

*Professor Sheryll Cashin's provocative new book, Place, Not Race: A New Vision of Opportunity in America, published this month by Beacon Press, could not have been more timely, coming so soon after the related Supreme Court decisions in Fisher v. Texas and Schuette v. Coalition to Defend Affirmative Action. The question of how to appropriately – and constitutionally – consider race in university admissions has been an evolving discussion in the civil rights community ever since Justice Powell's landmark decision in Bakke in 1978. For this issue, we asked Professor Cashin to provide an overview of her thesis, and we invited two other prominent civil rights theorists (Olatunde Johnson and Girardeau Spann) to provide their responses and critiques of Professor Cashin's position. – the editors*

## Place, Not Race: Affirmative Action and the Geography of Opportunity

Sheryll Cashin

The discourse in America about segregation is dishonest. On the surface, we pretend that the values of *Brown v. Board of Education* have been met, although most of us know in our hearts that the current system of public education betrays those values. Residual, *de facto* segregation and the stratified architecture of opportunity in our nation contribute to the achievement gap that has made race-based affirmative action necessary. Despite the Supreme Court's compromise decision in *Fisher v. Texas*, affirmative action is on life support. In *Schuette v. Coalition to Defend Affirmative Action*, the Supreme Court upheld the ability of Michigan voters to ban affirmative action. [But see Justice Sotomayor's dissent, excerpted on

*Sheryll Cashin (Cashins@law.georgetown.edu) is Prof. of Law, Georgetown Univ. Law Ctr. This essay is adapted from parts of her book Place, Not Race: A New Vision of Opportunity in America (Beacon 2014). (Cashin is a PRRAC Board member.)*

p. 7 of this issue of *P&R*] Conservative opponents will continue to attack the policy in courts and through politics. There will always be another Abigail Fisher. Eight states have banned affirmative action programs, six through ballot measures (California (1996), Washington (1998), Michigan (2006), Nebraska (2008), Arizona (2010), and Oklahoma (2012)); one by executive order (Florida (1999)); and another by legislative act (New Hampshire (2011)).

One important response to the demise of race-based affirmative action should be to incorporate the experience of segregation into diversity strategies. A college applicant who has thrived despite exposure to poverty at his school or neighborhood deserves special consideration. Those blessed to come of age in poverty-free havens do not. I argue that use of place, rather than race, in diversity programming will better approximate the structural disadvantages many children of color actually endure, while enhancing the possibility that we might one day move past the racial resentment affirmative

action engenders.

While I propose substituting place for race in university admissions, I am not suggesting that American society has become post-racial. In fact, much social science research supports the continued salience of race, especially in the subconscious of most Americans. My proposal accounts for the racial architecture of opportunity in this country through the race-neutral means of place. Ultimately, I conclude that the social costs of racial preferences outweigh any marginal benefits when race-neutral alternatives are

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available that will create racial diversity by expanding opportunity to those most disadvantaged by structural barriers. The truly disadvantaged—black and brown children trapped in high-poverty environs—are not getting the quality of schooling they need, partially because backlash wedge politics undermines any possibility for common-sense public policies. Affirmative action as currently practiced in admissions at most elite institutions does little to help this group and may make matters worse by contributing to political gridlock borne of racial cleavage.

I would not make place the only dimension for consideration of affirmative action, but I do think that, given how large it looms in structuring educational opportunity and outcomes, it should be given much greater weight and attention than it currently receives in diversity programs. I would also give considerable weight to another factor that disproportionately affects blacks and Latinos: low family wealth. Finally, I call on universities to radically reform admissions processes and jettison concepts of “merit” that are unrelated to their professed missions.

## Segregation & Inequality

In the largest metropolitan areas, most black people can be found living

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in environs where they predominate. Latinos also tend to live in neighborhoods with a large presence of people of color and very few white neighbors. Asians are the most integrated of so-called minorities; the largest share of their neighbors on average is non-Hispanic white. Thus whites, blacks, Latinos and Asians tend to experience diversity very differently in their daily lives.

This differential experience of place greatly affects opportunity. Exposure to extensive poverty is the norm for most blacks and Latinos, while *the opposite* is true for most whites and Asians. *Less than one-third of black*

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### *American discourse about segregation is dishonest.*

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*and Latino children live in middle-class neighborhoods where middle-class norms predominate.* Meanwhile, more than 60% of white and Asian households live in neighborhoods where the majority of people are not poor. As demographer John Logan succinctly put it, “It is especially true for African Americans and Hispanics that their neighborhoods are often served by the worst performing schools, suffer the highest crime rates, and have the least valuable housing stock in the metropolis.”

Whether intentional or *de facto*, racial and economic segregation beget racial inequality, which in turn implicates the debate about whether and how to maintain affirmative action. Those privileged to live in high-opportunity neighborhoods rise easily with the benefits of exceptional schools and social networks. While the opportunity structure is highly racialized, the same forces that create geographic disadvantage for many blacks and Latinos also disadvantage average white folk. In an American metropolis stratified into areas of low, medium, and high opportunity, place is a disadvantage for anyone who cannot afford to buy or rent a home in a low-poverty neigh-

borhood. A recent study found that only 42% of American families now live in middle-class neighborhoods, down from 65% in 1970. This is due to the rising segregation of the affluent and the poor from everyone else. Income segregation has grown fastest among black and Hispanic families, and high-income families of all races are now much less likely to have middle- or low-income neighbors. Segregation of the highly educated has increased even faster than that of the affluent. Highly educated people are drawn to metro centers where other people like themselves live, and within the metropolis they gravitate to neighborhoods of their own kind – creating bastions of privilege that college recruiters flock to.

Proponents of affirmative action should worry about neighborhood inequality. A large body of social science research suggests that where one lives can directly affect one’s social, economic or physical outcomes. This is especially true of low-income children’s school performance. Among the proffered explanations for the impact of neighborhood and school poverty are less experienced teachers, greater teacher turnover, fewer resources that tend to attach to high-poverty schools (which in turn need increased resources to compensate for concentrations of poverty), fewer middle-class classmates, reduced parental and community resources, and an oppositional culture that tends to denigrate learning.

According to a study published in the *Sociology of Education*, selective colleges enroll 9.2% of children of black immigrant families, compared to only 2.4% of native black high-school graduates. Possible explanations for why immigrant blacks are disproportionately competitive in university admissions include that they tend to live in less segregated neighborhoods, experience less violence and disorder as they come of age, possess an immigrant identity that renders them much less susceptible to peer influences, and often have better-edu-

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# A Blueprint for Opportunity: A Look Back at HUD's Regional Housing Mobility Program

Megan Haberle

In an age of widening income inequality, advocates and policymakers are striving to design policies that can extend ladders to better lives for all. This includes exploring new policies that address the geographic distribution of opportunity and its underlying legacy of segregation—the architecture of our shared social resources. Investment in open and meaningful housing choices yield returns as successive generations grow enabled to pursue educational attainment, better health, and more dynamic job skills.

As we seek to innovate, it is well worth taking a look into the past. Several decades ago, housing policymakers drew up a regionalist blueprint for opportunity called the Regional Housing Mobility Program (RHMP). This particular model of resource architecture, too soon consigned to the archives of fair housing history, was a short object lesson in the untapped potential of regional voucher administration.

As the RHMP example shows, civil rights practitioners have long recognized the value of regional strategies, including in the distribution of and access to affordable housing. Historically and today, boundary lines among jurisdictions have been misused as tools of exclusion. Based long ago on principles of civic access and choice in services, such boundaries can instead

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*Megan Haberle (mhaberle@prrac.org) is Policy Counsel at PRRAC. This article is based in part on interviews conducted with Trudy McFall (Chairman, Homes for America) & Robert Embry (President, Abell Foundation). When RHMP was developed and implemented, Ms. McFall was Director of HUD's Office of Planning and Mr. Embry was HUD's Assistant Secretary for Community Planning and Development.*

splinter metropolitan regions in ways that bar vulnerable populations from exactly those assets. This has been a formula for unequal access to social and economic capital. In concrete terms, local fragmentation can spell unequal access to a region's benefits and burdens—in schools, basic municipal services, environmental quality,

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## *The value of regional strategies.*

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and other respects. Taking the long view, such fault lines perpetuate socioeconomic hardship across generations.

In housing, education and other areas, regional policies offer a pragmatic step toward addressing many of these problems. Although direct federal involvement in state and local governance has constraints, federal programs can provide incentives that counteract the temptation to hoard resources within jurisdiction lines. This includes access to housing across high-opportunity areas of metro regions. Regional housing policy is also driven by the Fair Housing Act's mandate that they and their grantees affirmatively further fair housing (AFFH). A long-standing—and long unfulfilled—directive of civil rights law, the AFFH provision can also guide housing program design toward greater efficiency. For example, cross-jurisdictional policies in the administration of housing vouchers should help families more easily pursue employment or education throughout a metro area, while also facilitating cooperation among housing authorities in voucher administration.

RHMP was intended to achieve both those goals. It piloted a voucher program redesign that incentivized the voluntary participation of PHAs in

expanding choices for the families they served. At that time of RHMP's rollout in 1979, HUD policymakers were viewing the Housing Choice Voucher (Section 8) program through a cautiously optimistic lens. Section 8 was a young initiative with potential to redress the severe patterns of segregation perpetuated by other government housing programs, as contemporaneous HUD data had revealed. For example, as data collected by HUD's Office of Policy Development and Research and its Office of Fair Housing and Equal Opportunity in 1977-78 had shown:

the first major conclusion of this study is that families receiving assistance in the ten metropolitan areas studied were concentrated in a relatively small number of minority-occupied census tracts, and were headed primarily by minority persons...With regard to location patterns in the ten central cities [studied], most of the subsidized rental housing available through project-oriented programs instituted before Section 8 was located in minority census tracts...The locational patterns of projects built under the Public Housing Program were responsible for a large share of HUD family housing being located in minority-concentrated areas. (Robert Gray & Steven Tursky, "Location and Racial/Ethnic Occupancy," in *Housing Desegregation and Federal Policy*, John Goering, ed. (UNC Press 1986), at 249-250.)

