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## Race in the City: The Triumph of Diversity and the Loss of Integration

Michael Selmi

*George Washington University Law School, [mselmi@law.gwu.edu](mailto:mselmi@law.gwu.edu)*

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## I. INTRODUCTION.

Over the course of the last decade, many of our largest cities have experienced a resurgence of fortune. Many regained population that had been lost in previous decades, property values soared in many urban locations and new commercial development -- including sports stadiums, casinos and other entertainment complexes -- sprouted up throughout the country, including in many of the older cities in the Northeast.<sup>1</sup> Virtually all major cities experienced a sharp drop in crime during the course of the decade. These striking accomplishments came at a time when all of the largest cities became more diverse, adding immigrants from around the world and seeing the population of minorities come to dominate the white population. Of the ten largest cities, only Phoenix's population remains majority white.<sup>2</sup> With all of these changes, it is not too much to suggest that anyone walking through almost any of our major cities in 2005 would likely not recognize those cities from a decade earlier -- depending on where one walked.

Take Washington, D.C. for example, a city I know well, and one that is emblematic of many of the changes that have occurred in cities throughout the country. In the last five years, property values in the city of Washington have appreciated at a rate that exceeds national averages.<sup>3</sup> Walking downtown where not so long ago one would have found boarded up buildings and a few strip clubs, one now encounters new

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<sup>1</sup> Of the ten largest cities, only Philadelphia and Detroit lost population.

<sup>2</sup> Unless otherwise specified, the data relied on in this essay comes from the 2000 Census, and is available at [www.census.gov](http://www.census.gov). and at the usable website of the Lewis Mumford Center at Suny Albany. The specific figures for the cities are in Table One. San Diego is the only other city where whites are near a majority, and in that case it is the category of "more than one race" that affects the calculations. It should also be noted that most of the cities were majority non-white by the time of the 1990 census, and, in fact, only San Diego transitioned during the 1990-2000 period.

<sup>3</sup> See FANNIE MAE FOUNDATION, HOUSING IN THE NATION'S CAPITAL 2004, at 26 (2004) ("Among our comparison metros, Washington had by far the fastest increase in prices and reached a higher median sale price than all but Boston.").

restaurants, expensive condominiums where Janet Reno lived while she was in town, a new basketball stadium and a rehabilitated building that serves as a Shakespeare theatre. Within this short stretch, one can find restaurants that represent the diversity of the city – Latin, BBQ, Caribbean, Burmese, Chinese and the all-American Fuddruckers, not to mention a half-dozen Starbucks. Diversity is seemingly everywhere.

But board the subway and head East and you will see a different Washington, one that has not changed much in the last thirty years. As you move beyond Eastern Market - - still the dividing line for where whites live in this direction -- you will notice very few whites on the train, and if you continue on, it is likely that at some point there may be no white riders left. If you get off to walk around Southeast Washington, you will not find any grocery stores or restaurants, other than the occasional take-out Chinese storefront complete with barred windows, and an isolated Denny's, standing as an ironic homage<sup>4</sup> in an otherwise restaurant wasteland. Virtually all of the people you encounter will be black, and depending on where you are in this part of town, most of the residents will be poor, and most will have ties to the community stretching back many years. And, you will also find that Washington D.C.'s disgraced former Mayor, Marion Barry, again represents the area as a member of the City Council. If you peek into any of the schools, you will find nary a white face, perhaps a handful of Asian or Latino faces, and more than 95% of the students will be African Americans.

This small portrait of our nation's capital indicates that while cities have changed in many dramatic and positive ways over the last decade, two important aspects have remained virtually unchanged: the quality of urban school systems and patterns of residential segregation. While there have been some modest improvements on both

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<sup>4</sup> Denny's was sued in the mid-1990s for racial discrimination that permeated the entire chain.

fronts, there have been just as many retrenchments, and on the whole, the urban story of segregated housing and poor quality education remains largely in tact – high racial segregation, particularly among African Americans, and schools that no city ought to be proud of, and that presumably no system is.

Continued racial segregation is puzzling in significant part because so many of our major cities have become what are often referred to as majority-minority cities, where African Americans, Latinos and Asians collectively comprise a majority of the city's populace. This is true for New York, Chicago, San Francisco, Los Angeles, Dallas, Houston, Philadelphia, and in a number of other major cities such as Atlanta, Detroit, and Washington, D.C., African Americans form a majority of the city's population. Hispanics<sup>5</sup> form a majority of the population in San Antonio, Miami and El Paso, Texas and within a few years Los Angeles will also be a city with a Hispanic majority. Yet, in each instance, racial segregation remains pronounced, and whatever declines were experienced in the last decade were quite modest compared to the influx of minority residents, most of whom have not been integrated into desirable neighborhoods but instead continue to inhabit neighborhoods that have historically been reserved for African Americans or other minority groups. Some of these neighborhoods have now been affirmatively claimed by minority groups as their own, but that affirmation often ignores the neighborhood's origins and the absence of choice in their creation.

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<sup>5</sup> A word about choice of language is in order. In this essay, I rely extensively on census data, and to avoid confusion, I will principally rely on the categories the census uses – Hispanics as opposed to Latinos, and Blacks as opposed to African Americans. I will, however, interchange the various names, as is becoming, it seems, increasingly common. I will also note having been raised in California my own preference is to use Chicano to denote the various groups that comprise the census category for Hispanics, in part because the term Chicano carries with it a radical political meaning that is otherwise absent from the terms Latino or Hispanic.

This essay will explore the racial and ethnic makeup of our cities, particularly as reflected in housing and education, as a way of understanding the changes the cities are experiencing. In part one, I will analyze the current state of housing integration, demonstrating that despite the increased diversity of our cities, housing patterns remain deeply segregated. Part Two turns to the state of our urban schools where we will again see entrenched segregation with underperforming schools that cannot be explained simply by a lack of funding. Finally, in Part Three I will discuss what I perceive to be the transition from a focus on integration to one of diversity to understand what that transition means for our major cities.

## II. DIVERSITY, INTEGRATION AND THE CITY.

Before discussing integration in housing and the schools, it will be helpful to review the current demographics of the cities to highlight how those cities have changed over the last decade and what those changes might mean for our cities. Focusing on our largest cities, the story of the last decade is unquestionably the influx of Hispanic residents and the rise of Hispanics as the dominant minority group within the cities. As indicated in Table One, nine of the ten largest cities are now majority-minority cities, with San Diego having recently, and barely, slipped into the category of majority-minority. Equally significant, in 7 of the 10 cities, Hispanics now outnumber African Americans and comprise the largest minority group in those cities; in four cities, Hispanics now form the largest population group when non-Hispanic whites are included in the calculus. It is also significant that the only cities among the largest cities to lose population were majority black cities, or a city like Philadelphia that is nearly majority-black.<sup>6</sup> That said,

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<sup>6</sup> Among the ten largest cities, only Philadelphia (-4.3%) and Detroit (-7.5%) lost population. In the previous decade, 1980-90, most of the largest cities also gained population, with Philadelphia, Detroit and

most of the largest cities would have lost population had it not been for the influx of Hispanic residents, and the cities that lost population are cities that have relatively small Hispanic populations.

Table One  
Demographics of Ten Largest U.S. Cities, 200 Census

City	White	Black	Hispanic	Asian	Non-White
New York	35.0	24.5	27.0	9.8	61.3
Los Angeles	29.7	10.9	46.5	10.0	67.4
Chicago	31.3	36.4	26.0	4.3	66.7
Houston	30.8	25.3	37.4	5.3	68.0
Philadelphia	42.5	42.6	8.5	4.5	55.6
Phoenix	55.8	4.8	34.1	2.0	40.9
San Diego	49.4	7.9	25.4	13.6	46.9
Dallas	34.6	25.6	35.6	2.7	63.9
San Antonio	31.8	6.5	58.7	1.6	66.8
Detroit	10.5	81.2	5.0	1.0	87.2

Source: Lewis Mumford Center, SUNY Albany.

Totals do not equal 100% because multiracial and those who designated “other” have been excluded.

The Asian population within cities also increased but with a much more concentrated representation. Among the largest cities, Asians have a substantial urban presence only in California, and depending on one’s definition of substantial, in New York as well. Only in San Francisco are Asians the largest minority group, constituting 30.8% of the population.<sup>7</sup> In most of the major cities, Asians constitute a relatively small portion of the population consistent with their representation within the nation more broadly.

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Chicago the only cities to lose population during that time. Looking beyond the top ten cities yields the same pattern. Of the 25 largest cities, all of the cities to have lost population other than Milwaukee were majority black cities. Those cities are: Baltimore (-11.5%), Milwaukee (-5.0%), Washington, D.C. (-5.7%).

<sup>7</sup> Asians are a majority in Honolulu which is the 46<sup>th</sup> largest city. Over half of the Asian population lives in just three states, California, New York and Hawaii, and nearly three times as many Asians live in California (4.2 million) compared to New York (1.2 million). See UNITED STATES CENSUS BUREAU, THE ASIAN POPULATION: 2000, at 4 (2002).

The shift in demographics over the last decade will have important effects for the way we think about the city in the future. Although it has become commonplace to acknowledge the end of the black-white paradigm, this is nowhere more true than in our cities. Over the last three decades, we have grown accustomed to seeing the struggle within our cities as a legacy of the civil rights era, and one that has principally been between African Americans and whites. But it is also a struggle that has receded substantially in the last decade. With the exception of the Republican strongholds of Phoenix and San Diego, and the Hispanic-dominated San Antonio, all of the major cities have had black mayors, although throughout much of the last decade, many of the major cities were run by white men – New York, Los Angeles, Chicago, and Philadelphia all had white mayors through most of the decade and San Francisco now does. Moreover, virtually all of the school desegregation efforts within the cities, as well as the affirmative action efforts within police departments, have concentrated on African Americans, and the shifting demographics will provide new issues and challenges within the city for years to come.<sup>8</sup>

This increased diversity also has important ramifications for political power. One notable change is that even though most of the major cities are now majority-minority jurisdictions, as previously noted, in many of them the mayors are white men, and often wealthy white men.<sup>9</sup> This fact runs against the common perception that minority groups will vote in a block to benefit minority groups, or that minority groups have similar

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<sup>8</sup> One of the more interesting issues that is just now coming under examination is the phenomenon of Hispanic flight from schools dominated by African Americans. See Robert W. Fairlie, *Private Schools and "Latino Flight" From Black Schoolchildren*, 39 DEMOGRAPHY 655 (2002) (finding statistically significant movement of Latinos from predominantly black schools to private schools).

