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Following the Leader: Is New York Still Leading the Way?

By Jon Lentz | Aug 09, 2015 |

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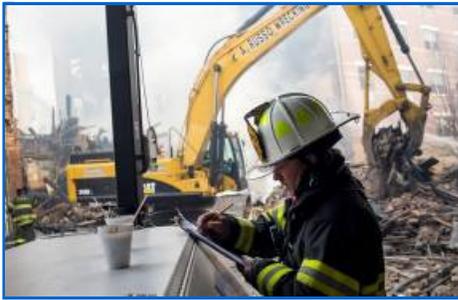
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When Gov. Andrew Cuomo announced a \$15 minimum wage for New York’s fast food workers, he portrayed it as a groundbreaking achievement. Flanked by elected officials and union leaders at a rally in Manhattan last month, Cuomo said the wage hike would help hundreds of thousands of workers. What’s more, he said, it would spur other states to follow in New York’s footsteps.

“That is the New York way,” Cuomo told the cheering crowd. “We’ve always been different, we’ve always been first, we’ve always been the most progressive. And this statement today is going to radiate all across the country, and SEIU and the community organizations can go all across the country and say, ‘If New York can do it, why can’t you do it?’ And if it’s right in New York, it’s right in California and it’s right in Michigan and it’s right in Florida.”

It’s a bold claim, albeit not an especially uncommon one. Cuomo has made similar assertions about his signature gun-control law, the same-sex marriage legislation he championed and the ongoing construction of a replacement for the Tappan Zee Bridge. And he has sought to burnish his record by linking his own accomplishments to the state’s storied past, from the digging of the Erie Canal and the erection of the Empire State Building to the history of activism in the state on behalf of workers, women and the LGBT population.

But while New York once was widely considered a national leader, it has lost its reputation as the state that does things first. New York was the sixth state—not the first—to legalize same-sex marriage. The SAFE Act was the first state gun-control law enacted after the tragic shootings at an elementary school in Newtown, Connecticut, but bans on assault weapons had long been on the books elsewhere. Today, cities like San Francisco, Seattle and Chicago are often out ahead of New York City, and states

like California, Washington and Massachusetts are the places that come to mind as the nation's Brandeisian laboratories of democracy.

"Historically, New York often did lead, and particularly if you go back to the 1920s and '30s, New York state was a leader in social legislation and social programs during the Progressive Era, and many of these programs later became national through the New Deal—so factory regulation under Al Smith's administration, relief programs under Franklin Roosevelt when he was governor, a number of other things you can point to in New York state," said Joshua Freeman, a history professor at Queens College and the CUNY Graduate Center. "I think you have a harder case to make for the current situation."

That hasn't stopped Cuomo from trying. He has a habit of describing new laws and initiatives as "historic." At the 2012 Democratic National Convention, Cuomo addressed the crowd under a banner emblazoned with the words "NEW YORK STATE: PROGRESSIVE CAPITAL OF THE NATION." During his second inaugural address earlier this year, he invoked the Erie Canal, the women's suffrage movement and the Stonewall riots—a pivotal moment for gay rights—as well as his same-sex marriage and gun-control laws. "We have always taken on the big challenges," Cuomo said, "taken them on first, gotten them done, and then created an example for the rest of the nation."

On closer review, the state's recent track record as an innovator is much more muddled. Despite Cuomo's repeated claims that New York led the way on same-sex marriage, the first state to legalize it was actually Massachusetts in 2003, when its highest court ruled that gay and lesbian couples could wed. Courts in Connecticut and Iowa issued similar rulings, and New Hampshire and Vermont approved same-sex marriage legislatively well before New York in 2011. And at times, mindful of those historical footnotes, Cuomo has more accurately described New York as the first "big state" to allow same-sex marriage. The administration has also touted the bill's unprecedented passage in a Republican-majority chamber, the state Senate—although no other GOP state legislative body ever followed New York's lead.

