

The Race and Class Nexus: An Intersectional Perspective

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Introduction

In his groundbreaking 1903 treatise, *The Souls of Black Folk*, W.E.B. Du Bois wrote, "the problem of the twentieth century is the problem of the color-line."¹ A century later, and a generation removed from the struggles of the Civil Rights era, many now suggest that class, not race, is the greatest cleavage in American society.² They maintain that any real or apparent racial inequality between racialized groups is better explained by class and culture, and that if race ever had any explanatory power, that time is now behind us.³ A declining minority stresses that race is still important and that in a number of circumstances race continues to trump class.⁴ Those who advocate this position often point to the residential segregation of even middle class Blacks, racial profiling, or even the difficulty Black men encounter in fetching a cab in New York City.⁵ This debate is not academic. Public opposition to race-based affirmative action is justified in part by a class assertion.⁶ Others have argued that we should

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1. W.E.B. DUBOIS, *THE SOULS OF BLACK FOLK* 15 (Modern Library ed., The Modern Library 2003) (1953).

2. See, e.g., Adolph Reed, *The Real Divide*, *THE PROGRESSIVE*, Nov. 2005, at 27-32, available at http://progressive.org/mag_reed1105.

3. See *id.*

4. See generally DERRICK BELL, *RACE, RACISM AND AMERICAN LAW* (2000) (discussing segregation in public schools, housing, and discrimination in voting rights and the administration of justice); LANI GUINIER & GERALD TORRES, *THE MINER'S CANARY* (2002).

5. See Reed, *supra* note 2, at 31; see also RICHARD KAHLENBERG, *THE REMEDY: CLASS, RACE, AND AFFIRMATIVE ACTION* 162 (1996).

6. See KAHLENBERG, *supra* note 5, at 115 (discussing how affirmative action used to be popular when the economy was prosperous but as family incomes in the United States start to fall flat, race-based affirmative action is becoming less popular).

pursue class based integration and drop the call for racial integration of K-12.⁷ This debate is so familiar that we seldom linger to ask: "What is race and class?" Further, we fail to reflect on how they have influenced each other's development in America. The answer affects the way we carry out social policy, make law, and create meaning. Uncovering the influence and interrelationship of race and class is the aim of this Article.

More specifically, this Article argues that the development of a socially-inclusive agenda must account for race, class, and their interrelationship.⁸ There is a prevailing assumption in liberal discourse that race and class are analytically separable and that it would be a wiser course, as a matter of strategy, to address racial disparities through class-based measures.⁹ Liberals worry that a focus on race will quickly degenerate into a narrow form of balkanization and identity politics, alienating potential allies and population segments that might be receptive to a progressive message.¹⁰ This Article asserts that these assumptions are wrong analytically, historically, and strategically. Many traditional liberals also long believed that conservatives enjoyed the "unwarranted support from poor and working-class Whites in the South because the race question diverted them from pursuing their 'real interests.'"¹¹ They assumed that the extension of the right to vote and other civil rights for southern Blacks would diminish the importance of racial issues and result in a class-based realignment in which southern working class Whites would

7. See, e.g., KAHLBERG, *supra* note 5, at 99-100, 155-156; see also Richard H. Fallon, Jr., *Affirmative Action Based on Economic Disadvantage*, 43 UCLA L. REV. 1913 (1996); Martha Mahoney, *Class and Status in American Law: Race, Interest, and the Anti-Transformation Cases*, 76 S. CAL. L. REV. 799, 800 n.2 (2003) (citing R. Richard Banks, *Meritocratic Values and Racial Outcomes: Defending Class-based College Admissions*, 79 N.C. L. REV. 1029 (2001)); Deborah C. Malamud, *Assessing Class-Based Affirmative Action*, 47 J. LEGAL EDUC. 452 (1997); Deborah C. Malamud, *Class-Based Affirmative Action: Lessons and Caveats*, 74 TEX. L. REV. 1847 (1996); Richard H. Sander, *Experimenting with Class-Based Affirmative Action*, 47 J. LEGAL EDUC. 472 (1997).

8. We will focus on the race aspect of this dynamic both because of its importance but also because of the current trend to move away from race. See Reed, *supra* note 2, at 31; see also Ward Connerly, *The Michigan Win*, THE NAT'L REVIEW ONLINE, Jan. 30, 2007, <http://article.nationalreview.com/?q=MjYwYThkMGNjZmE3OTE4ZjBmMzQ0YTBkNzZkNzA0YWE=> (last visited Mar. 26, 2007). I believe this is a destructive move that must be corrected if we are to have a fair society not just for those raced as non-White, but for all Americans.

9. See, e.g., Reed, *supra* note 2, at 31-32.

10. See *id.*

11. MICHAEL GOLDFIELD, *THE COLOR OF POLITICS* 8 (1997) (discussing the views of V.O. Key).

act more like their northern counterparts.¹² Paradoxically, the politics of the North and the nation as a whole since the late 1960s have become more like that of the old South; race is now more successfully used in defense of conservative politics in the country as a whole.¹³ Part of the explanation for this error is due to an inadequate understanding of how race operates.

Conservatives rightly point out that race is a socially constructed category with no scientific or biological basis.¹⁴ As such, many conservatives believe that the harm caused by race is the harm of racial classification. Continuing to see race, in their view, perpetuates racial stereotypes and stigmatizes people on the basis of skin color.¹⁵ Many conservatives make the mistake that if something is not real by one measure (in this case biology), it must not be real at all.¹⁶ Although race is a scientific illusion, it remains a social reality that shapes our life chances and the way we experience both our external and internal world.¹⁷ Those who espouse the race-neutral position, on the left and the right, are basing their view on an inadequate understanding of the role of race in our society in the twentyfirst century.

