Northwestern Journal of Law & Social Policy

Volume 1
Issue 1 *Summer*

Article 1

Summer 2006

Racial Inequality and the Black Ghetto

Alexander Polikoff

Recommended Citation
Alexander Polikoff, *Racial Inequality and the Black Ghetto*, 1 Nw. J. L. & Soc. Pol'y. 1 (2006).
http://scholarlycommons.law.northwestern.edu/njlsp/vol1/iss1/1

This Article is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Northwestern Journal of Law & Social Policy by an authorized administrator of Northwestern University School of Law Scholarly Commons.

Racial Inequality and the Black Ghetto[a1]

Alexander Polikoff

Shortly after the Katrina hurricane, David Broder observed that the capacity of affluent white Americans to put aside lasting concern about those isolated from mainstream society by poverty and race is "almost limitless."[1] Perhaps this is so because many Americans assume that the consequences of the isolation are confined to the isolated. If more Americans perceived that the consequences spread more widely, perhaps their capacity to put aside concern would be more limited. I will argue here that the consequences do in fact spread widely, indeed, throughout American society. Then I will suggest how increased concern, should it arise, might be usefully directed.

Poison in the National Groundwater

Some 170 years ago Alexis de Tocqueville called racial inequality "the most formidable evil threatening the future of the United States,"[2] and prophesied that America would fail to address that most formidable evil successfully, a failure that would eventually bring the country to disaster.[3] Much more recently, Jason DeParle echoed Tocqueville's observation if not his prophecy. Inner city poverty and disorder, DeParle wrote in the *New York Times*, lacerate our

---

[a1] This article was adapted from the last chapter of Alexander Polikoff, WAITING FOR GAUTREAUX: A STORY OF SEGREGATION, HOUSING, AND THE BLACK GHETTO (2006).

[1] David Broder, Editorial, *Waiting for Action; Right Words but Little Practical Help for Poor*, WASH. POST, Sept. 22, 2005, at A25.

[2] ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 340 (George Lawrence trans., Perennial Classics 2000) (1835).

[3] *Id.* at 340-363.

civic fabric, but most damaging of all is their effect on race relations – they are like a poison in the national groundwater that produces a thousand deformed fruits.[4]

What deformed fruits? Among them, I believe, is nothing less than the break-up of the coalition that birthed the New Deal and the Civil Rights Movement. This was a political sea-change that began during World War II, gained strength over the next two decades, then led to Richard Nixon's election in 1968, followed by Ronald Reagan's 1980 triumph and the final dissolution of the New Deal coalition with its reigning creed of consensus liberalism.

Powered by the trauma of the Great Depression, America was becoming a nation concerned with social justice. Many New Deal measures were of course driven by social justice ideals. In 1944, FDR called on Congress to enact a "second" Bill of Rights, this one to be devoted to social and economic, rather than civil and political, "rights."[5] "Government by organized money," FDR once said, "is just as dangerous as Government by organized mob."[6] He even vetoed a revenue bill because it failed to tax "unreasonable" wartime profits and provided relief "not for the needy but for the greedy."[7]

To be sure, the veto was overridden. Yet Truman's Fair Deal strove to continue the momentum of the New Deal. Johnson's Great Society was to be great precisely because it elevated social and economic justice to explicit national policy. Though far from having carried the day, social justice was clearly "in play" in the American psyche for the three decades from the onset of the New Deal through the cresting of the Civil Rights Movement in the mid-1960s.

---

[4] Jason DeParle, *Suffering in the Cities Persists As U.S. Fights Other Battles*, N.Y. TIMES, Jan. 27, 1991, § 1, at 1.

[5] DORIS KEARNS GOODWIN, NO ORDINARY TIME 485 (1994).

[6] CASS SUNSTEIN, THE SECOND BILL OF RIGHTS 17 (2004).

[7] KEARNS, *supra* note 5, at 486.

In November 1968 that psyche changed. From a nation concerned with fairness, under Richard Nixon we became a nation that slammed the doors on school and housing desegregation. After a brief interlude of "trusting" Jimmy Carter, our changed character re-emerged with traits deepened and intensified. Under Reagan we became a thoroughly uncaring nation, obsessed with the "free" market and with crafting rules to foster still more personal acquisition by the most favored. The animating visions of the New Deal, the Fair Deal, and the Great Society became as irrelevant as ancient relics.