<sup>9</sup> Both the mayors of New York (Michael Bloomberg) and San Francisco (Gavin Newsom) are wealthy former business men, while the Mayor of Chicago (Richard Daley) and the recently deposed Mayor of Los Angeles (James Hahn) were following in their father's large political shoes.

interests sufficient to form political coalitions. Rather, what we have seen in these, and other, cities is the ability of whites to return to positions of political power after having largely been sidelined during the 1980s. New York, Los Angeles and Chicago all had African American mayors during the 1980s even though none of those cities was, at the time the mayors were elected, a majority-minority city. Table One also provides another insight into this phenomenon; while we tout the diversity of the cities, it is easy to overlook that non-Hispanic whites remain the largest, or close to the largest, group in many of the cities, and where non-Hispanic whites remain one of the largest groups they have frequently been able to hold onto the mayor's office. Even in cities where whites are not the largest group, they often have the largest political presence as a result of higher voter registration and turnout rates.<sup>10</sup>

This fact highlights another important change that will likely accompany the demographic shifts. For a variety of reasons, African Americans have been far more successful at mobilizing their communities and harnessing political power than have Latinos. For example, among the ten largest cities, only San Antonio has had a Hispanic mayor, and expanding the group to the Top 50 largest cities brings in only San Jose and Miami as a cities that have had had Hispanic mayors.<sup>11</sup> Los Angeles has just been added to the list with the election of its first Latino Mayor in more than one hundred years, after a failed effort four years earlier.<sup>12</sup> Three reasons are typically cited to explain why Hispanics have not gained political power commensurate with their presence in the

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<sup>10</sup> This was true in the recent Los Angeles election where whites were the largest voting bloc. See John M. Broder, *Latino Victor in Los Angeles Overcomes Division*, N.Y. TIMES, May 19, 2005, at A1 (explaining that although Latinos accounted for 47% of the population, they were roughly 25% of the electorate).

<sup>11</sup> Hartford, Connecticut is the only other major city to have a Hispanic mayor.

<sup>12</sup> See John Broder, *Latino Victor in Los Angeles Overcomes Division*, N.Y. TIMES, May 19, 2005, at A1 (“Antonio Villaraigosa became the first Latino in more than a century to win the mayoralty of Los Angeles. . .”).

population. Perhaps most important in the context of the urban cities is that a substantial number of Hispanics are not citizens and thus are not permitted to participate in the political process. With time, this will likely change but that change will be slow in coming, and given the presence of many undocumented Hispanics, there will likely always be a gap between political power and the population figures.<sup>13</sup> This gap is exacerbated by the fact that even among those who are eligible to participate, Hispanics typically have a lower voter turnout rate than other groups, including a lower rate than African Americans, and Latinos are less cohesive in their voting behavior than African Americans.<sup>14</sup> Finally, as a group Hispanics have a significantly larger percentage of individuals under eighteen. All of these facts highlight one of the misleading aspects of our obsession with diversity: simply looking at population figures obscures the reality of political power.

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<sup>13</sup> In a symposium on Collective Latino Power, Professor Juan Perea recently provided an important breakdown of the figures for the Latino population. He notes: “. . . 37 million Latinos live in the United States. Although this sounds like a large number, several calculations reveal the weakened state of our power. Political participation is obviously limited to Latinos ages eighteen or over – about 22.9 million since Latinos are on average a younger community than many other communities. The 22.9 million figure includes over 4 million undocumented adults who cannot vote. . . . Approximately 1.6 million Latinos are permanent residents currently not eligible for naturalization. In addition, there are about 2.4 million Latino permanent residents who have not yet become citizens . . . which takes us down to about 14.9 million. . . . 14.9 million Latinos includes about 3.8 million Puerto Ricans who are resident on the Island . . . [and] are not entitled to vote for president, or vice president, and they have no voting representation in Congress. We therefore subtract 2.4 million, an estimate of the number of adult Puerto Ricans living on the Island, from 14.9 million. The result is 12.5 million Latinos who are actually eligible to vote out of 22.9 million who otherwise might be eligible. Hence approximately forty-five percent of adult Latinos resident in the United States and Puerto Rico are ineligible to vote.” See *Panel 1 – Collective Latino Power – Myth or Reality?*, 7 HARV. LATINO L. REV. 75, 76 (2004).

<sup>14</sup> A recent study from the United States Census Bureau reported voter turnout rates in the 2004 presidential election as follows: 67% non-Hispanic whites, 60% for blacks, 47 % for Hispanics and 44% for Asians. See U.S. CENSUS BUREAU, U.S. VOTER TURNOUT UP IN 2004 (2005), available at [www.census.gov/Pree-Release/www/releases/archives/voting/004986.html](http://www.census.gov/Pree-Release/www/releases/archives/voting/004986.html) (last visited May 26, 2005). Following the 2004 election, it was widely reported that President Bush obtained 44% of the Hispanic vote. Those figures have since been disputed but there is little question that he received a substantial portion of the Hispanic vote, perhaps as much as a third. See Richard S. Dunham, *Did Hispanics Really Surge for Bush?* BUSINESS WEEK, Nov. 29, 2004, at 51. Most studies, however, demonstrate that with the exception of Cubans, far more Latinos identify as Democrats than Republicans. See Rodolfo O. de la Garza, *Latino Politics*, AMER. REV. POLI. SCI. 91, 102 (2004) (noting that a 2000 survey indicated that “Overall, 57% of Latinos identified as Democrats; less than half that percentage identified as Republicans.”).

Another important, and easily overlooked, aspect regarding the ascendancy of Hispanics is that, in many ways, it returns us to an earlier era of the civil rights movement. While we may be in a post-civil rights mentality when it comes to African Americans, Hispanics are still engaged in first-order civil rights struggles. As noted earlier, we are now enmeshed in a series of “firsts” much like what occurred for African Americans in the 1970s and 1980s – first Latino mayor of Los Angeles in one hundred years; first Latino Supreme Court Justice; first Latino Attorney General, and so on. To the extent we observe a shift in focus from African Americans to Latinos, we may find ourselves retreading ground we thought was already gained, and we may also find ourselves stalled in making greater progress on traditional issues of civil rights. How this will ultimately play out is left for the speculators, but it is important to emphasize that the changing demographics pose new challenges and should not be assumed to portend inevitable, and inevitably progressive, changes.

#### *A. Residential Segregation*

As noted in the introduction, many cities experienced a substantial increase in diversity among its population over the last decade, but few saw any meaningful decrease in residential segregation, particularly when one looks beyond the common measure of African Americans and whites to include other ethnic and racial groups that have moved into the cities. As we shall see, this increased diversity has not translated into the multicultural renaissance many had expected.

There are various ways to measure residential segregation. The most common measure is known as the dissimilarity index, which provides a numerical figure to indicate the percentage of the minority group (African Americans, Latinos) who would

have to move in order to be represented proportionally throughout the city. For example, a figure of 70 indicates that 70% of the group would have to move to achieve proportional representation whereas a figure of 0 indicates a perfectly integrated neighborhood.<sup>15</sup> This index is imperfect, as is true for all of the various measures, but it remains the most common measure of residential segregation in part because its wide use provides a basis for comparisons across decades. A consensus has also developed that figures of 60 and above represent what is defined as “hyper-segregation,” while 40 and above is typically defined as moderate segregation.<sup>16</sup>

Based on the 2000 Census, residential segregation remains a stubborn fact of urban life, and one that now seems more entrenched than in previous generations. That is, although most major cities experienced some decline in housing segregation during the 1990-2000 period, in the vast majority of jurisdictions the decline was smaller than for previous generations. For example, among all metropolitan areas, the decline in segregation for African Americans between 1980-1990 was 6.8% while the decline during 1990-2000 was 5.6%.<sup>17</sup> While the differences between these decades are not extreme, they suggest a leveling off of segregation patterns. Another way to interpret the figures would be to suggest that the smaller decline is the product of the earlier gains, which may have left less room for improvement. This suggestion, however, ignores the remaining high levels of segregation – the dissimilarity measure across jurisdictions was 64.5 in 2000 down from 73 in 1980. Moreover, to the extent that segregated housing is

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<sup>15</sup> For discussions of the index and its limitations see Douglas S. Massey & Nancy A. Denton, *The Dimensions of Residential Segregation*, 67 *SOCIAL FORCES* 281 (1986) and Otis Dudley & Beverly Duncan, *A Methodological Analysis of Segregation Indexes*, 20 *AMER. SOCIOLOGICAL REV.* 210 (1955).

<sup>16</sup> See DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* 75 (1993) (defining hypersegregation as an index value of 60 and higher).

<sup>17</sup> UNITED STATES CENSUS BUREAU, *RACIAL AND ETHNIC RESIDENTIAL SEGREGATION IN THE UNITED STATES: 1980-2000*, at Table 5-2 (2002).

the product of attitudinal barriers, one would expect a softening of those barriers with time, thus creating the greater possibility of integration with each passing decade.

Indeed, as reflected in Table 2, virtually all major cities hold vast room for improvement. None of the ten largest cities had segregation levels below moderate when measured between blacks and whites or Hispanic and whites, and only two (Phoenix and San Diego) had levels below 40% on Hispanic and Black measures.<sup>18</sup> A review of other major cities, many of them considered progressive and diverse revealed nearly identical patterns – segregation levels for blacks and Hispanics measured against whites were consistently moderate to severe, and only New Orleans registered less than severe in its measurement of Hispanics and Whites.<sup>19</sup> Perhaps more significant given the changing demographics, in 7 of the 10 largest cities, and 8 of the 10 other cities reviewed, segregation levels between Hispanics and whites increased – by far the most notable increases during the decade.<sup>20</sup> Five of the ten cities demonstrated high levels of segregation on this measure.