While they might appear quite different, both of these views rest on similar faulty assumptions. They understand racism as a psycho-social event that occurs between discrete individuals with a focus on the psychological motivation of the prejudicial actor. While liberals would include unconscious prejudice and discrimination within individual internal motivation, conservatives would focus on more overt and intentional discrimination and be skeptical of unconscious explanations. Conservatives are more likely to explain persistent racial disparities as bad choices of the racial other caused by a culture of poverty. For both groups then, racial disparities only require redress when there are identifiable, bad, discriminatory actors and particular victims and the remedy will likely require transferring resources between Whites and non-Whites.¹⁸ This limited

12. *See id.*

13. *See id.*

14. *See* Carol R. Goforth, "What is She?" *How Race Matters and Why It Shouldn't*, 46 DEPAUL L. REV. 1, 9-11 (1996).

15. *See* Connerly, *supra* note 8.

16. *See* John A. Powell, *The Colorblind Multiracial Dilemma: Racial Categories Reconsidered*, 31 U.S.F. L. REV. 789, 790 (1997).

17. *See* John A. Powell, *Dreaming of a Self Beyond Whiteness and Isolation*, 18 WASH. U. J.L. & POL'Y 13, 39-42 (2005).

18. Because race and racism are identified as static, it is assumed that the

understanding of race assumes that racism is primarily about discrimination and the needs of non-Whites. This model of victim/perpetrator, disparity, and either unconscious racism or bad culture does not sufficiently explain current inequalities nor does it grapple with the complex work that racial and ethnic identity do within the larger society.

I assert that there is a broader, richer understanding of race that is not only about individual, intentional, or unconscious discrimination directed at people of color. While individual prejudice and discrimination remain relevant, I will assert that race, racial meanings, and racial practices are really about all people in the United States, cultural meaning, institutional arrangements, and their interactions. These inter-institutional actions and structures cannot be understood by looking for a single cause. They produce outcomes through multiple interactions better understood as cumulative mutual causation. One of my assertions is that racial practices in the United States help define the meaning and development of our understanding, and the practices of class. The story of the fight for states' rights, unions, our electoral system, and limited federal government is radically incomplete without being informed by race.¹⁹ Equally, fragmentation in metropolitan space with segregated neighborhoods and high poverty schools cannot simply be explained by racially-neutral, local controls.²⁰ I am not asserting that race is more important than class, but I am rejecting the notion that class explains race. Instead I am asserting that race and class are distinct and at the same time mutually constitutive, recursive processes in the United States that render race and class radically incoherent without understanding their interactive nature.

In Part II, I will focus on the heavy footprint race has left on the development and meaning of class in the United States. Racial meaning, identity, and practices have helped shape class identity and inhibit class consciousness. I will also show how racist attitudes, the creation of racial identities, and the

absence of prejudiced actors means that there is no racism. Race, racial meanings, and racism are an evolving set of social practices and circumstances that change just as other social practices change.

19. See *infra*, Part II: A. and B.

20. See INST. ON RACE & POVERTY, RACISM AND METROPOLITAN DYNAMICS 4 (2002), available at <http://www1.umn.edu/irp/publications/racismandmetroynamics.pdf>.

Crow was fully in place. This system of racial separation and exclusion had considerable class impact. Long into the twentieth century, the South remained a "one-party region" that used fraud and violence to stifle dissent.¹⁹⁴ This power of the solid South, an enduring consequence of Reconstruction's failure and the crushing of the Populist movement, weakened the prospects for both change in racial matters and progressive legislation generally, a fact that comes into focus in the New Deal era.

F. Race and Class During the New Deal

Class and race directly intersected in the cluster of social policies that emerged during the New Deal. Although Blacks were still excluded from the benefits of citizenship through various devices, such as poll taxes, they counted for apportionment purposes.¹⁹⁵ The Southern Congress possessed legislative veto power over all social policy.¹⁹⁶ In addition to the power of the filibuster, a power proudly exercised, the Southern Democratic Party was able to build "ramparts within the policy initiatives of the New Deal and the Fair Deal to safeguard their region's social organization."¹⁹⁷ This was accomplished through control of senior positions on key committees, "close acquaintance with the legislative rules and procedures, and by taking advantage of the gap between the intensity of their feeling and the relative indifference of their fellow members of Congress."¹⁹⁸ The seniority that Southern congressmen enjoyed was a corollary to one party dominance in the region. This legislative power was deployed in three ways to fortify racial hierarchy within New Deal programs: (1) drafting of laws that were racially discriminatory and drawn along racial lines; (2) insistence on local administration, which protected Southern social, political, and economic systems; and (3) prevention of the attachment of anti-discrimination provisions to pending legislation.¹⁹⁹ "The early architecture of the welfare state, created during the mid-1930s, thus bore the stamp of Jim Crow racism."²⁰⁰

194. See Alesina & GLAESER, *supra* note 107, at 256.

195. See AMAR, *supra* note 33, at 87-88.

196. See IRA KATZNELSON, *WHEN AFFIRMATIVE ACTION WAS WHITE* 20 (Norton 2005).

197. *Id.* at 22.

