



2001

Middle-Class Black Suburbs and the State of Integration: A Post-Integrationist Vision for Metropolitan America

Sheryll Cashin

Georgetown University Law Center, cashins@law.georgetown.edu

Georgetown Public Law and Legal Theory Research Paper No. 241245

Georgetown Business, Economics and Regulatory Law Research Paper No. 241245

This paper can be downloaded free of charge from:

<http://scholarship.law.georgetown.edu/facpub/520>

<http://ssrn.com/abstract=241245>

86 Cornell L. Rev. 729-776 (2001)

This open-access article is brought to you by the Georgetown Law Library. Posted with permission of the author.

Follow this and additional works at: <http://scholarship.law.georgetown.edu/facpub>



Part of the [Housing Law Commons](#), and the [Law and Society Commons](#)

MIDDLE-CLASS BLACK SUBURBS AND THE STATE OF INTEGRATION: A POST- INTEGRATIONIST VISION FOR METROPOLITAN AMERICA

Sheryll D. Cashin†

INTRODUCTION	730
I. THE MIDDLE-CLASS BLACK SUBURB	735
A. History of Black Suburbanization, Popular Attitudes Towards Integration, and the State of Integration in the United States	735
B. The Extent and Origins of the Middle-Class Black Suburb	741
1. <i>The Extent of Middle-Class Black Suburbs</i>	741
2. <i>The Origins of Middle-Class Black Suburbs</i>	743
C. The Normative Rationales for All-Black Middle-Class Suburbs	746
1. <i>Separatism</i>	746
2. <i>Classism</i>	751
3. <i>Localism</i>	753
II. THE ELUSIVE SUBURBAN IDEAL	755
A. The Negatives: Why Middle-Class Black Suburbs Are Likely to Fall Short	755
1. <i>Tax Base, Tax Rates, and Government Services</i>	755
2. <i>Schools</i>	759
3. <i>Crime</i>	761
4. <i>Poverty</i>	761
B. The Positive Trends and Counterarguments	762
C. Testing the Normative Rationales	763
1. <i>Separatism</i>	763
2. <i>Classism</i>	765

† Associate Professor of Law, Georgetown University Law Center. Deputy Assistant Secretary for Empowerment Zones, Department of Housing and Urban Development (HUD), assigned to Vice President Gore (1995-1996); Director for Community Development, National Economic Council, The White House (1993-1995). I would like to thank the following persons for their invaluable comments on earlier versions of this Article: Derrick Bell, Mark Tushnet, Robin West, Florence Roisman, and Jacqueline Berrien. An early version of this article was presented to the Fourth Annual Northeast People of Color Scholarship Conference in April 2000 and to law faculty workshops at the Georgetown University Law Center and the University of Virginia School of Law. I greatly appreciate the many helpful comments I received at these fora. I would also like to thank Katrina Lederer and Christian Sundquist for their excellent research assistance.

3. <i>Localism</i>	766
III. THE ELUSIVE INTEGRATIONIST IDEAL: A POST- INTEGRATIONIST VISION.....	767
A. The Persistence of Segregation and the Elusiveness of Integration	768
B. A Post-Integrationist Vision for the American Metropolis.....	771
CONCLUSION	775

Despite the gradual move towards integration in the United States, segregated communities, divided along socio-economic and racial lines, continue to exist, and indeed have taken on new forms. Given the choice between racial segregation and integration as minority members of a community, some middle-class African Americans have chosen to create their own communities, thus forming the modern day middle-class black suburb. Now, majority African-American suburbs rest adjacent to majority-white suburbs, but the segregated communities share little but the town line.

In this Article, Professor Cashin addresses the timely and difficult question of whether the middle-class black suburb is a new utopia, or merely a separate, but unequal community. In weighing the benefits of the middle-class black suburb, she raises the even larger issue of whether the advantages of not feeling outnumbered by the white community are worth the costs of segregation. After tracing the development of the black suburbanization movement, and outlining various theories regarding its inception, Professor Cashin articulates the costs of separatism, paying particular attention to the higher crime rates, lower school funding, and greater poverty levels prevalent within these African-American enclaves. Recognizing the benefits of these separate communities, including the opportunity for African-American political power and a renewed sense of spirit and culture, Professor Cashin nonetheless argues that systematic market forces, and societal biases engender unavoidable, negative externalities that may cloud any anticipated advantages. Professor Cashin concludes that the persistence of African-American segregation, spurred by discriminatory real estate practices, a unilateral desire of all races to live as a majority in a community, and fiscal zoning, is a reality, whose driving factors must be challenged and defeated before the elusive dream of residential integration can come into being. Finally, Professor Cashin contends that it is only through honesty regarding the existing state of unequal affairs, increased enforcement of antidiscrimination laws, and the development of bridges between communities in the form of geographical and political regionalism, that equality can advance and take its place as a social norm in the twenty-first century.

INTRODUCTION

"This is the best place I can imagine living . . . All of us have been made to feel that we have to be validated by whites to be good people and good at what we do. . . . But I don't want to be validated by them By living in an all-black middle-class community, it lets us know that we're good. There

are not any white people around here staring us in the face and trying to prove we don't matter. So much goes on at the job that we have to endure, the slights and the negative comments and feelings that we're unwanted. When I have to work around them all day, by the time I come home I don't want to have to deal with white people anymore."¹

*"What I reject is this notion that we are aiming toward an integrated [community] . . . African-Americans should be aiming toward an ability to control our own destiny."*²

At the dawn of the twentieth century, a fair amount of residential integration among the races existed in American cities. At least in the cities, laborers of various hues could be found living in close proximity to each other and to more affluent classes.³ The racial segregation in housing that has become familiar to many Americans was caused by government policies that dramatically shaped private choices and opportunities in housing markets.⁴ As a result, racial and socioeconomic segregation, as opposed to integration, is now entrenched as the seemingly natural order. Although racial segregation in housing has been decreasing incrementally in the United States since the 1960s,

¹ SAM FULWOOD III, *WAKING FROM THE DREAM: MY LIFE IN THE BLACK MIDDLE CLASS* 204-05 (1996) (quoting Pam Harris, an accountant with an Atlanta real estate management firm and resident of Brook Glen, a middle-class, black "sanctuary" in suburban Atlanta.)

² David J. Dent, *The New Black Suburbs*, N.Y. TIMES, June 14, 1992, § 6 (Magazine), at 18 (quoting Radamase Cabrera, an urban planner and resident of Prince George's County, on his views about the long-term mission of the County).

³ See generally DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* 20, 24 (1993) (noting that "before 1900 African Americans could be found in most neighborhoods of northern cities . . . with black households being unevenly but widely scattered around the urban landscape" and noting that segregation levels in southern cities tended to be even lower than those in the north). Massey and Denton also cite research demonstrating that the average black-white segregation in northern and southern cities (as measured by a dissimilarity index which indicates the percentage of the black population that would have to move to achieve an even distribution of the races) rose respectively from a modest 59.2 and 38.3 in 1910 to 89.2 and 81.0 in 1940. *Id.* at 20-21; see also Reynolds Farley & William H. Frey, *Changes in the Segregation of Whites from Blacks During the 1980s: Small Steps Toward a More Integrated Society*, 59 AM. SOC. REV. 23, 24 (1994) (noting that studies of northern and southern cities demonstrate that blacks lived among whites at the turn of the century and that there was no extreme segregation of blacks); Jerry Frug, *The Geography of Community*, 48 STAN. L. REV. 1047, 1064 (1996) (noting the racial diversity in housing markets in cities in the early 1900s); Richard H. Sander, *Housing Segregation and Housing Integration: The Diverging Paths of Urban America*, 52 U. MIAMI L. REV. 977, 982 (1998) (noting that blacks "were often less residentially isolated than some European immigrant groups" in the late 1910s).

⁴ See generally MASSEY & DENTON, *supra* note 3, at 54-55 (citing the role of Fair Housing Administration underwriting rules, racially restrictive covenants, and tepid fair housing enforcement in constraining housing options for minorities, particularly African Americans); Sander, *supra* note 3, at 982-83 ("From the late 1910s to the late 1940s, cities, realtor groups, banks, builders, and even the federal government adopted a range of policies that encouraged blacks to live in circumscribed ghettos, and strongly discouraged the entry of blacks into white neighborhoods.").

segregation of African Americans persists at surprisingly high levels.⁵ And economic segregation—the geographic separation of persons by income level—has been increasing.⁶ Despite the modest successes of fair housing laws in expanding housing choices for African Americans,⁷ however, a growing segment of middle-class blacks is opting to live in all-black suburban havens.⁸ On one level, their motivations seem largely the same as those of other suburbanites: “an affordable and attractive house in a safe neighborhood with low taxes, good public schools and close-to-home retail services.”⁹ In addition to these common consumer preferences, the middle-class black suburbanite who opts to live in an all-black enclave frequently is acting on a desire to live in a community that creates a “‘we’ feeling.”¹⁰ This Article argues, however, that the suburban ideal is largely a chimera for African Americans living in exclusive all-black suburbs.

The experience of the affluent black suburban communities in Prince George’s County, Maryland, supports this contention. Prince George’s County has received a great deal of public attention for its transformation from a majority-white county that was hostile to racial integration to the highest per-capita income, majority-black jurisdiction in the United States.¹¹ Located in the southern and western parts of the greater Washington, D.C. metropolitan region, Prince George’s County is home to tony black suburbs with names like Paradise Acres

⁵ MASSEY & DENTON, *supra* note 3, at 81. Unfortunately, much of the data available in research literature on housing patterns and preferences deals only with Caucasians and African Americans. I recognize that there is a great deal more racial complexity in the United States than this data reflects. The data does, however, accurately reflect the singularly segregated experience of African Americans in the United States. For this reason, this Article will focus primarily on blacks and whites when analyzing housing patterns and the relative benefits of racially-identifiable suburban enclaves.

⁶ See Alan J. Abramson et al., *The Changing Geography of Metropolitan Opportunity: The Segregation of the Poor in U.S. Metropolitan Areas, 1970 to 1990*, 6 HOUSING POL’Y DEBATE 45, 59 (1995) (finding that income segregation increased from 1970 to 1990 while racial segregation declined over that period); Paul A. Jargowsky, *Take the Money and Run: Economic Segregation in U.S. Metropolitan Areas*, 61 AM. SOC. REV. 984, 990-91 (1996) (finding that economic segregation increased steadily for whites, blacks, and Hispanics in 1970s and 1980s, and that the greatest increases occurred for blacks and Hispanics in 1980s).

⁷ See MASSEY & DENTON, *supra* note 3, at 211.

⁸ See *infra* Part I.B. In this Article I use the term “middle class” loosely. The income threshold for the middle class, however, has been defined as an income of at least twice the official poverty rate. See Farley & Frey, *supra* note 3, at 30. By 1990, 47% of black households and 74% of white households had incomes at least double the poverty line. See *id.*

⁹ FULWOOD, *supra* note 1, at 188 (explaining that the author and his wife looked for these things—“the same thing most families . . . say they want”—when they sought to buy their first home in the Atlanta metropolitan region).

¹⁰ See GERALD E. FRUG, CITY MAKING: BUILDING COMMUNITIES WITHOUT BUILDING WALLS 137 (1999).

¹¹ Marcia Slacum Greene, *Moving In and Moving Up, Blacks Transform a County*, WASH. POST, Nov. 22, 1999, at A1.

and Lake Arbor.¹² Yet the affluent, all-black suburban enclaves in the southern part of the county are located in the opposite direction from the locus of most new job growth in the region—the high-tech corridors of northern Virginia. Consequently, these black suburban communities struggle to compete for an attractive commercial tax base. Retailers have shunned these areas, most likely because of ignorance or indifference to black buying power.¹³ In addition, whites have fled the county as blacks have reached a critical mass. As whites have left, lower-income minorities have moved in, taking advantage of affordable housing prices.¹⁴ The influx of lower- and moderate-income residents has increased the demand for social and public services. This has, in turn, affected school quality. Consequently, many black middle-class Prince Georgians pay for private school tuition rather than rely on local public schools.

Drawing heavily on the example of Prince George's County, this Article documents these trends and argues that African Americans fare better—at least in terms of government services, local taxes, and access to educational and economic opportunity—in integrated settings. While middle-class black enclaves may be premised on a confident separatism, the rightfully proud residents of these communities must face a painful reality. Try as they might, they cannot completely control their own destiny simply by gaining political control of a suburban locality. Externalities beyond their control are inevitable—a chief external factor being the race-laden private decisions of people and institutions not to invest in, locate in, or cooperate with all-black communities. Try as they might, residents of these black enclaves also cannot completely escape their lower-income brethren or the social distress associated with low-income minority communities.

This reflects a larger conundrum most affluent or middle-class blacks in America face. They cannot live the American suburban dream if that dream means replicating exclusive white suburbs—that is, an enclave of “one’s own” with high-quality schools, low property taxes, and desired amenities. The evidence this Article presents suggests that this dream will elude black Americans. The evidence also suggests that blacks with economic means are faced with a stark choice: racial segregation versus living in communities where they are vastly outnumbered by whites, a kind of integration they may not want.¹⁵

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ I personally experience this conundrum living in the District of Columbia. Although I prefer to recreate in areas of the District with visibly diverse populations (for example, the U Street Corridor, DuPont Circle, Adams Morgan and Downtown/7th Street), I find myself traveling reluctantly, sometimes even resentfully, to “white-washed”

Thus, African-American economic or fiscal self-interest lies with integration but for many black suburbanites the psychic benefits of “being with one’s own” may be worth the costs of segregation. And, because there are relatively few stably integrated neighborhoods in the United States, the integrationist ideal is elusive for all Americans.¹⁶ Indeed, the ideal of integration of private space, the neighborhoods in which we choose to live, has all but disappeared from public discourse and integration boasts few if any ardent constituents.¹⁷ Thus, accepting the reality of a residentially segregated metropolis, this Article presents a “post-integrationist” vision for America that is premised upon attacking the root causes of inequality rather than achieving integration. I argue that lawmakers and law enforcers must be vigilant in attacking any form of discrimination that limits choice in housing, particularly for African Americans, a group that is substantially more segregated than other racial minorities. In addition, this Article argues that citizens need to be presented with a broader, more enlightened vision of self-interest premised on the political advantages of building inter-group and inter-local connections.¹⁸

Currently, many citizens of the metropolis are making housing choices in ways that suggest they do not want to assimilate completely with other racial and economic groups. Those who would like to live in racially integrated neighborhoods have fewer choices than they might imagine because, at least for blacks and whites, an “integrated

neighborhoods such as Georgetown and Bethesda in order to access the broader combination of retail, culinary, entertainment, cultural, and artistic outlets that only those neighborhoods offer.

In spite of their more appealing amenities, however, I would never want to live or raise children in these “white-washed” communities. Consequently I live in a stably integrated, albeit majority-black, neighborhood in the District: Shepherd Park. Even though the public schools are better in Georgetown and Bethesda, if I were a parent I would rather work to improve the Shepherd Park public schools or pay for private school tuition than make the profound personal sacrifice of living totally among “others” with whom I do not identify and who likely do not identify with me.

¹⁶ See *infra* text accompanying notes 38-58.

¹⁷ But see John O. Calmore, *Race/ism Lost and Found: The Fair Housing Act at Thirty*, 52 U. MIAMI L. REV. 1067, 1125 (1998) (advocating “integrated neighborhoods [that] evidence mutual acceptance” and “an integration that addresses issues of equity, where each group is significantly represented, broadly distributed, and shar[es] power and equality”); John A. Powell, *Living and Learning: Linking Housing and Education*, 80 MINN. L. REV. 749, 788-93 (1996) (advocating integration in both housing and education).

¹⁸ See generally Sheryll D. Cashin, *Localism, Self-Interest, and the Tyranny of the Favored Quarter: Addressing the Barriers to New Regionalism*, 88 GEO. L.J. 1985 (2000) [hereinafter Cashin, *Localism*] (arguing that citizens of the urban core and inner-ring suburbs could bridge social and economic differences to form coalitions for regional reforms premised upon a more enlightened understanding of self-interest than currently exists in most metropolitan regions); Sheryll D. Cashin, *Building Community in the Twenty-First Century: A Post-Integrationist Vision for the American Metropolis*, 98 MICH. L. REV. 1704 (2000) (book review) [hereinafter Cashin, *Building Community*] (critiquing FRUG, *supra* note 10).

neighborhood" is one in which their *own* group is in the majority.¹⁹ Hence, in the end, many citizens are likely to find themselves living in relatively homogenous surroundings. Not surprisingly, the racial and economic fragmentation of metropolitan regions that results from this process of locational sorting reinforces and exacerbates social differences.²⁰ This Article concludes that African Americans, like all Americans, would be better served by a system of governance that allows citizens to form localities based upon desired identities and preferences but that also offers strong regional entities that can mitigate the inequities that flow from the seemingly inevitable atomization of the metropolitan polity. While regionalism may seem an eye-glazing or nonobvious cause for African Americans, it should be a core part of any twenty-first century civil rights agenda.

