAIL & GUARDIAN (July 12, 2018), https://mg.co.za/article/2018-07-12-social-networks-help-combat-racial-bias; Anthony Faiola, *How Muslims are Using Social Media to Shame European Cops,* WASH. POST (Feb. 15, 2016), https://www.washingtonpost.com/news/worldviews/wp/2016/02/15/how-muslims-are-using-social-media-to-shame-european-cops/?utm_term=.f62167dc79f8.

127. *See* Eliott C. McLaughlin, *We're Noting Seeing More Police Shootings, Just More News Coverage,* CNN (Apr. 21. 2015), https://www.cnn.com/2015/04/20/us/police-brutality-video-social-media-attitudes/index.html.

minorities provide an example of how an individual's views of certain minority groups is consistent with the stereotypes that are used in the coded political rhetoric.[128] The visibility of this constant surveillance and policing is a chronic stressor unique to Blacks, Latinos and Muslims.[129]

In some instances, divisive political rhetoric has invited racism against minorities. There has been an increase in the visibility of certain quasi-hate groups, such as Unite the Right and ultranationalists.[130] Political rhetoric, which promotes nationalism but excludes people of color, creates an environment that supports othering.[131]

V. POLITICALLY DIVISIVE RHETORIC AND ITS IMPACT

After considering rhetoric as a persuasive tool and introducing the uniqueness of certain minority groups, particularly as it relates to the social determinants of health, this section will close the circle of the race-policy-health paradigm.

Othering is defined as "a process by which individuals and society view and label people who are different in a way that devalues them."[132] Othering can be distinguished from stereotyping because stereotyping deals more with categorization and judgement based on group characteristics.[133] Techniques, such as stereotyping and othering, increase the acceptance of policies that may negatively impact minority populations.[134] The adage "united we stand, divided we fall"[135] is particularly relevant here. The divisive rhetoric sets the stage for othering and provides the language of stereotyping.

128. *See, e.g.*, Kia Morgan-Smith, *White Woman Caught on Video Spewing Racial Slurs on Bus*, GRIO (July 5, 2018), https://thegrio.com/2018/07/05/white-woman-caught-on-video-spewing-racial-slurs-on-bus/.

129. Sara Satinsky, *Stress on the Streets (SOS): Race, Policing, Health, and Increasing Trust, Not Trauma in Ohio*, HUM. IMPACT PARTNERS (Dec. 8, 2015), https://humanimpact.org/stress-on-the-streets-sos-race-policing-health-and-increasing-trust-not-trauma-in-ohio/; Scott C. Carvajal et al., *The Border Community & Immigration Stress Scale: A Preliminary Examination of a Community Responsive Measure in Two Southwest Samples*, 15 J. IMMIGRANT & MINORITY HEALTH 427, 433 (2013); Alexander J. O'Connor & Farhana Jahan, *Under Surveillance and Overwrought: American Muslims' Emotional and Behavioral Responses to Government Surveillance*, 8 J. MUSLIM MENTAL HEALTH 95, 95 (2014).

130. Michele Meltzer, *Number of Hate Groups Increased Nationally in 2017, According to Southern Poverty Law Center Report*, DAILY CALIFORNIAN (Feb. 22, 2018), http://www.dailycal.org/2018/02/22/number-hate-groups-increased-nationally-2017-according-southern-poverty-law-center-report/.

131. Meta G. Carstarphen et al., *Rhetoric, Race, and Resentment: Whiteness and the New Days of Rage*, 36 RHETORIC REV. 255, 266 (2017).

132. Stabile, *supra* note 15, at 381, 382.

133. *Id.* at 383.

134. Viruell-Fuentes, *supra* note 112 at 2099–2101.

135. M. Fakhry Davids, *Internal Racism: A Psychoanalytic Approach to Race and Difference*, 98 INT'L J. PSYCHOANALYSIS 543, 544 (2017).

The Trump campaign slogan "Make America Great Again" was an appeal to a subset of the population that times were better in the past.[136] It is unclear what particular point in time is being referenced by referring to the "great" time; however, it is reasonable to assume that minority groups were likely not better off back then.[137] It could be that the period referenced was the 1950s when industry was booming and there was an abundance of jobs for low-skilled workers.[138] However, the status of Blacks and other minorities during that time was troublesome because the Civil Rights Act had not been enacted yet.[139] There are various examples of when the U.S. was doing well in one sector, yet minorities still lagged behind and did not experience the same freedom and liberty during years past.[140]

"Make America Great Again" begins the process of othering. For simplicity, the first division is white and non-white. Targeted groups in the non-white category are Blacks, Latinos, and Muslims. By othering, particular groups of non-whites, an "us" and "not us" separation, begins to form. This is important because once the "not us" or the "other" is identified, members of the "us" group distance themselves from the "not us/other," allowing a devalued and dehumanized perspective to permeate the

136. Michèle Lamont et al., *Trump's Electoral Speeches and His Appeal to the American White Working Class*, 68 BRIT. J. SOC. (SPECIAL ISSUE) S153, S167 (2017).