198. *Id.*

199. See *id.* at 22-23.

200. ANDREW BARLOW, *BETWEEN FEAR AND HOPE: GLOBALIZATION AND RACE IN*

1. The Social Security Act

The Social Security Act was unparalleled in American history. It was a permanent edifice of social welfare programs providing for old-age pensions, benefits for surviving spouses, unemployment compensation, and assistance for the poor.²⁰¹ But because of exclusions of agricultural, domestic workers, and many self-employed workers, sixty-five percent of African Americans were denied its protections.²⁰² Only when Republicans gained control of the federal government in 1954 were the occupational exclusions removed and contributions on behalf of these groups initiated.²⁰³ Even then, many Blacks were unable to catch up because of the requirement of five years contribution before receiving benefits.²⁰⁴

Provisions regarding aid to dependent children were made less national in that the federal government shared costs with the states, who in turn had discretion in setting benefit levels.²⁰⁵ Once a state had received a grant, it controlled expenditure.²⁰⁶ Benefit levels for assistance to the elderly²⁰⁷ were also set by the states.²⁰⁸

The unemployment insurance provision exemplified both strategies.²⁰⁹ It was less inclusive because it was limited to workers whose employers had previously paid into the system in addition to giving control over benefit levels to the states.²¹⁰ "In short, each of the old age, social assistance, and unemployment provisions of the Social Security Act"²¹¹ took on racial contours,²¹² and liberal, Northern Democrats acquiesced to maintain their alliance with Southern Democrats.²¹³

THE UNITED STATES 37 (Rowman & Littlefield 2003).

201. See KATZNELSON, *supra* note 196, at 36.

202. See *id.* at 43.

203. See *id.*

204. See *id.*

205. See *id.* at 45.

206. See *id.*, at 45.

207. *Id.*

208. See *id.* at 46.

209. See *id.* at 47.

210. See *id.*

211. *Id.* at 48.

212. See *id.*

213. See *id.* at 50.

2. Labor Legislation

The National Labor Relations Act²¹⁴ ("NLRA") and the Fair Labor Standards Act²¹⁵ ("FLSA") were important and even revolutionary labor laws that helped improve the conditions of working-class Americans. These acts were passed by means of a trade of the votes of Southerners for the exclusion of farmworkers and maids—occupational categories open to African Americans in a racially restrictive labor market—from protection.²¹⁶ In circumstances where Republicans opposed these laws, the Democratic Party made racially relevant adjustments to secure a winning coalition.²¹⁷ Although the predecessor to these laws, the National Industrial Recovery Act ("NIRA"),²¹⁸ had no explicit exclusion for agricultural and domestic workers,²¹⁹ the National Recovery Administration ("NRA") retroactively read such exclusions into the law.²²⁰ The new arrangements were thus friendly to labor, but inhospitable to the majority of African Americans living below the Mason-Dixon Line.

In the 1930s, unionization was uncommon in the South but "important to [Northern] Democrats who represented large industrial constituencies."²²¹ However, low unemployment and booming industry during WWII sparked fears that these new laws would help undermine the South's racial order as Blacks were being organized by labor while Whites were overseas.²²² Southerners were concerned "that labor organizing might fuel civil rights activism,"²²³ and that "close enforcement of the [FLSA] would cause wage leveling along racial lines."²²⁴ "By the end of 1936, seasoned Southern Democrats feared that the New Deal was reeling beyond their control."²²⁵ The Southern Representatives who had once helped construct the new labor regime flipped their votes.²²⁶ It was only at this point that Northern Democrats united

214. 29 U.S.C. § 151, et. seq. (2006).

215. 29 U.S.C. § 201 et. seq. (2006).

216. See KATZNELSON, *supra* note 196, at 55.

217. See *id.*

218. 15 U.S.C. § 703 (1933) (partially repealed 2002).

219. See KATZNELSON, *supra* note 196, at 50.

220. See *id.* at 56-57.

221. *Id.* at 55.

222. See *id.* at 61.

223. *Id.* at 68.

224. *Id.* at 68.

225. PATRICIA SULLIVAN, DAYS OF HOPE 4 (1996).

226. See KATZNELSON, *supra* note 196, at 61.

to oppose Southern efforts to obtain broad agricultural exclusions.²²⁷

The new industrial unions and Northern Black voters were important components of the Roosevelt landslide victory in 1936.²²⁸ Roosevelt argued that the low-wage economy in the South stifled economic recovery and deprived the region of the benefits of economic growth: better schools, health, hospitals and highways.²²⁹ However, there were poll taxes and other obstacles that prevented most Southern Blacks and low-income Whites from voting.²³⁰ "This was the constituency of the New Deal,"²³¹ and their inability to vote in the primary elections kept anti-progressive politicians in office. For that reason, Roosevelt "directly intervene[d] in the primary elections of 1938, supporting the liberal candidates who shared his commitments to a broad program of economic and social reform."²³² This attempt to bring the South into line with the national Democratic Party implicitly challenged the political foundation of White supremacy by mobilizing disenfranchised groups who supported the New Deal.²³³ The Southern response was unmistakable in its opposition and fiery rhetoric. "Senator Walter George of Georgia called Roosevelt's . . . action 'a second march through Georgia.'"²³⁴ Roosevelt's efforts ultimately failed and combined with "Republican gains in the midterm elections."²³⁵ It marked what many historians call "the end of the legislative phase of the New Deal."²³⁶ Thus, the rhetoric of Reconstruction and the racial ideology that sat at the center of it were once again deployed to prevent progressive reform.

The South was a White, one party system that could ignore Black interest. Democrats from the South enjoyed safe seats and, through the benefits of seniority controlled a number of key committee chairs. They exercised either a swing vote or a veto over any legislation that would challenge White Southern rule,²³⁷ and therefore were hostile to the interest of most White working-

227. *See id.*

228. *See SULLIVAN, supra* note 225, at 60.

229. *See id.* at 62.

230. *See id.* at 66.

231. *Id.*

232. *Id.* at 65.

233. *See id.* at 62, 65-66.