Part I presents an overview of black suburbanization and the status of residential integration in the United States. It then analyzes the origins and extent of affluent black suburbs. Finally, Part I surveys the normative theories offered to justify these communities, including black separatism, black classism, and "localist" theories offered by civic republicans and public choice scholars. Part II examines why middle-class black suburbs are likely to fall short of the suburban ideal. Canvassing the economic isolation, poor schools, higher crime rates, and higher poverty associated with black middle-class communities, Part II clarifies the costs of such separatism. Part II then critiques the normative arguments offered in favor of black suburban enclaves in light of the empirical realities. It concludes that even affluent African Americans are harmed in some respects by racial isolation. Accepting the inevitability of residential segregation of African Americans, Part III presents a post-integrationist vision for metropolitan America.

I

THE MIDDLE-CLASS BLACK SUBURB

A. History of Black Suburbanization, Popular Attitudes Towards Integration, and the State of Integration in the United States

Prior to 1950, a modest black population had always existed in communities lying outside central cities.²¹ Black suburbanization did not begin in earnest, however, until the 1970s, after the passage of the

¹⁹ See *infra* text accompanying notes 30-34.

²⁰ See Cashin, *Localism*, *supra* note 18, at 2015-22 (noting that jurisdictional borders often demarcate racial and socioeconomic differences among populations and presenting social science research demonstrating that majority-white localities are less likely to enter into cooperative arrangements with minority localities).

²¹ See Timothy Bledsoe et al., *Residential Context and Racial Solidarity Among African Americans*, 39 AM. J. POL. SCI. 434, 439 (1995).

Civil Rights Act of 1964 and the Fair Housing Act of 1968.²² In 1970, less than one-sixth of the U.S. black population lived in suburbs, compared to 40% of whites.²³ By 1980, however, over 22% of the black population had moved to suburbia and by 1995 this number had risen to nearly 32%.²⁴ Thus, between 1970 and 1995, seven million black people moved to the suburbs, a number considerably greater than the 4.4 million blacks who comprised the migration from south to north between 1940 and 1970.²⁵ Even so, blacks still remain a relatively small percentage of the total suburban population—slightly over 8% in 1995, up from a mere 5.5% in 1950.²⁶

Early studies showed that black migrants to the suburbs were “younger, more affluent, and better educated” than their urban counterparts.²⁷ And, beginning in the 1970s, the majority of black migrants located in predominately white neighborhoods, although many were simply moving across a central city boundary to an older suburban community.²⁸ According to the latest available census data, this trend of blacks locating in predominately white suburban neighborhoods has continued. In contrast to the “black enclave” phenomenon that is the focus of this Article, most black suburbanites locate in areas with a large number of whites and, according to one analysis of recent census data, they tend to avoid areas with a high concentration of their own group.²⁹ As this Article discusses below, however, this does

²² See Joe T. Darden, *Black Residential Segregation Since the 1948 Shelley v. Kraemer Decision*, 25 J. BLACK STUD. 680, 681-82 (1995).

²³ STEPHEN THERNSTROM & ABIGAIL THERNSTROM, *AMERICA IN BLACK AND WHITE: ONE NATION, INDIVISIBLE* 211 (1997).

²⁴ *Id.* (citing U.S. *Statistical Abstracts* and Census data).

²⁵ *Id.* at 212.

²⁶ *Id.* at 211.

²⁷ William A.V. Clark, *Residential Segregation in American Cities*, in 1 ISSUES IN HOUSING DISCRIMINATION 29, 34 (U.S. Comm'n on Civil Rights ed., 1986) (citing KATHRYN P. NELSON, DEP'T OF HOUS. & URBAN DEV., *RECENT SUBURBANIZATION OF BLACKS: HOW MUCH, WHO, AND WHERE* (1979), and Phillip L. Clay, *The Process of Black Suburbanization*, 14 URB. AFF. Q. 405 (1979)).

²⁸ *Id.* (citing DAPHNE SPAIN & LARRY H. LONG, U.S. DEP'T OF COMMERCE, *SPECIAL DEMOGRAPHIC ANALYSES CDS-80-4, BLACK MOVERS TO THE SUBURBS: ARE THEY MOVING TO PREDOMINANTLY WHITE NEIGHBORHOODS?* (1981)). *But see* Bledsoe et al., *supra* note 21, at 439-40 (noting that “the primary recipients of new black residents [in the 1960s] were disproportionately aging areas close to the central city with existing black populations” and citing studies by George C. Galster and by John M. Stahura); Darden, *supra* note 22, at 682 (noting that the movement of blacks to the suburbs in the 1960s “was primarily to suburbs that already contained Black populations, thus having little impact on housing integration” and citing a study by H. Connolly). The discrepancy between these two bodies of research appears to turn on the fact that the authors examined black suburban movements in different decades; new black residents apparently did not begin to locate in the white suburbs until the 1970s.

²⁹ See Sean-Shong Hwang & Steve H. Murdock, *Racial Attraction or Racial Avoidance in American Suburbs?*, 77 SOC. FORCES 541, 545-46, 599 (1998) (examining population movement of four ethnic groups in 1672 suburban U.S. cities between 1980 and 1990 and finding that minority populations, including African Americans, grew faster not in suburbs

not mean that substantial racial integration is being achieved *or sustained* in American suburbs.

The general trend of black migrants avoiding high concentrations of minority populations may be changing. While blacks have consistently stated a preference for living in an integrated neighborhood, their conception of integration no longer appears to mean "half-black, half-white." Instead, blacks, like whites, now appear to prefer an integrated neighborhood in which their *own* group is in the majority.³⁰ For example, in a 1976 survey of the preferences of blacks in the Detroit area regarding neighborhood composition, participants stated the strongest preference (82%) for a neighborhood that was half-black and half-white; by 1992, however, black residents that participated in a similar survey stated their strongest preference (82%) for a neighborhood that was 72% black.³¹ While four out of five participants stated a preference for some form of integration, only a distinct minority—29% in 1976 and 22% in 1992—were willing to live in a neighborhood in which they would be outnumbered by whites.³² At the same time, an even smaller number of survey participants—17% in 1976 and 20% in 1992—stated a strong preference for living in neighborhoods that were 100% black.³³

The same surveys also revealed that the tolerance of whites toward black neighbors increased between 1976 and 1992. During this time the level of black presence in a neighborhood that would likely produce an exodus of whites increased from 30% to 40%.³⁴ However, the majority of whites clearly preferred not to live in a neighborhood

with a high percentage of their own group, but in areas where "Anglos" were the majority); *id.* at 550 (finding that a high percentage of blacks in suburbs actually suppressed rather than stimulated black population growth); see also Bledsoe et al., *supra* note 21, at 445 (examining data of locational choices made by blacks in the Detroit metropolitan area and concluding that "[o]ver the past decade, mixed-race neighborhoods in both city and suburbs have grown more rapidly than all-black neighborhoods").

³⁰ See *supra* note 5 and accompanying text.

³¹ Reynolds Farley et al., *Continued Racial Residential Segregation in Detroit: "Chocolate City, Vanilla Suburbs" Revisited*, 4 J. HOUSING RES. 1, 23 (1993). In other words, 82% of the survey participants listed the 50-50 or 70-30 black-white composition as their first or second choice in 1976 and 1992 respectively. *Id.*

³² *Id.*

³³ *Id.* Again, these percentages reflect the number of blacks who selected the 100% black composition as their first or second choice. The results of the 1976 Detroit area survey are similar to a national survey taken in 1982 in which "[s]ome 15 percent of African Americans expressed a desire to live in an all-black neighborhood, [while] 18 percent preferred to live in a 'mostly black' area, and 62 percent desired a 50-50 racial mix." THERNSTROM & THERNSTROM, *supra* note 23, at 226 (citing figures from the survey conducted by the National Opinion Research Center). Unfortunately, more recent national data on black preferences is not available. *Id.* at 589 n.43 (noting that the following survey question was asked of blacks only in 1982: "If you could find housing that you would want and like, would you rather live in a neighborhood that is: all black, mostly black, etc.?).

³⁴ Farley et al., *supra* note 31, at 29 (citing survey data).

in which blacks outnumbered them.³⁵ Indeed, according to some economists, whites are typically willing to pay a 13% premium in order to live in an all-white neighborhood.³⁶ Furthermore, the economists argue, this premium explains the persistence of *de facto* segregation after the elimination of *de jure* segregation.³⁷

Thus, the prospects for residential integration do not appear strong. The level of residential segregation of African Americans in the United States is still quite high and the pace of their desegregation has been glacial.³⁸ In 1990, for example, the average black-white segregation index for northern metropolitan regions with the largest black populations was 77.8, where an index of 100 represents complete separation of the races.³⁹ This figure declined from 80.1 in 1980 and 84.5 in 1970.⁴⁰ The average index in 1990 for southern regions with large black populations was 66.5, down from 68.3 in 1980 and 75.3 in 1970.⁴¹ Thus, the rate of decline in racial segregation in the metropolitan areas where the majority of black Americans live has been unimpressive. In the North, the average segregation index declined in the 1980s by only 2.3 percentage points compared to a 4.4 percentage point decline in the 1970s).⁴² At this rate of decline, it would take another seventy-seven years for these northern areas just to reach the upper bound of the range for moderate segregation (60).⁴³ In the South, metropolitan areas with large black populations "appear to be converging to a level of black-white segregation in the range of 65 to 70."⁴⁴ Furthermore, "at the average level of change recorded during the 1980s it would take southern areas another thirty-six years to cross into the moderate range of segregation."⁴⁵

³⁵ *Id.*

³⁶ Calmore, *supra* note 17, at 1101 (citing research by Harvard economists David Cutler, Edward Glaeser, and Jacob Vigdor).

³⁷ *Id.*

³⁸ As of 1990, in several metropolitan regions with high concentrations of African Americans, the isolation index for blacks remained above 80, where an index of 100 represents complete separation of the races. For example, the index for Chicago in 1990 was 85.8, down from 87.8 in 1980 and 91.9 in 1970. MASSEY & DENTON, *supra* note 3, at 222. These isolation index figures are for the entire Standard Metropolitan Statistical Area (SMSA), defined as "areas . . . made up of a 'central city' with at least 50,000 inhabitants, plus surrounding counties that have a high degree of social and economic integration with it". *Id.* at 61. Other northern metropolitan regions with such high segregation indexes as of 1990 include Cleveland (85.1), Detroit (87.6), and New York (82.2). *Id.* at 222.

³⁹ *Id.* at 222.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.* at 221.

⁴³ *Id.* ("At the average rate of change across all northern areas, [the upper bound of the moderate range (about 60)] would not be reached for another seventy-seven years.")

⁴⁴ *Id.* at 223. "[W]ith one exception, those areas with indices lying below this range in 1980 increased their segregation, whereas those with indices above it decreased; and those with segregation levels in that range stayed roughly constant." *Id.*

⁴⁵ *Id.*

Even those demographers who have taken a more optimistic view of the prospects for residential integration in the United States acknowledge the serious limitations that exist in the metropolitan regions where African Americans are concentrated. Reynolds Farley and William Frey examined trends not only in the metropolitan areas with the largest black populations, but also in the 232 metropolitan areas that had "substantial" black populations in 1990.⁴⁶ They found "a pervasive pattern of modest declines" in segregation, when the average black-white segregation index for all 232 metropolitan areas fell from 69 in 1980 to 65 in 1990.⁴⁷

This somewhat optimistic account, however, was tempered in at least two significant ways. First, Farley and Frey noted that the segregation of blacks remains more pervasive than that of other minorities, with the average segregation index of blacks exceeding those of Hispanics and Asians by 20 points.⁴⁸ Second, they found a great deal of variation in the pace of desegregation by region. They concluded that "the shift toward lower segregation levels was muted in the Northeast and Midwest . . . reflecting the proliferation of small suburbs with traditions of hostility toward blacks."⁴⁹ In short, "the largest decreases in segregation occurred in metropolitan areas in which blacks made up a small percentage of the neighborhood of the typical white."⁵⁰ Those high-growth metropolitan areas that were experiencing a high percentage of new housing construction—areas typically in the West and South—and that had the lowest percentage of blacks, registered the largest declines in segregation and showed the best prospects for integration in the future.⁵¹ But only 25% of the 232 metropolitan areas the authors evaluated exhibited these characteristics.⁵² And in the older, large metropolitan areas where *the majority* of African Ameri-

⁴⁶ Farley & Frey, *supra* note 3, at 24. The authors did not define "substantial."

⁴⁷ *Id.* at 30. The authors attributed these modest declines to four developments: progressive changes in federal housing policies, liberalization of white attitudes towards blacks, growth of the black middle class, and substantial new housing construction. *Id.* at 26-30.

⁴⁸ *Id.* at 32.

⁴⁹ *Id.* at 39.

⁵⁰ *Id.* at 40. The authors concluded:

[T]he evidence from the Detroit [survey of black and white preferences for integration] and our analysis of the percent change in segregation in 232 metropolitan areas suggest that most whites are uncomfortable when numerous blacks enter their neighborhoods. Also, few whites will move into neighborhoods with many black residents. The conservative attitude of whites and their fear of becoming a minority in a neighborhood limit the desegregation that can occur. Presumably, attitudes toward Latinos and Asians are not so restrictive.

Id.

⁵¹ See *id.* at 41 (analyzing survey data).

⁵² *Id.*

cans live, the authors concluded that “the American apartheid system may break down slowly, if at all.”⁵³

This broad segregation of African Americans is not limited to poor blacks. In 1980, black segregation was nearly as high for affluent and middle-class blacks as it is was for poor blacks, and it was higher for this group than it was for any other racial group, regardless of income.⁵⁴ For example, in 1980, affluent blacks in the Los Angeles region were more segregated than poor Hispanics, with a segregation index of 78.9 and 64 respectively.⁵⁵ Similarly, an analysis of 1990 Census data in nine of the largest metropolitan regions in the United States found that the majority of middle-class blacks who live in these areas live in neighborhoods where blacks comprise the majority.⁵⁶ Thus, racial residential integration of African Americans is much more of an illusion than a reality in the United States.⁵⁷ While the all-black, middle-class suburb does not reflect a general trend among suburbanizing African Americans, the segregation that results from

⁵³ *Id.*; see also Sander, *supra* note 3, at 979 (“These declines are of only modest significance on a national scale, since most of the cities with large declines in segregation have comparatively small black populations.”).

For an alternative, more optimistic view of the prospects for stable racial integration, see Ingrid Gould Ellen, *Welcome Neighbors? New Evidence on the Possibility of Stable Racial Integration*, BROOKINGS REV., Winter 1997, at 18, 19 (noting that according to 1990 census data “nearly 20 percent of all census tracts—which generally include a few thousand residents roughly the size of the typical neighborhood—were racially integrated, defined as between 10 percent and 50 percent black” and arguing that integrated neighborhoods were more numerous and more stable than people think). *But see* Philip Nyden et al., *The Emergence of Stable Racially and Ethnically Diverse Urban Communities: A Case Study of Nine U.S. Cities*, 8 HOUSING POL’Y DEBATE 491, 492-93 (1997) (acknowledging that multiracial communities “are the exception rather than the rule” and citing a national poll indicating “a stronger demand for diverse neighborhoods than there are diverse neighborhoods to meet that demand”).

⁵⁴ See Massey & Denton, *supra* note 3, at 85-87.

⁵⁵ *Id.* at 86-87. Similar figures for 1990 are not readily available. See *id.* at 221; see also LEONARD STEINHORN & BARBARA DIGGS-BROWN, *BY THE COLOR OF OUR SKIN: THE ILLUSION OF INTEGRATION AND THE REALITY OF RACE* 20 (1999) (noting a 1989 *Time* magazine article reporting that “an Hispanic or Asian-American with a third-grade education is more likely to live in an integrated neighborhood than a black with a Ph.D.”).