## Section 8

Over a decade after the Fair Housing Act's enactment, Section 8 presented an antidote to the segregative public housing policies of the past –  
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in theory, even if the new program was not living up to its potential in practice. While allowing that Section 8 was “fundamentally different” from other programs, the above study noted “variation regarding the degree to which the Section 8 program has begun to alleviate the scarcity of subsidized housing located outside of minority-concentrated census tracts.” Gray & Tursky at 250.

Examining Section 8 in more detail, Trudy McFall, then Director of HUD’s Office of Planning, identified a number of barriers to mobility that arose in the program’s operation. As McFall noted, despite aspects of the Section 8 regulations encouraging PHAs to provide for interjurisdictional mobility, political resistance across jurisdictional lines meant that in practice vouchers use tended to be confined within municipalities. (Trudy McFall, “Voluntary Agreements among PHAs can Increase Low-Income Housing Choices,” *Journal of Housing*, May 1981 at 251.) An alternative solution—the regional housing authority—had successfully expanded choice in the few areas where it was politically feasible, most notably in Minneapolis-St. Paul, but remained rare.

## Expanding Choice

Despite such caveats about Section 8 in operation, policymakers on both federal and local levels believed that the program was underused as a lever to expand choice. Many local administrators were believers in the end goal of deconcentrating poverty and promoting integration, and supportive of the notion of regional cooperation. However, institutional inertia and concern over initial costs presented a significant hurdle to widespread change. Further motivation was needed. In particular, an incentive-based program would provide the impetus for PHAs to look beyond their immersion in the daily accounting of program administration and test new methods for regionwide housing choice.

Acknowledging the limitations the existing landscape presented, McFall and others at HUD sought to show that local PHAs could work within the program while expanding choice. They engineered RHMP as an initiative that would have “as its major focus demonstrating ways PHAs can act cooperatively to provide greater opportunities for low-income persons to move within a region without regard to municipal boundaries.” (McFall at 252.) The program was seeded with \$2 million, and regional planning agencies in large metros were invited to apply for grants in the form of technical assistance funds. (Id.) RHMP funded two main aspects of mobility programming: first, the development of Section 8 clearinghouse programs, and second, the provision of mobility

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### *Section 8 presented an antidote to the segregative public housing policies of the past.*

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counseling and information about housing options. (Id.) The clearinghouses were to encompass both older center cities and better-resourced suburbs, and moves were unrestricted throughout those areas. The complementary counseling services were required to “emphasize particularly housing opportunities in suburban or nonconcentrated city neighborhoods,” in order to correct for information gaps. (Id. at 253.) In this way, the program aimed to facilitate unrestricted but informed choice by voucher holders. This meant the demonstration could serve a dual purpose during its trial: Acknowledging public debate around the actual desires of potential movers, McFall noted that “one major function of this program, in addition to creating new administrative models, is to determine [through the collection of data] where low-income persons actually do move when they are given the opportunity for interjurisdictional mobility.” (Id. at 252.) Agencies were required to in-

clude fair housing and civil rights groups in the planning and evaluation of the programs, and were permitted to contract with other entities as needed. (Id.)

Within the parameters stated above, RHMP allowed for ample flexibility when it came to the nuts and bolts of program design. While rigorous in its promotion of interjurisdictional choice, the demonstration’s guidance was sufficiently loose to accommodate the different needs and priorities of the enrolled metropolitan regions. The clearinghouses, for example, were structured in various ways that included the direct referral of clients among PHAs; the pooling of vouchers for use throughout participating communities; or the transferring of vouchers among PHAs. Additional program features included landlord outreach, applicant counseling, and administrative fixes, in particular adjustments to fair market rents. (Id. at 255.)

## Initial Success

The policymakers who created RHMP had the satisfaction of watching its initial successes. This included the enrollment of 17 metropolitan regions through the competitive application process, with 14 participating as voucher clearinghouses. In her summary of the effort, McFall found that while the clearinghouses took some time and administrative effort to establish, the increased burden on PHAs was not excessive, and they remained willing participants. Other barriers remained to be addressed, in particular the distribution of affordable units throughout the housing market in patterns that would facilitate meaningful choice. Yet in the early 1980s the program was finding its footing, with voucher clients beginning to exercise their right to interjurisdictional moves. Unfortunately, RHMP would not be funded past the few years of its demonstration stage—a lapse that McFall attributes to shifting policies back within the Beltway, as federal support for housing initiatives waned.

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# Community-Driven Exclusion Mapping: Examining the Discriminatory Impacts of Housing Segregation Across Urban, Rural, and Suburban Geographies

Peter Gilbert

Mapping with Geographic Information Systems (GIS) is now firmly established as a necessary tool in understanding, documenting, and combating housing segregation. Unfortunately, most of the tools and information are designed with only sophisticated users in mind and may not provide data most relevant for individual communities, especially rural communities. The UNC Center for Civil Rights *Inclusion Project* provides one model for interactive mapping of housing segregation that is both large in scale and designed to be used directly by impacted communities.

## HUD's Proposed Rule

Regarding the requirements of Affirmatively Furthering Fair Housing (AFFH), HUD's proposed rule includes a prototype web-based map that combines basic demographic data (age, race, disability status, English proficiency, and poverty) with the location of existing subsidized housing and voucher users, and with generalized "community assets and stressors."<sup>1</sup> The map is designed specifically to be used by local governments, states and public housing agencies in order to conduct a required Analysis of Fair Housing (AFH), which is necessary to receive various HUD grants.<sup>2</sup> One of the goals of the new rule is to provide

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*Peter Gilbert (pgilbert@unc.edu) is an Equal Justice Works Fellow sponsored by the Norflet Progress Fund working at the UNC Center for Civil Rights. He directs the research for the Inclusion Project and authored its State of Exclusion report.*

data directly so that governments and agencies can focus more on community engagement and less on data-gathering, to allow users to "spend less time gathering information and more time engaged in conversation with the community."<sup>3</sup> The tool is not primarily designed for communities to use directly.

Most of the remedies for Fair Housing issues addressed through HUD

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*Half of the focus is on access to opportunity-rich communities.*

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grants impacted by the new rules concern the location of new affordable housing, such as the HOME and HOPWA programs. Both HOME and HOPWA provide some funding for the rehabilitation of existing communities, as does the CDBG program. However, much of the emphasis is on new construction. HUD also requires an Analysis of Impediments to (AI) as part of AFFH to identify barriers to fair housing, which does require looking at historic patterns of segregation, but redressing them is primarily through providing access to affordable housing in more affluent or white neighborhoods.

HUD's prototype mapping tool reflects this underlying purpose of providing affordable housing in areas with greater opportunity. The map displays generalized data about "community stressors," like failing schools and health hazards, but does not display information on individual schools or polluters that affect a particular neighborhood.<sup>4</sup> This type of data will be useful to governments and policy makers when planning for siting affordable housing in appropriate areas, but does

little to assist existing communities in identifying or combating already existing impacts of segregation and exclusion.

Other civil rights advocates have pioneered the use of GIS technology in challenging entrenched segregation patterns. The Opportunity Mapping initiative of Ohio State University's Kirwan Institute for the Study of Race and Ethnicity pursues the dual goals of understanding "where opportunity-rich communities exist (and assess who has access to these communities) and to understand what needs to be remedied in opportunity-poor communities."<sup>5</sup> Half of the focus, like that of the HUD tools, is therefore on access to "opportunity-rich communities," while simultaneously attempting to understand needs of "opportunity-poor communities." This approach has been focused in primarily urban areas such as Detroit, Jacksonville, Baltimore, Chicago and San Francisco, and in studies of more densely populated states like Connecticut and Massachusetts. The studies have been used by non-profit advocates to document housing segregation and direct resources to low-opportunity communities.

## The UNC Inclusion Project

Rather than looking for broad patterns in urban areas, the *Inclusion Project* at the UNC Center for Civil Rights grew out of direct community representation with the goal of creating an interactive map and easily accessible data for communities to use in direct advocacy, as well as being

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available for local governments and advocates. The Center's direct representation of excluded communities revealed recurring patterns of communities underbounded from municipal limits, kept out of the best schools, and burdened with landfills and other environmental hazards. The Project attempted to document these patterns empirically, identify new communities with similar impacts, and, most importantly, provide a resource for these communities to study and communicate their own situation.

Starting with the hypothesis that concentrated communities of color face disproportionate impacts of housing segregation, the study examined data in five key areas: environmental justice, housing, political exclusion, education, and access to infrastructure. Many data points were the same as those used in the more urban-focused opportunity mapping; others, such as access to infrastructure and exclusion

from municipal boundaries, are more particular to rural and suburban forms of exclusion.