234. *Id.* at 5.

235. *Id.*

236. *Id.* at 104.

237. *See id.*

class Americans as well. Although Republicans were "23 seats shy of a majority in the Senate"²³⁸ and fifty from a majority in the House, "they found allies among Democrats who shared their opposition to the reformist and largely urban agenda of the New Deal and to the aggressive new labor movement it spawned."²³⁹ "The power of the bipartisan anti-New Deal coalition was quickly demonstrated in . . . Congress."²⁴⁰ A spate of anti-labor legislation, culminating with the Smith-Connally Act of 1943,²⁴¹ exposed the political weakness of the labor movement and the tentative nature of its achievements. The defection of southern Democrats from the coalition supporting labor issues was "devastating for unions and particularly harmful for black workers."²⁴² The product was the Taft-Hartley Act,²⁴³ which curtailed the rights of labor organizers and unions generally.²⁴⁴

As a result, union action was considerably narrowed and constrained. "Unions continued to be relatively contained within the enclaves of the northeast, midwest, and far west, with rather low union density in . . . the south and the area between the Mississippi River and the states on the west coast."²⁴⁵ Efforts to organize in the South virtually collapsed altogether after Taft-Hartley.²⁴⁶ Unions moved to focus on workplace issues, such as wages, work rules and conditions, and fringe benefits, and thus limited the scope of union energy. Instead of pushing for government welfare programs for all who need them, "they concentrated on securing pension and health insurance provisions," and generous bargaining agreements for their members.²⁴⁷ This made unions less class-focused and a less willing partner in progressive coalitions. Unions were the one national force best able to articulate and organize around

238. *Id.*

239. *Id.*

240. *Id.*

241. War Labor Disputes Act (Smith-Connally Anti-Strike Act), ch. 144, 57 Stat. 163 (1943).

242. SULLIVAN, *supra* note 225, at 104; see KATZNELSON, *supra* note 196, at 62-66.

243. Labor-Management Relations (Taft-Hartley) Act, ch. 120, 61 Stat. 136 (1947).

244. See KATZNELSON, *supra* note 196, at 62-66.

245. Sean Farhang & Ira Katznelson, *The Southern Imposition: Congress and Labor in the New Deal and Fair Deal*, 19 STUDIES IN AM. POL. DEV. 1, 5 (Spring 2005).

246. See KATZNELSON, *supra* note 196, at 77-78.

247. *Id.* at 78.

economic issues. These decisions therefore stifled the civil rights impulse and unnecessarily narrowed it to non-economic issues. Ironically, the constrained position of unions helped under the issue of race and the question of labor markets so that the emergent civil rights movement "transformed jurisprudence and shaped landmark legislation without possessing instruments with which to redress economic harms."²⁴⁸ Once again, racial divisions limited the political and economic vision and possibilities for all Americans.

3. Veterans' Benefits

The Selective Service Readjustment Act,²⁴⁹ ("GI Bill"), was "the most wide ranging set of social benefits ever offered by the federal government in a single initiative."²⁵⁰ "Between 1944 and 1971, federal spending for former soldiers [under the GI Bill] totaled over \$95 billion."²⁵¹ "More than 200,000 [veterans] used the bill's access to capital to acquire farms or start businesses. Veterans Administration mortgages paid for five million new homes."²⁵² President Clinton called the educational, residential, financial, and social changes brought about by the GI Bill a "true social revolution."²⁵³ It was under GI Bill interest rates and thirty-year loans that Americans first became more likely to purchase a home than rent.²⁵⁴ The domestic face of America underwent a transformation that included the seeds of suburban sprawl. "Residential ownership became the key foundation of economic security for the burgeoning and overwhelmingly White middle class."²⁵⁵ Equally impressive were the educational benefits. "By 1950, the federal government spent more on schooling for veterans than on expenditures for the Marshall Plan."²⁵⁶ For the first time, millions of Americans acquired a college degree, transforming the economic destiny of the nation.²⁵⁷

248. Farhang & Katznelson, *supra* note 245, at 7.

249. Act of June 22, 1944, ch. 268, 58 Stat. 284 (repealed 1958)(provisions contained in 38 U.S.C. § 3701 et. seq.).

250. KATZNELSON, *supra* note 196, at 113.

251. *Id.*

252. *Id.* at 115.

253. *Id.*

254. *See id.* at 116. From 1945 to 1954, the United States added 13 million new homes. *Id.*

255. *Id.*

256. *Id.*

257. *See id.* at 114.

Although the GI Bill was formally colorblind, "there was no greater instrument for widening an already huge racial gap in postwar America."²⁵⁸ The GI Bill provided for local and state administration with Congressional oversight—oversight that lay in the control of a powerful committee headed by Rep. John Rankin, a Southern congressman.²⁵⁹ As a result, Blacks were excluded, rejected, and discouraged from partaking in the benefits of a generous and formative federal program.²⁶⁰ For example, one provision in the Bill prevented an agency of the United States from supervising or controlling any state educational agency in the administration of educational funds during this era of almost complete educational segregation.²⁶¹ Blacks in the South were shunted into Black institutions with poor quality facilities and fewer degree options.²⁶² Even the vocational programs under the GI Bill had discriminatory effects. Because Blacks were discriminated against in many professions, they were unable to secure jobs necessary to take advantage of the vocational subsidy.²⁶³

Thus, in the cluster of social policies that emerged during the New Deal, class and race directly intersected with profound consequences. Racially laden national programs widened the gap between White and Black Americans in the aftermath of the World War II just as a middle class first emerged. These New Deal programs, therefore, were not merely discriminatory; they were an affirmative action program for Whites.²⁶⁴ Moreover, not only were Blacks excluded from the full benefits of the programs, a fact which results in tremendous disparities today, but racial fears also induced proponents of these programs to narrow their scope and applicability, and ultimately reverse their trajectory to the detriment of working-class Whites. To understand the full impact of the New Deal social policy, we need to understand how these policies influenced class identity.