⁵⁶ MARY PATTILLO-McCOY, *BLACK PICKET FENCES: PRIVILEGE AND PERIL AMONG THE BLACK MIDDLE CLASS* 25 (1999) (citing Urban Studies Group, Rockefeller Institute of Government, Working Paper on Majority-Black Urban Residential Areas (Feb. 1997)). The Urban Studies Group analyzed residential patterns in the following primary metropolitan statistical areas (PMSAs): Atlanta, Baltimore, Chicago, Detroit, Houston, Los Angeles, New York, Philadelphia, and Washington, D.C. It found that “[s]ixty percent of black households with annual earnings over \$45,000, and 58 percent of black households making over \$75,000, live in majority-black [greater than 50% black] census tracts.” *Id.*

⁵⁷ See Steinhorn & Diggs-Brown, *supra* note 55, at 14 (noting that “nearly half of all the counties in the United States have fewer than 250 blacks, and in areas where large numbers of blacks live, very rarely are the neighborhoods genuinely mixed”); *id.* at 31 (“Very few suburbs boast a stable racial balance similar to the mix of middle-class blacks and whites in the metropolitan area, and even in these communities, residents still tend to cluster by race.”).

such communities is not an aberration. A high degree of residential segregation persists for African Americans in all income brackets.⁵⁸

B. The Extent and Origins of the Middle-Class Black Suburb

1. *The Extent of Middle-Class Black Suburbs*

While black suburbanization has moved incrementally toward integration, predominately black suburbs have emerged and expanded rapidly in most American metropolitan regions.⁵⁹ "In 1990, there were 40 U.S. metropolitan areas with at least 50,000 black suburbanites, defined as blacks living outside the central city."⁶⁰ By far, the largest black suburban population in the United States is in the Washington, D.C. area.⁶¹ By some estimates, over 480,000 black suburbanites currently live in Prince George's County, Maryland, alone—this exceeds the number of blacks who live in the District of Columbia.⁶² The second largest market for black suburbs is the Atlanta region, where new black suburbanites tend to cluster in neighborhoods to the southeast of the city in DeKalb County.⁶³

The Atlanta and Washington, D.C. metropolitan areas are home to prototypes of the middle-class black suburb. With the exception of Miami, these two regions have the highest rates of black suburbanization of the fifteen largest metropolitan areas in the United States.⁶⁴ In 1990, while 38% of blacks in the largest metropolitan areas resided

⁵⁸ PATTILLO-McCOY, *supra* note 56, at 25 ("Blacks of all socioeconomic statuses tend to be confined to a limited geographic space, which is formally designated by the discriminatory practices of banks, insurance companies, and urban planners . . .").

⁵⁹ See William P. O'Hare & William H. Frey, *Booming, Suburban, and Black*, AM. DEMOGRAPHICS, Sept. 1992, at 30, 32, 38 (noting that "[d]uring the 1980s, some metropolitan areas saw explosive growth in the number of black suburbanites" and citing increases in black suburban residents in many metropolitan areas).

⁶⁰ *Id.* at 32.

⁶¹ *Id.*

⁶² Greene, *supra* note 11, at A1 (noting that in 1999 Prince George's County had "about 777,000 residents and a black population, by some estimates, as high as 62 percent"). In 1996, 340,837 African Americans lived in Washington, D.C. Bureau of the Census, *Statistical Abstract of the United States, USA Counties General Profile: District of Columbia* (1998), available at <http://www.census.gov/statab/USA98/11/000.txt>.

⁶³ Doug Cumming, *Bright Flight: A New Term and Trend: Middle-Class Blacks Heading for the Suburbs and Private Schools*, ATLANTA J. & CONST., Apr. 20, 1997, at R1; O'Hare & Frey, *supra* note 59, at 31. The proportion of African Americans residing in the suburbs of Atlanta was 64% in 1990. THERNSTROM & THERNSTROM, *supra* note 23, at 213 tbl.4.

Los Angeles has the third largest black suburban population. See O'Hare & Frey, *supra* note 59, at 32. The "ten metros with the largest suburban black populations are all major population centers," five of which are southern (Washington, Baltimore, Atlanta, Houston, and Miami). *Id.* at 32-33. The remaining areas on the list are Los Angeles and four northern industrial areas: Philadelphia, Newark, Chicago, and St. Louis. *Id.* at 33. Eighteen of the twenty metropolitan areas with the largest black suburban populations are in the South, probably because of the South's high proportion of rural blacks. *Id.*

⁶⁴ See THERNSTROM & THERNSTROM, *supra* note 23, at 213 tbl.4. In the Miami metropolitan area, 60% of the black population lived in the suburbs in 1970 and 74% in 1990.

in suburbs, 64% of blacks in the Atlanta region and 61% in the D.C. region lived in suburbs.⁶⁵ By contrast, in 1970, approximately only a quarter of the black population in these two regions lived outside the central city.⁶⁶

It is difficult to quantify the precise extent to which affluent or middle-class African Americans have formed their own all-black suburban enclaves. Clear examples of these communities, however, exist in Prince George's County, Maryland; DeKalb County, Georgia; Dade County, Florida; and suburbs to the south of Chicago and to the northeast of St. Louis.⁶⁷ Notably, the number of affluent black suburbs is quite small.⁶⁸ One researcher contends, however, that most metropolitan regions with a large black population have a "Black Belt," created by the black middle class's attempt to escape from poor neighborhoods, that stretches from core, impoverished areas in the central city to periphery areas in the first rung of older suburbs.⁶⁹ Consequently, sociologist Mary Pattillo-McCoy argues that the typical middle-class black enclave sits as a buffer between core black poverty areas and suburban white areas.⁷⁰

The phenomenon of Prince George's County was the chief impetus for this Article. In less than three decades, the population of Prince George's County transformed from majority-white to majority-black.⁷¹ Simultaneously, Prince George's County experienced an *increase* in income and education levels, becoming the only county in the nation ever to have done so, according to census statistics.⁷² The county "has a national reputation as a black middle-class mecca,"⁷³

Id. In both years, these numbers represented the highest rates of black suburbanization in the country. *See id.*

⁶⁵ *Id.* at 212. White suburbanization in these two regions reached over 90% as of 1990. *Id.* at 213 tbl.4.

⁶⁶ *Id.*

⁶⁷ *See* MYRON ORFIELD, WASHINGTON METROPOLITICS: A REGIONAL AGENDA FOR COMMUNITY AND STABILITY 18 (1999); Dent, *supra* note 2, at 20 (citing the examples of Prince George's County in Maryland; Rolling Oaks in Dade County, Florida; Black Jack, Jennings, Normandy, and University City in St. Louis County; and Brook Glen, Panola Mill, and Wyndham Park in DeKalb County, Georgia). The Atlanta region, for example, has six suburban census tracts where blacks are both in the majority and their income and education levels exceed the metro-area medians. Cumming, *supra* note 63, at R1.

⁶⁸ *See* Thomas J. Phelan & Mark Schneider, *Race, Ethnicity, and Class in American Suburbs*, 31 URB. AFF. REV. 659, 662-63 (1996) (examining a sample of 1773 suburbs located in 55 metropolitan areas and finding that only 11 suburbs in 1980 and 12 in 1990 were both majority nonwhite and affluent as distinguished from middle-class). *But cf. id.* (noting that 60 suburbs in the sample were majority-black in 1980, increasing to 87 by 1990).

⁶⁹ PATTILLO-McCOY, *supra* note 56, at 23-27 (citing studies by George C. Galster, Paul Jargowsky and Mary Jo Bane, and Jeffrey D. Morenoff and Robert J. Sampson).

⁷⁰ *Id.* at 4.

⁷¹ Erin Teixeira, *Prince George's: A Dream Revised*, BALT. SUN, Jan. 18, 1999, at 1A.

⁷² *Id.* In 1990, more than 30% of the county's households earned at least \$50,000. *Id.*

⁷³ *Id.*

and boasts numerous predominately black middle- and upper-class subdivisions with palatial homes and neighborhoods with names like Paradise Acres.⁷⁴

Like many counties with clusters of suburban blacks, there is a high degree of segregation at the neighborhood level in Prince George's County. As of 1990, the county's population was 50.7% black, 43.1% white, and 6.2% other races.⁷⁵ More than half of the county's census tracts, however, were at least 70% white or 70% black.⁷⁶ By some estimates the county's black population today constitutes as much as 62% of the county residents.⁷⁷ With this increase, the degree of segregation in the county may even be higher. Additionally, a high degree of economic segregation persists in the county. In reality, two distinct Prince George's Counties exist—the struggling low- and moderate-income neighborhoods inside the Beltway and immediately adjacent to the District of Columbia's eastern borders and the much more affluent suburban developments in the southern part of the county. The remainder of this section will explore the reasons behind the development of such segregated, black middle-class enclaves and the normative justifications offered by residents, public officials, and scholars for such communities.

2. *The Origins of Middle-Class Black Suburbs*

A number of likely causes resulted in the formation of all-black, middle-class suburbs. First, blacks still suffer from a great deal of discrimination in housing in the United States. In studies conducted in 1991 and 1993, for example, analyst John Yinger found that discrimination against blacks and Hispanics takes place in every stage of the home-buying process, from the first call to a real estate agent to the point of seeking a mortgage.⁷⁸ Yinger concludes that a black person has a 60% chance of being discriminated against when she seeks to buy a home and makes one visit to a real estate agent, with the likeli-

⁷⁴ See generally Dent, *supra* note 2, at 21-22 (describing the transformation of Prince George's County). Indeed, between 1970 and 1990 "black families were moving out from the nation's capital to suburban communities like those in Prince George's County, Maryland, at an even higher rate than were the city's whites." THERNSTROM & THERNSTROM, *supra* note 23, at 212. Additionally, Prince George's County currently has the largest share of minorities—35%—of any jurisdiction in the D.C. metropolitan area. THE BROOKINGS INST. CTR. ON URBAN AND METRO. POLICY, A REGION DIVIDED: THE STATE OF GROWTH IN GREATER WASHINGTON, D.C. 19 (1999) [hereinafter BROOKINGS INST.].

⁷⁵ BROOKINGS INST., *supra* note 74, at 19; O'Hare & Frey, *supra* note 59, at 36, 38.

⁷⁶ O'Hare & Frey, *supra* note 59, at 38.

⁷⁷ See Greene, *supra* note 11.

⁷⁸ See generally JOHN YINGER, CLOSED DOORS, OPPORTUNITIES LOST: THE CONTINUING COSTS OF HOUSING DISCRIMINATION (1995) (discussing discrimination against black and Hispanic home seekers); see also Nyden et al., *supra* note 53, at 495 (noting that the "Fannie Mae Annual Housing Conferences in 1992 and 1994 heard presentations of 19 studies documenting discrimination in lending, homeownership, and federal rental programs").

hood of discrimination rising to 90% if she visits three agents.⁷⁹ Several scholars of racial segregation in America argue that discrimination and racial steering in real estate markets are the critical “push” factors animating the formation of segregated communities.⁸⁰ Some of these scholars acknowledge that individual preferences contribute to the phenomenon as well.⁸¹ Other scholars suggest that discrimination shapes preferences.⁸²

Residents of middle-class black suburbs also acknowledge certain “pull factors” that lead them to select these communities.⁸³ First, these movers have decided they want to live in a suburb. They, like their white counterparts, are lured by the spacious homes, pastoral settings, and attractive prices typically available in new suburban developments on the outer fringes of the metropolis.⁸⁴ Second, while they might prefer to live in an integrated community, they, like their white counterparts, typically would prefer to live in a community where they are a majority.⁸⁵ Unfortunately, however, relatively few suburban neighborhoods can maintain an integrated racial composition with which whites are comfortable.⁸⁶ Once blacks reach a presence of more than 40% of a neighborhood, within a few years the neighbor-

⁷⁹ See MASSEY & DENTON, *supra* note 3, at 102-03 (explaining Yinger study); see also YINGER, *supra* note 78, at 41-42; Joe T. Darden, *Differential Access to Housing in the Suburbs*, 21 J. BLACK STUD. 15 (1990) (analyzing suburbanization patterns of racial and ethnic groups and finding racial barriers to accessing suburban housing, which in turn reduced job opportunities for black families).

⁸⁰ E.g., YINGER, *supra* note 78, at 244.

⁸¹ George C. Galster, *More than Skin Deep: The Effect of Housing Discrimination on the Extent and Pattern of Racial Residential Segregation in the United States*, in HOUSING DESEGREGATION AND FEDERAL POLICY 119, 133 (John M. Goering ed., 1986) (noting that housing discrimination was likely responsible for a significant portion of racial segregation in metropolitan areas despite the lesser contribution of individual preferences to racial segregation); Letter from Myron Orfield, Director, Metropolitan Area Research Corporation, to Leonard Downie, Jr., Executive Editor, *Washington Post* 2 (Sept. 24, 1999) (on file with author).

⁸² E.g., MASSEY & DENTON, *supra* note 3, at 109; Sander, *supra* note 3, at 979-80; Letter from Myron Orfield to Leonard Downie, Jr., *supra* note 81.

Anecdotes offered by residents of all-black suburbs support the idea that racial steering by real estate agents plays a role in the creation of these communities. Gwen Snow, a black real estate agent who moved to the Atlanta region in the mid-nineties “did not specifically seek a predominately black neighborhood, but was guided to southeast DeKalb by the information that real estate agents provided.” Cumming, *supra* note 63, at R1. Snow observed that “[n]ine times out of 10, you’re going to get funneled. It’s just the way we live in black and white in this country. It seems like we’re talking spheres of influence.” *Id.* (internal quotation marks omitted); see also FULWOOD, *supra* note 1, at 188-91 (noting that his family initially sought an affordable home in a racially mixed neighborhood in the Atlanta metropolitan area but found few and were eventually lured by aggressive marketing of black middle-class communities in DeKalb County).

⁸³ See, e.g., FULWOOD, *supra* note 1, at 188-91.

⁸⁴ *Id.* at 188.

⁸⁵ *Supra* text accompanying note 30.

⁸⁶ See Farley et al., *supra* note 31, at 22-28.

hood will typically become majority-black if not all-black.⁸⁷ Thus, black suburban movers may find that their choices for a high-quality suburban home in a neighborhood with a sizeable black presence are primarily limited to predominately black communities.⁸⁸ Finally, some black suburban residents affirmatively want to live only with their own kind.⁸⁹

The transformation of Prince George's County from majority-white to majority-black is likely the result of a confluence of such factors. Originally a slave-owning rural dominion, Prince George's evolution to the highest income majority-black county in the nation started in the 1970s.⁹⁰ The county's resistance to open housing laws and court-ordered busing in the 1960s had earned it a reputation "as a

⁸⁷ See *id.* at 29 (analyzing data from the Detroit area between 1976 and 1992 and determining that the "tipping point" at which whites would predictably move from an integrated neighborhood to more homogeneous settings increased from a 30% black neighborhood in 1976 to 40% in 1992). Several researchers have documented a pattern of racially driven "invasion and succession" in which whites abandon residential areas as the number of black residents increases. *E.g.*, George C. Galster, *Black Suburbanization: Has It Changed the Relative Location of Races?*, 26 *URB. AFF. Q.* 621 (1991); Avery M. Cuest, *The Changing Racial Composition of Suburbs, 1950-1970*, 14 *URB. AFF. Q.* 195, 197-98 (1978); see also KARL E. TAEUBER & ALMA F. TAEUBER, *NEGROES IN CITIES: RESIDENTIAL SEGREGATION AND NEIGHBORHOOD CHANGE* 99-125 (1965) (describing the process by which neighborhoods changed from white to black within a few years); Otis Dudley Duncan & Beverly Duncan, *A Methodological Analysis of Segregation Indexes*, 20 *AM. SOC. REV.* 210 (1955) (same).

In the past illegal "block-busting" by realtors hastened this turnover. *E.g.*, *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409, 413 (1968) (holding that the federal government has authority to prohibit discrimination in private housing markets); *United States v. Bob Lawrence Realty, Inc.*, 474 F.2d 115, 119 (5th Cir. 1973) ("Blockbusting practices . . . constitute a fundamental element in the perpetuation of segregated neighborhoods [and] racial ghettos" (quoting *Brown v. State Realty Co.*, 304 F. Supp. 1236, 1240 (N.D. Ga. 1969))); *Contract Buyers League v. F & F Inv.*, 300 F. Supp. 210, 214 (N.D. Ill. 1969) (reviewing allegations that real estate agents have "stimulated and preyed on racial bigotry and fear by initiating and encouraging rumors that [black neighbors would cause a dramatic decrease in] the market values of properties"); David Rohde, *White Flight Is Not Black Flight*, *CHRISTIAN SCI. MONITOR*, Mar. 11, 1994, at 4 (noting two Philadelphia suburbs went from majority-white to majority-black in part because realtors racially steered blacks and systematically urged whites to sell their homes before blacks reached majority status).

⁸⁸ See FULWOOD, *supra* note 1, at 188 (noting that the author initially searched for a racially integrated neighborhood but, finding few, ultimately settled on a black suburb); PATILLO-McCOY, *supra* note 56, at 25 (citing Urban Studies Group study finding that the majority of middle-class blacks live in majority-black neighborhoods in the nation's nine largest metropolitan areas). *But see* Ellen, *supra* note 53, at 18-19 (noting that in 1990, 20% of U.S. census tracts were racially integrated, defined as between 10% and 50% black); *id.* (examining "a sample of 34 large U.S. metropolitan areas with significant black populations" and finding that "more than three-quarters of the neighborhoods that were racially mixed in 1980 were still mixed in 1990").