Table Two  
Segregation Levels, 2000 Census

City	Wh.-Bl.	Wh.-His.	His.-Bl.	Asian-Wh.
New York	83.2 ↑	67.1 ↑	57.3 ↑	49.2 ↑
Los Angeles	71.5 ↓	65.6 ↑	53.2 ↓	44.9 ↑
Chicago	85.2 ↓	59.2 ↓	84.2 ↓	46.8 ↓
Houston	71.4 ↑	56.3 ↑	57.7 ↓	44.0 ↑
Philadelphia	76.7 ↓	64.3 ↓	72.2 ↓	48.7 ↓

<sup>18</sup> Phoenix and San Antonio both had levels below 40 for Asians measured against Whites, but in both cities the Asian population was quite small.

<sup>19</sup> The dissimilarity index was 35.2 in New Orleans, although only 3.1% of the population was Hispanic. In contrast the measure for blacks and whites increased during the last decade to a high level of 65.9.

<sup>20</sup> The arrows in Table 2 indicate whether segregation increased or decreased during the decade, though they do not provide any indication of the degree of change. A similar pattern was noted for Asians compared against Hispanics – in 7 of 10 of the largest cities segregation levels increased. Table Two only lists the index values for Asian and whites as a point of comparison; however, it is worth noting that in every city other than Minneapolis, the segregation levels were higher between Asians and Blacks or Asians and Hispanics than they were between Asians and Whites.

Phoenix	49.4 ↓	57.7 ↑	31.6 ↓	23.4 ↓
San Diego	60.7 ↓	60.1 ↑	37.2 ↓	47.6 ↑
Dallas	66.1 ↓	60.6 ↑	58.3 ↓	41.7 ↑
San Antonio	48.0 ↓	50.6 ↓	50.9 ↓	25.1 ↓
Detroit	60.1 ↓	58.3 ↑	81.6 ↑	53.3 ↑
Boston	75.3 ↓	53.3 ↓	43.5 ↓	39.9 ↓
Minneapolis	54.0 ↓	48.3 ↑	38.8 ↑	44.8 ↓
San Francisco	57.0 ↓	53.1 ↑	53.2 ↓	40.3 ↑
Wash., D.C.	79.9 ↑	59.4 ↑	63.5 ↑	25.7 ↓

Source: Lewis Mumford Center, SUNY Albany.

The persistence of segregation does not appear to be the result of African Americans, Latinos or Asians choosing to move to exclusive minority neighborhoods in the city or in the suburbs. To be sure, there has been a significant move of African Americans, and other racial groups to the suburbs in the last decade, and several of these suburbs have received substantial attention in both academic scholarship and the popular press.<sup>21</sup> Perhaps the best known of these areas is Prince George’s county outside of Washington, D.C., generally now defined as having the largest concentration of black professionals in the country in a county that is 63% black.<sup>22</sup> Yet, Prince George’s county has just over 500,000 African American residents, and a recent study of the fifty largest suburban regions in the country found that there were only eight in which the average African American lived in a majority black suburban neighborhood.<sup>23</sup> African Americans, in fact, remained the most urban ethnic group: 39% live in the suburbs

<sup>21</sup> See, e.g., David J. Dent, *The New Black Suburbs*, N.Y. TIMES, June 14, 1992, sec. 6; Lynette Clemetson, *Mixing It Up in the Suburbs*, NEWSWEEK, Jan. 17, 2000, at 61; Paul Bourdreaux, *An Individual Preference Approach to Suburban Racial Desegregation*, 27 FORDHAM URB. L.J. 533, 552-53 (1999).

<sup>22</sup> Although Price George’s County is perhaps the wealthiest black suburb in the nation, it also has some of the poorest quality schools in the metropolitan area and until recently was bereft of commercial development. See Mary Jo Wiggins, *Race, Class, and Suburbia: The Modern Black Suburb as a “Race-Making Situation,”* 35 U. MICH. J. L. REFORM 749, 777-78 (2002) (discussing lack of commercial development in county).

<sup>23</sup> See LEWIS MUMFORD CENTER FOR COMPARATIVE URBAN AND REGIONAL RESEARCH, THE NEW ETHNIC ENCLAVES IN AMERICA’S SUBURBS at 10. The suburbs were in Newark, Miami, Atlanta, Cleveland, St. Louis, Chicago and Washington, D.C.

compared to 71% of whites, 58% of Asians and 49% of Hispanics.<sup>24</sup> Moreover, the demographics of suburban neighborhoods did not change substantially in the last decade. A recent study by the Urban Institute reports: “Among neighborhoods that were exclusively white in 1990 . . . 84 percent of suburban neighborhoods remained so in 2000, compared with only 65 percent of city neighborhoods. . . . [F]or neighborhoods that were predominantly or exclusively black in 1990, there was no difference between city and suburban neighborhood change, with over 92 percent of neighborhoods in both groups remaining in the same category in 2000 as in 1990 and the remaining 8 percent becoming whiter.”<sup>25</sup>

Nor can the observed levels of segregation be attributed to economic factors. Residential segregation runs across economic classes so that affluent minorities tend to live in neighborhoods substantially economically different from those of similarly situated whites. In other words, although middle-class African Americans tend to live in more integrated neighborhoods, those neighborhoods also tend to include white residents of lower economic status.<sup>26</sup> Studies also consistently show that no economic group is immune from discriminatory treatment, and audit studies involving testers indicate that in many jurisdictions Latinos are subjected to the highest levels of discrimination.<sup>27</sup>

Yet, there is little doubt that what I refer to as the “myth of choice” helps to explain our tolerance of housing segregation. For a variety of complicated reasons, the idea that housing decisions are the product of personal choice, and thus fall within the

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<sup>24</sup> *Id.* at 6.

<sup>25</sup> LYNETTE RAWLINGS ET AL., RACE AND RESIDENCE: PROSPECTS FOR STABLE NEIGHBORHOOD INTEGRATION at 5-6 (2004).

<sup>26</sup> See Richard A. Alba, John R. Logan, and Brian J. Stults, *How Segregated are Middle-Class African Americans?* 47 SOCIAL PROBS. 543 (2000) (finding that although middle-class African Americans live in more integrated neighborhoods they tend to live with less affluent white neighbors).

<sup>27</sup> See Turner et al., *supra* note --, at iv (noting high levels of discrimination against Hispanics).

schema of norms that should not to be interfered with, persists well beyond any credible empirical foundation. Indeed, housing is so deeply associated with personal choice that commentators who are otherwise quite careful in their analysis will blithely identify housing patterns as the product of free and individualized choice.<sup>28</sup> The refutation of this idea is so well documented that one would expect the myth to have ceased, but as discussed in more detail shortly, this myth is essential to our social understandings as it aids us in our desire to see a world wherein discrimination no longer plays a substantial role.

But the issue of choice is ultimately a myth. Although this is not the place to provide a detailed exploration of the many ways in which governmental policy and private discrimination have shaped the housing choices of minorities, in particular African Americans, a short exploration of the issue will help place the question in proper context. The federal government has played an important role in shaping housing choices by its various policies on public housing, including well-documented discriminatory siting decisions,<sup>29</sup> and also in its policies relating to home mortgages.<sup>30</sup> In

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<sup>28</sup> A recent and surprising example is found in Peter Schuck's otherwise engaging treatment of diversity. At one point in his discussion he writes, "A community's diversity ideals regarding design, size, and costs of homes, the mix of publicly provided goods, services, and amenities, and the patterns of property use and activity are largely defined by people's individual choices in the housing market. . . . Much the same is true of choices about the ethnic, racial, or class characteristics of one's neighbors. In selecting neighborhoods, individuals consider the kinds of people with whom they want to interact, taking into account whatever personal factors they deem relevant." PETER H. SCHUCK, *DIVERSITY IN AMERICA: KEEPING GOVERNMENT AT A SAFE DISTANCE* 218 (2003). See also Peter Bourdeaux, *An Individual Preference Approach to Suburban Racial Desegregation*, 27 *FORDHAM URB. L.J.* 533 (1999) (advocating for incorporating individual preferences into understanding of segregated housing patterns).

<sup>29</sup> See, e.g., *Sanders v. US, HUD*, 872 F. Supp. 216 (W.D. Pa. 1994) (approving consent decree on complaint for discrimination in HUD decisions on where to locate public housing). For a discussion of the economically and racially segregated policies of federally subsidized housing programs see MODIBO COULIBAY, RODNEY D. GREEN AND DAVID M. JAMES, *SEGREGATION IN FEDERALLY SUBSIDIZED LOW-INCOME HOUSING IN THE UNITED STATES* (1998).

<sup>30</sup> The leading work in the area is KENNETH T. JACKSON, *CRABGRASS FRONTIER: THE SUBURBANIZATION OF THE UNITED STATES* 190-230 (1985). For additional works documenting the many ways in which discrimination has shaped housing choices see Martha R. Mahoney, *Under-Ruling Civil Rights in Walker v. City of Mesquite*, 85 *CORNELL L. REV.* 1309 (2000); Richard Ford Thompson, *Geography and Sovereignty:*

the 1950s, federal lending guidelines specifically discouraged lending to integrated areas while encouraging racially restrictive covenants. Private discrimination largely built on these programs, and has likewise shaped housing choices by steering individuals to racially specific neighborhoods, discouraging individuals from pursuing other housing choices, and selectively providing information consistent with these discriminatory actions. Studies involving housing testers consistently demonstrate the prevalence of high levels of discrimination against African Americans and Latinos.<sup>31</sup> While these studies have been the subject of some criticism, the criticism might have more force if the studies were not so consistent in their findings. Similarly, a number of studies have documented discrimination in mortgage lending, and more recently, discrimination in the provision of homeowners insurance.<sup>32</sup>

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*Jurisdictional Forman and Racial Segregation*, 49 STAN. L. REV. 1365 (1997); Michael H. Schill & Susan M. Wachter, *The Spatial Bias of Federal Housing Law & Policy: Concentrated Poverty in Urban America*, 143 U. PA. L. REV. 1285, 1310-12 (1995).