Unlike prior studies, the maps were generated with individual neighborhoods as the basic unit. The study identified all census blocks in North Carolina that are 75% or more non-white or Latino, and then clustered those census blocks that were contiguous. Removing any clusters that had 25 people or fewer left about 3,200 clusters across N.C. These populations ranged in size from a few dozen to many thousands of people, but the average size was about 400 people and the vast majority of clusters were between 100 and 1,000 people—a good approximation for a neighborhood. The clusters are defined empirically

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### *The Inclusion Project grew out of direct community representation.*

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and therefore often are both over- and under-inclusive of actual neighborhoods defined through historic and cultural ties.

## The Impacts of Exclusion

Identifying individual communities and examining the impacts of exclusion at the neighborhood level reflects how the impacts are experienced. School assignment, exposure to environmental hazards, political boundaries, and access to infrastructure all depend on where you live more than who you are. When a neighborhood is overwhelmingly one particular race, all of the residents face any impacts of that segregation, regardless of their own circumstances or identity.

Using individual communities as the basic structure for the map also makes the mapping tool more useful to individual communities. All community members must do is find their community on the map, and all the basic information for that community—the demographics, exposure rates to solid waste facilities or EPA-monitored pol-

lutants, homeownership and vacancy rates—is one click away. Similarly, school data on racial composition or free and reduced lunch data are immediately accessible.

Clusters are then compared to state and county averages; every resident is either in a supermajority non-white cluster or is not. While this binary helps identify issues facing discrete neighborhoods, it simultaneously oversimplifies patterns of segregation. Most maps display racial demographic data as a spectrum, as does Kirwan's opportunity mapping and HUD's prototype tool. The spectrum allows more specific data and perhaps a clearer statistical analysis of whether purported impacts are directly tied to racial exclusion. Because the 75% non-white cutoff for the clusters is inherently somewhat arbitrary, many census blocks or communities that face impacts of housing segregation are left out of this analysis.

## The Community-Centered Approach

Despite the binary limitation, the community-centered approach revealed startling results for North Carolina. Dramatic disparate impacts were found in the areas of environmental justice, education, and housing. Residents of clusters were exposed to solid waste facilities at almost twice the state average. Residents of majority African-American clusters were exposed to solid waste facilities at a rate of 10.4%, as opposed to 5.3% for the state average. Similarly, for EPA-registered polluters, the odds that cluster residents were within a mile of a facility were 41%, but only 24% for the state average. Cluster residents were also twice as likely to have their closest school to be failing, twice as likely to be high-poverty, and significantly more likely to be racially identifiable. Homeownership rates were also dramatically lower: rental rates for cluster residents were 54%

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### New on PRRAC's website

"In Pursuit of a 'Both/And' Housing Policy": Commentary on the Housing Choice Voucher program from PRRAC Executive Director Philip Tegeler.

Assessing fair housing compliance of tax credit properties: A detailed comment letter on fair housing elements missing from the IRS technical guide for auditing legal compliance of owners of Low Income Housing Tax Credit properties.

Reporting on "free and reduced lunch" participation in public schools: We expressed concerns to the Department of Education about the pending elimination of some school-based poverty reporting, arising out of a positive new program extending free and reduced price meals to all students, regardless of income, in higher poverty schools.

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# Supreme Court Justice Sotomayor on the Continuing Relevance of Race

*In the Supreme Court's recent Schuette v. Coalition to Defend Affirmative Action decision, upholding Michigan's voter-initiated ban on racial preferences for admission to the state's public universities, Justice Sotomayor produced an eloquent dissent, lauded by Attorney General Eric Holder as "courageous and very personal," to the 6-2 majority decision (Justice Ginsburg being the other dissenter), from which this excerpt is drawn.*

SCHUETTE v. COALITION TO DEFEND AFFIRMATIVE ACTION (U.S. Supreme Court, April 22, 2014)

Excerpt from dissenting opinion of Justice Sotomayor (joined by Justice Ginsburg) (Citations limited to case names, footnotes eliminated)

We are fortunate to live in a democratic society. But without checks, democratically approved legislation can oppress minority groups. For that reason, our Constitution places limits on what a majority of the people may do. This case implicates one such limit: the guarantee of equal protection of the laws. Although that guarantee is traditionally understood to prohibit intentional discrimination under existing laws, equal protection does not end there. Another fundamental strand of our equal protection jurisprudence focuses on process, securing to all citizens the right to participate meaningfully and equally in self-government. That right is the bedrock of our democracy, for it preserves all other rights.

Yet to know the history of our Nation is to understand its long and lamentable record of stymieing the right of racial minorities to participate in the political process. At first, the majority acted with an open, invidious purpose. Notwithstanding the command of the Fifteenth Amendment, certain States shut racial minorities out of the political process altogether by withholding the right to vote. This Court intervened to preserve that right. The majority tried again, replacing outright bans on voting with literacy tests, good character requirements, poll taxes, and gerrymandering. The Court was not fooled; it invalidated those measures, too. The majority persisted. This time, although it allowed the minority access to the political process, the majority changed the ground rules of the

process so as to make it more difficult for the minority, and the minority alone, to obtain policies designed to foster racial integration. Although these political restructurings may not have been discriminatory in purpose, the Court reaffirmed the right of minority members of our society to participate meaningfully and equally in the political process.

This case involves this last chapter of discrimination: A majority of the Michigan electorate changed the basic rules of the political process in that State in a manner that uniquely disadvantaged racial minorities. Prior to the enactment of the constitutional initiative at issue here, all of the admissions policies of Michigan's public colleges and universities—including race-sensitive admissions policies—were in the hands of each institution's governing board. The members of those boards are nominated by political parties and elected by the citizenry in statewide elections. After over a century of being shut out of Michigan's institutions of higher education, racial minorities in Michigan had succeeded in persuading the elected board representatives to adopt admissions policies that took into account the benefits of racial diversity. And this Court twice blessed such efforts—first in *Regents of Univ. of Cal. v. Bakke* (1978), and again in *Grutter v. Bollinger* (2003), a case that itself concerned a Michigan admissions policy.

In the wake of *Grutter*, some voters in Michigan set out to eliminate the use of race-sensitive admissions

policies. Those voters were of course free to pursue this end in any number of ways. For example, they could have persuaded existing board members to change their minds through individual or grassroots lobbying efforts, or through general public awareness campaigns. Or they could have mobilized efforts to vote uncooperative board members out of office, replacing them with members who would share their desire to abolish race-sensitive admissions policies. When this Court holds that the Constitution permits a particular policy, nothing prevents a majority of a State's voters from choosing not to adopt that policy. Our system of government encourages—and indeed, depends on—that type of democratic action.

But instead, the majority of Michigan voters changed the rules in the middle of the game, reconfiguring the existing political process in Michigan in a manner that burdened racial minorities. They did so in the 2006 election by amending the Michigan Constitution to enact Art. I, § 26, which provides in relevant part that Michigan's public universities "shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting."

As a result of § 26, there are now two very different processes through which a Michigan citizen is permitted to influence the admissions policies of

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the State's universities: one for persons interested in race-sensitive admissions policies and one for everyone else. A citizen who is a University of Michigan alumnus, for instance, can advocate for an admissions policy that considers an applicant's legacy status by meeting individually with members of the Board of Regents to convince them of her views, by joining with other legacy parents to lobby the Board, or by voting for and supporting Board candidates who share her position. The same options are available to a citizen who wants the Board to adopt admissions policies that consider athleticism, geography, area of study, and so on. The one and only policy a Michigan citizen may not seek through this long-established process is a race-sensitive admissions policy that considers race in an individualized manner when it is clear that race-neutral alternatives are not adequate to achieve diversity. For that policy alone, the citizens of Michigan must undertake the daunting task of amending the State Constitution.

Our precedents do not permit political restructurings that create one process for racial minorities and a separate, less burdensome process for everyone else. This Court has held that the Fourteenth Amendment does not tolerate "a political structure that treats all individuals as equals, yet more subtly distorts governmental processes in such a way as to place special burdens on the ability of minority groups to achieve beneficial legislation." *Washington v. Seattle School Dist. No. 1* (1982) (internal quotation marks omitted). Such restructuring, the Court explained, "is no more permissible than denying [the minority] the [right to] vote, on an equal basis with others." *Hunter v. Erickson* (1969). In those cases—*Hunter* and *Seattle*—the Court recognized what is now known as the "political-process doctrine": When the majority reconfigures the political process in a manner that burdens only a racial minority, that alteration triggers strict judicial scrutiny.

Today, disregarding *stare decisis*, a majority of the Court effectively discards those precedents. The plurality does so, it tells us, because the freedom actually secured by the Constitution is the freedom of self-government—because the majority of Michigan citizens "exercised their privilege to enact laws as a basic exercise of their democratic power." It would be "demeaning to the democratic process," the plurality concludes, to disturb that decision in any way. This logic embraces majority rule without an important constitutional limit.

The plurality's decision fundamentally misunderstands the nature of the injustice worked by § 26. This case is not, as the plurality imagines, about "who may resolve" the debate over the use of race in higher education admissions. I agree wholeheartedly that nothing vests the resolution of that debate exclusively in the courts or requires that we remove it from the reach of the electorate. Rather, this case is about how the debate over the use of race-sensitive admissions policies may be resolved—that is, it must be resolved in constitutionally permissible ways. While our Constitution does not guarantee minority groups victory in the political process, it does guarantee them meaningful and equal access to that process. It guarantees that the majority may not win by stacking the political process against minority groups permanently, forcing the minority alone to surmount unique obstacles in pursuit of its goals—here, educational diversity that cannot reasonably be accomplished through race-neutral measures. Today, by permitting a majority of the voters in Michigan to do what our Constitution forbids, the Court ends the debate over race-sensitive admissions policies in Michigan in a manner that contravenes constitutional protections long recognized in our precedents.