There is no single explanation for America's character change. But a major factor was disaffection by the blue-collar workers and white ethnics who had been core elements of the New Deal coalition. Disaffection over what? The answer is the one concern that, for them, trumped all others – fear of blacks trapped in ghettos trying to "invade" their neighborhoods.

A well-known study illustrates what happened at the local level.[8] For years, Detroit blue-collar workers and white ethnics had voted overwhelmingly for Roosevelt. But in Detroit, as elsewhere, blacks were seeking housing outside the ghetto. In Detroit, as elsewhere, whites were pushing back. For the 20 years and more following World War II this push-out and push-back was the dominant issue in local Detroit politics. By 1972 George Wallace would sweep every predominantly white ward in Detroit.

At the national level, the political sea-change began with Southerners attacking the civil rights movement by deliberately coupling blacks and law-breakers. Even before Johnson's 1964 victory over Barry Goldwater, Theodore H. White wrote a prescient analysis for Life Magazine about white resistance to integration. Backlash, he wrote, is "as invisible, yet as real, as air

[8] THOMAS SUGRUE, THE ORIGINS OF THE URBAN CRISIS: RACE AND INEQUALITY IN POSTWAR DETROIT 3-5 (1996).

pollution."[9] Division over race was an obvious peril for the Democrats. The Republicans had to choose between designing a program of social harmony or becoming "the white man's party."[10] If the need for constructive answers were ignored – here White echoed Tocqueville's language exactly – "disaster lies ahead."[11]

Far from responding with a program for social harmony, Republicans seized the racial moment. Angling for the 1968 Republican nomination, Nixon soon began playing the law and order theme regularly and loudly. The racial subtext of Nixon's anti-crime message was clear. Kevin Phillips, whose position papers were the blueprint for Nixon's strategy, argued frankly that a political realignment in America was possible on the basis of race. He suggested – as one of his papers put it – "coded anti-Black campaign rhetoric."[12] Nixon understood. As Nixon aide John Ehrlichman candidly acknowledged, "That subliminal appeal to the anti-black voter was always in Nixon's statements and speeches about schools and housing."[13]

In his retrospective on the 1968 election, White observed that the shrinkage of Democratic votes could not be attributed solely to what he called the "primordial" issue of race.[14] But race was explicit in Nixon's "Southern strategy" for bringing the Democratic South into the Republican column, and was "subliminal" in his crime and related welfare rhetoric. Overall, it was a key factor in Nixon's win over Humphrey.

---

[9] Theodore H. White, *Negro in the North, Part II*, LIFE, Nov. 29, 1963, at 78.

[10] *Id.*

[11] *Id.*

[12] MICHAEL OMI & HOWARD WINANT, RACIAL FORMATION IN THE UNITED STATES: FROM THE 1960S TO THE 1980S 124 (1986); *see* KEVIN P. PHILLIPS, THE EMERGING REPUBLICAN MAJORITY (1969).

[13] JOHN EHRLICHMAN, WITNESS TO POWER: THE NIXON YEARS 222 (1982).

[14] THEODORE H. WHITE, THE MAKING OF THE PRESIDENT 1968 (1969).

In Reagan's 1980 campaign – the southern phase of which, with a ringing endorsement of states' rights, was launched in Philadelphia, Mississippi, where James Chaney, Michael Schwerner, and Andrew Goodman had been murdered – the candidate's speeches on crime and welfare were a virtual rerun of Nixon's themes of 12 years earlier. Although other issues, such as the economy and the Iranian hostage crisis, were also involved, Reagan delivered his crime and welfare lines exactly as had Nixon before him, complete with their racial subtexts, to the now-emerged conservative Republican majority that had replaced the race-sundered New Deal coalition. A thoughtful analysis sums up the situation this way: race had eclipsed class as the "organizing principle of American politics."[15]

My second example of a deformed fruit is the War on Drugs, targeted on black ghettos. Since Ronald Reagan took office we have built over 1,000 new prisons and jails, many crowded beyond capacity.[16] Crowded with whom? The answer is blacks from ghettos. By 1990 nearly one of every four young black males in the United States was under the control of the criminal justice system, more in major cities (over 40% in Washington, over 50% in Baltimore).[17] In his book, *Malign Neglect*, Professor Michael Tonry observes that the rising levels of black incarceration were the foreseeable effect of deliberate policies: "Anyone with knowledge of drug-trafficking patterns and of police arrest policies and incentives could have foreseen that the enemy troops in the War on Drugs would consist largely of young, inner-city minority males."[18]

---

[15] KATHERINE BECKETT & THEODORE SASSON, THE POLITICS OF INJUSTICE: CRIME AND PUNISHMENT IN AMERICA 58 (2000).