<sup>31</sup> The most recent study prepared for the U.S. Department of Housing and Urban Development (HUD) concluded: “[This study] finds that discrimination still persists in both rental and sales markets of large metropolitan areas nationwide, but that its incidence has generally declined since 1989.” MARGERY AUSTIN TURNER ET AL., *DISCRIMINATION IN METROPOLITAN HOUSING MARKETS: NATIONAL RESULTS FROM PHASE I HDS 2000* at iii (2002). See also JOHN YINGER, *CLOSED DOORS, OPPORTUNITIES LOST: THE CONTINUING COSTS OF HOUSING DISCRIMINATION* (1995); Jan Ondrich, Alex Stricker & John Yinger, *Do Real Estate Brokers Choose to Discriminate? Evidence from the 1989 Housing Discrimination Study*, 64 SOUTHERN ECON. J. 880 (1998) (finding widespread evidence of discrimination by brokers); George C. Galster, *Polarization, Place, and Race*, 71 N.C. L. REV. 1421, 1445-46 (1993) (“A variety of econometric models suggest that if discrimination were to be eliminated from metropolitan areas where it now assumes its national average level, segregation would decline by at least one-fourth and perhaps by nearly one-half.”).

<sup>32</sup> For reviews of the literature on mortgage lending see STEPHEN ROSS & JOHN YINGER, *THE COLOR OF CREDIT: MORTGAGE DISCRIMINATION, RESEARCH METHODOLOGY, AND FAIR-LENDING POLICY ENFORCEMENT* (2002) and Helen F. Ladd, *Evidence on Discrimination in Mortgage Lending*, 12 J. OF ECON. PERSP. 41 (1998). These studies demonstrate that controlling for differences in characteristics among borrowers significant racial disparities exist in the mortgage market. See also Alicia M. Munnell et al., *Mortgage Lending in Boston: Interpreting HMDA Data*, 86 AMER. ECON. REV. 25 (1996). More recently, the focus has turned to racial discrimination in mortgage and homeowners’ insurance, which impacts individuals’ ability to purchase homes. See, e.g., Stephen L. Ross & Geoffrey M.B. Tootell, *Redlining, The Community Reinvestment Act, and Private Mortgage Insurance*, 55 J. OF URBAN ECON. 278 (2004) (discussing discrimination in mortgage insurance); *National Fair Housing Alliance v. Prudential Ins., Co.*, 208 F. Supp. 2d 46 (D.D.C. 2002) (challenging homeowners’ insurance practices as discriminatory).

Much of the discriminatory behavior, particularly by the government, occurred in the past, but it is not difficult to see the influence of those decisions in today's housing market. Once neighborhoods are established, their character can readily become entrenched. Although many neighborhoods experience change in the class and race of its residents, most do not, and many minority residents will be reluctant to be pioneers in neighborhoods that are perceived to be hostile to them, or even in neighborhoods that might not be hostile but where they would be the sole minority resident.<sup>33</sup>

Discriminatory real estate practices will also reinforce those earlier governmental policy decisions.<sup>34</sup> As Michelle Adams notes, with only a modicum of overstatement, "Widespread, governmentally sanctioned housing discrimination and the resulting residential segregation in the low-income black community, have destroyed the ability of African-Americans to make meaningful housing choices."<sup>35</sup>

Another reason it is a mistake to assign housing decisions to choice is that, for many people, and most minorities, their preferred choice is simply unavailable. Polls continue to demonstrate a strong preference for integrated neighborhoods, but as has been well-documented, different racial groups define integration differently. For whites, an integrated neighborhood is typically defined as one that is at most thirty-percent minority, whereas African Americans state a preference for neighborhoods that are at least fifty

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<sup>33</sup> See Maria Krysan & Reynolds Farley, *The Residential Preferences of Blacks: Do They Explain Persistent Segregation?* 80 SOCIAL FORCES 937, 960-64 (2002) (discussing reasons why African Americans are reluctant to move into all white neighborhoods).

<sup>34</sup> One recent study suggested that realtor discrimination is perhaps best understood as a product of statistical discrimination based on the presumption that African Americans cannot afford higher priced neighborhoods. See Jan Ondrich, Stephen Ross & John Yinger, *Now You See It, Now You Don't: Why Do Real Estate Agents Withhold Available Houses From Black Customers*, REVIEW OF ECON. & STATISTICS 854 (2003) (noting that realtors engage in statistical discrimination based on "the perception that blacks, but not whites, request more expensive units than they can afford.").

<sup>35</sup> Michelle Adams, *Separate and Unequal in Housing Choice, Mobility, and Equalization in the Federally Subsidized Housing Program*, 71 TUL. L. REV. 413 (1996).

percent African American.<sup>36</sup> There are, however, few neighborhoods that satisfy these criteria, nor are these definitions consistent with what we might define as integrated based on the demographics of cities. Outside of Phoenix, in none of the ten largest cities are whites 70% of the population, and in none do African Americans constitute half of the population. With the exception of Philadelphia, African Americans are either a significantly larger or smaller share of the population. Yet, defining integration as a neighborhood that mirrors the citywide population would make integrated neighborhoods an even rarer commodity. For example, among the sixty-four neighborhoods with a population of more than 20,000 that surround the city of Los Angeles, there is only one city (Carson) in which the population itself mirrors the larger demographics of the region.<sup>37</sup> Other parts of the country offer greater opportunities for multiracial neighborhoods, and a number of analysts have found reason for optimism among the changing nature of neighborhoods revealed in the latest census figures.<sup>38</sup> In the end, however, there is little question that both within and outside the cities whites continue to live in predominantly white neighborhoods, and the same is true for African Americans and Latinos though to a lesser extent.<sup>39</sup>

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<sup>36</sup> See Maria Krysan & Reynolds Farley, *The Residential Preferences of Blacks: Do They Explain Persistent Segregation?* 80 SOCIAL FORCES 937, 959-60 (2002) (finding that African Americans prefer neighborhoods that are 50-50 white-black while whites prefer significantly lower levels of African-American residents).

<sup>37</sup> This figure is based on the author's calculation of census data. While Carson was the most multiracial city, several other cities were similar, including Gardena and Hawthorne. In each of these three cities and several others, one would find a population that was truly multiracial in that no group exceeded one-third of the population or less than 10%.

<sup>38</sup> See, e.g., EDWARD L. GLAESER & JACOB VIGDOR, RACIAL SEGREGATION IN THE 2000 CENSUS: PROMISING NEWS (Brookings Institution, 2001) (finding increase in integration among formerly entirely white census tracts).

<sup>39</sup> A recent Brookings Institution study found the number of predominantly white neighborhoods in the ten largest metropolitan areas declined by 30% during the 1990s while experiencing an increase in what the study defined as mixed-race neighborhoods. The study also found that whites and blacks became less likely to live in neighborhoods in which their group predominated, while Hispanics and Asians became more likely. See DAVID FASENFEST ET AL., LIVING TOGETHER: A NEW LOOK AT RACIAL AND ETHNIC

So why then do so many individuals persist in their belief that housing decisions are the product of individual preference and choice? At a minimum, one would have to acknowledge that at most individuals are able to choose among their limited and constrained options, options that are the product, to a significant degree, of discriminatory policies and practices. Yet, there seems a strong desire to believe more than that, and this has always been true of housing issues, which more than employment or even education goes to core issues of individual preferences that as a society we are hesitant to interfere with. Although we were often willing to bus students across town to meet various desegregation mandates, we are unwilling to force, or even to encourage, individuals to live together. Certainly part of the reason for this reluctance is the ability of individuals to move, so that, as long as we do not prevent people from relocating to another area, a forced policy of housing integration would prove unworkable. But there is more to our reluctance than that. The Fair Housing Act was the last of the civil rights bills to be enacted, and it was also the weakest of the various civil rights acts, weaker even than the relatively tepid employment discrimination statute passed in 1964.<sup>40</sup> Housing enforcement has always lagged far behind enforcement efforts in other areas, particularly when compared to employment discrimination. For example, in the early 1970s, there were typically 9,000 administrative claims of employment discrimination

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INTEGRATION IN METROPOLITAN NEIGHBORHOODS, 1990-2000 (Center on Urban and Metropolitan Policy 2004). *See also* LYNETTE RAWLINGS ET AL., RACE AND RESIDENCE: PROSPECTS FOR STABLE NEIGHBORHOOD INTEGRATION (Urban Institute Report Mar. 2004) (finding decrease in predominantly white neighborhoods but no decline in predominantly black neighborhoods).

<sup>40</sup> I have discussed some of these issues previously. *See* Michael Selmi, *Public vs. Private Enforcement of Civil Rights: The Case of Housing and Employment*, 45 UCLA L. REV. 1401, 1405-06 (1998). For additional discussions of the government's limited enforcement efforts see Anthony D. Taibi, *Finance & Community Econ. Empowerment: Structural Econ. Theory, Procedural Civil Rts., and Substantive Racial Justice*, 107 HARV. L. REV. 1465, 1477-78 (1994) (noting that the federal government did not bring its first pattern and practice case for lending discrimination until 1992); CITIZENS COMMISSION ON CIVIL RIGHTS, A DECENT HOME: A REPORT ON THE CONTINUING FAILURE OF THE FEDERAL GOVT. TO PROVIDE EQUAL HOUSING OPPORTUNITY 43 (1983) (between 1969-1978 government filed an average of 32 cases per year).

filed with the federal government but only 3,000 for housing.<sup>41</sup> Today the gap has widened substantially: in 2004, HUD and its state partners received 9,187 fair housing complaints, whereas the Equal Employment Opportunity Commission received 79,432 employment discrimination charges.<sup>42</sup> From its inception, HUD has also been sent ambiguous governmental signals regarding the importance of its mission relating to discrimination in housing markets and as a result, has been relatively timid in its enforcement efforts.<sup>43</sup>

Today, of course, the emphasis on choice is consistent with the deemphasis on integration. If minorities are choosing segregated housing based on their actual preferences, that would be one more civil rights issue conquered, one less issue for liberal whites to concern themselves with. There is little question that some, perhaps many, minorities are choosing segregated neighborhoods based on their preferences, but those preferences are formed based on the alternatives and the unwillingness of whites to share in the burden of integration, and the lack of government support for integration efforts have undeniably influenced those choices. Truth is, among most whites, housing integration has never been much of a priority<sup>44</sup> and just as minorities have tired of the push for integration, whites are relieved that integration has faded from the civil rights agenda.