Like the plurality, I have faith that our citizenry will continue to learn from this Nation's regrettable history; that it will strive to move beyond those injustices towards a future of equality. And I, too, believe in the impor-

tance of public discourse on matters of public policy. But I part ways with the plurality when it suggests that judicial intervention in this case "impede[s]" rather than "advance[s]" the democratic process and the ultimate hope of equality. I firmly believe that our role as judges includes policing the process of self-government and stepping in when necessary to secure the constitutional guarantee of equal protection. Because I would do so here, I respectfully dissent.

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My colleagues are of the view that we should leave race out of the picture entirely and let the voters sort it out.... We have seen this reasoning before. See *Parents Involved* ("The way to stop discrimination on the basis of race is to stop discriminating on the basis of race"). It is a sentiment out of touch with reality, one not required by our Constitution, and one that has properly been rejected as "not sufficient" to resolve cases of this nature. *Id.* (KENNEDY, J., concurring in part and concurring in judgment). While "[t]he enduring hope is that race should not matter[,] the reality is that too often it does." *Id.* "[R]acial discrimination ... [is] not ancient history." *Bartlett v. Strickland*, (2009) (plurality opinion).

Race matters. Race matters in part because of the long history of racial minorities' being denied access to the political process. See Part I, *supra*; see also *South Carolina v. Katzenbach* (1966) (describing racial discrimination in voting as "an insidious and pervasive evil which had been perpetuated in certain parts of our country through unremitting and ingenious defiance of the Constitution"). And although we have made great strides, "voting discrimination still exists; no one doubts that." *Shelby County*.

Race also matters because of persistent racial inequality in society—inequality that cannot be ignored and that has produced stark socioeconomic disparities. See *Gratz* (GINSBURG, J., dissenting) (cataloging the many ways



in which “the effects of centuries of law-sanctioned inequality remain painfully evident in our communities and schools,” in areas like employment, poverty, access to health care, housing, consumer transactions, and education); *Adarand* (GINSBURG, J., dissenting) (recognizing that the “lingering effects” of discrimination, “reflective of a system of racial caste only recently ended, are evident in our workplaces, markets, and neighborhoods”).

And race matters for reasons that really are only skin deep, that cannot be discussed any other way, and that cannot be wished away. Race matters to a young man’s view of society when he spends his teenage years watching others tense up as he passes, no matter the neighborhood where he grew up. Race matters to a young woman’s sense of self when she states her hometown, and then is pressed, “No, where are you *really* from?”, regardless of how many generations her family has been in the country. Race matters to a young person addressed by a stranger in a foreign language, which he does not understand because only English was spoken at home. Race matters because of the slights, the snickers, the silent judgments that reinforce that most crippling of thoughts: “I do not belong here.”

In my colleagues’ view, examining the racial impact of legislation only perpetuates racial discrimination. This refusal to accept the stark reality that race matters is regrettable. The way to stop discrimination on the basis of race is to speak openly and candidly on the subject of race, and to apply the Constitution with eyes open to the unfortunate effects of centuries of racial discrimination. As members of the judiciary tasked with intervening to carry out the guarantee of equal protection, we ought not sit back and wish away, rather than confront, the racial inequality that exists in our society. It is this view that works harm, by perpetuating the facile notion that what makes race matter is acknowledging the simple truth that race *does* matter. □

## PRRAC Update

- The PRRAC Board of Directors welcomes its newest member, **Gabriela Sandoval**, who works as Director of Policy and Research at the Insight Center for Community Economic Development in Oakland. At the Center, among other responsibilities, Dr. Sandoval works closely with the Closing the Racial Wealth Gap Initiative.
- PRRAC Social Science Advisory Board member **Heidi Hartmann** has been named a Fel-

low of the American Academy of Political and Social Science. Dr. Hartmann is President of the Institute for Women’s Policy Research, an organization that she founded in 1987 to meet the need for women-centered, policy-oriented research.

- **PRRAC’s 25<sup>th</sup> Anniversary!** Save the evening of October 16 for a dinner event honoring PRRAC’s founders and celebrating our first 25 years of civil rights research and policy advocacy.

(MAPPING: Continued from page 6)

as opposed to 32% across the state.

This community-centered approach balances these broad results across a large area, with the ability to easily reveal specific information about a community, or a particular impact. Presenting the data in an easily useable format is crucial for a community’s ability to use the data. Users can access the data either through the map, easily identifying communities, schools and polling facilities, and clicking on them for the necessary data, or through customizable charts. The charts display aggregated data in each of the metrics of exclusion, such as rental rates or exposure to solid waste facilities. The data can be aggregated to compare cluster totals to county and state averages, or across regions of the state.

Community-centered mapping like the *Inclusion Project* is not a substitute for other mapping techniques. Other techniques better present data necessary for identifying where new affordable housing projects should or should not be located, or for broad statements about disparate impact across larger areas. This model instead presents an approach to mapping that is designed with the community as the end-user. □

<sup>1</sup> [http://www.huduser.org/portal/affht\\_pt.html#summary-tab](http://www.huduser.org/portal/affht_pt.html#summary-tab)

<sup>2</sup> Affirmatively Furthering Fair Housing 79 Fed. Reg. 43710 (July 19, 2013) — to be codified at 24 C.F.R. pts. 5, 91, 92, 570, 574, 576, 903.

<sup>3</sup> *Id.*

<sup>4</sup> User Instructions for the Prototype Geospatial Tool for the Proposed Affirmatively Furthering Fair Housing Rule [http://www.huduser.org/portal/publications/pdf/affht\\_instructions.pdf](http://www.huduser.org/portal/publications/pdf/affht_instructions.pdf)

<sup>5</sup> <http://kirwaninstitute.osu.edu/opportunity-communities/mapping/>

### Resources:

[www.uncinclusionproject.org](http://www.uncinclusionproject.org)  
State of Exclusion Report <http://www.uncinclusionproject.org/documents/stateofexclusion.pdf>

HUD’s prototype geospatial tool:  
[http://www.huduser.org/portal/affht\\_pt.html#summary-tab](http://www.huduser.org/portal/affht_pt.html#summary-tab)

Kirwan’s Opportunity Mapping Project: <http://kirwaninstitute.osu.edu/opportunity-communities/mapping/>

EPA’s EJView Environmental Justice Mapping Tool: <http://epamap14.epa.gov/ejmap/entry.html>

cated parents than do their African-American peers. As long as segregation exists, inequality of inputs will exist, with attendant unequal outcomes. This begs the question of how and whether affirmative action should compensate for these structural disadvantages.

## The Demise of Race-based Affirmative Action

Race-based affirmative action had been declining in university admissions even before Abigail Fisher's case arrived at the Court. Since Ward Connerly kick-started a state-by-state political mobilization against affirmative action in the mid-1990s, the percentage of public four-year colleges that consider racial or ethnic status in admissions has fallen from about 60% to 35%. Only 45% of private colleges still explicitly consider race; elite schools are more likely to do so, although they, too, have retreated. The Court's holdings in *Fisher* and *Schuette* are likely to depress these numbers even further.

Political constraints born of a perception gap between whites and non-whites about the need for government interventions to redress racial inequality are likely to harden with rising demographic diversity. Institutions necessarily are changing to accommodate both emerging racial complexity and globalization. Latino enrollment in U.S. colleges grew by a whopping 24% between 2009 and 2010, an increase of 349,000 students. In the same one-year period, enrollment by blacks and Asians also grew while non-Hispanic white enrollment fell by 320,000. White anxiety will continue to rise as more and more whites experience a loss of majority status. If whites are to engage with diversity rather than resent it, the rules of competition must be perceived as fair to them and everyone else.

## An Alternative: Place-Based Affirmative Action

Ironically for proponents of affirmative action, who seem most worried about how African-American youth will continue to be represented on college campuses without consideration of race in admissions, native black strivers might fare better under programs based upon economic or structural disadvantage. A well-designed, place-based diversity program might better approximate the actual obstacles many black children face on the path to college. I would give special significance to place and other radical reforms that remove unnecessary exclusion from admissions practices.

Recent research on disadvantage-based affirmative action that considered a complex range of factors beyond parental income, including parental

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### *Differential experience of place greatly affects opportunity.*

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education, language, neighborhood, and high-school demographics, found that such programs would raise African-American and Latino enrollment nearly as much as race-based affirmative action and also increase economic diversity. Among ten universities that adopted race-neutral plans, seven met or exceeded the levels of black and Latino student representation they had previously achieved using racial preferences. If we are honest about the extant data on the effects of moving from race-based to place-based methods of affirmative action, the debate is really about how and whether African Americans will retain a meaningful presence at the most selective colleges and universities. UC Berkeley and UCLA, California's most elite public higher education institutions, currently meet or exceed the numbers of Latino students they had before Proposition 209, but they have yet to recover fully in terms of black student representation.

Let's face it: Fewer African Ameri-

cans may enter elite institutions under an affirmative action system based upon structural disadvantage than under race-based affirmative action. This raises the question of whether the marginal benefits of getting more blacks into elite institutions—hypothetically, an 8% black class using race vs. a 4% black class using other criteria—are worth the political costs of continued racial division. I think not, especially when the harms that flow from a racially divided electorate include mass incarceration and underinvestment in both public education and the social safety net. In any event, if I am correct in my prediction that law or politics will eventually render race-based affirmative action extinct, it would make sense to get started on race-neutral reforms that have the potential to create real diversity and more social cohesion.