[16] *See generally* MARC MAUER, RACE TO INCARCERATE 1 (1999) (documenting the dramatic rise in incarceration in the United States and noting that between 1985 and 1995 a new prison opened every week).

[17] MARC MAUER, YOUNG BLACK MEN AND THE CRIMINAL JUSTICE SYSTEM: A GROWING NATIONAL PROBLEM 3 (1990) (finding that one in four black men between ages 20 and 29 is either in jail, in prison, on probation, or on parole on any given day).

[18] MICHAEL TONRY, MALIGN NEGLECT: RACE, CRIME AND PUNISHMENT IN AMERICA 4 (1995).

Part and parcel of our mass incarceration policy are "three strikes" laws that mandate long prison terms for third convictions, and increasingly harsh treatment of juveniles. California has meted out a 25-year sentence for the third strike theft of a slice of pizza,[19] another for pilfering some chocolate chip cookies.[20] Thirteen-year olds have received mandatory, life-without-parole sentences.[21]

Heartless sentencing may not be the worst of it. The War on Drugs, which is producing no demonstrable effect on drug availability, drug crime rates, or crime rates generally[22], is directly responsible for the drug black market and for the crime it spawns, fueling some of the very ills that are among the root causes of crime, while diverting money from education and social initiatives. Between 1980 and 1995 the proportion of California's budget devoted to prisons grew from 2 to 9.9%, while the proportion for higher education dropped below prisons from over 12.6 to 9.5%.[23]

---

[19] Eric Slater, *Pizza Thief Receives Sentence of 25 Years to Life in Prison Crime: Judge Cites Five Prior Felony Convictions in Sentencing Jerry Dewayne Williams under 'Three Strikes' Law*, L.A. TIMES, Mar. 3, 1995, at B9.

[20] *Crumby Crime: Life Sentence for Cookie Thief*, 82 A.B.A. J. 12 (1996).

[21] John Cloud et al., *For They Know Not What They Do: When and How Do Children Know Right From Wrong? And How Can We Devise Punishment to Fit Their Crimes?*, TIME, Aug. 24, 1998, at 64; *see, e.g.*, State v. Massey, 803 P.2d 340 (Wash. Ct. App. 1990) (affirming mandatory life-without-parole sentence for 13 year old convicted of aggravated first-degree murder); Blackshear v. State, 771 So. 2d 1199 (Fla. Dist. Ct. App. 2000) (affirming three consecutive life sentences for robberies committed when Defendant was thirteen years old.); State v. Green, 502 S.E.2d 819 (N.C. 1998) (approving mandatory life sentence on thirteen year old convicted of first-degree sexual offense); *see also* Wayne A. Logan, *Proportionality and Punishment: Imposing Life Without Parole on Juveniles*, 33 WAKE FOREST L. REV. 681 (1998).

[22] Joseph B. Treaster, *20 Years of War on Drugs and No Victory Yet*, N.Y. TIMES, July 28, 1992, at A7; *see also* THE REAL WAR ON CRIME: THE REPORT OF THE NATIONAL CRIMINAL JUSTICE COMMISSION 116 (Steven R. Donziger ed., 1996) (commenting that despite the increase in arrests and tougher sentences due to the war on drugs, most drug dealing remained steady or increased in the affected communities); Michael Tonry, *Race and the War On Drugs*, 1994 U. CHI. LEGAL F. 25, 26 (1994) (noting that drug prices dropped rather than rose – a sign of abundant drug supply – and arrested street dealers are nearly always replaced by others).

[23] KATHERINE BECKETT & THEODORE SASSON, THE POLITICS OF INJUSTICE: CRIME AND PUNISHMENT IN AMERICA 192 (2000).