⁸⁹ See Bledsoe et al., *supra* note 21, at 451-52 (arguing that strong feelings of racial solidarity contribute to the formation of all black communities); *supra* text accompanying notes 1-2. *But see* Hwang & Murdock, *supra* note 29, at 561 ("[M]inority suburbanization may be driven primarily by status motivations instead of by social preferences to be near other members of one's own racial or ethnic group.").

⁹⁰ Dent, *supra* note 2, at 22.

rural county full of 'rednecks' in which the few pockets of blacks were subjected to police brutality and a citizenry that lived by a brand of justice with 'good old boy' rules."⁹¹

New black residents began moving into the county in the 1970s to take advantage of the large number of newly constructed garden apartments and condominiums.⁹² Massive white resistance and police brutality made this first stage of the migration highly uncomfortable for new black residents.⁹³ White leaders in the county inadvertently promoted a second wave of black migration in the 1980s by building houses intended to entice white-collar professionals.⁹⁴ The county's economic developers underestimated the sizeable black middle class in Washington with money to spend and dreams of suburban living.⁹⁵ As blacks reached a critical mass in new single-family subdivisions originally intended for whites, whites began to shun the area.⁹⁶ A notable amount of white flight took place in conjunction with the second stage of the migration, and this white flight was probably exacerbated by a school desegregation order forcing integration through court-ordered busing.⁹⁷ Whatever the reasons for its claimed status as "the most educated and affluent African-American community on the planet,"⁹⁸ the phenomenon of Prince George's County has prompted a debate about the justifications for majority- or all-black communities and the modern relevance of residential integration in American society.

C. The Normative Rationales for All-Black Middle-Class Suburbs

1. *Separatism*

Ironically, Justice Clarence Thomas's views on the illogic of school desegregation reflect the separatist arguments of many black suburbanites. Concurring with a Supreme Court decision barring federal remedies to increase the desegregative attractiveness of the Kansas City, Missouri, school district, Justice Thomas famously stated: "It never ceases to amaze me that the courts are so willing to assume that anything that is predominantly black must be inferior."⁹⁹ Justice Thomas noted that "the continuing 'racial isolation' of schools after *de jure* segregation had ended may well reflect voluntary housing choices

⁹¹ *Id.* at 22.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *See id.*

⁹⁷ *See* Liza Mundy, *Closer to Home*, WASH. POST (Magazine), Jan. 30, 2000, at W7; Teixeira, *supra* note 71, at 1A.

⁹⁸ Dent, *supra* note 2, at 24 (quoting Prince George's resident Radamase Cabrera).

⁹⁹ *Missouri v. Jenkins*, 515 U.S. 70, 114 (1995) (Thomas, J., concurring).

or other private decisions.”¹⁰⁰ He castigated the argument that “white flight” is a vestige of *de jure* segregation warranting a court-ordered remedy or that high black enrollments are intrinsically problematic.¹⁰¹ In particular, he rejected the idea that attending all-black schools by definition harms or “that blacks cannot succeed without the benefit of the company of whites.”¹⁰² Racial isolation, he reasoned, is only harmful if it is state enforced.¹⁰³ The only way one could conclude that “black students cannot learn as well when surrounded by members of their own race as when they are in an integrated environment,” he argued, was to conclude that “there must be something inferior about blacks.”¹⁰⁴ Justice Thomas was unwilling to assume or concede this.

Several black suburbanites offer a similar rationale for all-black middle-class communities:

There is no segregation in Prince George’s County It is apartness. Segregation is a legal thing. . . . Apartness is driven by things that are not adjudicable anymore.

. . . There are some people who want to live in majority black communities. Why wouldn’t you?¹⁰⁵

Thus, at least to some, the normative appeal, of black middle-class separation lies in its inherent assertion of the legitimacy, even superiority, of “things black.”¹⁰⁶

Beyond notions of racial pride, competence, or even superiority, the most consistent strain in the testimonies of residents of black suburban enclaves is their profound disillusionment with what they perceive as the failed promises of integration. In several books by black journalists and writers like Ellis Cose, Sam Fulwood, and Lawrence Otis Graham, the black middle class attests both to their frustrations with their lack of full advancement or acceptance in “integrated” America and to the balm from this pain found in the all-black neigh-

¹⁰⁰ *Id.* at 116 (Thomas, J., concurring).

¹⁰¹ *Id.* at 116-18 (Thomas, J., concurring).

¹⁰² *Id.* at 119 (Thomas, J., concurring).

¹⁰³ *Id.* at 121-22 (Thomas, J., concurring) (“‘Racial isolation’ itself is not a harm; only state-enforced segregation is.”).

¹⁰⁴ *Id.* (Thomas, J., concurring).

¹⁰⁵ Teixeira, *supra* note 71, at 5A (quoting Alvin Thornton, Chair of the County’s school board and Chair of the Howard University Political Science Department).

¹⁰⁶ I experienced this way of thinking first hand growing up in the house of an admitted “Black Supremacist.” My father, Dr. John L. Cashin, Jr., founder of the National Democratic Party of Alabama and a 1970 gubernatorial candidate against George Wallace, had a colorful theory of natural selection for black people in Alabama. He figured that the gene pool that survived the Middle Passage, three hundred years of slavery, and the unreconstructed violence of the segregated South had to be superior to any other race of people. He certainly believed blacks were capable of forming and leading a coalition of blacks and progressive whites to counter the hegemony of the Wallace-dominated politics in Alabama.

borhoods where they choose to live.¹⁰⁷ Ironically, the relatively privileged black middle class consistently reports more encounters with racial prejudice and voices stronger reservations about our nation's success in achieving equality than do blacks with lower education and income levels.¹⁰⁸

In an absorbing account of many personal encounters with racial discrimination, Ellis Cose argues that many middle-class blacks who have benefited most from the civil rights revolution are quietly seething and express feelings of separateness from American society because of incidents they endure on the job or in other public realms which send a message that they do not fully belong. Cose declares that "[i]n encounter after encounter with successful, confident black professionals, I ran into a reservoir of despair so deep that it seemed a blessing (or even a life-sustaining miracle) that their good humor and high spirits had survived."¹⁰⁹

For some like Sam Fulwood, the choice to live in an all-black suburb constituted a life- or spirit-saving strategy:

My home in Brook Glen was a sanctuary where people like [my boss] could never reach me. My neighbors felt much the same way—beleaguered at work, relaxed at home. . . .

. . . .

. . . Isolation was our choice, a defense against the pain of being rejected or misunderstood. . . .

. . . White people, I understood for the first time in my life, had never been at ease in my company unless they were in control of the environment. By outnumbering me at virtually every turn, they compelled me to adapt my view of the world, even my own sense of self, to their majoritarian biases. . . . It was so much easier to retreat into myself and into a self-made buppie bubble.¹¹⁰

Thus, the choice to live in a black neighborhood often constitutes acceptance of defeat in trying to fully enter the American mainstream. As Cose expresses:

¹⁰⁷ E.g., ELLIS COSE, *THE RACE OF A PRIVILEGED CLASS* (1993); FULWOOD, *supra* note 1; LAWRENCE OTIS GRAHAM, *MEMBER OF THE CLUB: REFLECTIONS ON LIFE IN A RACIALLY POLARIZED WORLD* (1995); BRENT STAPLES, *PARALLEL TIME: GROWING UP IN BLACK AND WHITE* (1994); see also, e.g., Dent, *supra* note 2, at 20-21 (noting Prince George's resident Radamase Cabrera's contention that he was a pragmatist rather than a separatist in light of the harsh treatment he suffered when integrating previously all-white institutions in the early 1970s).

¹⁰⁸ See COSE, *supra* note 107, at 38-39 (citing three separate polls, conducted by the *Los Angeles Times* in 1991 and the Gallup Organization in 1990 and 1991, in which blacks at higher education and income levels expressed more frustration and experience with discrimination or more dissatisfaction with their quality of life than less-educated or less-affluent blacks).

¹⁰⁹ *Id.* at 51.

¹¹⁰ FULWOOD, *supra* note 1, at 204-05.

The pain of [black] professionals . . . is more often than not rooted in feelings of exclusion. In attempting to escape that pain, some blacks end up, in effect, inviting increased isolation. When the successful black lawyer declares that he will “go to my own people for acceptance” because he no longer expects approbation from whites, he is not only expressing solidarity with other members of his race, he is also conceding defeat. He is saying that he is giving up hope of ever being anything but a talented “nigger” to many of his white colleagues, that he refuses to invest emotionally in those who will never quite see him as one of them, whatever his personal and professional attributes.

. . . .

Whites often take such behavior as a manifestation of irrational antiwhite prejudice. But in most cases, it is perhaps better understood . . . as a retreat from a “mainstream” [blacks] have come to feel is an irremediably hostile place.¹¹¹

Residents of black professional enclaves also state a more affirmative delight simply in being among people like themselves in a community where they feel completely welcome. As Sam Fulwood noted of his first move to an all-black suburb of Atlanta, he was seduced by the siren call of marketers who knew how to woo black professional consumers in a way that said “*Buy here. Move in here. You are wanted here.*”¹¹² Fulwood had never felt so welcome and he continues to feel security, joy, and comfort in living among his black neighbors of Fort Washington, Maryland, a suburb in Prince George’s County.¹¹³ He feels, with some reluctance, that this friendly black bubble is the best place to raise his child—the closest thing to perfect he can offer her.¹¹⁴

The black middle-class enclave also finds support in a rich literature debating the relative merits of integration and black separatism. From the early, curious call by a white John Brown for a separate black

¹¹¹ COSE, *supra* note 107, at 188.

¹¹² FULWOOD, *supra* note 1, at 190.

¹¹³ *See id.* at 238-39, 247.

¹¹⁴ *See id.* at 241. As a child growing up in Alabama who experienced both living in an all-black neighborhood and living with the only black family in an otherwise all-white neighborhood, I can attest to the stark differences between these two experiences. I was accepted to a point by my white play friends in the majority-white neighborhood. However, as we grew older, the racial differences that permeated the world of adults began to seep through. I noticed that all of a sudden I was no longer invited to sleepovers with white playmates. Or a white schoolmate who had initially accepted my invitation to a birthday party would call later to say that she could not come because her parents objected. Upon my entrance into the sixth grade my parents decided to move back to the “old neighborhood”—an all-black subdivision that my father helped develop. There, it was like being on a street with one big family. You could walk down Lydia Drive and find a warmth, comfort, familiarity, and support network that I have never experienced anywhere else and that I doubt could be recreated in an integrated setting.

nation,¹¹⁵ to Booker T. Washington's advocacy of black acceptance of segregation in exchange for economic advancement,¹¹⁶ to the black nationalist and Pan-Africanist ideologies prominently advocated in the 1960s,¹¹⁷ intellectuals and activists have made the case for black separation from mainstream American society.¹¹⁸ Thankfully, in my view, the integrationist visions of Frederick Douglass,¹¹⁹ W.E.B. Du Bois,¹²⁰ Martin Luther King,¹²¹ and Thurgood Marshall¹²² ultimately held sway in the American psyche and American public law.

¹¹⁵ See, e.g., William McCord, *Foreword I to BLACK SEPARATISM AND SOCIAL REALITY: RHETORIC AND REASON*, at xi, xi-xii (Raymond L. Hall ed., 1977) [hereinafter *BLACK SEPARATISM*] (noting that John Brown argued for the creation of a separate black nation in order to resolve the problem of slavery).

¹¹⁶ See, e.g., Booker T. Washington, *Atlanta Exposition Address* (Sept. 18, 1895), in *AFRICAN AMERICAN POLITICAL THOUGHT, 1890-1930: WASHINGTON, DU BOIS, GARVEY, AND RANDOLPH* 23 (Cary D. Wintz ed., 1996) (arguing that establishing a separate, independent economic base was the only method for African Americans to achieve political and social advancement in an integrated society).

¹¹⁷ See, e.g., Marcus Garvey, *The Negro's Greatest Enemy*, 18 *CURRENT HIST.* 951 (1923), reprinted in *AFRICAN AMERICAN POLITICAL THOUGHT*, *supra* note 116, at 169 (advocating total separation through the establishment of an independent nation for African Americans); ELIJAH MUHAMMAD, *Separation of the So-Called Negroes from Their Slavemasters' Children Is a Must*, in *MESSAGE TO THE BLACKMAN* 34 (1965), reprinted in *BLACK NATIONALISM IN AMERICA* 408 (John H. Bracey, Jr. et al. eds., 1970) (advocating total separation through the creation of separate American states for black people); Malcolm X, *Address Before the Harvard Law School Forum* (Mar. 24, 1961), in *THE SPEECHES OF MALCOLM X AT HARVARD* 115, 127 (Archie Epps ed., 1968) (arguing for the building of a separate black nation). *But see* MALCOLM X, *THE AUTOBIOGRAPHY OF MALCOLM X* 338-39 (1973) (noting that, after leaving the Nation of Islam, Malcolm X came to reject the idea of building a separate black nation in America based on racial superiority).

¹¹⁸ For an overview of the historical arguments for and against black separatism, see *BLACK SEPARATISM*, *supra* note 115, at 13-100.

¹¹⁹ See PHILIP S. FONER, *FREDERICK DOUGLASS, A BIOGRAPHY* 25 (1964) (arguing for integration because African Americans "are American citizens, born with natural, inherent and just rights; and that the inordinate and intolerable scheme of [the black colonization movement] shall never entice or drive us from our native soil" (quoting Frederick Douglass)).

¹²⁰ See, e.g., W.E. BURGHARDT DU BOIS, *THE SOULS OF BLACK FOLK* 137-39 (Fawcett Publ'g 1963) (criticizing accommodation and separation strategies in favor of social and economic integration). During the last few years of his life, Du Bois came to reject integration and embraced a limited form of racial separation. See, e.g., W.E. BURGHARDT DU BOIS, *A Negro Nation Within the Nation*, in *W.E.B. DU BOIS SPEAKS: SPEECHES AND ADDRESSES, 1920-1963*, at 84-85 (Philip S. Foner ed., 1970) (arguing that the problems of the black community will not be solved "by having their more educated and wealthy classes . . . escape from their race into the mass of American people," and that black people should instead create "a [separate] cooperative state within their own group" before attempting integration).

¹²¹ See, e.g., MARTIN LUTHER KING, JR., *The Ethical Demands for Integration* (Dec. 27, 1962), in *A TESTAMENT OF HOPE: THE ESSENTIAL WRITINGS OF MARTIN LUTHER KING, JR.* 117 (James Melvin Washington ed., 1986) (advocating the creation of a beloved community where blacks and whites can live together as brothers and sisters).

¹²² See, e.g., The Honorable Thurgood Marshall, Solicitor General of the United States, *Address Before the Law Day Luncheon, University of Miami, Florida* (Apr. 27, 1966), in *THURGOOD MARSHALL, ASSOCIATE JUSTICE OF THE SUPREME COURT: MEMORIAL TRIBUTES IN THE CONGRESS OF THE UNITED STATES*, H. R. DOC. 103-244, at 272, 276 (1994) (noting that "our entire judicial system . . . must seek the removal of all barriers in American life which

Apart from ideological debates about the merits, *vel non*, of black separatism, the more salient point is that current residents of all-black suburbs have accepted and desire a degree of integration. They want the benefits of an integrated workplace and integrated public accommodations. They want to be free, however, to form all-black neighborhoods and communities to reap the perceived benefits of "we-ness."

2. *Classism*

Another normative rationale for all-black, middle-class suburbs can be gleaned not so much from the statements of residents of such communities, but from their actions. The rationale is classism. It is an offshoot of separatism but it is distinct because of those from *whom* affluent blacks are separating themselves. It is a quiet truth, spoken of in private conversations but not widely or publicly admitted, that many middle-class black people are uncomfortable living in close proximity to black persons of lower economic or social status. Like their white suburban counterparts, they are attempting to escape the social distress, particularly crime, associated with many urban neighborhoods. In many ways they can be just as hostile to the urban poor as their white counterparts.

An infamous example of this occurred in the summer of 1996 in the Prince George's community of Perrywood. When black kids from neighborhoods of D.C. began traveling out to Perrywood to play basketball with their middle-income brethren, neighbors got upset with the noise and occasional vandalism.¹²³ They hired a private security company to screen nonresidents from the neighborhood.¹²⁴ The irony of black people hiring private police to stop and check the identification of all black male youth in the neighborhood was not lost on many residents.¹²⁵ Some expressed misgivings and anger, but not sur-

are based on minority status whether racial or financial" and defending the "Supreme Court's involvement in the process of social change, through . . . invalidating laws and institutions, such as racial segregation, which fall short of central constitutional ideals").