I prefer strategies that will render centers of learning more racially and economically diverse while *encouraging* rather than *discouraging* cross-racial alliances. Notably, the Texas Ten Percent Plan emerged from a cross-racial coalition of black, Hispanic and rural white members of the Texas legislature who represented districts that were not sending large numbers of students to UT institutions. The Texas and Florida plans that send the top 10 and 20% of high-school graduates, respectively, to state universities are imperfect alternatives that rely on racial segregation to achieve racial diversity by ostensibly race-neutral means. They are a rare first step among diversity policies toward accounting for residential segregation and its attendant disadvantages, albeit indirectly and incompletely. California has also adopted a similar place-based program that guarantees admission to the UC system to the top 9% of graduates of each local high school. The UC system has also eliminated legacy preferences, as have some universities like Texas A&M and the University of Georgia.

If an institution is sincere about achieving diversity and wishes to or is forced to do so without considering race, then place is an important, underutilized and fair tool. An admis-

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sions process that affords holistic, individualized review of a variety of factors should give extra weight to living in a low-opportunity neighborhood (e.g., a poverty rate above 20%) or attending a high-poverty school. This would benefit those who most need and deserve affirmative action. It would also have the salutary benefit of encouraging racial and socioeconomic integration in low-opportunity neighborhoods. A strategic middle-class family might decide to stay in or move into a historically low-opportunity neighborhood to receive the benefit of this plus factor in college admissions.

Low family wealth should also receive considerable weight as another factor disproportionately affecting blacks and Latinos. Exposure to concentrated poverty and low family wealth are both “structural” forms of disadvantage because their racial dimensions can be traced to conscious, racist policy choices that endured for decades.

While single-parent status is another factor that disproportionately affects African-American youth, the degree of government culpability is less clear (and frankly beyond my realm of expertise). In any event, diversity programs can capture single-parent status and other forms of disadvantage by allowing individual applicants to state what obstacles they have overcome. On the order of magnitude currently given to race in race-based affirmative action programs, the structural disadvantages of segregation and low wealth should be given far more consideration and weight.

This proposal might not help middle-class black kids living in medium- or high-opportunity environs, especially those aiming to enter elite institutions. But affirmative action should be reserved for students of any color who are challenged by serious disadvantages. For those who are not, I have confidence they can compete, and I think it is healthy to send a message that most global aspirants have already absorbed: Rewards come to those who work exceedingly hard. In our bewilderingly diverse future, no one is entitled.

## Racial Reconciliation and Radical Reform

Poor and working-class students of all colors face structural constraints to upward mobility. Even working-class whites who have the test scores and grades to gain entrance to college are not attending commensurate with their numbers, because the current system of college admissions and financial aid works against low-income people in insidious ways. A cottage industry of tutors, test preparers, consultants, learning centers and other resources that only the affluent can tap has sprung up around college admissions and the elementary and secondary training that precedes it. Performance on the SAT is tightly correlated with family income. It has no correlation whatsoever to university mission statements, unless a college is willing to rewrite its mission to say: “Our purpose is to preserve advantages of wealth and income in America.” Using cumulative high-school GPA to evaluate college appli-

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### *Racial and economic segregation beget racial inequality.*

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cants is a more legitimate measure of merit because it is a better predictor of likely performance throughout college, and it has less adverse impact on disadvantaged and underrepresented minority students. Yet selective colleges slavishly accept exclusionary criteria propagated by the College Board and *U.S. News and World Report* as merit. “Merit-based” financial aid, as opposed to “need-based” financial aid, also works against entry by working-class students.

In addition to using place in any diversity calculus, several other reforms may be necessary to revive social mobility and the social contract in the United States. Universities should rethink ill-defined, exclusionary concepts of “merit.” In my field of legal education, for example, the ability to publish theoretical articles in elite law journals is more valued among select

law faculties than the ability to teach students how to practice law in the real world.

An institution truly committed to diversity and universal access to opportunity would offer financial aid *solely* based upon demonstrated financial need. It would make the SAT and ACT optional or not use them at all, as is increasingly the case at hundreds of colleges. It would not give special consideration to race, ethnicity *or* legacy status. Instead, in addition to the standard application form, all applicants would be invited to submit an optional statement on what disadvantages they have had to overcome. All forms of disadvantage would be considered, but structural disadvantages like living in a high-poverty neighborhood, attending a high-poverty school, or low household wealth would receive extra weight.

Proponents of affirmative action or diversity should take the long view. Creating a racially diverse politics in which working-class whites and people of color share a common agenda will have a more transformative impact than affirmative action programs, which currently tinker at the margins of opportunity, often on behalf of those who least need help. Unless and until we recognize the mutual oppression of economically marginalized people of all races and undertake the labor-intensive work of building political alliances among them, the American Dream will remain just that—a dream that mocks the 46 million Americans who live the nightmare of poverty and the millions more who struggle to reach—or to stay in—a shrinking middle class. □

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# Race Still Matters

Girardeau A. Spann

The Supreme Court's recent decision in *Schuette v. Coalition to Defend Affirmative Action* shows that Professor Sheryll Cashin is nothing if not prescient. In upholding the constitutionality of a Michigan voter initiative that amended the state Constitution to ban affirmative action, the *Schuette* decision validated Cashin's observation that both the public and the Court are growing tired of what have come to be known as racial preferences. Accordingly, Cashin's new book, *Place, Not Race: A New Vision of Opportunity in America* (Beacon 2014), argues that those who are committed to diversity and racial justice would ultimately have more success if they abandoned their racial affirmative action agenda, and instead formed broader coalitions with progressive whites to support affirmative action programs based on socioeconomic disadvantage rather than the increasingly divisive issue of race. Everything that Cashin says about the need for targeted efforts to benefit socioeconomic groups seems correct, both in terms of promoting justice and increasing diversity in our educational institutions. However, I do not view socioeconomic affirmative action and racial affirmative action as mutually exclusive. Rather, I view them as distinct strategies for addressing distinct forms of pervasive discrimination. I am reluctant to substitute race-neutral for race-conscious remedial efforts, because I fear that the discriminatory forces that have historically been at play in U.S. culture will continue to affect race-neutral forms of socioeconomic affirmative action in a way that causes them to benefit whites more than racial minorities. I also believe that race remains so salient a cultural category that the only way we can hope

to compensate for the various forms of racial "tilt" that continue to exist in contemporary culture is to confront the problem of race head-on. Contrary to the prevailing rhetoric, I do not view affirmative action as a system of racial preferences. Rather, I view affirmative action as having the same meaning it had when the term was originally coined. It is a strategy for consciously combating the subtle but ubiquitous forms of racial discrimination that, through inertia, will continue to control the allocation of societal re-

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## *Not mutually exclusive.*

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sources unless consciously neutralized. By ceding control over the concept of affirmative action to those who would perpetuate the existing maldistribution of resources, I fear that we will slip into the trap of believing that our current forms of post-racial discrimination are somehow constitutionally and morally permissible.

As Professor Cashin argues, the goal of finding remedies for socioeconomic discrimination is very important. However, that goal is neither a substitute for, nor mutually exclusive with, the goal of finding remedies for continuing racial discrimination. As the racially correlated allocation of significant societal benefits and burdens attests, racial discrimination continues to exist in the United States. This is true even for racial minorities who are lucky enough to have some degree of social and economic advantage. In fact, remedial strategies that encompass discrimination against both advantaged and disadvantaged minorities help rebut the stereotypical view of minorities as being unaccomplished drains on society, as well as the view that successful minorities are no longer victims of racial discrimination. Moreover, remedial programs that include

minorities who do not come from disadvantaged backgrounds facilitate the important contributions to society that can be made by such people. Those who favor socioeconomic affirmative action because it is race-neutral seem to be rejecting Justice Blackmun's important insight in *Regents of the University of California v. Bakke* that, "In order to get beyond racism, we must first take account of race. There is no other way."

The problem with race-neutral remedies is that they will permit continued operation of the cultural forces that have consistently produced racial discrimination in the past. Although minorities suffer disproportionately high rates of social and economic disadvantage, socioeconomic affirmative action will end up benefitting more whites than minorities, because in absolute terms, more whites than minorities are disadvantaged. But minorities may end up being underrepresented in percentage terms as well. Our long-standing cultural inclination to discriminate against racial minorities seems likely to influence socioeconomic affirmative action in the same way that it influences the distribution of other societal benefits—ranging from employment to health care to freedom from incarceration. Existing patterns of structural discrimination are so entrenched that they are likely to re-emerge as disadvantaged whites and minorities compete for the limited resources that socioeconomic affirmative action makes available. Moreover, as Michelle Alexander describes in *The New Jim Crow*, the economic elites who benefit from the current maldistribution of wealth in the United States have an interest in impeding the formation of cross-racial coalitions among disadvantaged whites and racial minorities in order to ward off coordinated challenges to their privileged status. It is in their interest to keep disadvantaged whites and minori-

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*Girardieu A. Spann (Spann@law.georgetown.edu) is Prof. of Law at the Georgetown Univ. Law Center.*

ties fighting each other for limited resources, rather than form the sorts of cross-racial coalitions that Cashin seeks to promote. I suspect that race-coded, dog-whistle politics will be as effective an agent for racial divisiveness in the competition for socioeconomic affirmative action benefits as it has been in the competition for other societal benefits. Accordingly, there is a danger that the supposed race neutrality of socioeconomic affirmative action will simply end up masking subtle forms of embedded racial discrimination.