In short, driven by a fear of black – particularly ghetto – crime, as a nation we are doggedly pursuing a ghetto-targeted mass incarceration policy that is both mindless and destructive of traditional American values. "The United States is transforming itself," writes Brent Staples of the *New York Times*, "into a nation of ex-convicts."[24]

A final example of disfigured produce is the demise of welfare. The tangled skein of Americans' negative views about welfare is not easily unraveled. Yet racial hostility, mostly toward blacks, appears in the literature as a major, even decisive, factor. In the understated language of one study, racial animosity makes welfare for the poor, who are disproportionately black, "unappealing to many voters."[25]

But rarely have high public officials matched the explicitness of Newt Gingrich. At the heart of Gingrich's successful dump-welfare campaign, a linear successor to Ronald Reagan's Welfare Queen and George Bush's Willie Horton, was a stick-figure caricature of the ghetto: "You can't maintain civilization with twelve-year-olds having babies and fifteen-year-olds killing each other and seventeen-year-olds dying of AIDS."[26] The image of the black ghetto was thus instrumental not only in ending decades-old welfare entitlement, but also in dropping the jobs, training and childcare originally supposed to have been part of the deal. We don't yet know for sure what effect welfare reform is having on children, although DeParle's recent book, *American Dream*, supplies no cause for optimism.[27] But the concern for maintaining civilization

---

[24] Brent Staples, *Growing up in the Visiting Room*, N.Y. TIMES, Mar. 21, 2004, § 7, at 7 (reviewing JENNIFER GONNERMAN, LIFE ON THE OUTSIDE: THE PRISON ODYSSEY OF ELAINE BARTLETT (2004)).

[25] Alberto Alesina, Edward Glaeser & Bruce Sacerdote, *Why Doesn't the US Have a European-Style Welfare State?* 3 (Harvard Inst. of Econ. Research, Discussion Paper No. 1933, 2001), *available at* http://post.economics.harvard.edu/hier/2001papers/HIER1933.pdf.

[26] JASON DEPARLE, AMERICAN DREAM: THREE WOMEN, TEN KIDS, AND A NATION'S DRIVE TO END WELFARE 132 (2004).

[27] *Id.*

has not led to measures to help the ghetto children – American children, let us remember -- who inhabit the Gingrich caricature.

Canary in Our Coal Mine?

These deformed fruits cannot of course be blamed solely on the black ghetto, which is by no means our only serious domestic problem. Ending black ghettos wouldn't end anti-black prejudice any more than ending Jewish ghettos ended anti-semitism. But it is not easy to find anything in American society that matches our black ghettos for their insidious, corrosive, pervasive effects on the attitudes, values, and conduct of so many Americans.

Sixty years ago Gunnar Myrdal wrote, "White prejudice and discrimination keep the Negro low in standards of living, health, education, manners and morals. This, in its turn, gives support to white prejudice."[28]

Forty years later sociologist Elijah Anderson's oft-cited studies of a black ghetto and an adjacent non-ghetto neighborhood led him to conclude that the "vicious circle" described by Myrdal was alive and well.[29] Anderson found that whites in the adjacent neighborhood relied on race as their key to avoiding danger. "The public awareness is color-coded," he wrote.[30] "White skin denotes civility, law-abidingness, and trustworthiness, while black skin is strongly associated with poverty, crime, incivility, and distrust."[31]

In American society at large most whites act like the ones Anderson studied – their public awareness is also color-coded and they therefore steer clear of poor blacks and keep them in their

---

[28] GUNNAR MYRDAL, AN AMERICAN DILEMMA: THE NEGRO PROBLEM AND MODERN DEMOCRACY 75 (Harper & Row 1962) (1944).

[29] ELIJAH ANDERSON, STREETWISE: RACE, CLASS, AND CHANGE IN AN URBAN COMMUNITY 65 (1990).

[30] *Id*. at 208.

[31] *Id*.

ghettos. Predictable ghetto behavior then intensifies whites' sense of danger, validates their color-coding, and drives their conduct.

Ghettoization is growing, despite many reasons to have expected the contrary. From 1970 to 2000, the number of urban census tracts with poverty populations of over 40% doubled, while their black populations increased 12% to over 2.8 million persons.[32] Yet the 2000 census figures were a snapshot, taken in April 2000, just as the economic good times of the preceding decade were ending. In population, at least, our black ghettos have undoubtedly grown even more since 2000.

Moreover, today's ghettos are far worse places than they were in 1970, shortly after the urban riots of the preceding decade. Without going into detail, the ensuing 35 years have seen the departure of low-skill jobs for the suburbs and overseas, the arrival of crack-cocaine, and the violence and degradation associated with it.

The ghetto riots of the 1960s were rage and fury, lashing out at the symbols – police and white-owned property – of what Kenneth Clark once called "confinement to impotence."[33] What has happened since the 1960s may be even more disturbing. Instead of rage and fury, there is a life-cycle – should we say death cycle? – of self-destruction through drugs and violence.