¹²³ See, e.g., Susan Saulny, *On the Inside and Looking Out: Black Suburb Rebuffs Uninvited Black Visitors*, WASH. POST, July 8, 1996, at A01 (noting that "black teenagers rolled into . . . Perrywood . . . from as far away as the District, to play basketball," that this "nightly ritual disturbed residents," and that they were concerned about "recent break-ins and vandalism").

¹²⁴ *Id.* (noting that the homeowners association hired off-duty Prince George's police officers and instructed them "to stop people at the basketball court and ask for some proof that they 'belong in the area'").

¹²⁵ *Id.* (noting that the decision to hire police to screen nonresidents "sounded a familiar and unpleasant chord with some residents" because "the idea of black people asking police to keep other black people from their neighborhood, for whatever reason, has left some residents ill at ease").

prisingly the consensus was that the community needed to do what was necessary to protect their homes and property.¹²⁶

A similar class dispute erupted in Prince George's when the affluent residents of Lake Arbor objected to allowing lower-income students from neighboring Landover to attend a newly constructed high school.¹²⁷ Once again, Prince George's County displayed classist tendencies when it built a multimillion dollar sports and recreational facility while consciously limiting the number of basketball courts.¹²⁸

This classist bent has also shaped politics in Prince George's County. Wayne Curry—the county's first black county executive and reportedly the *only* elected black county executive in the nation¹²⁹—campaigning on the charge that housing was becoming too accessible to low-income D.C. families who would bring crime and other social problems with them.¹³⁰ After his victory, he pressured developers to build larger and more expensive houses that inner-city working families could not afford.¹³¹ He also successfully sought a release from a court-ordered school busing program bringing poor students from the eastern fringes of the District into Prince George's County schools.¹³² His stances were hugely popular with black and white middle-class residents.¹³³ Such efforts to exclude low-income residents from the county are economically rational and consistent with the zoning and economic development policies of many other majority-white suburban jurisdictions in the nation.¹³⁴

Hence the classist premise or defense of middle-class black suburbs is exactly the same as that of affluent white suburbs. Residents of these communities are saying: "I want to escape the ills of the central city, with its crime and high redistributive taxes."¹³⁵ The rational way

¹²⁶ For a full account of the Perrywood incident, see William Raspberry, *Black Suburbs, Black Intruders*, WASH. POST, July 19, 1996, at A27, and Saulny, *supra* note 123.

¹²⁷ David Nakamura, *Pr. George's School Splits the Classes*, WASH. POST, Feb. 27, 2000, at A1.

¹²⁸ See Paul Schwartzman, *Hoopla but Few Hoops at Sportsplex*, WASH. POST, May 7, 2000, at A1.

¹²⁹ Peter Perl, *Middle Man*, WASH. POST (Magazine), Sept. 29, 1996, at W8 ("His victory in November 1994 made him not only the first black executive in the county's history, but also the only black chief elected official of any county in America.")

¹³⁰ Steven A. Holmes & Karen De Witt, *Black, Successful and Safe and Gone from Capital*, N.Y. TIMES, July 27, 1996, at A1.

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ For an extensive discussion of the exclusionary policies of affluent suburban localities, see Cashin, *Localism*, *supra* note 18, at 1993-94.

¹³⁵ Indeed, studies indicate that the primary reason for the formation of new, majority-white suburban localities in the 1960s and 1970s was the residents' desire to escape the redistributive taxes of central cities and to escape minority populations. *Id.* at 1991-95 (citing various studies, including NANCY BURNS, *THE FORMATION OF LOCAL AMERICAN GOVERNMENTS* 6 (1994)).

to create a haven of low taxes, low crime, stable property values, and comfortable suburban surroundings is to exclude or distance oneself from populations that bring increased social service demands and the type of antimainstream social behaviors that are frequently cultivated in isolated, poverty-ridden communities. Those suburban localities that do not adopt exclusionary strategies or that do not attempt to attract high-end homes and taxpayers frequently find themselves overwhelmed with the demands of servicing low- and moderate-income families on a small and shrinking tax base.¹³⁶ This exclusionary incentive is exacerbated by the fact that localities typically must rely heavily on property taxes to raise revenue for most of the government services they provide.¹³⁷

3. *Localism*

The separatist and classist explanations for middle-class black suburbs parallel to some degree the normative arguments offered by public choice scholars and civic republicans for maximizing local autonomy. Localism, or the ideological commitment to local autonomy, is premised upon maximizing citizen participation, efficiency, and community.¹³⁸ Adherents of localism, like some federalists, argue that smaller government provides a better context in which to cultivate citizens and nurture a sense of community.¹³⁹ They also argue that smaller government enhances efficiency by maximizing the possibility that citizens will find a locality which provides their preferred mix of taxes and services.¹⁴⁰ Elsewhere I have offered a sustained critique of the fallacies of these assumptions given the extreme negative externalities wrought by fragmented local government in the American metropolis.¹⁴¹ In short, these ideas—citizen participation, alloca-

¹³⁶ See PAUL KANTOR, *THE DEPENDENT CITY REVISITED: THE POLITICAL ECONOMY OF URBAN DEVELOPMENT AND SOCIAL POLICY* 162-68 (1995).

¹³⁷ Cashin, *Localism*, *supra* note 18, at 1992-93. The classism displayed in middle-class black suburbs also has a social dimension—a dimension that likely exists in other, non-black affluent communities. The attitude was expressed to me by a long-time Prince George's County resident for whom I will give only a first name, "Ron." Ron said he was thinking about moving back into the District because "an element" was beginning to creep into his neighborhood. It was not that these "lower-middle-class black folks" were causing an increase in crime. Rather, according to Ron, they just had different habits. For example, they did not maintain their houses as nicely, they sat outside at night, and they played their radios loudly. Ron's property values were declining and he thought he should move back into the District rather than into southern, more affluent parts of the county, which would require him to endure longer commutes into the District. Interview with anonymous Prince George's County resident, in Washington, D.C. (Apr. 15, 2000).

¹³⁸ Cashin, *Localism*, *supra* note 18, at 1998-2002.

¹³⁹ See *id.* at 1998-99.

¹⁴⁰ See *id.* at 2000.

¹⁴¹ See *id.* at 1998-2002 (challenging the normative defenses of localism particularly in light of how fragmented government disenfranchises the two-thirds of the metropolitan population that lives outside of affluent outer-ring suburbs); see also Sheryll D. Cashin,

tional efficiency, and community—are central to a defense of the citizens' right to form homogenous localities. They are central to a defense of the modern American suburb. Indeed, because localism adherents view participatory self-determination as a near-sacred value, they are willing to accept the often high degree of homogeneity that results from fragmented local governance.¹⁴² This homogeneity in the black suburb, as elsewhere, makes it easier for residents to form a consensus and to pursue a collective vision.¹⁴³ As I have argued elsewhere, however, the normative values that are offered in defense of localism and suburbs are premised on a suburban ideal that only affluent, high-growth suburbs come close to achieving.¹⁴⁴

Similarly, it is highly dubious to expect that segregated black suburbs would achieve the suburban ideal of high-quality schools, services, and amenities along with low taxes, given their inability to counteract the negative externalities that flow from decisions made by public and private actors outside their borders. Black suburbs are similar to older, predominately white inner-ring suburbs in this regard. Both types of suburbs are systematically disadvantaged in the regional competition for tax base.¹⁴⁵ Part II underscores the reasons why predominately black middle-class suburbs are likely to fall short of the suburban ideal.

Federalism, Welfare Reform, and the Minority Poor: Accounting for the Tyranny of State Majorities, 99 COLUM. L. REV. 552 (1999) (challenging the normative defenses of federalism in light of the way state majorities disenfranchise low-income welfare recipients).

¹⁴² See, e.g., Richard Thompson Ford, *The Boundaries of Race: Political Geography in Legal Analysis*, 107 HARV. L. REV. 1841, 1908-09 (1994) (arguing that regional administration makes it difficult for politically engaged communities to form and alienates citizens from decision-making processes, and that having many small communities nourishes cultural differences); Jerry Frug, *Decentering Decentralization*, 60 U. CHI. L. REV. 253, 257 (1993) (noting that the "values of decentralization" include "the freedom gained from the ability to participate in the basic societal decisions that affect one's life"); Georgette C. Poindexter, *Collective Individualism: Deconstructing the Legal City*, 145 U. PA. L. REV. 607 (1997) (arguing that small communities foster citizen participation, efficiency, government responsiveness to citizen needs, and a sense of community).

¹⁴³ See Cashin, *Localism*, *supra* note 18, at 1998-2002 (noting that homogeneous environments enhance opportunities for building connections between individuals, and hence for building a collective identity or sense of community).

¹⁴⁴ See *id.* at 2002-27 (arguing that localism benefits only the relatively affluent suburbs that are not constrained by service burdens and declining tax bases).

¹⁴⁵ See *id.* at 2009-12 (arguing that affluent suburbs, due to low service demands and an established, rich tax base, are able to attract new development by maintaining low tax rates).

II

THE ELUSIVE SUBURBAN IDEAL

A. The Negatives: Why Middle-Class Black Suburbs Are Likely to Fall Short

This section attempts to clarify the costs of the separatist choice for middle-class black suburbanites. The goal is not to denigrate this choice because for some residents the soul-regenerating benefits of a black enclave are worth the costs. The point is simply that there *are* pronounced costs associated with this choice and that, unfortunately for African Americans, it appears that the suburban ideal will elude them if they wish to pursue a separatist vision. This section relies primarily on evidence from Prince George's County but will also offer evidence to demonstrate that similar trends are occurring in other affluent black suburbs in the United States. In short, residents of Prince George's County and other middle-class black enclaves are not realizing the suburban ideal that they are seeking. Instead, these suburban middle-class black enclaves, like all black middle-class neighborhoods, tend to be "characterized by more poverty, higher crime, worse schools, and fewer services than white middle-class neighborhoods."¹⁴⁶ One of the primary reasons for these differences between white and black middle-class communities is that black middle-class neighborhoods tend to be located closer to poor black neighborhoods—a contiguous "Black Belt" of poor neighborhoods buffered by middle-class neighborhoods, encouraged and facilitated by real estate agents and other market actors.¹⁴⁷ As a result, African-American communities "bear nearly the full burden of disproportionate black poverty."¹⁴⁸ Again, only affluent, predominately white suburbs in exclusive, high-growth jurisdictions are achieving the suburban ideal in part because only these communities are effectively walling themselves off from the service burdens associated with housing poor and moderate-income people.¹⁴⁹

1. *Tax Base, Tax Rates, and Government Services*

In the Washington, D.C. area, the affluent bastions of Prince George's County are outside the Beltway, to the south and east of the

¹⁴⁶ PATTILLO-McCOY, *supra* note 56, at 3.

¹⁴⁷ See *supra* text accompanying note 70; *infra* text accompanying notes 153-55; see also GARY ORFIELD & CAROLE ASHKINAZE, *THE CLOSING DOOR: CONSERVATIVE POLICY AND BLACK OPPORTUNITY* 26 (1991) (arguing that affluent suburbs "fight school integration, mass transit links, zoning for affordable apartments for families, and even small amounts of scattered-site subsidized housing" and "assume that they have the right to all the best of a great urban economy and society with none of the social responsibilities").

¹⁴⁸ PATTILLO-McCOY, *supra* note 56, at 217.

¹⁴⁹ See Cashin, *Localism*, *supra* note 18, at 2014-15.

District. Not surprisingly, the fast growing high-tech corridors of Northern Virginia are located in the opposite direction due west of the District. Other metropolitan regions demonstrate the same pattern. In the Atlanta region, for example, the majority of the black middle-class is located far from the central city and is moving south while the best jobs, economic opportunities and schools are moving north.¹⁵⁰ The “[b]lack middle-class is suburbanizing in one direction and th[e] jobs and economic growth are suburbanizing in another This is true in the Washington, Atlanta, and Chicago regions, and really everywhere we have seen a significant black middle-class.”¹⁵¹ This isolation from the high-growth economic sectors can negatively impact residents, increasing average commute times and limiting access to “New Economy” jobs.¹⁵²

One researcher, Myron Orfield, blames the real estate industry for the economic isolation of black middle-class suburbs. Orfield argues that the black middle class is constantly struggling to distance itself from the social distress of lower-income communities and in the process gets steered to the least controversial areas by a discriminatory real estate industry.¹⁵³ When they reach a critical mass, he argues, whites flee and demand in the local housing market falls, causing poorer individuals to move in behind the middle-class blacks.¹⁵⁴ Within a period as short as a decade, black middle-class migrants find themselves once again in close proximity to social distress and often move again, even farther away from centers of economic growth.¹⁵⁵

This pattern has clearly occurred in Prince George’s County, which experienced a substantial decline in property values between 1994 and 1998 in northern parts of the county that attracted many

¹⁵⁰ See Letter from Myron Orfield to Leonard Downie, Jr., *supra* note 81; see also ORFIELD & ASHKINAZE, *supra* note 147, at 17, 22, 79 (arguing that “Atlanta has a racially defined dual housing market that leaves many middle-class blacks [renting] housing that is worse than that occupied by poor whites and which channels those who leave the city into suburbs isolated from the best schools and the greatest economic growth,” and explaining that “[t]he main black path of suburbanization is moving south, but the jobs are booming in the outer reaches of the northern suburbs”).

¹⁵¹ Letter from Myron Orfield to Leonard Downie, Jr., *supra* note 81.

¹⁵² See ORFIELD, *supra* note 67, at 42.

¹⁵³ Letter from Myron Orfield to Leonard Downie, Jr., *supra* note 81; see also ORFIELD & ASHKINAZE, *supra* note 147, at 81 (noting that “[h]ousing and neighborhood choice was seriously . . . limited for higher-income blacks” in the Atlanta area in the 1980s and that “rental and homeownership markets, particularly in the more desirable suburbs, remained largely closed even to blacks with sufficient incomes”).

¹⁵⁴ Letter from Myron Orfield to Leonard Downie, Jr., *supra* note 81.

¹⁵⁵ *Id.*; see also PATTILLO-MCCOY, *supra* note 56, at 27 (noting the black middle-class has always been in a constant process of outmigration as it attempts to leave poor neighborhoods “but has never been able to get very far”); *id.* (noting that while black middle-class enclaves have developed in close proximity to poor neighborhoods, as the number of black middle-class persons has increased, the size of black middle-class enclaves has expanded and created greater physical separation in an otherwise contiguous “Black Belt”).

low- and moderate-income persons from within the District.¹⁵⁶ This decline in property values has been accompanied by a simultaneous increase in social distress indicators, including increased child poverty and crime.¹⁵⁷ Simultaneously, affluent black Prince Georgians have been moving farther south, increasingly into neighboring Charles County, in search of a better quality of life.¹⁵⁸

In addition to this isolation from high-growth corridors, retailers have notoriously shunned Prince George's County, much to the chagrin of county leaders and residents.¹⁵⁹ While much of the commercial sector's avoidance is likely based upon ignorance or discrimination,¹⁶⁰ their underinvestment highlights a central weakness of racially segregated communities: a concentration of racial minorities can lead to a decline in access to and influence of dominant institutional actors that shape markets.¹⁶¹

¹⁵⁶ See ORFIELD, *supra* note 67, at 38 (noting declines of 15.4% in Mt. Ranier, 16.3% in Berwyn Heights, and 17.9% in Hyattsville). In 1998, the overall property value per household in the D.C. metropolitan region was \$208,053. *Id.* Eleven jurisdictions in the metropolitan area had property values per household below \$90,000, most of which were in inner Prince George's County. *Id.*

¹⁵⁷ See *id.* at 19; *infra* Part IIA.3-4.

¹⁵⁸ See, e.g., Michael A. Fletcher, *The Changes: Over 30 Years, the Washington Region's Black Population Has Been Redefined by Its Education and Affluence*, WASH. POST (Magazine), Feb. 1, 1998, at W11 (noting the migration of affluent black Prince Georgian residents to outer suburbs and other counties in an attempt to improve quality of life); Todd Shields, *For Some Black Pr. Georgians, Charles Is a Better Place to Be*, WASH. POST, June 22, 1997, at B1 (noting the increased migration of upwardly mobile African Americans from Prince George's County to Charles County); Todd Shields, *On Edge*, WASH. POST (Magazine), Feb. 16, 1997, at W23 (discussing Charles County's rapid growth).