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<sup>41</sup> Selmi, *supra* note --, at 1406.

<sup>42</sup> Both figures are available on the agency websites, [www.hud.gov/offices/fheo/library/index.cfm#studies](http://www.hud.gov/offices/fheo/library/index.cfm#studies) (housing) and [www.eeoc.gov/stats/charges/html](http://www.eeoc.gov/stats/charges/html) (employment).

<sup>43</sup> For an insightful review of the early years of HUD's enforcement see Chris Bonastia, *Why Did Affirmative Action in Housing Fail During the Nixon Era? Exploring the "Institutional Homes" of Social Policies*, 47 SOCIAL PROBLEMS 523 (2000).

<sup>44</sup> To offer but one of many examples, consider Marin County, the home to one of the wealthiest and most liberal populations in the state, a place where California stereotypes were born, is also the whitest county in the San Francisco Bay Area. See ALEJANDRO LOPEZ, RACIAL/ETHNIC DIVERSITY AND RESIDENTIAL SEGREGATION IN THE SAN FRANCISCO BAY AREA at 1 (Center for Comparative Studies in Race and Ethnicity 2001) (noting that of the counties considered Marin was the least diverse with the largest percentage of white residents).

More than anything else, that is the lesson I wish to draw from the above analysis. For a variety of reasons, some of which I will explore in the final section of this paper, we have given up on residential integration as a policy, but perhaps more important than that lesson, is the realization that we gave up without ever really trying. Although it is true that segregation has decreased since the 1970s, at our current pace, we would not achieve moderate levels of segregation across the board for another two hundred years. Our cities may be diverse, but they are certainly not integrated, and despite their diversity, whites still reap most of the benefits, and African Americans and other minorities overwhelmingly experience the misfortunes, and by most measures, inequality remains deeply entrenched. The difference today is that so many fewer individuals seem to notice or to care.

*B. Education in the City.*

If the story of housing in the new millennium is one of modest but stalled progress, the story of our urban schools is far more bleak. Instead of moving forward if ever so slowly as is the case with housing, when it comes to the schools we seem headed on a downward trajectory in three important dimensions. In the context of desegregation of the schools that involves having white children attend schools with minority children, meaningful desegregation is increasingly impractical as urban school districts now overwhelmingly educate minority children. Second, urban schools perform poorly on nearly every objective measure, and there is little evidence to suggest that they provide compensatory benefits through non-quantitative aspects of schooling. Third, the current fashionable reform efforts, such as vouchers and other forms of privatization, rarely have children's interests as their primary motivation but instead we continually use our schools

as forums to implement all manner of social policies that at best will only tangentially benefit education. I will take these issues up in turn.

*1. Desegregation in the City.*

It is widely known, and unsurprising, that many of our schools have become more segregated over the last decade than in previous decades, and whatever progress we were making seems to have been lost, and in many ways forgotten. The Harvard Civil Rights Project has provided the most comprehensive analysis of measures of segregation in the schools, and its most recent report concludes, “The racial trend in the school districts studied is substantial and clear: virtually all school districts analyzed are showing lower levels of inter-racial exposure since 1986, suggesting a trend towards resegregation in some districts. These declines are sharp.”<sup>45</sup> In its report, the Harvard Civil Rights Project concentrates on exposure levels between white and minority students, which might be seen as problematic in our multiethnic world, but it is also consistent with the original goals of desegregation, and as discussed later remains an important consideration in higher education where the mixing of minority students with white students remains the principal goal of affirmative action plans and it also can be an important contributor to improved outcome measures for minority students.

The Harvard Civil Rights Project’s analysis focuses on schools throughout the country, but when the focus is turned on urban schools, the lack of desegregation is highly predictable. With very few exceptions, white children are a shrinking presence in urban schools, which are increasingly populated by Hispanic and black children at levels

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<sup>45</sup> ERIKA FRANKENBERG AND CHUNGMEI LEE, RACE IN AMERICAN PUBLIC SCHOOLS: RAPIDLY RESEGREGATING SCHOOL DISTRICTS 4 (2002). For an additional discussion of the state of desegregation in public schools see CHARLES T. CLOTFELTER, AFTER BROWN: THE RISE AND RETREAT OF SCHOOL DESEGREGATION (2004).

that far exceed their representation within the city. Table 3 provides the racial breakdown for nine of the ten largest school districts and four other school districts that are either frequently thought of as diverse (San Francisco) or are not located in majority-minority cities (Minneapolis).<sup>46</sup> Only in San Diego, a city that is 50% non-Hispanic white, do non-Hispanic white students comprise more than 25% of the school district population; in six of the ten school districts, white children make up fewer than 10% of the student population. In Minneapolis, a progressive city where the population is more than 60% white, only 27% of the students are white, and in Boston, a city that is approximately 50% white among its residents, but one with a venerable history of racism, only 13.5% of the student population is white. Obviously, in urban cities, desegregating schools in the fashion mandated by *Brown*, where the metric is contact between black and white students, is becoming increasingly difficult, if not impossible.<sup>47</sup> This is particularly true in majority-black cities where the student population is almost exclusively black in many locales.<sup>48</sup>

Table Three  
Demographics of Public School Population, 2000 Census

City	Non-H W.	Af.-Amer.	Hispanic	Asian
New York	15.3	33.7	39.3	11.3
Los Angeles	9.3	12.3	72.3	5.8
Chicago	9.5	52.7	34.9	2.9
Philadelphia	16.3	65.8	13.4	4.3
Houston	9.2	32.1	55.9	2.7
Dallas	7.9	35.5	54.8	1.4
Detroit	4.0	90.9	3.9	1.0

<sup>46</sup> Phoenix is missing from the Table because the data were unavailable in comparable format, in part because there are thirty school districts within Phoenix.

<sup>47</sup> In many cities, this has been true for a number of years. See Reynolds Farley, *Residential Segregation and Its Implications for School Integration*, 39 LAW & CONTEMPORARY PROBS. 164 (1975) (noting that school population in many large cities was 80% black).

<sup>48</sup> The percent of African American students in the school districts is: Atlanta, 88.3%, D.C., 84.6%, Cleveland 70.6%.

San Diego	26.1	16.8	40.0	16.5
San Antonio	4.2	9.9	85.6	0.2
San Francisco	11.6	16.5	23.5	47.7
Boston	13.5	48.8	29.2	8.1
Cincinnati	24.4	74.1	0.5	0.9
Las Vegas	49.9	14.2	29.2	6.0

Source: Lewis Mumford Center, SUNY Albany.

The Lewis Mumford Center, where many of the calculations in this paper are drawn from, has calculated the level of segregation on more diverse measures, including among the predominant school populations, and when the focus includes Latinos, the picture within the schools improves modestly. For example, for Los Angeles, the index of dissimilarity between black and white students is 93.0, whereas the figure for black and Hispanic students is 86.0, and 65.7 for Hispanic and white children. New York, on the other hand, has stable levels of segregation across the board, with the exception of black and Hispanic students where the figure is 49.6, compared to 72.2 for black and white students. In San Diego, the index for black and white students is 79.9% but for white and Hispanics the figure is substantially lower, 46.7%, and for black and Hispanics, 55.9%.

In any event, given the demographics of urban schools it is safe to say that meaningful desegregation is no longer practical, and given the political climate, certainly not a priority. This may not be a problem in and of itself, and in my mind, at least in the abstract, it is less problematic than the persistence of housing segregation. Indeed, in significant measure, segregation within the schools follows housing segregation, particularly given our continued focus on neighborhood schools and the judicial

prohibition on extending desegregation efforts into the suburbs.<sup>49</sup> This is hardly a new insight, but it highlights how our reluctance to impose or even encourage integrated housing has doomed, or at least substantially compromised, our efforts at desegregating urban schools. Obviously, this is a complicated issue, and it may be that our efforts to integrate the schools doomed our efforts at integrated housing, as has long been presumed or asserted based on the thesis of white flight from the cities. But to me, it is more complicated than that, and maybe the lesson here, a lesson all too frequently learned, is that our commitment to integration runs only to others – we believe in the principle but are unwilling to act in ways that might make those principles a reality. In any event, within our cities, the prospect of integrated schools involving white students is all but dead.