258. *Id.* at 121.

259. *See id.* at 123.

260. *See generally id.* at 127-29 (discussing the de facto exclusion of Blacks from participation in the GI Bill).

261. *See id.* at 138.

262. *See id.* at 129-33.

263. *See id.* at 135.

264. *See id.* at 128.

G. Race and the Middle Class

The class order that emerged in the post-war period was a break from the past. Americans today have no easily accessible perspective to appreciate the extent of this departure. The phenomenal economic growth of the post-war period was shaped by racially inscribed New Deal institutions to produce both the economic reality and a new identity of "middle class." "The unprecedented wage hikes (including increases in benefits, retirement funds, and social insurance programs), coupled with housing and educational subsidies of the GI Bill, transformed many Americans' understanding of the basic rules of society."²⁶⁵ In this way the institutional apparatus built during the New Deal was instrumental in shaping the development of class identity and defining racial as well as class interest. "By the mid 1950s, the class consciousness of America was markedly different from what it had been even in 1946."²⁶⁶ A "look at the 1930s and 1940s reveals open and intense conflict between workers and their employers."²⁶⁷ In contrast, the newly emergent middle class was the embodiment of the idea that everyone could achieve the American dream by cooperating with corporate America.²⁶⁸

There is a prevailing assumption that class is primarily an economic location.²⁶⁹ In fact, "class is as much a cultural as an economic formation."²⁷⁰ The middle class is not organized around income or even wealth. Instead, the middle class is organized on a moral basis, built upon the concept of merit. "The narrative of the American Dream – if individuals work hard and play by the rules, they succeed—invariably trumps other explanations such as class structure."²⁷¹ Thus, individual hard work is the primary explanatory variable for social mobility.²⁷² As a consequence, the middle class is understood in individualistic terms of status rather than economic status or group position.

265. BARLOW, *supra* note 200, at 33.

266. *Id.* at 34.

267. *Id.*

268. *See id.*

269. *See* Martha Mahoney, *Class and Status in American Law: Race, Interest, and the Anti-Transformation Cases*, 76 S. CAL. L. REV. 799, 804-05 (2003) (citing E.P. THOMPSON, *THE MAKING OF THE ENGLISH WORKING CLASS* 13 (1964)) (discussing how class is directly related to economics).

270. *Id.* at 804 (quotations omitted).

271. GUINIER & TORRES, *supra* note 4, at 103.

272. *See id.*

This middle class identity reflects concepts of self, individuality, merit, and access that impede change. Middle class notions of individuality and just desserts limit the potential for solidarity on the basis of class. With the arrival of the middle-class in the 1950s, working class consciousness evaporated from American society.²⁷³ Coalition building requires some basis for commonality and solidarity. The middle class order does not offer a class alternative for organizing understood in group terms. Class-based programs are fundamentally conservative because they reaffirm the institutional arrangements that support existing class relations by attempting to advance particular individuals to the status of middle class. "Political transformation occurs . . . when we change asymmetrical power relationships, rather than merely struggle for the right to participate in them."²⁷⁴ To build a sustainable, socially-inclusive majority, there must be a focus on building conditions for shared struggles for change, rather than just on advancing individuals to the status of the middle-class.

It is not simply that the middle class identity that emerged in the post-war period replaced solidaristic narratives of class struggle with individualistic narratives. The middle class is situated upon institutional arrangements that actively prevent cross-racial solidarity. "Class identity is constructed not only from economic position,"²⁷⁵ but also through shared action and experience, which is severely limited by educational, occupational, and residential segregation.²⁷⁶ In this way, the middle class understanding that emerged affirms antebellum narratives of racial inferiority while obscuring the ways in which the institutional framework of the New Deal locked Blacks out of the middle class.

"Residential segregation was systematically promoted during the 1930s, 1940s, and 1950s by federal programs such as the Home Owners Loan Corporation and the Federal Housing Authority, which insured private sector loans."²⁷⁷ These federally-backed instruments used redlining, local control, and overt discrimination to make it very difficult, if not impossible, for

273. See BARLOW, *supra* note 200, at 34.

274. GUINIER & TORRES, *supra* note 4, at 147.

275. Mahoney, *supra* note 269, at 804.

276. See *id.*

277. Martha Mahoney, *Segregation, Whiteness, and Transformation*, 143 PENN. L. REV. 1659, 1669 (1995).

Blacks to qualify for mortgages.²⁷⁸ "From the 1930s, through the 1950s, the FHA's *Underwriting Manuals* considered blacks 'adverse influences' on property values, and the agency instructed personnel not to insure mortgages on homes unless they were in 'racially homogenous' white neighborhoods."²⁷⁹ Under the FHA's community eligibility rankings,²⁸⁰ the "FHA actually refused to lend money or underwrite loans for whites if they moved to areas where people of color lived."²⁸¹ "Although the FHA removed explicitly racist language from its manuals in the 1950s, private appraisal associations, real estate agents and firms, and banks continued to use such language through the 1970s,"²⁸² and the earlier FHA system became part of the free market.²⁸³ In this way, the ranking system that the government initially used to determine eligibility structured the market in ways that persisted long after the market was scrubbed of explicit racial redlines. "Thanks to the FHA, no bank would insure loans in [low-income African-American neighborhoods], and few African Americans could live outside [of them]."²⁸⁴

The FHA set national standards in valuation and appraisal criteria that actors throughout the housing market adopted and applied to reinforce and institutionalize racial housing segregation on a national scale.²⁸⁵ "Until 1949, the FHA [also] encouraged the use of restrictive covenants banning African Americans from certain neighborhoods."²⁸⁶ Some "scholars have estimated that racially restrictive covenants were in place in more than half of all new subdivisions built in the United States until 1948, when the

278. *See id.*

279. Kevin Fox Gotham, *Urban Space, Restrictive Covenants and the Origins of Racial Residential Segregation in a U.S. City, 1900-50*, 24.3 INT'L J. OF URBAN AND REGIONAL RES. 616, 625-26 (2000).