¹⁵⁹ See Teixeira, *supra* note 71, at 3; see also Rudolph A. Pyatt, Jr., *Prince George's, Seeking More Stores, Takes Its Case to Retail Executives*, WASH. POST, Dec. 25, 1997, at DO3 (stating that "[e]very dollar spent in Northern Virginia . . . is a vote for the status quo and a loss of revenue to the state of Maryland and ultimately Prince George's County"); Jackie Spinner, *Pr. George's 'Shop at Home' Campaign Means Tough Choices for Many*, WASH. POST, Jan. 18, 1998, at B1 (examining the frustration of affluent black residents of Prince George's County with the lack of upscale retail choices and the necessity to shop in predominantly white Virginia suburbs); Jackie Spinner, *Selling Top Shops on Moving to County: Incentives Approved to Lure Upscale Stores*, WASH. POST, July 30, 1998, at MO1 (stating that although "Prince George's is one of the wealthiest suburbs in the country, such upscale retail staples as Nordstrom, Neiman-Marcus and Ann Taylor have no locations there").

¹⁶⁰ For an extensive analysis of the phenomenon of commercial disinvestment in contemporary black suburbs and the likely reasons for such disinvestment, including the risk that racial information leads investors to undervalue the assets of blacks, see Mary Jo Wiggins, *Race, Class and Suburbia: The Modern Black Suburb as a 'Race-Making Situation'* (unpublished manuscript, on file with author).

¹⁶¹ Cf. CIVIL RIGHTS FORUM ON COMMUNICATIONS POLICY, *WHEN BEING NUMBER ONE IS NOT ENOUGH: THE IMPACT OF ADVERTISING PRACTICES ON MINORITY-OWNED AND MINORITY-FORMATTED BROADCAST STATIONS* (Jan. 1999) (documenting mainstream advertisers' widespread practice of making racist or ignorant assumptions about people of color's buying habits in order to justify not spending advertising dollars with black- or Hispanic-oriented radio stations that often had the highest ratings in their markets), available at http://www.fcc.gov/Bureaus/Mass_Media/Informal/ad-study/adsynopsis.html.

All localities in the fragmented American metropolis are in a vigorous horizontal competition with each other for a limited commercial tax base. Unfortunately, affluent, largely white suburban communities tend to garner the majority, sometimes an overwhelming majority, of a region's economic growth.¹⁶² Suburban communities with large black populations—communities that attract *less* economic growth and *more* social service burdens—tend to have higher tax rates, higher public debt, and substantially different patterns of expenditures for local services than do other suburbs.¹⁶³ Empirical studies also suggest that blacks receive better government services from consolidated metropolitan government than from segregated, majority-black government.¹⁶⁴

While there may be little that a majority-black suburb or even an older majority-white suburb can do to overcome the systematic biases of regional economic markets, at minimum the majority-black suburb would benefit from a concerted effort to build political alliances with other localities in an effort to end unfair public policies that fuel the market domination of affluent white suburbs.¹⁶⁵ The majority-black suburb may also, through education and aggressive marketing, ulti-

In the Atlanta region, for example, a 1980s study revealed massive inequalities in the availability of credit for housing between economically similar middle-income white and black residential areas, with banks offering five times as many loans in the white areas. ORFIELD & ASHKINAZE, *supra* note 147, at 78 (citing the *Atlanta Constitution's* Pulitzer Prize winning series, "The Color of Money"). "Middle-class black neighborhoods [on the Southside] had to survive on a much weaker system of financial support and middle-class families wishing to own homes had far fewer options." *Id.* at 78-79.

In addition, affluent black suburbs in the Atlanta region experienced disinvestment by retail and commercial businesses, despite an influx of middle and upper class households. See Ernest Holsendolph, *Capital Investors Turn Backs on Affluent Blacks*, ATLANTA J. CONST., July 21, 1997, at E9 (noting that many businesses, including Kmart and Cracker Barrel, relocated and closed with the influx of black households, even though they were affluent); Sheila M. Poole, *Wanted: A Few Good Developments*, ATLANTA J. CONST., Apr. 27, 1997, at D1 (same).

¹⁶² See Cashin, *Localism*, *supra* note 18, at 2009-12.

¹⁶³ See Mark Schneider & John R. Logan, *Suburban Racial Segregation and Black Access to Local Resources*, 63 SOC. SCI. Q. 762, 766-69 (1982); see also Phelan & Schneider, *supra* note 68, at 673 (noting that "black/multiethnic suburbs pay tax rates that are, on average, about 65% higher than those of white suburbs, even after differences in affluence are taken into account"); *id.* at 674 (noting that "[b]lack/multiethnic suburbs spend more on redistributive services than any other type of suburb, independent of level of wealth"); Mark Schneider & Thomas Phelan, *Black Suburbanization in the 1980s*, 30 DEMOGRAPHY 269, 274-77 (1993) (finding that blacks tend to reside in a relatively small number of suburban communities, characterized by lower wealth, worse public finances, and poorer prospects for economic growth than suburbs with smaller black populations).

¹⁶⁴ See, e.g., Ruth Hoogland DeHoog et al., *Metropolitan Fragmentation and Suburban Ghettos: Some Empirical Observations on Institutional Racism*, 13 J. URB. AFF. 479, 488-89 (1991) (finding that blacks in suburban residential communities fared worse "both in objective numbers of services and the more subjective perceptions of services and government" when they lived in a fragmented majority black town as compared to a consolidated metropolitan government).

¹⁶⁵ See Cashin, *Localism*, *supra* note 18, at 2033-34.

mately convince retailers of the economic wisdom of investing in a middle-class black area.¹⁶⁶ But the harsh reality is that Prince George's County and other majority-black communities have been faring poorly in the competition for commercial tax base, with attendant negative consequences for their residents.

2. Schools

The Prince George's County public schools have the second lowest test scores in the state of Maryland. "About 32 percent of all its third-, sixth- and eighth-grade students scored at a satisfactory level or better on the Maryland School Performance Assessment Program last year, well above Baltimore City's 16 percent score but well below top-ranked Howard County's 60 percent."¹⁶⁷ Although the causes of this poor performance are unclear, Prince George's County is hampered by a property tax cap approved by citizen referendum—a tax cap that undercuts school spending.¹⁶⁸ Studies suggest that voters and citizens show greater willingness to fund public schools in integrated, rather than homogeneous, jurisdictions.¹⁶⁹ Since 1973, Prince George's County schools have gone from being 20% black in 1973 to nearly 80% black today.¹⁷⁰ When County Executive Wayne Curry pushed for repeal of the tax cap in the fall of 1996, voters rebuffed him.¹⁷¹

In addition to funding problems, Prince George's County schools have a higher concentration of low-income students than do other suburban school systems in the region¹⁷²—another possible contributor to the county's low school performance.¹⁷³ Given the perform-

¹⁶⁶ See, e.g., Yuki Noguchi, *Restaurants Stoke Optimism*, WASH. POST, May 4, 2000, at MO5 (expressing hope that the planned openings of two Outback Steakhouse restaurants and a Starbucks coffee shop will spark more retail interest in Prince George's County).

¹⁶⁷ Teixeira, *supra* note 71, at 1A.

¹⁶⁸ *Id.* For the 2000 school year, the per-pupil spending rate in Prince George's County was only \$6410. Prince George's County Public Schools, *FY-00 Operating Budget*, at <http://www.pgcps.org/budget.html> (last modified Oct. 6, 1999). Comparatively, the per-pupil spending rate for Montgomery County is \$7584. MONTGOMERY COUNTY PUBLIC SCHOOLS, OUR CALL TO ACTION: THE CITIZENS BUDGET 41 (2000), available at <http://www.mcps.k12.md.us/departments/publishingservices/PDF/citbudget.pdf>. Fairfax County's spending rate is budgeted at \$8553 per-pupil. Fairfax County Public Schools, *Statistics*, at <http://www.fcps.k12.va.us/about/stats.htm> (last modified Nov. 13, 2000).

¹⁶⁹ See MICHAEL N. DANIELSON, *THE POLITICS OF EXCLUSION*, 109-110 (1976) (citing Montgomery County as an example).

¹⁷⁰ Mundy, *supra* note 97, at 9.

¹⁷¹ See *Unshackle Prince George's*, WASH. POST, Mar. 23, 1999, at A16.

¹⁷² See *infra* note 177.

¹⁷³ See ORFIELD & ASHKINAZE, *supra* note 147, at 125 (noting that "[t]he relationship between family income and educational success is one of the best-known relationships in educational research" and citing empirical evidence of the correlation between percentage of poor children in a school and achievement in Georgia); see also James E. Rosenbaum et al., *Can the Kerner Commission's Housing Strategy Improve Employment, Education, and Social Integration for Low-Income Blacks?*, 71 N.C. L. REV. 1519, 1553 (1993) (noting the difference in outcomes for black students who attended inner-city and suburban schools).

ance and funding problems of Prince George's County schools, many affluent families are opting out of the public school system. "More than half of the system's students qualify for free or reduced-price lunches, which indicates that many prosperous families do not send their children to the public schools."¹⁷⁴ Predominately middle-class African-American schools in the United States impoverish rapidly because majority-black communities tend to attract lower-income populations over time.¹⁷⁵ Most middle-class parents with means and choices would not opt to send their children to a school with a sizeable and growing proportion of poor children.

This, perhaps, is one of the harshest realities for black communities. Many middle-class blacks who have opted to live in a "black sanctuary" are paying a premium for their classism in the form of private school tuition.¹⁷⁶ Their white counterparts in affluent white suburbs have the option of relying on high-quality, well-funded public schools that typically have few poor children.¹⁷⁷ At the same time, middle-class blacks can shun poor black children and the public schools they attend just as whites do.¹⁷⁸

¹⁷⁴ Teixeira, *supra* note 71, at 4. "In 1990, household income for about 20% of residents was \$25,000 or less." *Id.* Of the forty-seven elementary schools in the Prince George's School District that were over 90% non-Asian minority, only three schools had less than 20% of its children qualifying for free lunch. Letter from Myron Orfield to Leonard Downie, Jr., *supra* note 81, at 1-2. "As a rule, middle-class families with residential choices do not choose schools with more than 20 percent poor children." *Id.* at 2.

These claims are consistent with the anecdotes I have heard in talking to middle-class residents of Prince George's County. Although many of the parents I have spoken to initially sent their children to public schools, they often told me of their decisions to remove their children and send them to private school. While this is by no means a scientific example, I was given the consistent impression that many Prince George's residents of means do not have faith in the public school system.

¹⁷⁵ See ORFIELD & ASHKINAZE, *supra* note 147, at 115-16, 127 (noting that there were only a handful of middle-class, predominately black schools in the Atlanta region but that because the residential areas in which these schools were located were in constant flux, the schools did not remain middle-class very long); Letter from Myron Orfield to Leonard Downie, Jr., *supra* note 81, at 1-2 (noting the rapid downward social transition of many Prince George's County elementary schools that the author researched).

¹⁷⁶ Parents in the middle-class black suburban enclaves surrounding Atlanta are also bypassing the public school system in favor of private schools. See Cumming, *supra* note 63, at R1.

¹⁷⁷ The percentage of students who qualify for free or reduced lunch in the Northern Virginian school districts of Falls Church and Loudon were 10.5% and 9.7%, respectively. ORFIELD, *supra* note 67, at 26. In contrast, the percentage of eligible students in Prince George's County and the District of Columbia were 40.8% and 73.4%, respectively. *Id.* The concentration of poverty is correlated with racial segregation. The low-poverty districts of Falls Church and Loudon had student non-Asian minority populations of less than 12.7%. *Id.* at 27. In contrast, the high-poverty school districts of Prince George's County and the District of Columbia maintained non-Asian minority populations of 81.4% and 94.3%, respectively. *Id.*

¹⁷⁸ See *supra* note 174 and accompanying text.

3. *Crime*

The crime rate in Prince George's County is higher than that of neighboring suburban, predominately white jurisdictions.¹⁷⁹ During the 1990s, crime within the District of Columbia dropped significantly, while crime in Prince George's County rose slightly.¹⁸⁰ Although the total increase in crime in Prince George's was only marginal, many of the County's inner-Beltway communities experienced a crime explosion that was disproportionate to their population growth.¹⁸¹ During the same period, the District of Columbia neighborhoods bordering these Prince George's communities experienced a rapid decrease both in crime and population, suggesting that the social distress formerly tied to the District's poorer neighborhoods is migrating to the county.¹⁸²

4. *Poverty*

Overall, poverty rates in Prince George's County have improved with the arrival of middle-class black residents. But the influx of poor people from the District of Columbia has had a mitigating impact. Despite the countywide decrease in poverty, including child poverty, child poverty still increased in fifty-four county communities between 1980 and 1990. Most of the largest increases were in communities located inside the Beltway in the western part of the county.¹⁸³ Again, this increased poverty in the western parts of the county reflects a larger trend—the tendency of black communities to attract poorer migrants.¹⁸⁴ Moreover, it appears that Prince George's County is at-

¹⁷⁹ Teixeira, *supra* note 71, at A1.

¹⁸⁰ From 1993 to 1998 overall crime in the District of Columbia dropped by 32.8%. See Metropolitan Police Department, Washington, D.C., *Citywide Crime Statistics: Annual Trends, 1993-1999*, at <http://www.mpdc.org/English/Districts/citywidetrends.htm> (last visited Feb. 4, 2001) [hereinafter *Citywide Crime Statistics*]. From 1990 to 1998 overall crime in Prince George's County rose an insignificant .26%. See *Prince George's County, Central Records Division Uniform Crime Reporting Program, Maryland State Police* (July 14, 2000) (on file with author) [hereinafter *Maryland State Police Data*].

¹⁸¹ Between 1990 and 1998, the Hyattsville, Berwyn Heights, Glenarden, Fairmount Heights, Capitol Heights, and Mt. Ranier communities saw crime rise by 14%, 82%, 42%, 32%, 28%, and 21%, respectively. Maryland State Police Data, *supra* note 180 (percentages given in this paragraph are author's own calculations using Maryland State Police Data). Between 1990 and 1998, the Hyattsville, Berwyn Heights, Glenarden, Fairmount Heights, Capitol Heights, and Mt. Ranier communities experienced population growth of 7.2%, 7.9%, 8.1%, 6.1%, 7.4%, and 5.8%, respectively. *Id.* (percentages given in this paragraph are author's own calculations using Maryland State Police Data).

¹⁸² Between 1993 and 1998, the Fourth, Fifth, Sixth and Seventh police districts in the District of Columbia experienced a reduction in crime by 27.3%, 40.6%, 2.78%, and 48.8%, respectively. *Citywide Crime Statistics, supra* note 180 (percentages given in this paragraph are author's own calculations using *Citywide Crime Statistics*).

¹⁸³ See ORFIELD, *supra* note 67, at 23.

¹⁸⁴ See *supra* text accompanying notes 154-56.

tracting disproportionately more low-income people than other surrounding, majority-white suburban counties.¹⁸⁵

Clearly concentrated poverty has a negative impact on the well-being of families relegated to high-poverty neighborhoods.¹⁸⁶ Less well known is the potential impact that proximity to poverty and social distress has on the black middle class. Sociologist Mary Pattillo-McCoy, who has documented this impact in the Groveland community on the Southside of Chicago, concludes that the close proximity of the black middle class to poor neighborhoods renders the opportunity structure of black middle-class communities precarious.¹⁸⁷ In short, children that grow up in middle-class white communities that typically are well-insulated from poverty, crime, and poor schools do not encounter the same risks that children living in black middle-class neighborhoods encounter on their passage to adulthood.¹⁸⁸

B. The Positive Trends and Counterarguments

Residents and leaders of Prince George's County would likely counter this "parade of horrors" by stressing that the county has a richer, better-educated tax base and that the overall poverty rate has decreased as a result of the influx of the black middle class.¹⁸⁹ They might also proudly argue that they prefer living in a county where African Americans now wield political power, providing the means to shape their destiny. Since 1990, the school board chairman, county executive, and state and national legislative representatives are all black.¹⁹⁰ And these black officials appear to be particularly effective in procuring state aid for infrastructure improvements in the county.¹⁹¹ Prince Georgians might also argue that their county offers

¹⁸⁵ Prince George's County far exceeds all other suburban counties in the number of families receiving welfare benefits. See BROOKINGS INST., *supra* note 74, app. at 39 (noting that Prince George's County supported 14.93% of the Washington metropolitan area's welfare caseloads, while the other suburbs individually supported less than 5%).

¹⁸⁶ See generally WILLIAM JULIUS WILSON, *THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY* (1987) (describing the deteriorating social conditions of the ghetto underclass).

¹⁸⁷ PATTILLO-McCOY, *supra* note 56 at 28-30 (noting that "there are clear perils associated with living in a black middle-class neighborhood" because of proximity to poor neighborhoods with higher homicide rates and noting that the "residential returns to being middle class for blacks [who live in black middle-class neighborhoods] are far smaller than for middle-class whites").

¹⁸⁸ See *id.* at 29-30.

¹⁸⁹ See BROOKINGS INST., *supra* note 74, app. at 39 (showing a 47.26% decline in poverty in Prince George's County between 1990 and 1996).