## 2. *The Quality of Urban Schools.*

By itself, all this means is that we have given up the goal of integration within our urban schools, but that was always only one goal of the civil rights movement. For many, the principle motivation for integrated schools was tied to the old saying, “green follows white,” namely that the only means of obtaining quality schools for minority students was to have those students attend schools with white students where the resources would be distributed. Depending on how one analyzes the data, this supposition still proves true, at least with respect to large urban school districts. A study of the sixty largest school districts in the country reveals the reality of the quality of urban schools. All of the sixty school districts fall below state and national averages in a

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<sup>49</sup> In *Milliken v. Bradley*, 418 U.S. 717 (1974), the Supreme Court precluded interdistrict desegregation efforts without proof of interdistrict discrimination. See also Nancy A. Denton, *The Persistence of Segregation: Links Between Residential Segregation and School Segregation*, 80 MINN. L. REV. 795 (1996).

majority of their test scores. Indeed, the figure the study trumpets to suggest significant improvement in the schools is perhaps most revealing: “Six major school systems (10.7%) had average math scores in half or more of the grades tested in 2003 that were the same or higher than their respective states.”<sup>50</sup> Eight school districts achieved similar success in their reading scores.<sup>51</sup> Within these schools, more than seventy-five percent of the students (76.9%) are African American, Hispanic, or Asian American, and they educate approximately 30% of the nation’s minority children.<sup>52</sup> To their credit, most of the urban school districts have shown improvements in test scores over the last few years, but they still fall substantially behind their non-urban counterparts.<sup>53</sup>

Whenever one focuses on urban test scores, two immediate concerns surface. First, test scores are obviously an imperfect measure of what we might hope our children are learning in schools, and they are easy to criticize on that basis. At the same time, in today’s world, the emphasis on test scores is undeniable, and there is no obviously better scale to measure school quality and no reason to think urban schools excel at non-quantifiable measures. Certainly the most widely touted non-quantifiable educational value is diversity, but as discussed above, most urban schools are lacking significant diversity. If urban schools are to teach tolerance, aid in citizenship, and move us forward in terms of issues of racial equality, then one would likely want to foster a diversity that included white students, or a diversity that was truly multiethnic. As discussed earlier, that is not what we typically find in urban schools. Instead, most of our

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<sup>50</sup> See COUNCIL OF GREAT CITY SCHOOLS, BEATING THE ODDS: A CITY-BY-CITY ANALYSIS OF STUDENT PERFORMANCE AND ACHIEVEMENT GAPS ON STATE ASSESSMENTS RESULTS FROM THE 2002-2003 SCHOOL YEAR at v (2004).

<sup>51</sup> *Id.* at vii.

<sup>52</sup> *Id.* at viii.

<sup>53</sup> Although this is admittedly only one study, it is consistent with the findings of other studies, and as far as I am aware, there is no controversy regarding the quantitatively-measured performance of urban schools.

urban schools are devoid of white students, and most are predominantly of one racial or ethnic group, and it would be difficult to suggest that diversity is flourishing in our urban schools.

In addition to the limits of test scores, limits I fully agree with, there are also additional burdens urban school districts face, burdens that are widely recognized as limiting the capacities of the schools. These burdens include higher percentages of students who speak a language other than English at home, deteriorating facilities, higher rates of poverty among students, low teacher salaries compared to their suburban counterparts, lower quality teachers, and more political pressures within the school system that frequently interferes with proper educational objectives.<sup>54</sup> For example, a recent report by the National Center for Educational Statistics indicated that the 100 largest urban school districts had lower student/teacher ratios, higher overall student bodies, substantially higher percentages of minority students and higher percentages of students who were eligible for free or reduced-price lunch.<sup>55</sup> Within these schools, more than one-half of the children (54.3%) were eligible for free or reduced price lunch compared to 39.7% nationwide.<sup>56</sup>

As a result, it may be that the poor student outcomes of urban schools are a product of the student body rather than a function of the experience within the schools. There is some evidence to support this notion, in particular with respect to the high levels of poverty among urban school students. A comprehensive report from the National

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<sup>54</sup> These are widely acknowledged differences, and are discussed in JENNIFER HOCHSCHILD & NATHAN SCOVRONICK, *THE AMERICAN DREAM AND THE PUBLIC SCHOOLS* 62-63 (2003) (“Poor urban areas usually have a higher percentage of children with disabilities; their education is more costly. Operating costs are also higher in many cities, and not just for schools. Finally, poor urban districts have higher maintenance costs because their buildings are older and their equipment is replaced less frequently.”).

<sup>55</sup> See NATIONAL CENTER FOR EDUCATION STATISTICS, *CHARACTERISTICS OF THE 100 LARGEST PUBLIC ELEMENTARY AND SECONDARY SCHOOLS IN THE UNITED STATES: 2001-2002*, Tables A & C (2003).

<sup>56</sup> See *id.* at Table C.

Center for Education Statistics concluded that when controlling for the poverty levels of urban schools, tenth grade students performed equally well in urban schools as in their rural and suburban counterparts.<sup>57</sup> The study also found that while students from high poverty schools typically had less economic activity shortly after finishing high school, over time those differences evaporated.<sup>58</sup> For minority students, however, the effect of urban schools appears more negative. Test score results are lower across the board for African American and Latino students within large central city school districts compared to national averages.<sup>59</sup> Various studies evaluating the effects of sending urban minority children to suburban schools have also consistently shown positive results for the students who participate in the programs. Since participation in these programs is voluntary, and typically confined to a small group, the improved results in the suburban schools could be a function of self-selection among those motivated to participate in the programs. Despite this limitation, those who have studied the programs carefully have found that they offer significant benefits to the participants, even though they can also impose substantial burdens such as lengthy travel times and isolation within the suburban schools.<sup>60</sup>

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<sup>57</sup> See NATIONAL CENTER FOR EDUCATION STATISTICS, URBAN SCHOOLS: THE CHALLENGE OF LOCATION AND POVERTY at 20 (1996) (“When differences in poverty concentration are taken into account, urban 8<sup>th</sup> graders score lower than suburban or rural 8<sup>th</sup> graders on achievement tests, but by the 10<sup>th</sup> grade, they score the same as their peers in other locations. Similarly, urban students are less likely to finish high school on time, but they complete postsecondary degrees at the same rate as others, when poverty concentration is considered.”).

<sup>58</sup> *Id.* at 41. For an excellent discussion of the influence of class on school performance see RICHARD ROTHSTEIN, CLASS AND SCHOOLS: USING SOCIAL, ECONOMIC, AND EDUCATIONAL REFORM TO CLOSE THE BLACK-WHITE ACHIEVEMENT GAP (2004).

<sup>59</sup> See NATIONAL CENTER FOR EDUCATION STATISTICS, THE NATION’S REPORT CARD, *supra* not --, at 7. All of the test score differences noted in this report for 4<sup>th</sup> and 8<sup>th</sup> graders were statistically significant. *Id.*

<sup>60</sup> Book-length studies have been conducted of the programs in Boston, Chicago and St. Louis, all of which conclude that the programs provided substantial benefits to the participants. See SUSAN E. EATON, THE OTHER BOSTON BUSING STORY (2001); LEONARD S. RUBINOWITZ & JAMES E. ROSENBAUM, CROSSING THE CLASS AND COLOR LINES: FROM PUBLIC HOUSING TO WHITE SUBURBIA (2000) (Chicago); AMY STUART WELLS & ROBERT L. CRAIN, STEPPING OVER THE COLOR LINE: AFRICAN-AMERICAN STUDENTS IN WHITE

One area where the schools are not as deficient as is often assumed is funding. On average, urban school districts spend more than non-urban school districts, and Boston spends more than \$11,000 a year per student while neighboring and very successful suburban schools spend significantly less, between \$8,000-9,000. This does not mean that urban schools are adequately funded; urban schools have significantly higher demands on their funds, particularly in the area and language training.<sup>61</sup> Many studies, however, have now documented the limits funding makes in improving the quality of schools. What was once thought to be an important link to quality, has turned out to be an important input but one that is far from a panacea. Although urban school districts may be underfunded in relation to their needs if not their suburban counterparts, there is little evidence to suggest that greater funding would significantly improve educational outcomes or narrow the gap between urban and suburban schools.<sup>62</sup>

An area where urban schools do differ from non-urban is in relation to the various political pulls their schools experience. Virtually all reform efforts are aimed at urban schools, and the politics within the city render the schools prime territory for political

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SUBURBAN SCHOOLS (1997) (St. Louis). The authors of a comprehensive study of a program that allowed minority students to transfer to suburban schools around St. Louis commented on some of the concerns that are raised about these programs: "Time and time again, educator,s policy makers, parents, students and 'people on the streets of metropolitan St. Louis told us that the millions of dollars the state pays to bring nearly 13,000 African-American students to suburban schools would be better spent 'fixing up' the city schools. . . . They say they feel sorry for black children who have to get up at 5:00 in the morning to take an hour-long bus ride to the suburbs. It is a shame, they say, that these students can't attend their neighborhood schools. What an odd state of affairs when the white suburbanites bemoan the inconvenience of the transfer plan more loudly than the students who make that trek to the country five days a week." WELLS & CRAIN, *supra*, at 336.

<sup>61</sup> It is often asserted that urban schools have higher concentrations of students designated as special needs students. But the data do not support this assumption. A recent report indicated that in Grade 4, 14% of students nationwide were identified as special needs, while 13% in large central cities were so designated, and in grade 8, the percentages for both groups was 14%. See NATIONAL CENTER FOR EDUCATION STATISTICS, THE NATION'S REPORT CARD: TRIAL URBAN DISTRICT ASSESSMENT, MATHEMATICS HIGHLIGHTS 2003 at 14 (2004).

<sup>62</sup> For an excellent and recent review of the literature see TIMOTHY A. HACSI, CHILDREN AS PAWNS: THE POLITICS OF EDUCATIONAL REFORM 175-203 (2002). Within the law review literature see James E. Ryan, *Schools, Race, and Money*, 109 YALE L.J. 249 (1999).

exploitation, whether in the form of rewarding administrative or teaching positions to political allies or teachers' unions, catering to political groups in the distribution of school resources or pacifying parents.<sup>63</sup> Richard Ford Thompson has recently commented on the various identity-related schools that have arisen in New York City as an example of the way in which identity politics have infiltrated the schools without offering any obvious pedagogical value.<sup>64</sup> Voucher and other choice programs have also been means for religious groups to expand their presence in the public sphere, again without particular concern for the welfare of the students.<sup>65</sup> While those who push the religious voucher programs likely believe religion (or some specific form of religion to be more accurate) should be part of the school curriculum, it is just as likely that their goal is to expand the influence of religion more generally.<sup>66</sup> Again, I do not mean to suggest that private schools fail to provide benefits to urban children, well-crafted choice programs may prove to be quite beneficial. My point is rather that the motive behind choice programs is more frequently a privatization of public functions or a shrinking of the government rather than providing a higher quality education to students. In addition,

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<sup>63</sup> In their exploration of the state of public education, Jennifer Hochschild and Nathan Scovronick note, "[P]ublic schools are the second-largest employment sector in Los Angeles County and Gary, Indiana, and the largest employer in Baltimore." HOCHSCHILD AND SCOVRONICK, *supra* note --, at 20. School administration is not only typically top-heavy but a common grounds for patronage hiring.