I agree with Professor Cashin's view that cross-racial coalitions are desirable. However, I do not think that healthy cross-racial coalitions are likely to result from suppressing the salience of race. The racial reconciliation and cross-racial coalitions that formed during the Civil Rights Movement of the 1950s and 1960s were produced by intense race-consciousness, not by a commitment to color-blindness. I think the reason racial attitudes have changed since then is because the Supreme Court has made it fashionable to resent racial minorities again. If the Court changed its constitutional rhetoric to be as sensitive to the problem of racial subordination as it was during the civil rights era, I think the culture might change its views about race in a way that once again emphasized racial justice over racial resentment. If you think I am naïve, please remember that the racial animosity preceding the Civil Rights Movement was more intense than the racial animosity that exists now. If we could move from that old animosity to the old Civil Rights Movement, we should also be able to move from the current animosity to a new Civil Rights Movement. Indeed, by acquiescing in use of the term "affirmative action," and the characterization of affirmative action as consisting of "racial preferences," we seem to be relinquishing the moral high ground to the proponents of discrimination, who would like to make effective remedies

seem illegitimate. What we are talking about should not be called affirmative action, but rather should be called an effort to remedy ongoing embedded racial discrimination. We should try to control the meaning of the concept so that it is once again viewed as legitimate, just, and a moral imperative.

Lyndon Johnson originally viewed "affirmative action" as a term that entailed conscious efforts to combat ongoing racial discrimination. The term was eventually commandeered as a divisive racial symbol by those who wished to exploit a tacit but widely-shared sense of white entitlement to societal resources. The Supreme Court's anti-affirmative action decisions have also deprived Johnson's affirmative action of the moral clarity it initially possessed, by characterizing efforts to remedy subtle but deeply embedded forms of "societal discrimi-

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### *The problem with race-neutral remedies.*

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nation" as illegitimate and unconstitutional efforts to grant racial preferences to minorities. Different decisions and different rhetoric by the Supreme Court might have precluded the current affirmative action backlash. And perhaps different decisions by a future Supreme Court with greater racial sensitivity would restore legitimacy and moral clarity to race-conscious discrimination remedies.

I agree with Professor Cashin that—in the current political climate, with the current Supreme Court—race-conscious efforts to end discrimination are not likely to meet with much success. That is unfortunate. But by continuing to press for them, perhaps we can at least remind people that the ongoing problem of racial discrimination is real, and that those who favor socioeconomic affirmative action are offering them a moderate rather than a radical remedy for that discrimination. □

*(HUD: Continued from page 4)*

HUD's withdrawal of support for the RHMP demonstration meant the potential for interjurisdictional choice in voucher use remained largely unexplored. In the intervening years, the body of evidence documenting the benefits of expanded housing mobility has grown, and regional pilots (such as those in operation in Baltimore, Dallas and Chicago) have sustained interest in program designs that facilitate choice throughout metro areas. Daily concerns over short-term costs and regional politics understandably can distract from efforts to innovate. It is worth remembering how reforms can thrive, as they did during the RHMP's short tenure, when they are shown to be sound policy for an equitable end. □

## New Website on Housing Mobility

We are pleased to announce the launch of a new collaborative website, [www.housingmobility.org](http://www.housingmobility.org), which includes video, audio and photos of families participating in regional housing mobility programs from across the country, and a resource library with the latest social science research, legal advocacy, best practices, and policy analysis in this growing field. Initial co-sponsors of the website include PRRAC, Housing Choice Partners (Chicago), ACLU of Maryland (Baltimore), the Inclusive Communities Project (Dallas), and the Aspen Institute Roundtable on Community Change. Website development was supported by a grant from the Maryland-based Fund for Change.

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# Beyond Admissions

Olatunde Johnson

Professor Sheryll Cashin is no doubt right when she argues in her new book, *Place, Not Race: A New Vision of Opportunity in America* (BEACON 2014), that place should be a factor in higher education admissions policy. Concentrated poverty and growing economic segregation contributed to vast inequalities in the spatial distribution of opportunity. The social science is quite clear that neighborhood disadvantage compounds and intensifies class- or income-based disadvantage. For this reason, admissions practices that focus broadly on class and socioeconomic disadvantage would be incomplete without attention to geography. Cashin urges admissions programs that more robustly consider merit, rather than just perpetuating privilege, and her proposal could be a useful component of a much larger effort to make college more accessible to low-income students.

Yet in suggesting a new framework that should now supplant race, the proposal might go too far and, at the same time, not far enough. On the one hand, there is a risk of now fetishizing “place” in admissions, obscuring the individualized, holistic review that should properly characterize admissions. On the other hand, in its focus on higher education admissions, the proposal is far too modest an intervention for addressing the most pressing and severe problems of neighborhood inequality.

As to the first point, Cashin argues that race is too rough a proxy for the structural disadvantages that many children of color actually endure. Yet, if there is concern about relying on rough proxies for disadvantage, we should also want to avoid any formulaic application of “place.” Cashin

offers that with place-based affirmative action, a middle-class family could move into a poor neighborhood to gain an advantage in admissions. Yet I believe this example should make us worry about replacing race with “place” as a new talisman. There is a wholesale aspect of admissions, to be sure—one that perhaps makes percentage plans the solution for large university systems. But many institutions also focus on the retail version of admissions. As highlighted by several liberal arts colleges in their *amicus* brief to the Supreme Court in the *Fisher v. Texas* case, many schools aim to operate a holistic admissions program that considers an applicant’s tal-

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*We should want to avoid any formulaic application of “place.”*

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ents and potential contributions in light of their full background and social context. Such a textured evaluation of merit and experience should certainly encompass neighborhood, but it should also avoid a mechanistic application of this factor. Admissions practices should be textured and flexible enough to evaluate the potential contributions of a low-income student from a public housing project in a rapidly gentrifying zipcode, as well as a middle-class student who—by virtue of race discrimination in housing or racialized wealth disparities—attends a high-poverty, relatively under-resourced neighborhood school.

Conversely, the proposal does not go far enough. Including place in higher education admissions is too modest a solution to the structural impediments facing those most disadvantaged by concentrated poverty. Affirmative action in admissions is primarily the work of very elite institutions. Opening the doors of these elite insti-

tutions to low-income students would require rethinking a range of factors, including current recruitment strategies for high-achieving low-income students, financial aid policies, systems for transferring from two-year and community colleges, as well as resources and support needed to retain low-income students. On the question of recruitment, a recent report by economists Caroline Hoxby and Sarah Turner highlighted that many high-achieving low-income students do not even apply to elite institutions. The authors’ study finds promising a recent intervention in partnership with the College Board to provide students with customized information on the application process, college costs and non-paperwork application fee waivers.

In addition, more is needed beyond admissions practices to help students from the most disadvantaged, under-resourced neighborhoods prepare for college. A meaningful effort would entail increased investments in quality preschool and K-12 education, as well as support for other programs and resources often lacking in the poorest neighborhoods. Indeed, the dire data on the effects of neighborhoods on achievement and life chances should lead us to go much further, to radically remake the very landscape of opportunity. Our housing and social policy should aim to make disappear the geographic disadvantage and inequality that makes Cashin’s proposal necessary. We should put in place policies that promote economic integration and revitalization of poor neighborhoods, provide low-income and low-wealth families access to traditionally higher-income neighborhoods, and reduce inequality in wealth and income.

One might argue that the work of remaking poor schools or neighborhoods is for other societal institutions, not universities. But that would be letting universities off the hook. In an *amicus* brief that I co-authored in the

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*Olatunde Johnson (ojohns@law.columbia.edu), a PRRAC Board member, is a Professor of Law, Columbia Law School.*

*Fisher v. Texas* case with my colleague Professor Susan Sturm, we highlighted that admissions is one element of the broader role that universities can play in advancing opportunity. Written on behalf of the National League of Cities, the Anchor Institutions Task Force and other groups, the brief highlighted the work of universities in partnership with metropolitan communities to help improve failing schools, rebuild housing and other infrastructure, and advance learning and innovation in science and technology. If we are going to shift the conversation now to “place,” we should remember that universities are rooted in place and can help remake those places. Universities can build bridges that extend far beyond admissions practices to help prepare students to attend their colleges; through their research, outreach, development, and employment they can contribute to the revitalization of the neighborhoods that surround them.

I suspect that Cashin would not entirely disagree with these friendly critiques. Cashin’s goal, I imagine, is to change the fundamental structure of disadvantage—admissions practice is but one step along that route. Diver-

sity programs may be more popular than Cashin allows—a recent Pew poll found that 63% of Americans support race-based affirmative action in higher education. Yet, there is much to Cashin’s suggestion that fighting in courts and in the public domain about race-based affirmative action has be-

come unproductive. Accordingly, I am hopeful that Cashin’s proposal will contribute to an important discussion on how to achieve greater inclusion in higher education. My additional hope is that transformational policies that extend far beyond affirmative action will follow as well. □

### Resources:

Sheryll Cashin, *Place, Not Race: A New Vision of Opportunity in America* (Beacon 2014)

Caroline Hoxby & Sarah Turner, “Expanding College Opportunities for High Achieving, Low Income Students” (Stanford Inst. for Econ. Policy Research, 2014), <http://siepr.stanford.edu>

Patrick Sharkey, *Stuck in Place: Urban Neighborhoods and the End of Progress Towards Racial Equality* (Univ. of Chicago Press 2013)

*Fisher v. University of Texas at Austin* (U.S. Sup. Ct. 2012), No. 11-345, Brief of National League of Cities et al., *Amici Curiae*, Supporting Respondents (available at [www.scotusblog.com](http://www.scotusblog.com))

*Fisher v. University of Texas at Austin* (U.S. Sup. Ct. 2012), No. 11-345, Brief of Amherst College et al., *Amici Curiae*, Supporting Respondents (available at [www.scotusblog.com](http://www.scotusblog.com))

Allison Kopicki, “Answers on Affirmative Action Depend on How You Pose the Question” (*New York Times*, April 22, 2014) (available at [www.nytimes.com](http://www.nytimes.com))

## Resources

Most Resources are available directly from the issuing organization, either on their website (if given) or via other contact information listed. Materials published by PRRAC are available through our website: [www.prrac.org](http://www.prrac.org)

Prices include a shipping/handling (s/h) charge when this information is provided to PRRAC. “No price listed” items often are free.