¹⁹⁰ Teixeira, *supra* note 71, at A1.

¹⁹¹ Prince George's County appears to fare reasonably well in the competition with other counties for state aid. *E.g.*, Tracey A. Reeves & Manuel Perez-Rivas, *P. George's Basks in the Afterglow of Legislative Victories*, WASH. POST., Apr. 13, 2000, at B4 (noting that Prince George's county received over \$1.4 billion in transportation funding, as compared to Montgomery County's allocation of \$276 million). This may reflect the fact that the cur-

attractive, even palatial, homes at relatively affordable prices compared to other jurisdictions in the D.C. metropolitan area.¹⁹² And finally, for some residents, the delight and pride they take in living in spirit-renewing black neighborhoods and in wielding political power outweighs any costs associated with racial segregation.¹⁹³

C. Testing the Normative Rationales

In light of the empirical reality presented above, do the normative rationales undergirding the all-black suburb fail? This section returns to the normative arguments and critiques these claims in light of the empirical evidence.

1. *Separatism*

With respect to whether separatism succeeds or fails as a normative rationale, the answer will vary depending on the values of the individual resident. As suggested above, those who make the separatist choice based upon desires to achieve a degree of insulation from the daily pain of living in an integrated world may be willing to pay a very high premium. But the empirical evidence of the costs that black middle-class residents of Prince George's County are bearing calls into question the confident separatism many of those residents espouse. This argument is not, as Justice Thomas might accuse, that all-black communities are inherently inferior.¹⁹⁴ Instead, this Article argues that the separatist position fails to take into account the costs of racial separation.

These costs do not reflect any inherent inferiority of majority-black institutions. Instead, they reflect the racial biases of larger society—biases that may be inevitable.¹⁹⁵ Systematic market forces that favor affluent white communities and disfavor majority-black ones contribute to the economic isolation of black suburbs. Those system-

rent governor, Parris Glendening, used to be Prince George's County Executive. Maryland State Archives, *Governor of Maryland: Parris N. Glendening*, at <http://www.mdarchives.state.md.us/msa/mdmanual/08conoff/html/msa11536.html> (Feb. 27, 2001). This record is consistent, however, with empirical research showing that suburbs with large numbers of blacks tend to do better than other suburbs in procuring intergovernmental aid. See Phelan & Schneider, *supra* note 68, at 674, 676 (noting that "[s]uburbs with large black populations receive more state and federal aid than do other types of suburbs" and that they "spend more on redistributive services than any other types of suburb").

¹⁹² See ORFIELD, *supra* note 67, at 43.

¹⁹³ See *supra* Part I.C.1.

¹⁹⁴ See *supra* text accompanying note 104 (noting Justice Thomas's argument about the necessary assumptions of those who object to all-black schools).

¹⁹⁵ See, e.g., DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM* 198 (1992) ("[R]acism lies at the center, not the periphery; in the permanent, not in the fleeting; in the real lives of black and white people, not in the sentimental caverns of the mind.").

atic forces include illegal racial steering by the real estate industry, the unwillingness of many whites to live in majority-black jurisdictions, and the unwillingness of retailers and commercial enterprises to invest and locate in majority-black locales.¹⁹⁶ Thus, black separatists must confront a painful truth. Contrary to Justice Thomas's confident assertion that all-black schools do not harm the children who attend them,¹⁹⁷ the empirical evidence presented above suggests that, in some respects, racial isolation harms even affluent African Americans.¹⁹⁸ But again, this does not mean that "things black" are inherently inferior. For example, racially identifiable schools do not tend to underperform because of any inherent inferiority of their students. Instead, these predominately minority public schools tend to attract a high percentage of poor students, and concentrated poverty takes a toll in myriad ways on the education mission.¹⁹⁹ The fact that poor minorities have the least leverage in the competition for public resources exacerbates these impacts.²⁰⁰

It may be that with a great deal more educational outreach, marketing, and vigilance, majority-black communities will ultimately be able to overcome some of the institutional biases set against them. In

¹⁹⁶ See *supra* Part II.A.1.

¹⁹⁷ See *supra* text accompanying note 104.

¹⁹⁸ See *supra* Part II.A.; see also ORFIELD & ASHKINAZE, *supra* note 147, at 130 (citing research by Johns Hopkins University in the 1980s showing that black "students attending desegregated schools were more likely to attend selective colleges, more likely to major in science and math-related fields, more likely to find employment in the growth sectors of the economy . . . and more likely to live in integrated neighborhoods as adults").

¹⁹⁹ See *supra* notes 174-75 and accompanying text. But see ORFIELD & ASHKINAZE, *supra* note 147, at 128-29, 144 (noting that "[i]n metro Atlanta, white schools and integrated middle-class schools outperformed . . . overwhelmingly black schools, whatever their economic makeup" and that DeKalb County's black schools "were doing much worse than integrated high schools with similar concentrations of low-income students"); cf. Vernon C. Polite, *If Only We Knew Then What We Know Now: Foiled Opportunities to Learn in Suburbia*, 62 J. NEGRO EDUC. 337, 340-41, 343-50 (1993) (noting a suburban high school's transformation from the best to the worst in the state, and the extensive decline in the school services that accompanied significant black migration to the school).

²⁰⁰ In the absence of a court order, most states have not intervened aggressively to address the fiscal and social disparities in public school funding. See William N. Evans et al., *Schoolhouses, Courthouses, and Statehouses After Serrano*, 16 J. POL'Y ANALYSIS & MGMT. 10, 28 (1997) (finding that legislature initiated reforms do not decrease fiscal disparities between rich and poor school districts). In addition, the primary beneficiaries of school finance reform tend to be majority-white and wealthy school districts. See Paul N. Courant & Susanna Loeb, *Centralization of School Finance in Michigan*, 16 J. POL'Y ANALYSIS & MGMT. 114, 122 (1997) (identifying middle-class districts as the primary beneficiaries of Michigan's school finance reform legislation and noting the negative impact of the law on the poorest school districts); Neil D. Theobald & Faith Hanna, *Ample Provision for Whom?: The Evolution of State Control over School Finance in Washington*, 17 J. EDUC. FIN. 7, 22-25 (1991) (finding that school finance reform legislation in Washington State resulted in a 4.9% decline in total resources available to high poverty school districts and that "the primary beneficiaries [of the legislation] have been school districts that educate mostly White and/or relatively wealthy students").

the meantime, the evidence presented strongly suggests that there are some clear negative consequences to the separatist choice.

2. *Classism*

To the extent that certain residents of Prince George's County are trying to achieve a haven for a black professional class, the evidence suggests that they will be limited in ways that their white counterparts in other suburbs are not. The primary reason for the weakness of segregated black communities is that they tend to attract poorer blacks and attendant social distress. Again, this reality reflects systematic biases in real estate markets.²⁰¹ While poor African Americans live overwhelmingly in central cities,²⁰² those that do move to suburban locations tend to move into the first ring of older suburbs that have a high concentration of affordable housing.²⁰³ Frequently, the real estate market steers black movers, including those who are poor, to the least controversial markets—that is, locations that are less attractive to whites. In addition, through zoning and other policies that exclude affordable housing, affluent white communities successfully wall out populations they do not desire.²⁰⁴ Those jurisdictions, like Prince George's County, that are already saddled with a high proportion of low- and moderate-income rental units neither have the luxury of denying access to low-income people nor can they realistically refuse, as some affluent suburbs do, to participate in federal affordable housing programs.²⁰⁵

Middle-class black people will also have a harder time than their white counterparts in isolating themselves from lower-income blacks because middle-class blacks frequently have strong family and social ties to poorer black communities. The black "affluent" class is actually quite small. Only 22.8% of black households and 8.7% of individual black males earn an annual income in excess of \$50,000.²⁰⁶ A mere

²⁰¹ See *supra* Part II.A.1.

²⁰² African-American poverty is more highly concentrated in central cities than white and Hispanic poverty. In 1997, 58% of African Americans living in poverty lived within central cities, 24% lived in suburban areas, and 18% lived in rural areas. BUREAU OF LAB. STAT. & BUREAU OF THE CENSUS, ANNUAL DEMOGRAPHIC SURVEY tbl. 4 (Mar. Supp. 2000), http://ferret.bls.census.gov/macro/031998/pov/4_001.htm (percentages given in this footnote are author's own calculations using *Annual Demographic Survey* data).

²⁰³ See Douglas S. Massey et al., *Migration, Segregation, and the Geographic Concentration of Poverty*, 59 AM. SOC. REV. 425, 442-43 (1994).

²⁰⁴ Cashin, *Localism*, *supra* note 18, at 2012 (summarizing exclusionary practices of affluent suburbs and resulting effects on the housing market).

²⁰⁵ *Id.*

²⁰⁶ BUREAU OF THE CENSUS, CURRENT POPULATION REPORTS, MONEY INCOME IN THE UNITED STATES: 1998, at 5 tbl.2, 30 tbl.8 (1998). By contrast, for whites, 40.7% of households and 21.5% of individual males earn an annual income in excess of \$50,000. *Id.*

4% of black households earn over \$100,000 annually.²⁰⁷ And while the black middle class has grown steadily since the civil rights revolution,²⁰⁸ the economic status of individuals within black families can vary greatly, with some siblings achieving “middle-class” status and others still struggling to get there.²⁰⁹ More importantly, the physical proximity of the black middle class to poorer blacks ensures frequent interaction between these groups—in schools, grocery stores, hospitals, churches, nightclubs, and other public and private venues that they share.²¹⁰

This is not to suggest that classism is a laudable goal. Poor African Americans clearly fare better in terms of job opportunities and educational outcomes in economically integrated settings than in concentrated-poverty neighborhoods.²¹¹ The geographic separation between poor and more affluent blacks can foster middle-class blacks’ sense of alienation toward the poor, which further reduces the likelihood that society will adopt effective antipoverty strategies.²¹² But this geographic separation also alienates suburban whites from the minority poor. The current fragmentation of metropolitan areas into fairly homogenous clusters of classes and races generally decreases the chances that society will form a consensus to redress difficult social problems like poverty and unequal educational opportunity.²¹³

3. *Localism*

Elsewhere I have written a sustained critique of the normative arguments offered in favor of autonomous local authority. In particular, I argued that fragmented, homogenous localities have the effect of disenfranchising the two-thirds of the metropolitan-area population who do not live in affluent, outer-ring suburbs.²¹⁴ Federal, state, and

²⁰⁷ *Id.* at 5 tbl.2. By contrast for whites, 11.34% of households earn over \$100,000 annually. *Id.*

²⁰⁸ “Using an income [criterion] of at least twice the poverty line . . . for middle-class status, the percent of black households [that reach this threshold has risen] from . . . 1 percent in 1940 to 39 percent in 1970 . . . [to] 47 percent [in 1990].” Farley & Frey, *supra* note 3, at 30.

²⁰⁹ See, e.g., DeNeen L. Brown, *Her Sisters’ Keeper*, WASH. POST (Magazine), Jan. 23, 2000, at W14; see also PATTILLO-McCOY, *supra* note 56, at 14, 22 (noting that the black class structure is more compressed than that of whites, with the black middle class being concentrated heavily in nonprofessional, lower-middle-class jobs like sales and clerical work).

²¹⁰ See PATTILLO-McCOY, *supra* note 56, at 6; *id.* at 11 (“Social ties across class lines, across lifestyles, and across the law exist partly because of the assignment of most African Americans to ‘the black side of town.’”).

²¹¹ See, e.g., Rosenbaum et al., *supra* note 173, at 1552-53 (citing the improved job and educational outcomes for parents and children of low-income families that chose to move to suburban locations under the court-ordered Gatreaux program).

²¹² See generally Raspberry, *supra* note 126 (noting that “[a]s the tensions grow between the two classes of blacks, the sense of political guardianship is apt to diminish”).

²¹³ See Cashin, *Localism*, *supra* note 18, at 2019.

²¹⁴ See *id.* at 2004-06.

local public policies that subsidize and favor the growth of affluent outer-ring suburbs negatively impact and disenfranchise this metropolitan majority that lives in the central city and the first ring of older suburbs.²¹⁵ These communities might overcome this disadvantage if they could form a broad political coalition. But this would require them to form alliances across local jurisdictional boundaries that often demarcate economic and racial differences.²¹⁶ Similarly, one could argue that the segregated suburb does not work for African Americans because segregation negatively impacts equality politics. Alienation or separation from other potential natural allies in the metropolitan area clearly does not bode well for African Americans in terms of their ability to compete for private investments.²¹⁷ That said, a high degree of geographic separation of African Americans persists in the United States and is likely to continue in the indefinite future.²¹⁸ Given that many African Americans are affirmatively choosing to live in and form their own suburban communities, and that a degree of racial and socioeconomic fragmentation seems inevitable, the challenge for all of American society is to learn how to bridge these physical and psychological distances.

III

THE ELUSIVE INTEGRATIONIST IDEAL: A POST- INTEGRATIONIST VISION

Perhaps at some point well into the twenty-first century, African Americans and other races will be thoroughly integrated throughout the many localities that make up the American metropolis. Perhaps America will also figure out how to disperse the African-American poor currently concentrated in high-poverty urban neighborhoods, so that they, "too, sing America."²¹⁹ But if current public policies and

²¹⁵ See *id.* at 2012.

²¹⁶ See *id.* at 2034.

²¹⁷ See *id.*; *supra* Part II.A.1; see also Reggie Oh, *Apartheid in America: Residential Segregation and the Color-Line in the Twenty-First Century*, 15 B.C. THIRD WORLD L.J. 385, 405-06 (1995) (noting that severely isolated black communities are unable to maintain access to quality employment or basic social services).

²¹⁸ See *supra* text accompanying notes 36-58.

²¹⁹ LANGSTON HUGHES, *I, Too*, in *SELECTED POEMS OF LANGSTON HUGHES* 275 (Vintage Books ed. 1974).

I, too, sing America.
I am the darker brother.
They send me to eat in the kitchen
When company comes,
But I laugh,
And eat well,
And grow strong.
Tomorrow,
I'll be at the table

regional demographics are any guide, America will not likely achieve such an integrationist ideal, particularly in those metropolitan regions where most African-Americans live.²²⁰ This final Part discusses why residential integration of the races and classes is likely to elude us. It explores in particular the residential choices available to middle-class African Americans. This Part then concludes by presenting a vision of how society can order governance arrangements so as to accommodate the segregative tendencies of the metropolitan polity while also enhancing opportunities for building alliances across boundaries of race and class.

A. The Persistence of Segregation and the Elusiveness of Integration

Segregation of African Americans, particularly poor blacks, persists for at least three reasons. First, individuals and institutional actors in United States real estate markets still discriminate a great deal.²²¹ Second, even in the absence of discrimination, blacks and whites view integration in starkly different terms. In a world in which each race appears to prefer integration only when their own group is in a majority,²²² neither group's stated preference is easily met.²²³ As noted above, some residents of Prince George's County or other majority-black suburbs appear to choose these enclaves because there are so few other viable choices for those who desire to live in suburban

When company comes.
Nobody'll dare
Say to me,
"Eat in the kitchen,"
Then.

Besides,
They'll see how beautiful I am
And be ashamed—
I, too, am America.

Id.

²²⁰ See *supra* text accompanying notes 36-58.

²²¹ See *supra* notes 78-87 and accompanying text; see also Calmore, *supra* note 17, at 1071 ("Housing is the civil rights area that has most been plagued by slow, small advances, where the possibility for real change is viewed as most remote.").

²²² See *supra* text accompanying notes 30-36.

²²³ See Sander, *supra* note 3, at 988 ("As long as both whites and blacks have a strong aversion to being 'outnumbered' by persons of the other race, it is likely that, in any given residential distribution, some persons will feel outnumbered and will move into racially homogenous areas."); *id.* at 1009 (concluding that the possibilities for integration are limited because of factors that tend to produce resegregation, including "hostility costs" that "are difficult to legislate away"); see also MASSEY & DENTON, *supra* note 3, at 109 (noting that whites are "unwilling to tolerate more than a small percentage of blacks in their neighborhoods"); THERNSTROM & THERNSTROM, *supra* note 23, at 221-22 (discussing polls indicating that whites were opposed to having black neighbors).

neighborhoods with a sizeable black presence.²²⁴ Although nearly one-fifth of the neighborhoods in the United States have achieved some integration of African Americans—defined as between 10% and 50% black²²⁵—much of the literature on racial housing patterns suggests that, even in neighborhoods that have achieved integration, the typical tendency of real estate markets is towards transition rather than stabilization.²²⁶ As one researcher has argued, “normal housing turnover and white residential mobility create the vacancies that make racial transition possible [and discriminatory]; the limitations on black housing choices makes this racial change inevitable.”²²⁷ Even communities that have designed specific programs to achieve and maintain residential integration experience this racial transition.²²⁸ Finally, many localities engage in “fiscal zoning” whereby they impose lot size and other requirements that effectively bar access to housing for low-, moderate-, and even many middle-income populations.²²⁹ African Americans fall heavily in such moderate- and lower-income brackets.²³⁰

²²⁴ See *supra* text accompanying notes 83-88. I personally was quite surprised to learn that the integrated neighborhood I live in was not nearly as racially balanced as I thought. After living in Shepherd Park in Washington, D.C., for seven years, I estimated the racial composition of my neighborhood at somewhere close to 60% black and 40% white; I thought maybe it even came close to a 50-50 breakdown. In conducting research for this Article, I learned that the neighborhood is 71% black and 26% white, with the remaining percentage comprised of other races. See U.S. Census Bureau, *Population Profile—1990 Census of Population and Housing; Census Tract 0016*, available at <http://tler2.census.gov/cgi-win/ctsl/tracprof.exe>. (last visited July 6, 2000).