280. The government would rank communities in terms of their eligibility for federally-financed or insured loans. *See Mahoney, supra note 277*, at 1670 (1996).

281. *Id.*

282. Gotham, *supra note 279*, at 626.

283. *See Mahoney, supra note 277*, at 1671 ("Federal action therefore helped to create racialized housing markets: Once racialized community development through the control of the real estate finance market was institutionalized as federal policy, any private sector actor who went against the segregated norm would have compromised buyers with federally funded or insured mortgages on resale of the property, and the mortgage insurability of nearby properties, rested on maintaining whiteness in suburbia.")

284. BARLOW, *supra note 200*, at 37 (quotations omitted).

285. *See id.*

286. *Id.*

United States Supreme Court declared them unenforceable.²⁸⁷ After *Shelley v. Kraemer*,²⁸⁸ "the Federal Housing Administration's building and homeownership subsidies . . . drew whites out of central cities, denied mortgages to blacks and channeled capital into suburban housing construction."²⁸⁹

The use of racially restrictive covenants in the first half of the 20th century by the nascent real estate industry, local land developers, and homeowner associations was important not simply in the creation of residential segregation, but in the social construction of race and racialized space.²⁹⁰ Prior to residential segregation, residents did not interpret Black culture or behavior as connected to a particular place occupied exclusively by Blacks.²⁹¹ However, "[k]ey actors within the emerging real estate industry, as well as housing reformers and social workers, helped nurture and promulgate a segregationist ideology and negative image of the emerging black ghetto as a pathological, dangerous and nefarious place, to be avoided by whites and other ethnic groups."²⁹² The use "of racially restrictive covenants helped nurture and reinforce emerging racial stereotypes that identified black living space and culture with deteriorating neighborhoods and dilapidated housing."²⁹³ Arguments that exclusion of Blacks was necessary to preserve property values perpetuated such restrictive covenants.²⁹⁴ "Over time, the perceived connection between race, behavior and place" has become a justification for residential separation and disinvestment "in racially mixed and

287. Gotham, *supra* note 279279, at 618 (The Supreme Court struck down restrictive covenants in *Shelley v. Kraemer*, 334 U.S. 1 (1948)).

288. 334 U.S. 1 (1948).

289. Gotham, *supra* note 279, at 618.

290. *See id.* at 629.

291. In Kansas City during the 19th century, for example, Blacks lived in biracial areas intermixed with both the wealthy and the poor. Before 1900, the average Black person in Kansas City tended to live in a ward that was approximately 13% Black. *See id.* at 618-19.

292. *Id.* at 617-18.

293. *Id.* at 618.

294. The National Association of Real Estate Boards ("NAREB") published pamphlets and periodicals warning "that racial minorities threatened property values and that neighborhoods should be racially homogenous to maintain their desirability." *Id.* at 621 (citations omitted). NAREB "amended its code of ethics in 1924 to read 'a Realtor should never be instrumental in introducing into a neighborhood . . . members of any race or nationality . . . whose presence will clearly be detrimental to the property values in that neighborhood.'" *Id.* (citations omitted). A number of early real estate textbooks also stressed the importance of segregation for maintaining neighborhood value and profitable land sales. *See id.*

non-white areas."²⁹⁵ Black neighborhoods and eventually entire cities became and remain stigmatized.

Homeowners associations also functioned as racial gatekeepers in many communities. "They raised money to purchase property from recent black homeowners, bought homes from landlords renting to blacks... and lobbied... for the passage of discriminatory land-use ordinances."²⁹⁶ They organized boycotts of "businesses who catered to black clients" and threatened "suits to revoke the licenses of real estate agents who sold homes to blacks."²⁹⁷ Some called meetings and solicited door-to-door,²⁹⁸ while others used "legal and financial resources to enforce racial restrictions throughout the court system."²⁹⁹ In some instances, they went so far as to post threatening letters and signs designed to discourage Blacks from moving into White neighborhoods.³⁰⁰ Importantly, homeowners associations fostered White racial solidarity. The stereotypes that emerged were disseminated by real estate firms and community builders to protect their investments in cities throughout the country.³⁰¹ Across the Nation, residential segregation is both a cause and a product of what race has come to mean in America.

The combination of racially discriminatory public policy and private discrimination produced entrenched patterns of residential segregation and resource disparities that continue today in spite of "numerous anti-discrimination statutes, Supreme Court decisions, and fair housing legislation."³⁰² Achieving home ownership helped White American workers achieve middle class status in socio-economic terms and the thirty-year mortgage became the primary mechanism by which most White families created wealth.³⁰³ "Renters accumulate no equity, while homeowners almost always secure financial gains that exceed inflation."³⁰⁴ For Blacks, these

295. *Id.* at 618.

296. *Id.* at 627.

297. *Id.*

298. *See id.* at 628.

299. *Id.*

300. *See id.* (describing one poster in Kansas City that read "Danger! Colored people are hereby notified that they will not be allowed to live in this block. This block is white and is going to stay white at any cost.>").