137. At no point in American history have Blacks been considered "great" or equal to Whites in America. This can be measured through law, health, wages, unemployment and nearly any other concrete form of measurement. Therefore, this statement excludes Blacks and arguable Latinos and other minorities because there is no reference point which "greatness" of these groups can be measured in the past. Quite the opposite, most minorities are better off in America in 2018 than they have been in other times of American history. *See* Russell Contreras, *'Make America Native Again': Native Americans and Other Minorities Satirize Trump's Campaign Slogan*, PBS (July 11, 2016), https://www.pbs.org/newshour/politics/make-america-native-native-americans-minorities-satirize-trumps-campaign-slogan; *see also* ANGELA HANKS ET AL., SYSTEMATIC INEQUALITY: HOW AMERICA'S STRUCTURAL RACISM HELPED CREATE THE BLACK-WHITE WEALTH GAP, (Ctr. for Am. Progress, 2018).

138. *See* Olivia Goldhill, *Exactly Which Era is Donald Trump Referring to with "Make America Great Again"?* QUARTZ (Feb. 29, 2016), https://qz.com/626988/what-era-is-donald-trump-referring-to-with-make-america-great-again/; *see also* Noah Smith, *Trump Still Dreams of a 1950s-Era Economy*, BLOOMBERG (Jan. 30, 2018), https://www.bloomberg.com/view/articles/2018-01-30/trump-still-dreams-of-a-1950s-era-economy; Alexander Monge-Naranjo & Juan Ignacio Vizcaino, *Shifting Times: The Evolution of the American Workplace*, 25 REGIONAL ECONOMIST, no. 4, 2017, at 4, 6.

139. *See* Ann Brenoff, *3 Things That Really Didn't Make 1950s' America 'Great'*, HUFFINGTON POST (Nov. 17, 2016), https://www.huffingtonpost.com/entry/3-things-that-really-didnt-make-1950s-america-great_us_5825f4b9e4b02d21bbc86798; *see also* Brenda Gazzar, *How the Civil Rights Act of 1964 Changed America*, DAILY NEWS (Aug. 28, 2017), https://www.dailynews.com/2014/07/01/how-the-civil-rights-act-of-1964-changed-america/.

140. Susan Milligan, *Unequal in America: Entrenched Financial Disparities Have Made It Hard for African-Americans to Achieve Equality*, US NEWS (May 4, 2018), https://www.usnews.com/news/the-report/articles/2018-05-04/african-americans-lag-behind-whites-in-equality-index.

lens in which the other's needs and interests are concerned.[141] Once the distinction is made, undesirable characteristics are associated with the "not us" group, which causes apathy and indifference to the treatment of the "others". Continuing with the food aid example, once the minority groups are "othered," the "us" group feels more comfortable with policies that disparately impact the "not us" group.

Once a clear distinction is made between "us" and "not us," the next step is to reinforce stereotypes about the "not us" group. All of this is achieved through the divisive rhetoric. By stereotyping minority aid recipients as lazy and undeserving,[142] Blacks as ungrateful and unpatriotic,[143] Muslims as terrorists,[144] or Latinos as gang members,[145] negative associations can be made about members of these groups. Then, when policies are enacted to address the stereotypical behavior, it is not troublesome for the "us" group to support the new policies. The impact is distant from the "us" group and does not garner the outrage that the new policy might if members of the "us" group perceived a personal impact rather than an impact on someone who is different than themselves and belongs to the "not us" group.

Now let's turn to the policies. It is true that policies related to health coverage, access, and quality of care are directly connected to health.[146] However, as HiAP suggests, even policies that are not directly related to health may also impact health.[147] In its 2018 Issue Brief, KFF states that, "The Trump Administration is pursuing policies that may limit individuals' access to assistance programs to address health and other needs and reduce resources to address social determinants of health."[148] By reducing and/or eliminating public assistance programs, social determinants will have a greater effect on health.[149] Consider that cuts to the Supplemental Nutrition Assistance Program (SNAP) will have a direct impact on health because individuals who previously received

141. Stabile, *supra* note 15, at 382.

142. Jazmin L. Brown-Iannuzzi et al., *The Relationship Between Mental Representations of Welfare Recipients and Attitudes Toward Welfare*, 28 PSYCHOL. SCI. 92, 93, 100 (2017).