<sup>64</sup> See Richard Ford Thompson, *Brown's Ghost*, 117 HARV. L. REV. 1305, 1318 (2004).

<sup>65</sup> Studies of Catholic schools have offered mixed results. Some of the studies suggest that achievement outcomes improve significantly for minority students, while other studies have shown no measurable improvement. See, e.g., Derek Neal, *The Effects of Catholic Secondary Schooling on Educational Achievement*, 15 J. OF LABOR ECON. 98 (1997) (finding significant gains in academic achievement among urban minorities due to catholic schooling but not for urban whites or suburban students); Russell W. Rumberger & Scott L. Thomas, *The Distribution of Dropout and Turnover Rates Among Urban and Suburban High Schools*, 73 SOCIOLOGY OF EDUC. 39, 43 (2000) (citing conflicting studies on the effectiveness of catholic schooling). The data on school choice programs has been highly politicized and, at this juncture, offers mixed results. Professor Michael Heise recently noted, "Much of today's research concerning the implications of school choice programs on student achievement remains contested and lacks results that reach definitive conclusions." Michael Heise, *Brown v. Board of Education, Footnote 11, and Multidisciplinarity*, 90 CORNELL L. REV. 279 (2005).

<sup>66</sup> There are similar movements in rural areas but they are not typically tied to voucher programs, which have been implemented primarily in urban locations.

school boards are frequently populated by the politically ambitious who have little training for school administration other than possibly the fact that their own children are in the schools. Nowhere else do we allow such large and critically important institutions to be run by those with little to no experience or qualifications.

I should note that the literature on education is enormous and I do not mean to suggest that I have mastered the literature in its entirety, or that the above discussion is anything more than a description of the state of urban schools painted with a broad brush. Moreover, most every school district offers high-performing and often innovative schools where students obtain substantial life advantages,<sup>67</sup> and many districts have embarked on ambitious reform efforts.<sup>68</sup> The point I wish to make is not that urban school systems are failing, or even that they are in a crisis, but rather, that by abandoning the goal of integration we have not traded up for a superior model; more commonly, the schools we allot to our urban children are not the kind of schools that will provide significant benefits to their life chances but instead are far more likely to erect barriers to success, barriers that can be overcome but that remain barriers nevertheless.

### III. FROM INTEGRATION TO DIVERSITY.

In the new millennium, it seems safe to say – even uncontroversial – that we have traded integration for diversity. While there remain a few lonely voices advocating for

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<sup>67</sup> For example, National Public Radio recently featured a story on a Providence Rhode Island high school that combines real world experience with academic subjects and sends eighty percent of its students to college. See Margot Adler, *School Features Real-World Learning, No Grades*, April 25, 2005, available at <http://www.npr.org/templates/story/story.php?storyId=4618720>.

<sup>68</sup> For a comprehensive overview of many of these reform efforts see PAUL T. HILL, ET AL., *IT TAKES A CITY: GETTING SERIOUS ABOUT URBAN SCHOOL REFORM* (2000) (chronicling reform efforts in six large school districts). As evident from the work of Hill and his co-authors, one reason reform efforts frequently fail is that many are necessarily long-term projects, the very kind of projects that are politically risky for school superintendents and in which the present students are unlikely to experience the results.

the importance of integrated institutions,<sup>69</sup> those voices are dwarfed by the critiques of integration and the affinity for choice, choice that includes segregated institutions.<sup>70</sup>

Public opinion polls demonstrate that integration has fallen deeply among our social priorities among blacks and whites alike.<sup>71</sup> Diversity, on the other hand, is everywhere, and one would be hard pressed to find a devoted critic of the concept of diversity, although critics certainly abound regarding the implementation of diversity ideals.

Nowhere is our trade more apparent than in the nation's cities, where diversity is celebrated at every turn, while the lack of integration is widely ignored, accepted as a social condition that, if not inevitable, no longer seems particularly troublesome. The presumed ability of African Americans to move to the suburbs mitigates the harm that attends to urban isolation and among the new Latino immigrants, an affinity for similar language and culture is thought to explain their residential decisions. That, one might say, and the fact that ethnic enclaves frequently offer the only affordable housing within city boundaries.<sup>72</sup>

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<sup>69</sup> Sherryl Cashin is the leading voice still pushing for integration, particularly in the context of housing, but others continue to emphasize the benefits and importance of integrated institutions. See Cheryl Cashin, *How Race and Class are Undermining the American Dream* (2004). Others also hold onto the integration ideal. See, e.g., Drew S. Days, *Rethinking the Integrative Ideal: Housing*, 33 MCGEORGE L. REV. 459 (2002); John A. Powell, *The Tensions Between Integration and School Reform*, 28 HASTINGS CONST. L.Q. 655 (2001).

<sup>70</sup> Some of those who have turned on integration offer parodies of the benefits, and thus provide more rhetoric than analysis. But there are also many esteemed voices questioning the integration ideal. See, e.g., Roy Brooks, *Integration or Separation? A Strategy for Racial Equality* (1996) (advocating limited separation as one available alternative); John O. Calmore, *Spatial Equality and the Kerner Commission Report: A Back-to-the-Future Essay*, 71 N.C. L. REV. 1487 (1993) (critiquing integration ideal).

<sup>71</sup> See, e.g., HOCHSCHILD & SCOVRONICK, *supra* note --, at 48-49 (reviewing polls showing that only about 50% of African Americans identify greater school integration as a priority).

<sup>72</sup> Studies show that although Latinos often have a desire to live among those with similar language skills, their housing choices are nevertheless severely constrained. See John J. Betanour, *The Settlement Experience of Latinos in Chicago: Segregation, Speculation, and the Ecology Model*, 74 SOCIAL FORCES 1299, 1316 (1996) ("While choice and common characteristics are important factors, exclusion associated with Latino status has intensified and perpetuated it.").

Although the transition from an integration ideal to a celebration of diversity now seems nearly complete, it remains unclear what exactly was acquired in the transaction. Diversity and integration have many similarities, and in some contexts, diversity is little more than a pseudonym for integration, as I would suggest is largely true in the context of higher education. Indeed, diversity within higher education remains one of the many ironies of our continuing struggles for equality. In the recent affirmative action case involving the University of Michigan and its law school, the nation literally rose up to support a form of integration that was seen as essential to our national welfare. While affirmative action in higher education typically proceeds under the mantle of diversity due to the Supreme Court's legal dictates in its *Bakke* decision,<sup>73</sup> the purpose behind affirmative action replicates many of the original goals of the civil rights movement that were embodied in the push for integration. Writing for the majority in the University of Michigan Law School case, Justice O'Connor explained, "[T]he Law School's admissions policy promotes cross-racial understanding, helps break down racial stereotypes, and enables students to better understand persons of different races."<sup>74</sup> She later noted that "numerous studies show that student body diversity promotes learning outcomes, and better prepares students for an increasingly diverse workforce and society and better prepares them as professionals."<sup>75</sup> Untangled from the rhetoric of diversity,

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<sup>73</sup> I have discussed this aspect of the Court's *Bakke* decision previously. See Michael Selmi, *The Facts of Affirmative Action*, 85 VA. L. REV. 697 (1999) (book review).

<sup>74</sup> *Grutter v. Bollinger*, 539 U.S. 306, 330 (2003).

<sup>75</sup> *Id.* at 331. In the bad old days of overly-lengthy articles I would here insert a lengthy list of the many articles published on the Grutter decision, but instead, I will now note that a forest of articles have been produced, and some I have found particularly interesting include Wendy Parker, *Connecting the Dots: Grutter, School Desegregation, and Federalism*, 45 Wm. & Mary L. Rev. 1691 (2004) and Harry T. Edwards, *The Journey from Brown v. Board of Education to Grutter v. Bollinger: From Racial Assimilation to Diversity*, 102 Mich. L. Rev. 922 (2004).

these are the goals of integration – the very goals we are said to have abandoned, or should abandon, in housing and lower levels of education.

This is one of the enduring puzzles of our turn to diversity. The University of Michigan cases attracted more amicus briefs than any previous case; indeed, every accredited university in the country was represented in the briefs, as was true for virtually all existing civil rights group representing minority interests.<sup>76</sup> Yet, when it comes to the state of integrated housing or our urban schools, these voices fall silent, even though, one can only wonder whether affirmative action would be necessary in higher education if we had obtained greater integration, greater equality, in K-12 education or in housing. Integration, after all, has been shown to improve educational outcomes for African-American students, and as a result, had we integrated schools and residences earlier, there may have been less need for affirmative action later down the line.<sup>77</sup> As a society, we opted for a different course, but it seems fair to ask whether it is really better to adjust or amend inequalities at the college level rather than seeking to fix them at lower levels?

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<sup>76</sup> For a discussion of the amicus briefs and their influence see Neal Devins, Explaining Grutter v. Bollinger, 152 U. Pa. L. Rev. 347 (2003). I was a co-author on the brief filed by the Society of American Law Teachers (SALT), a brief that focused on the continuing influence of discrimination as a justification for affirmative action rather than concentrating exclusively on diversity concerns.