301. This pattern occurred in Washington D.C., Detroit, Los Angeles, Chicago, St. Louis, and Philadelphia, among other places. *See id.*

302. *Id.* at 629.

303. *See* KATZNELSON, *supra* note 196, at 115-16.

304. *Id.* at 163.

"missed chances at home ownership compound over time."³⁰⁵ "By 1984, when GI Bill mortgages had mainly matured, the median white household had a net worth of \$39,135; the comparable figure for black households was only \$3,397 or just 9 percent of white holdings."³⁰⁶ Today, in spite of significant past efforts to reduce housing discrimination and important recent efforts to address mortgage discrimination and boost homeownership rates for people of color, the average net worth of White families is still ten times that of African Americans.³⁰⁷

The racism that influenced the New Deal programs and excluded Blacks institutionalized racial disparities and opportunities. The invisibility of the racial imprint on middle class consciousness and institutions makes it possible for rejuvenated narratives of Black inferiority and unworthiness to persist. The inability of people of color to enter suburbia, though it was the direct result of federal programs, has been excused by means of the familiar narrative of Black inferiority.³⁰⁸ Whites increasingly accepted the narrative of merit that they had "earned" their homes and all the opportunities associated with it. Thus, Whites described their rights in humble "bootstrap" terms: homeowners rights were the reward for sacrifice and duty.³⁰⁹ "The government programs that subsidized white homeownership or defined political boundaries to determine access to education were taken for granted and remained largely invisible."³¹⁰ Segregated neighborhoods allow segregation to be naturalized to such a degree that today's residential patterns can be falsely perceived as the result of "natural" preference.³¹¹

The narrative of White merit was also understood as Black failure. "Working class whites interpreted the 'wretched conditions' in predominantly black communities as the fault of 'irresponsible blacks.'³¹² White aspirations to upward mobility "depended on maintaining residential distance from blacks, even

305. *Id.*

306. *Id.* at 164.

307. *Id.*

308. See Lani Guinier, *From Racial Liberalism to Racial Literacy: Brown v. Board of Education and the Interest Divergence Dilemma*, J. OF AM. HIST. 106 (June 2004).

309. See *id.* at 108.

310. *Id.* at 106.

311. See Martha Mahoney, *Whiteness and Remedy: Under-Ruling Civil Rights in Walker v. City of Mesquite*, 85 CORNELL L. REV. 1309, 1328 (2000).

312. Guinier, *supra* note 308, at 106.

though it was the more affluent and educated blacks that sought to move into white neighborhoods."³¹³ "White middle-class individualism, thus, is defined in opposition to blacks, who are seen as an excluded but ominous group who do not share white middle-class values."³¹⁴ Fears of integration were manipulated by politicians and self-interested business people who used racially coded rhetoric to divert attention from economic conditions.³¹⁵

Racial meaning with class implications permeated the formative moments of institutional development, particularly the rise of suburbia. Because it appears natural and inevitable, this institutionalization supports narratives of inferiority and unworthiness without the racial animus that drove such narratives in the past. Consequently, this institutionalization is much more resistant to change because opposition to race-focused remedial programs appears rational. Racial segregation, largely a result of New Deal policies, set the stage for White "backlash" long before the civil rights movement.

As a consequence of this racializing of opportunity and the work of the civil rights movement, the meaning of racism changed. Although the stigmatization of Blackness continues, along with racist attitudes and stereotypes, racism is based more on hoarding than explicit animosity.³¹⁶ Consider, for example, White resistance to low-income housing in their neighborhoods as deriving from a fear of lower property values. The class interest encourages workers to seek multiracial and multinational unity. On the other hand, as a person with White privileges, a White worker also has a real material interest in preserving his or her privileged access to jobs, political power, citizenship, social services, education, housing, and so on. According to a study of White neighborhood associations in Detroit in the 1950s, "blue-collar whites measured their individual success by their ability to"³¹⁷ distance themselves from Blacks,³¹⁸ and working-class and

313. *Id.*

314. BROWN, *supra* note 185, at 351.

315. See Guinier, *supra* note 308, at 105.

316. See David Theo Goldberg, *Racial Americanization* ¶ 6 (unpublished article, available at <http://ejournals.library.vanderbilt.edu/ameriquests/viewarticle.php?id=15>). Goldberg writes "segregation emerged as the dominant and formalized modality of racism in the United States as freed slaves moved off the plantations and into the cities." According to Prof. Goldberg, the full effects of this development were already realized in the cities by the 1920s and 1930s. See *id.* at ¶ 4.

317. Guinier, *supra* note 308, at 106.

poor Whites expressed negative views toward Blacks more frequently than other respondents.³¹⁹

Middle class identity and the assumptions that sustain it are significant impediments to change and the development of a broadly-based, socially inclusive movement. "The social processes that"³²⁰ determined home ownership rates for "whites and not blacks"³²¹ have consolidated racial attitudes and institutionalized urban/suburban, "mak[ing] work on job development difficult."³²² Residence in public housing or the inner city signals lower-class status, which is identified with undesirable employment characteristics.³²³ "Low levels of labor organization lead white workers to interact less with leaders who are invested in building multi-racial solidarity."³²⁴ Diminished working class consciousness coupled with residential segregation exerts a conservative effect on White Americans.³²⁵ Race provides an account for the fact that "few working-class and poor whites achieve their version of the American dream."³²⁶ The merit ethic of the American Dream deprives White workers of the tools to engage in a critique that might motivate social change.³²⁷ "Race is part of the construction of class-as-status,"³²⁸ and this individualistic ideology "is part of what defeats the development of solidaristic consciousness."³²⁹ This individualistic middle class identity is an inadequate foundation upon which to build a socially inclusive movement.