By contrast, the 2013 SAFE Act was, in fact, the first of a number of tough new state gun laws enacted after the elementary school shootings in Connecticut. The law, which limited large capacity magazines and mandated the registration of assault weapons, among other measures, made New York one of the strictest states on gun control. But a ban on assault weapons, which was strengthened as a key component in the New York law, was enacted by California back in 1989.

New York was "leading the way once again" this year, the governor said, with the passage of the state's "Enough is Enough" legislation. The law cracks down on sexual assault on college campuses by requiring students to express "affirmative consent" during intimate physical encounters. But California and Virginia had already enacted similar measures.

New York was also a runner-up when it came to banning hydrofracking, a decision Cuomo announced shortly after his re-election that followed years of study and lengthy delays. Vermont implemented the first state-level ban, but New York's is far more consequential, given that it actually sits above shale deposits. Some experts also say the state's Reforming Energy Vision plan, aimed at revamping the production, pricing and distribution of energy, could one day become a national model, but it has yet to be successfully implemented.

Another hallmark of Cuomo's tenure is transportation infrastructure, but his efforts pale in comparison to the far-reaching public works projects built decades ago in New York by Robert Moses. Cuomo's administration has started to construct a replacement for the Tappan Zee Bridge, and he recently announced additional funding for the MTA's capital plan and an overhaul of LaGuardia Airport. Yet much of the money has yet to be budgeted, and concerns have been raised about the lack of substantial added capacity. In addition, several years have passed since New Jersey Gov. Chris Christie canceled the ARC Tunnel under the Hudson River, and only now is the Gateway Tunnel, a similar proposal to add needed trans-Hudson rail capacity into Manhattan, gaining traction. "Even on transportation, California is building high-speed rail," Freeman said, "and New York is debating fixing these ancient tunnels."

Critics say the governor is lagging on other fronts as well. Despite an effort by state legislators to change the law, New York is still one of two states that treat 16- and 17-year-olds as adults in the courtroom. An effort to codify the U.S. Supreme Court's *Roe v. Wade* decision on abortion in state law fell by the wayside. And the state has done little to improve voter access and

address dwindling election turnout. Oregon, meanwhile, just became the first state to automatically register as a voter anyone who gets a driver's license.

“Those kind of voting reforms, if you will, have come from elsewhere,” said Doug Muzzio, a political scientist at Baruch College's School of Public Affairs. “John McCain characterized New York as Stalinist because of our absolutely arcane and oppressive laws and our election board incompetence. And that's not true of other jurisdictions at all.”

In addition to being the first place to allow same-sex marriage, Massachusetts also broke ground by implementing universal health care and served as a model for President Barack Obama's health care reform law. Colorado and Washington were the first of a handful of states to allow the recreational use of marijuana. California was the first state to allow medical marijuana, all the way back in 1996, while New York last year became the 23rd state to decide to take that limited step.

Indeed, California has long stood out as a front-runner. The state passed trailblazing farmworker legislation in the 1970s, and is known for its direct democracy measures, including the use of petition to put legislation on the ballot, popular referendums on laws passed by the state Legislature and recall elections. While New York's DREAM Act languishes in Albany, California and Illinois have passed their own versions of the immigrant-friendly legislation.

On the municipal level, New York City has made its mark as a leader on public health, from its public smoking bans to the outlawing of trans fats and posting of calorie counts in restaurants. But while the New York City Council has been an early adopter of participatory budgeting, the practice started in the U.S. in Chicago. Chicago also launched its 311 help line in 1999, well before New York City.

San Francisco, California's epicenter of progressivism, became the first city to pass paid sick leave legislation in 2006, followed by the District of Columbia in 2008 and Connecticut and Seattle in 2011. New York City passed its paid sick leave law in 2013. California's paid sick leave legislation took effect last month, while New York has taken no similar statewide action. San Francisco also launched a municipal identification card program in 2009, modeled on a similar one in New Haven, Connecticut. New York City's ID program began earlier this year.