143. Zeba Blay, *What It Really Means When Black People Who Protest Are Called 'Ungrateful'*, HUFFINGTON POST (Sept. 25, 2017), https://www.huffingtonpost.com/entry/the-double-standards-of-black-people-in-protest_us_59c90d74e4b01cc57ff3cc50.

144. Patricia M. Rodriguez Mosquera et al., *American Muslims' Anger and Sadness About In-group Social Image*, 7 FRONTIERS PSYCHOL., Jan. 11, 2017, at 1–2.

145. Roberto José Andrade Franco, *The Dangerous Game Donald Trump is Playing with MS-13*, WASH. POST (Mar. 7, 2018), https://www.washingtonpost.com/news/made-by-history/wp/2018/03/07/the-dangerous-game-donald-trump-is-playing-with-ms-13/?utm_term=.8f11d4054ba6.

146. Artiga & Hinton, *supra* note 84, at 2.

147. *Id.* at 3.

148. *Id.* at 9.

149. *Id.*

SAINT LOUIS UNIVERSITY SCHOOL OF LAW

these benefits will have fewer funds available to buy food.[150] By advancing the narrative through coded rhetoric that poor minority women are cheating the system and obtaining benefits they do not deserve or using benefits in ways that are improper, the rhetoric drives the acceptance of a policy change.[151] Instead of focusing on all of the people that food aid helps, the specific example of abusing the system is used to make a broad generalization, using inductive reasoning to make a change that decreases health.

Rhetoric drives policy. Policies have disparate impacts on certain groups. Perceived discrimination increases chronic stress. Chronic stress leads to poor health. The steps above outline the RPH paradigm. Several examples will be presented to illustrate the RPH paradigm of (1) rhetoric, (2) policy, (3) perceived discrimination, (4) chronic stress, (5) poor health. The examples will focus on steps (1)–(3) giving less focus to (4) and (5). Perceived discrimination affects health.[152] Therefore, once that is established, the health effects of chronic stress have already been proven.

Stop-and-frisk: (1) rhetoric – dangerous inner city; (2) stop-and-frisk; (3) percentage of stops over represented in Black and Latino communities (perceived discrimination),[153] (4) chronic stress, (5) poor health.

Stop-and-frisk provides a historical context for the links between policy, perceived discrimination, stress, and health.[154] Using the dangerous inner city stereotype, Rudy Giuliani, then mayor of New York, pushed the enactment of stop-and-frisk.[155] The policy was deemed a success from a numerical perspective and led to a decrease in violent crime during its implementation.[156]

150. *House Farm Bill's SNAP Cuts, Work Requirements Would Hurt Workers*, CTR. BUDGET & POL'Y PRIORITIES 2 (2018), https://www.cbpp.org/sites/default/files/atoms/files/5-4-18fa-brief-workers.pdf.

151. Carly Hayden Foster, *The Welfare Queen: Race, Gender, Class, and Public Opinion*, 15 RACE, GENDER, & CLASS 162, 163, 166 (2008). The perception of the "Welfare Queen" as cheating the welfare system creates a negative connotation on the minority families. The proposed reduction in funding to TANF is an example of the policy change supported by this negative connotation.

152. Pascoe & Richman, *supra* note 23, at 540.

153. Andrew Gelman et al., *An Analysis of the New York City Police Department's "Stop-and-Frisk" Policy in the Context of Claims of Racial Bias*, 102 J. AMER. STAT. ASS'N. 813, 815 (2007) (*although* stop and frisk represents actual discrimination through racial profiling the lessor requirement of perceived discrimination is included to provide an example of the paradigm); Abigail A. Sewell & Kevin A. Jefferson, *Collateral Damage: The Health Effects of Invasive Police Encounters in New York City*, 93 J. URB. HEALTH, S42, S43 (Supp. I 2016).

154. Sewell and Jefferson, *supra* note 153, at S43, S55.

155. Colleen Long, *Police Call Frisking a Widespread Tool that Deters Crime*, PITTSBURG POST-GAZETTE (Oct. 8, 2009), http://www.post-gazette.com/news/nation/2009/10/09/Police-call-frisking-a-widespread-tool-that-deters-crime/stories/200910090167.