When ordering items from PRRAC: SASE = self-addressed stamped envelope (49¢ unless otherwise indicated). Orders may not be placed by telephone or fax. Please indicate from which issue of P&R you are ordering.

### Race/Racism

● *Racial Formation in the United States*, by Michael Omi & Howard Winant (3rd edition), will be published by Routledge, July 2014. Examination cc. from [SalesHss@taylorandfrancis.com](mailto:SalesHss@taylorandfrancis.com) [14627]

● The African American Center & African American Resources is a huge, excellently resourced part of the San Francisco Public Library Main Library in the city’s Civic Center. Inf. at 415/557-4400, [info@sfpl.lib.ca.us](mailto:info@sfpl.lib.ca.us), <http://sfpl.lib.ca.us> [14632]

● *African Americans in San Francisco*, by Jan Batiste Adkins (128 pp., 2012, \$21.99), has been published by Aradia Publishing. [14633]

● *Twice Heroes: America’s Nisei Veterans of WWII and Korea*, by Tom Graves, is a fascinating, disturbing collection of photos and interviews about the experiences of and discrimination against Japanese-Americans during WWII -- including the internment of some 120,000 of them during WWII, about which many (most?) Americans know little or nothing. Those who did serve were placed in segregated units, one of which received more commendations/medals than any other unit in the nation’s history, as members clearly wanted/needed to prove themselves. The 182-page, 2013 book has been published by Nassau & Witherspoon and Graves is reachable at 415/550-7241, [tom@tomgraves.com](mailto:tom@tomgraves.com) [14634]

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- **"White Complicity as a Way Toward Racial Solidarity,"** by Alex Mikulich (2 pp.), appeared in the Winter 2013 issue of *JustSouth Quarterly*, published by the Jesuit Social Research Inst. of Loyola Univ. of New Orleans, 504/864-7746, jsri@loyno.edu [14638]

- ***Cracking the Codes: The System of Racial Inequity*,** by Shakti Butler, is a 2014 film & conversation guide, available (check price) from World Trust, 8115 McCormick Ave., Oakland, CA 94605, world-trust.org, crackingthecodes.,org [14642]

- **Beyond Our Wildest Dreams: Racial Equity Learning** is a media-rich curriculum available at [racialequitytools.org/curricula](http://racialequitytools.org/curricula) [14643]

- ***Racecraft: The Soul of Inequality in American Life*,** by Karen E. Fields & Barbara S. Fields (310 pp., 2012), has been published by Verso. [14647]

- **"The Price of a Slur,"** by David Treuer, an Ojibwe from the Leech Lake Reservation in Minnesota, is a first-rate op-ed that appeared in the April 3, 2014 *NY Times*, analyzing/criticizing the use of "Redskins" by the Washington, DC NFL football team. [14657]

- **"Is Urban Sprawl Good for Minorities?,"** by Jared M. Ragusett (29 pp.), appeared in the April 2014 issue (Vol. 24, No. 2) of *Housing Policy Debate*. [14662]

- **"Immaculate Perception,"** by Jerry Kang, was a 14-min., Jan. 2014 TEDxTalks, available at <https://www.youtube.com/watch?v=9VGBwNI6Ssk> [14667]

- "2014 Statistical Portrait of Asian Americans, Native Hawaiians, and other Pacific Islanders" is available (no price given) from the UCLA Asian American Studies Ctr. <http://www.aasc.ucla.edu/cic/stats2014.aspx> [14693]

## Poverty/Welfare

- ***Uncensored: American Family Experience with Poverty & Homelessness*** is the Fall 2013, 29-page issue of *Uncensored*, published by the Inst. for Children, Poverty & Homelessness, 44 Cooper Sq., NYC, NY 10003, [www.ICPHusa.org](http://www.ICPHusa.org) [14644]

- ***The Locust Effect: Why the End of Poverty Requires the End of Violence*,** by Gary A. Haugen & Victor Boutros (368 pp., 2014[?]), has been published by Oxford Univ. Press. [14649]

- **"The War on Poverty: 50 Years Later"** is a 205 pp., March 2014 House Budget Comm. Majority Staff report, available at [http://budget.house.gov/uploadedfiles/war\\_on\\_poverty.pdf](http://budget.house.gov/uploadedfiles/war_on_poverty.pdf) [14668]

- **"An Intelligent Consumer's Guide to Poverty Measurement"** is a May 14, 2014 Inst. for Research on Poverty webinar. Inf. from [dchancel@ssc.uwisc.edu](mailto:dchancel@ssc.uwisc.edu) [14661]

## Criminal Justice

- ***The American Journal of Public Health*** -- March 2014 issue -- has a series of interesting articles on Incarceration and Public Health. APHA is reachable at 202/777-APHA. [14622]

- **The Natl. Ctr. for Law & Econ. Justice** is launching The Freedman Fund for Due Process - Preserving the Legacy of *Goldberg v. Kelly*, a campaign to honor and continue the life's work of Henry Freedman, the Center's ED since 1971. The Center is reachable at 212/633-6967, [www.nclej.org](http://www.nclej.org) [14623]

- ***The Scandal of White Complicity in U.S. Hyperincarceration: A Nonviolent Spirituality of White Resistance*,** by Margaret Pfeil, Laurie Cassidy & Alex Mikulich (220 pp., 2013), has been published by Palgrave MacMillan. [14639]

- **Bill (William J.) Chambliss**, one of the nation's leading criminologists, passed away in Feb. 2014. A fine tribute/career summary appears in the March/April 2014 issue of *The Criminologist* (Vol. 39, no. 2) [14629]

## Economic/Community Development

- **"Report Finds a Los Angeles in Decline"** is the 2014(?) report of the Los Angeles 2020 Commn., headed by former Commerce Sec. Mickey Kantor, citing widespread poverty among the city's many problems. The April 10, 2014 *NY Times* > has a long story on it. [14659]

- **"Redistribution, Equality and Growth,"** by Jonathan D. Ostry, Andrew Berg & Charalambos G. Tsangarides (30 pp., Feb. 2014), is an Internatl. Monetary Fund report, available at [www.imf.org/external/pubs/ft/sdn/2014/sdn1402.pdf](http://www.imf.org/external/pubs/ft/sdn/2014/sdn1402.pdf) [14669]

- **"Inequality and the Jobs Report,"** by John Cassidy (1 p., April 2014), appeared in *The New Yorker*, available at <http://www.newyorker.com/online/blogs/johncassidy/2014/04.inequality-and-the-jobs-report.html> [14670]

- **"Better Insurance Against Inequality,"** by Robert Shiller, appearing in the *NY Times*, is available at [www.nytimes.com/2014/04/13/business/better-insurance-against-inequality.html](http://www.nytimes.com/2014/04/13/business/better-insurance-against-inequality.html) [14673]

## Education

- **"School Data Find Pattern of Inequality Along Racial Lines"** was the headline of a story in the March 21, 2014 *NY Times*, reporting on a new study from the US Dept. of Educ. Office of Civil Rights, covering issues such as suspensions and expulsions, availability of Algebra II and chemistry courses, preparation and qualifications of teachers, as they impact black and Latino students. [14631]



- **"Restorative Practices: Fostering Healthy Relationships & Promoting Positive Discipline in Schools"** (16 pp., March 2014), from The Advancement Project, is available at [www.advancementproject.org/page/-/resources/restorative-practices-guide.pdf](http://www.advancementproject.org/page/-/resources/restorative-practices-guide.pdf) [14674]
- **"The Common Core Promise: A Baseline Assessment of New York City's Racial Disparities in Common Core Learning Standards,"** by Melvin W. LaPrade & Nancy Myers (22 pp., March 2014), from the Natl. Urban Research Gp., is available at <http://nurg.org/research/the-common-core/promise/the-common-core-promise-executive-summary/> [14675]
- **"New York State Has the Most-Segregated Schools in the Nation,"** by Jeff Coplon (6 pp., April 2014), appearing in *New York Magazine*, is available at <http://nymag.com/news/features/park-slope-collegiate-integration-2014-4/> [14676]
- **Teacher Education:** Sense Publishers has 12 new books on this topic. Contact [paul.chambers@sensepublishers.com](mailto:paul.chambers@sensepublishers.com) for a descriptive listing. [14694]

## Employment/Labor/Jobs Policy

- **"Hunger Artist: How Cesar Chavez disserved his dream,"** by Nathan Heller, is an excellent 4-page article (not nearly as critical as the article subtitle would suggest) appearing in the April 14, 2014 *New Yorker*. [14658]
- **"Monthly Latino Employment Report"** (1 p., April 2014), by Catherine Singley, is available at [www.nclr.org/images/uploads/publications/EmploymentRptApril14.pdf](http://www.nclr.org/images/uploads/publications/EmploymentRptApril14.pdf) [14677]
- **"One Nation Underemployed: Jobs Rebuild America,"** a 236-page, April 2014 Natl. Urban League rpt., is available at <http://www.iamempowered.com/soba/2014/read/sobaonlineader> [14678]
- **"Jobs for All": Telling the Real Stories of Access to Opportunity"** Is the title of a series of People's Field Hearings, organized by The Gamaliel Fdn., to be held late spring and summer, 2014. Inf. from [info@gamaliel.org@mail.salsalabs.net](mailto:info@gamaliel.org@mail.salsalabs.net) [14695]