H. Race and Class Today

Race and class are mutually constitutive. They developed in

318. See *id.* (citing THOMAS J. SUGRUE, *THE ORIGINS OF THE URBAN CRISIS: RACE AND INEQUALITY AND POSTWAR DETROIT* (Princeton, 1996)).

319. Thomas J. Sugrue, *Crabgrass-Roots Politics: Race, Rights, and the Reaction against Liberalism in the Urban North, 1940-1964*, *J. OF AM. HISTORY* 556 (1995). "Among poor and working class whites, 85 percent supported racial segregation, in contrast to 56 percent among middle income and 42 percent among upper-income whites." *Id.*

320. Mahoney, *supra* note 277, at 1674.

321. *Id.*

322. *Id.* at 1684.

323. See *id.* at 1674-75.

324. Mahoney, *supra* note 269, at 877.

325. See Mahoney, *supra* note 277, at 1684.

326. Guinier, *supra* note 308, at 108.

327. *Id.* at 108-09.

328. Mahoney, *supra* note 269, at 829.

329. *Id.*

a mutual trajectory despite their distinctiveness. The economic needs of Southern planters and the economic fears of the emergent White working class played a prominent role in the initial process of racialization and the outward spread of racial prejudice.³³⁰ Today, the advantages of Whiteness, often understood in terms of the benefits of suburban schools and high-paying jobs, operate as a defense for the status-quo. The story of middle class individualism is deployed to stigmatize the Black underclass as unworthy and unmeritorious.³³¹ The social stigma of race is expressed through social meaning, not simply individual attitudes.³³²

Race has left a heavy footprint on class. Slavery ensured that the emergent free White working class identified as White. The initial development of the welfare state was shaped by a concern to maintain Southern racial arrangements. In the twentieth century, racial segregation has given a predominantly White face to the suburban middle class and opportunities associated with it. Racial meaning is a major reason why America treats its poor more harshly than any other advanced country. The lack of a national labor movement and the failure of working class parties in the late nineteenth century can be partly attributed to our racial divide. Had the Southern labor force become a part of a national labor movement, today's class understandings would have looked quite different.

Today, race has been used to draw support to a host of policies that obstruct the development of a socially inclusive agenda. Some Whites are willing to vote against redistribution that would favor them because of racial animosity directed at Blacks who would receive the same benefits.³³³ By the 1960s, by which time segregated institutions were under attack and Jim Crow was unraveling, White workers were unwilling to sign onto universalistic social policies.³³⁴ White workers acted on what they perceived to be their short-term interest in maintaining racial control over labor and housing markets.³³⁵

Ultimately, the issue is not whether race or class perpetuates the urban underclass, but how race and class interact to undermine the social and economic well-being of most, if not all

330. See generally MARTINOT, *supra* note 29.

331. See generally GLENN LOURY, *THE ANATOMY OF RACIAL INEQUALITY* (2002).

332. See *id.* at 71.

333. See ALESINA & GLAESER, *supra* note 107, at 134.

334. See BROWN, *supra* note 185, at 166-67.

335. See *id.*

Americans. In the co-development of racial and class consciousness in the United States, class tensions have consistently been relieved through the use of racial meaning. At times, Whites have benefited, such as when Whites were given suffrage rights. In the last seventy years, although Whites have made gains, they are more limited as a result of our racial history than they otherwise would have been.

III. Targeting Within Universalism: Using Race Transformatively

Thus far we have examined the ways in which race and class interact and interrelate. Race, racialized meanings, and racialized narratives infuse our understanding of class, our political arrangements, and our social space. Nonetheless, there is deep skepticism about the utility of race as a mechanism for coalition building or agenda setting. We have been schooled to think that race may ultimately be divisive. The colorblind ideal is appealing both to liberals who fear that race will divide their constituency and to conservatives who think that race is an irrelevant category and that racial classification is the real race problem.³³⁶ Although race may be a social construction, it is a category that continues to influence the life chances and lived experiences of millions of Americans.³³⁷ Clearly, ignoring race will not change how it is used to divide. Race operates perniciously through institutions and institutional arrangements as well as symbolically through coded meaning. A recent example of the latter is the infamous "Call Me" political advertisement in a Tennessee Senate race.³³⁸ Our silence will not allow the issue to just go away. It is much too embedded in our notion of self, individually and collectively, to just

336. See John A. Powell, *The Colorblind Multiracial Dilemma: Racial Categories Reconsidered*, 31 U.S.F. L. REV. 789, 792 (1997). The move to anticlassification is now evident in the claims made before the Supreme Court regarding voluntary school desegregation. See Brief for Solicitor Gen. as Amicus Curiae, Parents Involved in Community Schools v. Seattle School Dist., No. 05-0908 (U.S. filed June 5, 2006); see Reva B. Siegel, *Equality Talk: Antisubordination and Anticlassification Values in Constitutional Struggles Over Brown*, 117 HARV. L. REV. 1470 (2004) (for an understanding of the origin and staying power of the anticlassification legal argument).

337. See Powell, *supra* note 336, at 790.

338. This ad, which ran during the 2006 Senate race between Harold Ford, Jr. and Bob Corker, is available at <http://www.youtube.com/watch?v=cWkrwENN5CQ>. The ad, purportedly mocking Harold Ford, Jr.'s bachelorhood, shows a White woman who claims to have met Harold Ford, Jr. at the Playboy Mansion, thus potentially playing on fears concerning interracial relationships. *Id.*