156. *See* David Weisburd et al., *Do Stop, Question, and Frisk Practices Deter Crime?*, 15 CRIMINOLOGY & PUB. POL'Y 31, 34–35 (2015) (showing that an increase in Stops and Frisks resulted in a decrease in non-traffic related crimes); *see also* Richard Curtis, *Report From the Field: Zero Tolerance/Stop and Frisk Policing in New York City*, 36 DIALECTICAL ANTHROPOLOGY 343,

SAINT LOUIS UNIVERSITY SCHOOL OF LAW

However, the policy ultimately ended because it was deemed to be discriminatory toward Black and Latino men.[157] Although the majority of the stops did not yield legally significant material, the policy lasted for several years.[158] During this time, Black and Latino males in the areas where the policy was most aggressively implemented lived under heightened stress of being stopped by police.[159] This chronic stress had a negative effect on their health and well-being.[160] A similarly troubling pattern of new policies which disproportionately affect minorities (particularly Blacks and Latinos) is being reenacted today. This cycle begins with divisive rhetoric, usually incorporating a racialized stereotype. The orated stereotype then serves as a basis for policy-making or policy changes. These policies cause perceived discrimination. The perceived discrimination leads to chronic stress. The chronic stress leads to poor health. Four examples of the RPH paradigm occurred during the first eighteen months of the current administration.

(1) Muslim Ban: a. Stereotype – Muslims are terrorists; b. Travel ban enacted; c. Muslims feared traveling and being stereotyped (perceived discrimination); d. chronic stress; e. poor mental health.[161]

(2) Immigration: a. Stereotype – Immigrants are criminals; b. Zero-tolerance Immigration Policy; c. broken social support when community members are deported; d. chronic stress; e. poor health[162]

(3) Lazy Poor: a. Stereotype – Lazy aid recipients; b. Changes to SNAP; c. increased food insecurity; d. chronic stress; e. poor health[163]

343 (2012) (reporting on how the New York City Police Department's policy approach of stop and frisk "adheres to the broken window theory, that is small infractions are policed aggressively [than] bigger crimes will not be committed.").

157. Floyd v. City of New York, 959 F.Supp.2d 540, 667 (S.D.N.Y. 2013).

158. Jeffrey Bellin, *The Inverse Relationship Between the Constitutionality and Effectiveness of New York City "Stop and Frisk"*, 94 B.U. L. REV. 1495, 1549 (2014). Although stop and frisk represents actual discrimination through racial profiling the lessor requirement of perceived discrimination is included to provide an example of the paradigm.

159. Jason Silverstein, *How Racism is Bad for Our Bodies*, ATLANTIC (Mar. 12, 2013), https://www.theatlantic.com/health/archive/2013/03/how-racism-is-bad-for-our-bodies/273911/.

160. Abigail A. Sewell et al., *Living Under Surveillance: Gender, Psychological Distress, and Stop-Question-and-Frisk Policing in New York City*, SOC. SCI. & MED., June 2016, at 1–2, 10.

161. Adam Liptak & Michael D. Shear, *Trump's Travel Ban is Upheld by Supreme Court*, N.Y. TIMES (June 26, 2018), https://www.nytimes.com/2018/06/26/us/politics/supreme-court-trump-travel-ban.html; James S. Gordon, *Living in Fear of Deportation is Terrible for Your Health*, WASH. POST (Feb. 10, 2017), https://www.washingtonpost.com/posteverything/wp/2017/02/10/living-in-fear-as-a-refugee-in-the-u-s-is-terrible-for-your-health/?utm_term=.3628093a7081.

162. Jeffrey Davis, *Trump's 'Zero-Tolerance' Immigration Policy Still Violates Fundamental Human Rights Laws*, BUS. INSIDER (June 30, 2018), https://www.businessinsider.com/trumps-zero-tolerance-immigration-policy-violates-human-rights-laws-2018-6.

163. ED BOLEN ET AL., HOUSE FARM BILL WOULD INCREASE FOOD INSECURITY AND HARDSHIP 5, 7–8, 21 (2018), https://www.cbpp.org/sites/default/files/atoms/files/4-16-18fa.pdf;

(4) Gangs and Inner Cities: a. Stereotypes – Blacks and Latinos live in dangerous inner cities; b. Tough on Crime; c. increased incarceration and loss of income d. chronic stress; e. poor health[164]

In each of the four examples provided of the RPH paradigm, data suggests that the underlying stereotypes that promoted the enacted policies are unsound. The contextual background suffers from a fallacy of misinformation. The fact that the policies have been enacted based on such a shaky factual foundation shows the stunning power of rhetoric and other literary tools to persuade.

The travel ban stereotype that Muslims are terrorists overlooks the fact that the majority of individuals who have committed crimes of terrorism are non-Muslim, American-born, white males.[165] Enacting a travel ban aimed at addressing terrorism relies on faulty logic because the fix, banning travel from majority Muslim countries, does not connect to the reality of the demographic that commits large scale terrorism in the U.S.