²²⁵ *Supra* note 53.

²²⁶ See Richard A. Smith, *Creating Stable Racially Integrated Communities: A Review*, 15 J. URB. AFF. 115, 128 (1993) (“The racial transition process results from the inevitable aging of neighborhoods and loss of attractiveness to the white middle class households that have housing options in new areas [coupled with a] . . . dual housing market in which black housing demand is channeled and constrained toward older neighborhoods.”); see also Phelan & Schneider, *supra* note 68, at 666-67 (reviewing research data and concluding that “a pattern of ethnic transition is clear regardless of the level of affluence” for suburbs with a significant black population and that in such suburbs “racially based invasion-succession is the typical pattern”). But see Ellen, *supra* note 53, at 19 (noting that three-quarters of racially mixed neighborhoods in a sample of 34 metropolitan areas remained racially mixed from 1980 to 1990, but not indicating the racial percentages of these neighborhoods).

²²⁷ Smith, *supra* note 226, at 128-29.

²²⁸ See *id.* at 128-31 (citing the examples of Oak Park, Illinois; the Nineteenth Ward of Rochester, New York; and Sherman Park in Milwaukee, Wisconsin—all of which experienced racial change in the typical “invasion-succession pattern” despite conscious strategies designed to maintain integration); see also STEINHORN & DIGGS-BROWN, *supra* note 55, at 33 (arguing that “what many hail as racially mixed neighborhoods are actually neighborhoods undergoing racial transition” and that, as a result, “a number of blacks have simply stopped trying to integrate and are increasingly opting for identifiably black communities”).

²²⁹ See Cashin, *Localism*, *supra* note 18, at 1993.

²³⁰ See *supra* notes 208-09.

Thus, while housing options for African Americans are likely to continue to improve incrementally in the twenty-first century,²³¹ it is not likely that the housing market will achieve true integration because systemic forces are set against it. Overcoming these systemic forces would require sustained, race-conscious interventions that contravene fundamental notions of individual liberty.²³² Hence, African Americans of means are likely to continue to face a difficult conundrum. Given the negatives associated with segregation, many of which this Article has identified, and given the relatively few stably integrated communities, where should African Americans who have choices choose to live? There is no universal answer to this conundrum because African Americans are not a monolith. Like other racial groups, African Americans vary in their attitudes about racial solidarity and their residential choices reflect this variety.²³³ Sadly, in my view, the evidence suggests that only suburban locales in which blacks are a distinct minority are likely to offer high-quality public schools, retail and other amenities, as well as access to job-rich growth corridors.²³⁴ Clearly some African Americans of means will make the choice to locate in these areas, despite the social challenges of living and raising children in an area in which they are vastly outnumbered by whites.

The evidence also suggests, however, that a substantial number of black suburbanites, by choice or by default, will find themselves living in neighborhoods in which blacks constitute a majority. In this regard they are no different than whites. The phenomenon of black suburban enclaves also suggests that a number of African Americans will continue to live not just in racially-identified neighborhoods *but in racially-identified localities*. As African Americans, like other Americans, choose to form communities in which their racial or economic group

²³¹ See Robert Fishman, *The American Metropolis at Century's End: Past and Future Influences*, HOUSING FACTS & FINDINGS, Winter 1999, at 1, 15 (asserting the possibility of forming genuinely diverse communities in the twenty-first century based on the existence of a few successfully integrated neighborhoods); *supra* text accompanying notes 37-38 (noting the incremental declines in segregation of African Americans since 1970).

²³² See STEINHORN & DIGGS-BROWN, *supra* note 55, at 221-23 (noting the pervasive, race-conscious interventions undertaken by Shaker Heights, Ohio, in order to maintain residential racial integration and concluding that "real integration depends on social engineering, constant vigilance, government authority, official attention to racial behavior, and a willingness by citizens to relinquish at least some personal choice for the greater good"); *id.* at 232-33 (noting the extensive race-conscious means used by the military to achieve integration in furtherance of the nonracial goal of military readiness, and concluding that the military's unique success at integration could not be replicated in civilian life because most Americans would not accept the interventions required).

²³³ See Bledsoe et al., *supra* note 21, at 451-52.

²³⁴ See *supra* Part II.A; see also Galster, *supra* note 87, at 621 (asserting that "blacks will gain little from near-central-city suburbanization if job growth, high-quality education, superior environments, and the like tend to follow higher-status whites into the ever-more-distant exurbs").

can wield local powers, American society will be increasingly challenged to find ways to build consensus across local borders.

B. A Post-Integrationist Vision for the American Metropolis

This Article has argued that some degree of segregation or atomization of the metropolitan polity is inevitable, although African Americans appear to fare better in integrated settings in terms of access to quality schools, government services, and economic opportunities. To the extent that African Americans are choosing to locate in all-black communities, however, they have a strong incentive to mitigate the negatives associated with segregation. But, as argued above, most negative trends associated with black segregation reflect discriminatory influences external to the black community.²³⁵ Thus, citizens of black enclaves need a means of influencing markets and institutions beyond their borders. This is true, however, of citizens of many other localities in the racially and economically fragmented American metropolis.

Accepting the lamentable reality that racial segregation will persist to a substantial degree in the foreseeable future and acknowledging that economic segregation is increasing, this section now presents a "post-integrationist" vision for the future of metropolitan America. The vision is two-pronged. First, Americans must accept that the achievement of racial integration will be limited within a legal framework dedicated to eliminating discrimination rather than pursuing race-conscious "social engineering."²³⁶ But the proper policy response to this fact is not to give up on eliminating discrimination. Rather, lawmakers and law enforcers should be even more vigilant, in my view, in seeking to eliminate any and all racial barriers to housing access. In short, accepting the inevitability of some racial segregation in America does not mean accepting racial *discrimination*. The first prong of this vision calls on all Americans to be very clear eyed concerning the status quo in our nation's real estate markets and patterns for residential living. The first prong is a call to honesty about our residential markets and the social consequences of how we have ordered them. We should acknowledge that much of the status quo is due to illegal discriminatory activity and recommit ourselves to eliminating racial discrimination wherever it exists. With more vigilant enforcement of antidiscrimination laws we can expect a continuance if not an acceleration of modest declines in racial segregation well into the twenty-first century.

Another equally important purpose exists, however, in calling attention to the inevitability of some racial segregation in United States

²³⁵ See *supra* Part II.A.1.

²³⁶ See *supra* note 231 and accompanying text.

housing markets. Racial segregation, whether caused by discrimination or voluntary separation, begets structural inequalities in our society. A vision of a “post-integrationist” America is one which seriously calls on itself to account for the often extreme inequalities that flow from the seemingly inevitable segregation of the races and classes.

Fragmentation of local governance in metropolitan areas creates regional inequities—a concentration of wealth, jobs and public infrastructure investments in high-growth suburbs and a concentration of social service demands and disinvestment in central cities and older suburbs.²³⁷ African Americans, particularly those who are poor and relegated to isolated central city neighborhoods, bear the brunt of these inequities. Full residential integration of people of color and the poor into *all* the localities of the metropolis would substantially reduce, if not eliminate such regional disparities.²³⁸ But this is not a realistic vision, given the public and private choices fueling racial and socioeconomic segregation in the United States.²³⁹

The alternative to integration, then, is some form of mediation across the fragmented political space. This is the focus of the second prong of the post-integrationist vision: regionalism. Across the United States, a number of metropolitan areas have pursued a range of strategies that allow citizens to form local communities premised upon their desired identity and mix of services, but that minimize the negative externalities that flow from such atomization. Their means for achieving this Herculean feat have been regional governance structures.²⁴⁰

The metropolitan areas that have made the most headway in reducing interlocal disparities of wealth and opportunity have strong regional entities that can impose solutions on recalcitrant localities.²⁴¹ These areas have pursued solutions like regional tax base sharing, in which growing communities, typically outer-ring developing suburbs, share a portion of their growth in tax revenues with stagnant and shrinking communities.²⁴² Fair-share affordable housing programs that require or incentivize high-growth developing suburbs to provide low- and moderate-income housing have also been pursued in such

²³⁷ See Cashin, *Localism*, *supra* note 18, at 2003-15.

²³⁸ See Cashin, *Building Community*, *supra* note 18, at 415-16 (presenting the integrationist ideal).

²³⁹ See *id.* (identifying, *inter alia*, the social preferences and economic incentives animating segregated housing markets).

²⁴⁰ See Cashin, *Localism*, *supra* note 18, at 2027-34 (giving an overview of regionalism efforts in the United States).

²⁴¹ See *id.* at 2028 (offering examples in Seattle, Washington; Portland, Oregon; and the Twin Cities, Minnesota).

²⁴² See *id.* at 2035-36 (offering the example of tax base sharing in the Twin Cities region and elsewhere).

regions.²⁴³ Many metropolitan areas have also overcome a “localist” culture in order to develop coordinated, regional responses to difficult transportation and land use concerns that transcend local borders. In the Atlanta region, for example, a new regional transportation authority with powers to veto local land use decisions was put in place after years of uncoordinated local decisions had created a traffic and air pollution crisis.²⁴⁴ But solutions like regional tax base sharing, land-use planning, and fair-share affordable housing are only imposed when a *majority* of the citizens of the metropolis, or their representatives, have reached a political consensus in favor of such strategies.²⁴⁵ Such regional consensus will not happen unless citizens in fragmented localities that are currently separated by a great deal of social distance forge strong, sustainable cross-border alliances.

Where such cross-border, regional coalitions are formed and permanent regional fora are established, a society of fragmented localities has a modest chance of bridging social distances that flow from geographic stratification.²⁴⁶ In the absence of such permanent mediating structures, serious problems and inequities that transcend local borders—like traffic congestion, uncontrolled sprawl, and limited affordable housing—will fester and accelerate.²⁴⁷ Middle-class black suburbs, which are likely to attract a disproportionate share of social distress and thus suffer in the regional competition for tax base, have much to gain from aggressive participation in regional coalition-building and in regional governance.

Thus, under the second prong of the vision, a range of progressive policies and new legal paradigms will need to be developed to redress the inequalities that flow from racial and economic segregation. Regionalist, cross-border alliances that transcend race and income will also be critical to achieving such reforms. According to this vision, the citizens of the metropolis must collectively decide what legal and policy reforms they are willing to pursue. I would not mandate specific solutions through federal or state requirements because I

²⁴³ See *id.* at 2034-35, 2037 (offering the example of the Twin Cities region and calls for such efforts in the Chicago and Baltimore regions). Generally, fair-share affordable housing has been pursued in a tepid fashion that has not substantially altered the racial or economic make-up of localities operating under fair-share mandates. See *id.* at 2032 (discussing the results of “Mt. Laurel” programs in New Jersey).

²⁴⁴ See *id.* at 2037-41 (offering examples of regional land use and transportation efforts including that of the Atlanta region).

²⁴⁵ See *id.* at 2041.

²⁴⁶ Cf. Calmore, *supra* note 17, at 1123-24 (arguing that among the optimum conditions necessary for reducing racism in American society were ongoing contacts that solidified interracial acquaintances so as to give more accurate or deeper insights about the experience of others and interracial contacts premised on a cooperative endeavor, as occurs in the armed forces).

²⁴⁷ See Cashin, *Localism*, *supra* note 18, at 2027-42.

believe that effective, self-sustaining change will not happen without the hard work of building regional consensus. Currently we lack a sufficient national consensus on issues of inequality to provide the political impetus for federal mandates. Rather, the critical levers for change are in the domain of state legislatures. States authorize the creation of municipalities and determine what powers they may wield. Likewise, only states can create new regional entities and determine which powers currently wielded by local governments might be assumed by regional authorities. Hence the battleground for regionalism in the twenty-first century will be in state legislatures. The federal government could, however, be a catalyst for this movement by mandating public disclosure of where federal funds for infrastructure are allocated in metropolitan regions and by providing funding to metropolitan areas that wish to undertake a regional consensus-building exercise.²⁴⁸

While this vision is premised upon citizens in each metropolitan area working out their own arrangements for regional reforms, it is not romantic or unrealistic. It is premised upon gritty political realities. The two-thirds of the metropolitan population that live in central cities and older suburbs, along with residents of newer, affluent black suburbs, have the potential to be powerful allies in the quest for regional equality and fairness. Should they form such an alliance, their representatives in the state legislature would constitute a majority. This political majority, if formed to redress regional inequities, would likely be imposing its will upon the one-third of citizens who live in developing outer-ring suburbs. This situation is more just than the status quo because affluent, outer-ring suburbs have no barriers to effective political participation. They currently reap disproportionate benefits in the competition for public and private resources, export some costs to the rest of the region, and undertake few regional burdens.²⁴⁹ My hope, however, is that a regionalism movement and the policy innovations it propagates will help change the market dynamics that lead to racial and economic segregation. Perhaps as citizens of different races and classes are forced to deal with each other in forging regional alliances and operating a regional governance structure, populations different than our own and the world outside our individual neighborhoods will feel less threatening. Perhaps as regional burdens of affordable housing, social services, and the like and regional benefits of growth, prosperity, and public investment are more evenly distributed all citizens will have fewer incentives to pursue a separatist course. Perhaps then more viable options will emerge for those who wish to live in racially and economically integrated communities.

²⁴⁸ See *id.* at 2048 (arguing, *inter alia*, for federal disclosure requirements).

²⁴⁹ See *id.* at 2003-13.

CONCLUSION

Black Americans, like all Americans, desire superior environments in which to live, work, play, and raise their children. Most importantly, they desire that the American dream of equal opportunity in education and work become a reality for their children. But the demographic reality of metropolitan America is quite different. In those metropolitan areas where the majority of African Americans live, most blacks live in predominately black neighborhoods, regardless of their incomes. Even the affluent or middle-class black enclaves that have emerged in American suburbs tend to offer higher taxes, higher crime, poorer schools, fewer retail outlets, and less access to economic opportunity than do predominately white suburbs. They tend to be located in the opposite direction from the engines of a region's economic growth. In theory African Americans with economic means have a choice about where to live, and most blacks say that they would prefer to live in an integrated neighborhood. But another reality in the American metropolis is that whites typically feel threatened by an influx of black families—particularly those whites who live in metropolitan regions with large populations of blacks. Blacks are also now less willing to live in neighborhoods in which they are vastly outnumbered by whites. Consequently, an America which is deeply committed to the shibboleth of “one nation, under God,” an America which broadly accepts the ideal of integration, does not truly live this ideal, at least not at the neighborhood level.

The tragedy lies not in our failure to achieve full integration but in our failure to own up to this failure. In other words, American society has not accepted “that integration is an illusion borne of hope and desire”²⁵⁰ or understood that “our very devotion to the [integrationist] ideal ironically helps us avoid a real reckoning on race.”²⁵¹ The proper course is not to throw up our hands in defeat but to roll up our sleeves and get to work on the underlying causes of inequality in the United States. While a certain degree of racial segregation seems inevitable, lawmakers, law enforcers, and opinion makers must be vigilant in attacking all forms of discrimination—racial, sexual, and otherwise—that limit equal opportunity in access to housing, credit, education, jobs, and the like. With such vigilance, the modest declines in residential segregation that our nation experienced in the last thirty years will continue into the twenty-first century. Because full integration is not likely under our current system, a range of progressive policies and new legal paradigms are needed to redress the inequalities that flow from racial and economic segregation. The social

250 STEINHORN & DIGGS-BROWN, *supra* note 55, at 250.

251 *Id.*

distance that fuels the creation of separate localities demarcated by race and income also makes the politics of pursuing such a course extremely difficult. This "post-integrationist" vision will require predominately black and predominately white communities to bridge social differences in a way that is currently quite rare in the United States. Those few metropolitan regions that have built such alliances give me hope, just as I take heart and hope from those precious few communities in the United States that have embraced and sustained the ideal of racially integrated neighborhoods.