“There are other states, particularly on the West Coast, that have been more innovative in policy concerning labor, concerning the environment, concerning transportation, and other kinds of issues,” Freeman said. “I think that Gov. Cuomo is a little self-aggrandizing about the state when he claims that we're in the lead.”

Of course, New York—and its elected officials—still have plenty of firsts to boast of, at least historically. The state hosted the first women's rights convention at Seneca Falls in 1848, and state lawmakers that year allowed women to keep any property they owned before marriage. In the 20th century, New York City Mayor John Lindsay created the nation's first environmental protection agency. The state legalized abortion before the U.S. Supreme Court's controversial *Roe v. Wade* decision—and before every other state except Hawaii. Gov. Nelson Rockefeller, who had supported a treatment and rehabilitation approach to combating drug abuse, changed course and passed legislation instituting mandatory minimum prison sentences for possessing even small amounts of drugs. The Rockefeller Drug Laws, as they came to be known, were adopted in other states and by Congress, although they have largely fallen out of favor.

As any professor of New York history will tell you, however, the state's pinnacle as a policy leader came during the first few decades of the 20th century. Gov. Al Smith and his successor, Franklin Delano Roosevelt, led the way in enacting and launching an impressive array of progressive programs and reforms, with figures like Frances Perkins, Fiorello La Guardia and Robert Moses playing influential roles.

“During that period you've got the progressive movement, so it's a great time to look at reforms, and they're coming out of New York, they're coming out of Illinois and they're coming out of the great industrial cities, with New York at the forefront for a number of reasons,” said Robert Slayton, a history professor at Chapman University and the author of “*Empire Statesman*,” a biography of Al Smith. “You had the '20s, which is somewhat moribund, but New York under Smith is still doing a lot of stuff

through his leadership. And then obviously the '30s with the New Deal and Roosevelt, Roosevelt's gubernatorial experience is very critical here in drawing from the New York ideas and the New York personnel."

A major impetus for reform was the 1911 fire at the Triangle Shirtwaist factory in Manhattan, which killed nearly 150 people, mostly female workers unable to escape because of illegally blocked exits. New York responded by setting up an unprecedented state commission with a broad mandate to investigate working conditions across a range of industries.

Perkins, who witnessed the fire, had joined a growing worker safety movement and persuaded Smith, then a local assemblyman, to join the cause. Smith became vice chairman of the commission, which exposed dangerous and unsanitary factory conditions. The commission's voluminous findings paved the way for dozens of new state laws aimed at protecting workers, including stronger safety codes. "The Triangle fire was a torch that lighted up the whole industrial scene," Perkins said at the time.

The workers' rights movement was bolstered by labor unions, a rising force in the rapidly industrializing city. "New York had a strong labor movement, and there was a lot of pressure from organized labor, and also from radical movements, a strong socialist movement, so that a lot of the factory legislation, for example, that came in the aftermath of the Triangle fire was pushed forward by unions," Freeman said. "The Democratic Party in New York state early on allied with the labor movements, saw it as a constituency they wanted to work with, so that was a big factor."

The reform effort continued after Smith was elected governor in 1918. With the help of Perkins, who joined his administration, Smith strengthened the workers' compensation law and signed additional legislation protecting women and children workers. Robert Moses, a Smith protégé, created the first state park system in the country.

Roosevelt succeeded Smith as governor in 1929 and continued the push for stronger labor laws and other progressive reforms. Responding to the stock market crash and the devastation of the Great Depression, Roosevelt launched relief and jobs programs for the swelling ranks of the unemployed in New York. When he became president in 1933, the lessons he learned as governor guided his battle to revive the battered economy.