The stereotype that immigrants are criminals, leading to a policy that all undocumented individuals should be treated equally, is not consistent with available facts.[166] Immigrants are no more likely to commit crimes than non-immigrants, and in some instances, it has been found that immigrants are less likely to commit crimes.[167] By eliminating deportation priorities, individuals who have been law abiding except for their non-status are treated equally to those who have actually committed crimes.[168] Advancing policies that will limit family-based immigration and move to a merit-based system based on a stereotype of criminal immigrants is not supported by facts.[169]

Barbara A. Laraia, *Food Insecurity and Chronic Disease*, 4 ADVANCES IN NUTRITION 203, 210 (2013).

164. Lauren J. Krivo et al., *Segregation, Racial Structure, and Neighborhood Violent Crime*, 114 AM. J. SOC. 1765, 1765 (2009); Zinzi D. Bailey et al., *Structural Racism and Health Inequities in the USA: Evidence and Interventions*, 389 LANCET 1453, 1455, 1457 (2017); *Criminal Justice Fact Sheet*, NAACP, https://www.naacp.org/criminal-justice-fact-sheet/ (last visited Oct. 25, 2018).

165. *See* Sarah Ruiz-Grossman, *Most of America's Terrorists are White, and Not Muslim*, HUFFINGTON POST (June 23, 2017), https://www.huffingtonpost.com/entry/domestic-terrorism-white-supremacists-islamist-extremists_us_594c46e4e4b0da2c731a84df; *see also* Wilmer J. Leon, III, *Armed Angry White Males the New Domestic Terrorists*, TRUTHOUT (Mar. 20, 2014), https://truthout.org/articles/armed-angry-white-males-the-new-domestic-terrorists/; April M. Davis, American Psychosis: Violence and the White Male Oppression Narrative (Aug. 2006) (unpublished M.A. thesis, University of Houston-Clear Lake) (on file with ProQuest Dissertations & Theses Global).

166. Deenesh Sohoni & Tracy W. P. Sohoni, *Perceptions of Immigrant Criminality: Crime and Social Boundaries*, 55 SOC. Q. 49, 63 (2014).

167. *Id.*

168. Daniel I. Morales, *Transforming Crime-Based Deportation*, 92 N.Y.U. L. REV. 698, 701 (2017).

169. *Id.* at 720–21 ("Immigrants do not commit crimes because they fear –more than jail—the exile and shame of deportation.").

SAINT LOUIS UNIVERSITY SCHOOL OF LAW

The narrative that SNAP recipients do not make healthy food choices is also problematic.[170] One recommendation to address the notion that SNAP recipients are overweight and make poor food choices, in part, because of SNAP benefits is to provide "Harvest Boxes."[171] The Harvest Boxes are marketed as similar to mail-order food boxes; however, the Harvest Box would include canned goods, shelf-stable milk, and other non-perishable items, but not fresh fruits and vegetables.[172] Yet, a study from the University of Connecticut Zwick Center for Food and Resource Policy determined that the Supplemental Nutrition Assistance Program decreases money spent on eating out by recipients.[173]

VI. CONCLUSION

The more things change, the more they stay the same. The tools of rhetoric can be traced back to ancient times when Aristotle taught about rhetoric circa 367 B.C.[174] Amazingly, the canons of rhetoric and the three appeals seem to be as effective now as Aristotle described them back in those times. The challenge today is that the outcome of the persuasion has real impact on the lives of already vulnerable groups. More time could be spent analyzing various statements made by many different presidents and the impact that these statements have on minority health. There is a need for more interdisciplinary work in the law and society, critical race theory, and public health worlds.

The public must remain vigilant in seeking truth. The country must call on its best angels and be its best self to show compassion to the least within it. The urge to separate and subdivide into "us" and "not us" should be fought daily. Stereotypes and myths should be addressed head on with data.

The key to this RPH paradigm is the correlation of the many links that tie it together. Rhetoric drives policy. Policies have disparate impacts on certain groups. Perceived discrimination increases chronic stress. Chronic stress leads to poor health.

170. Elaina Hancock, *SNAP Decisions: UConn Study Counters Food Stamp Misconceptions*, UCONN TODAY (Mar. 26, 2018), https://today.uconn.edu/2018/03/snap-decisions-uconn-study-counters-misconceptions-food-stamp-program/.

171. *Id.*

172. *Id.*

173. *Id.*

174. William Benoit, *Isocrates and Aristotle on Rhetoric*, 20 RHETORIC SOC. Q. 251, 252–53 (1990).