<sup>77</sup> This is a controversial claim, but among educational researchers, there seems to be a consensus that integrated schools do provide benefits for minority students. Where the consensus breaks down, is on the magnitude of the benefits and the reasons why integrated schools provide benefits. For reviews of the literature see HOCHSCHILD & SCOVRONICK, *supra* note --, at 39-40; sources cited in note --; Ann Wells and R.L. Crain, *Perpetuation Theory and the Long Term Effects of School Desegregation*, 64 REV. OF EDUC. RSCH. 531 (1994). Law Professor James Ryan has recently noted, “There appears to be something of a consensus that desegregation does benefit minority students academically, at least somewhat, and that it does not harm white students.” James E. Ryan, *The Limited Influence of Social Science Evidence in Modern Desegregation Cases*, 81 N.C. L. REV. 1659, 1674 (2003). Others read the evidence more cautiously: “Studies that have sought to determine the effect of desegregation on the achievement of blacks have come up with a decidedly mixed set of results. In general, the research suggests no effect on mathematics achievement for blacks and some modest positive effect on reading for blacks. The achievement of whites does not appear to be harmed.” CHARLES T. CLOTFELTER, *AFTER BROWN: THE RISE AND RETREAT OF SCHOOL DESEGREGATION* 187 (2004).

The answer to that question has to be no, although if one were being honest, she would also admit that the limited adjustments that occur in the form of affirmative action are far easier to accomplish than providing quality education within our cities or equal access to housing for all of our citizens. It is also far less disturbing to the status quo, as evident by the support the University of Michigan received from the nation's elite. Affirmative action, under the guise of diversity rather than remedying past and present discrimination, has become an adjunct to the status quo, a limited measure benefiting a limited group, most of whom do not hail from our cities, as a way of ameliorating the persistent inequality our system produces, and our society tolerates. Occasionally, our obsession with diversity in higher education can lead to perverse practices made necessary by the lack of attention to integration elsewhere. For example, the University of Vermont, a public institution serving a state with a population that is less than 1% black, has partnered with a New York city high school to import African-American students. While undeniably well-intentioned, this seems like a rather bizarre gesture, and one might ask why Vermont feels the need for a little diversity in its University when it appears so content to do without it everywhere else? Or as Peter Schuck has commented in a slightly different context: "It is as if we like the *idea* of diversity more the less we have to *live* with it."<sup>78</sup>

And this highlights one of the obscuring functions of diversity, namely that it is a term that progressives have embraced but that ultimately helps solidify the status quo in a way that is not true for integration. Many years ago Derrick Bell developed what he labeled an interest-convergence theory to suggest that social change typically arrives

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<sup>78</sup> Schuck, *supra* note --, at 315 (italics in original).

when it benefits whites.<sup>79</sup> In the context of *Brown v. Board of Education*, he suggested that the Supreme Court and the nation's elites found it propitious to end segregation as a way of preserving its international image. In our rush to diversity, it may be that we have unknowingly stumbled upon a similar phenomenon. As a concept, diversity is easy to support in large part because it has little content in its implementation. Similarly, as a concept, few today openly oppose integration; in this respect, diversity and integration are similar. But integration also carries with it a mandate for change and action, something that the idea of diversity does not. Whites have consistently demonstrated that they are unwilling to take actions necessary to further integration, leaving the work to African Americans and other minorities, and when those groups tired of the efforts and turned to diversity as the goal, whites appeared all too eager to sign on.

As a result, the changing demographics of the city have not elicited xenophobic efforts to alter those patterns, but instead are met with benign acceptance and mild celebration. Here we encounter another important difference between diversity and integration and that is with integration there was a commonality of purpose, a shared obligation to eradicate the ills of the past consistent with the best of American ideals. Diversity, on the other hand, has no such purpose, it can be anything to almost anyone: a slogan or a mandate, a program or a label, but there need not be any shared purpose because diversity also implies allowing a thousand flowers to bloom without regard to

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<sup>79</sup> See Derrick Bell, *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518 (1980). More recently, Mary Dudziak has expanded the thesis with a particular focus on the United States' cold war needs. See MARY L. DUDZIAK, *COLD WAR CIVIL RIGHTS: RACE AND THE IMAGE OF AMERICAN DEMOCRACY* (2000). While I tend to agree with the thrust of the theory, I also believe it is easy to confuse the motives or desires of the larger society with those who are pushing the change. One needs both – the initiators and the convergence for successful change.

which of those flowers might have the best soil.<sup>80</sup> Another way of critiquing our move towards diversity is to suggest that any concept that can be used liberally and interchangeably by Republican and Democratic Presidents alike is probably a term without significant content.

The shared purpose that was central to our integration ideal reminds us of one of our important lost goals.<sup>81</sup> While it is easy now to parody our desire for integration as a desire to have African Americans exposed to white children as a means of acculturation, one of the ideas behind the force of integration was a belief that integration would have been a natural state of affairs but for our segregated past. In other words, without our discriminatory history, integration rather than separation would have been the order of the day, that it was our segregated past that produced our segregated present, rather than some mistaken notion of choice. As is always true with trying to undo the past, we cannot know what would have been the natural state of affairs, and there is some distinct possibility that without our disgraceful discriminatory past our housing and therefore schooling patterns would have resulted in some form of segregation, some form of natural separation. Perhaps more to the point, it is now too late to create that past, and likely too late to undo the damage done by that past. The opportunity for integration among whites and African Americans has largely been lost, though it remains a goal

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<sup>80</sup> I am certainly not the first to make this connection. See, e.g., John H. Bunzel, *The Diversity Dialogues in Higher Education*, 29 FORDHAM URB. L.J. 489, 494 (2001) (“For the last twenty years, the term “diversity” has been used in so many different ways it now means whatever one wants it to mean.”).

<sup>81</sup> It is frequently, and properly, noted that integration in practice meant “one-way assimilation of Black and Latino students into formerly all-white educational environments.” Juan Perea, *Buscando America: Why Integration and Equal Protection Fail to Protect Latinos*, 117 HARV. L. REV. 1420, 1451 (2004). Professor Perea continues: “Integration might have been the preferred solution had it resulted in schools in which Black, White, and Latino children studied together on equal terms in an atmosphere of mutual respect and received equal, effective education. In reality, however, integration meant nothing more than placing Blacks and Latinos into schools tailored to meet the needs of White students.” *Id.* at 1455 (footnotes omitted).

worth pursuing if for no other reason than as a way of holding out the hope for a shared future.

Yet, when we return to the focus on our cities, an opportunity for integration remains, one with a slightly different focus and purpose, one that if pursued might lead to significant benefits. And here I want to focus on the possibility that we would seek greater integration among Latinos and African Americans, and where feasible Asians. Given that the cities are now dominated by Latinos and African Americans but that a bond has yet to develop to unite those groups, working towards integrating housing and schools for those groups might lead to the possibility of greater political power in the future. Indeed, to create a better alliance between diverse groups, integration might offer as many benefits between African Americans and Latinos as between whites and minority groups. Studies indicate that Latinos tend to associate more or feel greater affinity for whites than for African Americans,<sup>82</sup> and as noted earlier, there is also some evidence of Latino flight from the cities as a way of distancing oneself from urban African Americans.<sup>83</sup> Similarly, it has been shown that the greater the homogeneity of a neighborhood the greater the animosity towards other minority groups.<sup>84</sup> Thus, by fostering integration and contacts between African Americans and Latinos, we might be

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<sup>82</sup> In a study based on 1999 data collected jointly by the Washington Post, Henry J. Kaiser Family Foundation and Harvard University, the authors found that most Latino sub-groups stated that they had as much in common with whites as blacks. Only Puerto Ricans and Dominicans, groups in which many members identify as black, said they had more in common with blacks. See Karen M. Kaufmann, *Cracks in the Rainbow: Group Commonality as a Basis for Latino and African-American Political Coalitions*, 56 POLITICAL RSCH. Q. 199, 203 (2003). Interestingly, blacks expressed far greater commonality with Latinos: “While 75 percent of blacks feel a significant amount of commonality with Latinos only 33 percent reciprocate such feelings.” *Id.*

<sup>83</sup> See supra note --.

<sup>84</sup> See J. Eric Oliver & Janelle Wong, *Intergroup Prejudice in Multiethnic Settings*, 47 AMER. J. OF POLI. SCI. 567, 573 (2003) (based on a large multi-city interview study authors concluded, “For blacks, Latinos, and whites, the trend is the almost always the same: the greater the percentage of in-group neighbors, the greater the animosity to minority out-groups.”). The authors of the study noted that the effect for Asian Americans ran in the opposite direction: “Asian Americans who live in largely Asian neighborhoods actually have more positive perceptions of out-groups.” *Id.* at 580.

able to translate the diversity of our cities into more political power and capital so that diversity would mean more than numerical pluralities. And if that were the case, Latinos and African Americans might have room to make more meaningful life choices rather than being trapped by the myth of choice and societal apathy within.

#### IV. CONCLUSION.

Looking out into the cities today at the beginning of the 21<sup>st</sup> Century, we are apt to see gleaming buildings awash with condos for the wealthy and childless, diversity unmatched anywhere in the world, and a feeling of excitement that simply does not exist beyond our urban core. Yet, as argued throughout this paper, if we look beyond the buildings, stadiums, and demographic reports, we will find the poverty concentrated among minority groups, segregated housing where the worst quality is disproportionately relegated to racial and ethnic minorities, and we will find schools that too often fail the children most in need of quality education. And we will find levels of disinterest that are hard to understand. In summarizing the Supreme Court's 2003 Term, Professor Paul Butler noted that race was not much of an issue.<sup>85</sup> It seems we could go farther than that to say that race and ethnicity are no longer societal concerns, as we have found a curious convergence of interests in minority communities denouncing integration in favor of diversity and the white power elite signing on with gusto that ought to have made just about anyone suspicious. We need greater resolve so that we do not come to accept the current state of affairs on racial and ethnic inequality as the best we can hope for. After all, that is the position of Justices Scalia and Thomas. While it is easy to criticize integration as requiring assimilation of white values, it would be far better to remember the goals of integration, of achieving true equality of opportunity for those who have so

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<sup>85</sup> Legal Times cite.

long been denied that opportunity, are still worth pursuing, and nowhere is that more apparent than in our cities, which must not become stratified layers of white individuals wealthy enough to send their children to private schools and racial and ethnic minorities consigned to public schools that will help ensure perpetuation of inequality. We can, after all, do better than that.