## Environment

- **"Title VI, Environmental Justice Agency Working Group"** (April 2014), from the Environmental Protection Agency, is available at <http://www.epa.gov/environmentaljustice/interagency/title-vi.html> [14679]

## Families/Women/Children

- **"Race for Results: Building a Path to Opportunity for All Children"** (36 pp., April 2014), an Annie E. Casey Fdn. report, is available at [www.aecf.org/-/BUTSQUIGGLY/media/Pubs/Initiatives/KIDS%20COUNT/R/RaceforResults/RaceforResults.pdf](http://www.aecf.org/-/BUTSQUIGGLY/media/Pubs/Initiatives/KIDS%20COUNT/R/RaceforResults/RaceforResults.pdf) [14680]

- **"Social disadvantage, genetic sensitivity, and children's telomere length,"** by Colter Mitchell, John Hobcraft, Sara McLanahan, Susan Rutherford Siegal, Arthur Berg, Jeanne Brooks-Gunn, Irwin Garfinkel & Daniel Notterman (6 pp., April 2014), Proceedings of the Natl. Academy of Sciences, is available at <http://www.pnas.org/content/early/2014/04/02/1404293111.full.pdf+html> [14681]

## Food/Nutrition/Hunger

- **"The Relentless Assault on America's Hungry"** by Fred Kammer, S.J., appeared in the Fall 2013 issue of *JustSouth Quarterly*, published by the Jesuit Research Inst. of Loyola Univ. New Orleans, 504/864-7746, [jsri@loyno.edu](mailto:jsri@loyno.edu). The issue also contains the 1-pager, "Catholic Social Thought & Hunger," also by Kammer. [14640]
- **The Center for Urban Education about a Sustainable Agriculture** is a Calif. nonprofit dedicated to cultivating a sustainable food system. Inf. at 415/291-3276, [www.cuesa.org](http://www.cuesa.org) [14646]

## Health

- **"Project to Improve Poor Children's Intellect Led to Better Health, Data Shows"** was the headline in a March 28, 2014 *NY Times* account (p. A17), summarizing the findings of a rigorous, 42-year No. Carolina study, details of which were published in the March 27, 2014 issue of *Science*. [14653]
- **"Moving to Opportunity's Impact on Health and Well-Being Among High-Dosage Participants,"** by Shawn Moulton, Laura R. Peck & Keri-Nicole Dillman (31 pp.), appeared in the April 2014 issue (Vol. 24, No. 2) of *Housing Policy Debate*. [14664]
- **"Peer Support in Health: Evidence in Action, The National Peer Support Collaborative Learning Network"** (51 pp., April 2014) is available at [www.nclr.org/images/uploads/publications/PeerSupportInHealthEvidence2Action2014.pdf](http://www.nclr.org/images/uploads/publications/PeerSupportInHealthEvidence2Action2014.pdf) [14682]

## Homelessness

- **"Leaving Homelessness Behind: Housing Decisions Among Families Exiting Shelter,"** by Benjamin W. Fisher, Lindsay S. Mayberry, Marybeth Shinn & Jill Khadduri (23 pp.), appeared in the April 2014 issue of *Housing Policy Debate*. [14663]

## Housing

- **"Inheriting a Mortgage Pain: Reverse Loans, Meant to Help Older People Stay in Their Homes, Push Their Children Out"** is the heading of a long, disturbing account appearing in the March 27, 2014 *NY Times*, about the obnoxious practices of lenders who bring foreclosure action against those whose parents have

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passed away, having willed their homes (and debts) to their children. [14656]

- **"Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children,"** by Will Fisher (8 pp., March 2014), from the Ctr. on Budget and Policy Priorities, is available at <http://www.cbpp.org/files/3-10-14hou.pdf> [14684]

- **"Foreclosure Rescue, Inc."** (112 pp., April 2014), from The Lawyers Comm. for Civil Rights Under Law, is available at [www.lawyerscommittee.org/admin/site/documents/files/0465.pdf](http://www.lawyerscommittee.org/admin/site/documents/files/0465.pdf) [14685]

- **"Cheating On Every Level: Anatomy of the Demise of a Civil Rights Consent Decree"** (40 pp., April 2014), from The Anti-Discrimination Ctr., is available at [www.antibiaslaw.com/sites/default/files/Cheating\\_On\\_Every\\_Level.pdf](http://www.antibiaslaw.com/sites/default/files/Cheating_On_Every_Level.pdf) [14686]

- **"Measuring Sprawl 2014, Smart Growth America"** (51 pp., April 2014) is available at [www.smartgrowthamerica.org/documents/measuring-sprawl-2014.pdf](http://www.smartgrowthamerica.org/documents/measuring-sprawl-2014.pdf) [14687]

- **"In Pursuit of 'Growth/And' Housing Policy -- The Case of Housing Choice Vouchers,"** by Philip Tegeler (1 p., April 2014), appeared in *Rooflines*, available at [http://www.rooflines.org/3680/in\\_pursuit\\_of\\_a\\_both\\_and\\_housing\\_policythe\\_case\\_of\\_housing\\_choice\\_vouchers/](http://www.rooflines.org/3680/in_pursuit_of_a_both_and_housing_policythe_case_of_housing_choice_vouchers/) [14688]

- **"The revitalization of American central cities: fact or fiction?,"** by Eric Burnstein & Megan Gallagher (1 p., April 2014), appeared as a MetroTrends Blog, available at [blog.metrotrends.org/2014/04/revitalization-american-central-cities-fact-fiction/](http://blog.metrotrends.org/2014/04/revitalization-american-central-cities-fact-fiction/) [14689]

## Immigration

- **"They deported my mom - A personal tale of how immigration laws divide families,"** by Francisco Alvarado, appeared in the March 12-18, 2014 issue of *The San Francisco Bay Guardian*, available at <http://www.sfbg.com/2014/03/11/they-deported-my-mom> [14621]

- **"Kids of Migrant Workers Less Healthy"** was the conclusion of a study of U.S. & Mexican children served by the Farm Workers Family Health Program from 2003-2011, published in the Feb. 2014 issue of *The American Journal of Public Health*. [14637]

## Miscellaneous

- **"Nothing Left: The Long, Slow Surrender of American Liberals,"** by Adolph Reed, Jr., is an excellent, well-written analysis of the limits of the U.S. Left, the sad state of the Democratic Party and the need for a popular movement, in the March 2014 *Harpers*. [14628]

- **Akeelah and the Bee** is a moving 112-min. 2006 film about an 11-year-old Los Angeles girl's successful participation in a state-wide spelling bee. Available from IMDbPro [14645]

- **"We Need More Scale, Not More Innovation,"** is a well-presented 2-page article, by Dr. Robert K. Ross, Pres./CEO of The Calif. Endowment, in the Spring 2014 issue of *Stanford Social Innovation Review*, arguing that we have enough examples of successful projects, and our emphasis should be on the organizing and advocacy work to replicate them. [14651]

- ***Happy City: Transforming Our Lives Through Urban Design*,** by journalist Charles Montgomery (358 pp., 2013), has been published by Farrar, Straus and Giroux. Interesting approach to urban form and living and what people should do in that regard to lead happier lives. [14665]

- **"What Is *McCutcheon v. FEC*?"** (8 pp., April 2014), from Demos, is available at [www.demos.org/sites/default/files/publications/McCutcheon%20v%20FEC\\_1.pdf](http://www.demos.org/sites/default/files/publications/McCutcheon%20v%20FEC_1.pdf) [14690]

- **"The Hidden Costs of Repealing Same-Day Registration in Montana,"** by Damon Daniels (4 pp., April 2014), from Demos, is available at [www.demos.org/sites/default/files/publications/Montana\\_SDR.pdf](http://www.demos.org/sites/default/files/publications/Montana_SDR.pdf) [14691]

## Job Opportunities/Fellowships/Grants

- **The Natl. Coal. for Asian Pacific American Community Development** (Oakland) is seeking a **Program Asst.** (\$35-42,000). Ltr./resume to [lisaelliott@nationalcapacd.org](mailto:lisaelliott@nationalcapacd.org) [14619]

- **Director of Programs & Organizing** for T.R.U.S.T. South Los Angeles, which works to create healthy & sustainable neighborhoods. Ltr./resume/3 refs. to [joyous@trustsouthla.org](mailto:joyous@trustsouthla.org). Review of applics. will begin March 25, 2014 [14626]

- **Public Counsel Law Ctr.** (Los Angeles), the country's largest pro bono public interest law firm, is hiring a **Staff Atty.** for litigation & advocacy focusing on producing & preserving affordable housing throughout the LA area. Ltr./resume to Shashi Hanuman, Public Counsel, 610 S. Ardmore Ave., LA, CA 90005, [spatel@publiccounsel.org](mailto:spatel@publiccounsel.org). Applics. accepted til position filled. [14635]

- **Mid-Minnesota Legal Aid (Mpls.)** is hiring a **2nd Litigation Director**. Resume/ltr./salary reqs. preferably by April 18, 2014 to <http://bit.ly/100PDwU> [14655]

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