When Roosevelt moved to the White House, Perkins came along as his labor secretary, becoming the first woman ever appointed to the cabinet. New York City under Mayor La Guardia was a testing ground for many of the president's New Deal programs. Meanwhile, Moses reshaped the landscape of the city and the state, spearheading massive public works projects, building an extensive network of bridges and freeways and building acres and acres of new housing developments.

"Whatever you think of Robert Moses, you could look at infrastructure and transportation development in New York with La Guardia," Muzzio said. "They are the model, and in fact Moses' model is the dominant development in housing until it gets challenged intellectually by Jane Jacobs and then Rockefeller."

There are several explanations for why New York's status has eroded since that time. Some experts point to the changing economy. The state had been dominated by workers and unions in the early 1900s, but the resurgent banking and finance sector may have altered the political power structure—and what kinds of reforms are possible. Other changes came outside of New York, said Gerald Benjamin, an associate vice president at SUNY New Paltz. Beginning in the 1960s, other states became more activist. Governors began serving longer terms, giving them more time to lead. A reform movement among state legislatures took hold in the 1970s and '80s, and good-government groups prodded lawmakers to be more responsive.

"New York government tends to be progressive and activist, even under Republicans or Democrats. It's a center-left polity, so it's a more activist government," Benjamin said. "But it is less unique or less unusual in that regard in contemporary American governance."

At the rally celebrating New York's minimum wage for fast food workers, Cuomo noted that it was Roosevelt who instituted the first national minimum wage, one of a battery of laws and programs that made up his New Deal program. "He said it is a wage that doesn't just allow you to subsist, but to live a decent life," Cuomo said. "You cannot live and support a family on \$18,000 per year in the state of New York, period. That's why we have to raise the minimum wage."

But, once again, New York doesn't have a particularly impressive record when it comes to minimum wages. Massachusetts was the first state to have a minimum wage, starting in 1912. New York's first minimum wage wasn't passed until 1933. Nor will the state's fast food minimum wage be the first in the nation. San Francisco, Seattle and Los Angeles have already increased the wages of fast food workers to \$15.

Cuomo also acknowledged, if indirectly, that the wage hike would not benefit the many state workers with skills other than flipping burgers and selling shakes, and he pledged to push for a wage hike for all workers. Indeed, New York's broader minimum wage, which is set to rise from \$8.75 to \$9 at the end of the year, lags behind the District of Columbia's \$10.50, Washington's \$9.47 and Oregon's \$9.25. California, Connecticut, Massachusetts, Rhode Island and Vermont also have a higher minimum wage than New York, while Alaska's, at \$8.75, is the same.

To be fair, New York City played an important role as a springboard for the advocates and fast food workers driving the Fight for \$15 campaign. That kind of activism is still a vibrant force, even if other state or local governments actually pass legislation or start new programs first. Sarah Seidman, the curator of the "Activist New York" exhibit at the Museum of the City of New York, said that New York activists have spurred transformational changes, even if the transformation doesn't happen right away in their own backyard.

New York women played a key role during the suffrage movement, for example, even though the state was not the first to ratify the 19th Amendment that gave women the right to vote. More than 50 municipalities had already passed a gay-rights law by the time the New York City Council finally got one approved in 1986, but that doesn't diminish the role New York played in the national LGBT movement. And other observers have commented on the lasting impact of Zuccotti Park's Occupy Wall Street protesters, who were ultimately forced out but refocused the national debate on income inequality.

"The fast food walkouts and strikes and activism did start here, or this latest round was really based here," Seidman noted. "So looking at those paths of starting through grass-roots activism and how it manifests into legislation is really important."

But when it comes to whether New York is actually leading legislatively, many experts are quick to dismiss Cuomo's historical claims as little more than hyperbole.

"It's true that the fast food demonstrations started here in New York, but the legal embrace of \$15 an hour started on the West Coast—not statewide, but in SeaTac and in Seattle and then in Los Angeles," Freeman said. "New York no longer has such a clear role as the national innovator in these kinds of public policies."

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