One consequence may be seen in a simple arithmetic comparison. In 1980 there were over three times as many black men in college and university as in prison and jail, 463,000 as

[32] U.S. Census Bureau, Census 2000, Summary File 3A (2000); U.S. Census Bureau, Census 1990, Fourth Count File A (1990).

[33] KENNETH CLARK, DARK GHETTO (Harper & Row 1989) (1965).

against 143,000.[34] Twenty years later the number of black men in college and university was actually fewer than the number behind bars, 603,000 compared with 791,000.[35]

What, we may ask, lies in store for black Americans who are poor and trapped in ghettos? What will the college/university and prison/jail numbers look like 20 years from now, and 20 after that? And what will America look like then? Disaster may not come in the form of riots and race wars, as Carl Rowan predicts in his recent book, *The Coming Race War in America*.[36] But it will be disaster no less if American values are sufficiently deformed. What is happening to America's black poor may be the canary in our coal mine, a warning about Tocquiville's "most formidable evil threatening the future of the United States."[37]

What to Do About It?

So what can we do about it? One answer is the Gautreaux lawsuit's[38] housing mobility program writ large – high quality pre- and post-move counseling, coupled with housing search

---

[34] DAVID MATLIN, PRISONS: EMBRACING NEW AMERICA: FROM VERNOOYKILL CREEK TO ABU GHRAIB, at xxviii (2005).

[35] *Id.*

[36] CARL T. ROWAN, THE COMING RACE WAR IN AMERICA: A WAKE-UP CALL 282-83 (1996).

[37] DE TOCQUEVILLE, *supra* note 2, at 340.

[38]. The "Gautreaux litigation" is two lawsuits brought against the Chicago Housing Authority (CHA) and the U.S. Department of Housing and Urban Development (HUD), respectively, by public housing tenants and applicants. The suits alleged that the CHA's site selection and tenant assignment policies unconstitutionally discriminated on the basis of race, and that HUD's knowing funding of the CHA's discrimination rendered it liable as well. In 1969, in the CHA case, the district court ruled for the plaintiffs and subsequently ordered the CHA to build its next seven hundred public housing units, and three-quarters of its units thereafter, in white areas. Gautreaux v. Chi. Hous. Auth., 304 F. Supp. 736 (N.D. Ill. 1969). The district court ruled against the plaintiffs in the HUD case, but in 1971 was reversed by the Seventh Circuit Court of Appeals. Gautreaux v. Romney, 448 F.2d 731 (7th Cir. 1971). On the issue of the scope of the remedy against HUD the case reached the Supreme Court which in 1976 ruled that HUD could be required to implement a metropolitan-wide remedial plan using rent subsidy ("housing choice") vouchers. Hills v. Gautreaux, 425 U.S. 284 (1976). A settlement agreement embodying such a plan was eventually formalized in a consent decree, Gautreaux v. Landrieu, 523 F. Supp. 665 (N.D. Ill. 1981), *aff'd*, 690 F.2d 616 (7th Cir. 1982). Some 8,000 families received relief under the voucher plan before it ended in 1998 when the consent decree's numerical goal was reached, but fewer than 3,000 "scattered-site" public housing units had been built in Chicago before that program ended, also in 1998, when federal funding for new public housing development was terminated. As to the voucher program, see LEONARD S. RUBINOWITZ & JAMES E. ROSENBAUM, CROSSING THE CLASS AND COLOR LINES: FROM PUBLIC HOUSING TO WHITE SUBURBIA (2000). As to the scattered site program, see Joseph

assistance and unit identification, to enable inner-city families to move with housing vouchers into non-poor neighborhoods far from the ghetto. I will lay out the elements of what I believe would be a workable program, and then respond to some of the multiple objections that will probably flood readers' minds.

Suppose 50,000 housing choice vouchers were made available annually, were earmarked for use by black families living in urban ghettos, and could be used only in non-ghetto locations – say, census tracts with less than 10% poverty and not minority impacted. Suppose that the vouchers were allocated to our 125 largest metropolitan areas. Suppose, that to avoid "threatening" any community, no more than a specified number of families (an arbitrary number — say, ten, or a small fraction of occupied housing units) could move into any city, town, or village in a year.

If an average of 40 municipalities in each metropolitan area served as "receiving communities," the result would be — using ten as the hypothetical annual move-in ceiling — that 50,000 families each year, or 500,000 in a decade, would move in "Gautreaux fashion." Notably, *the 500,000 moves would equal almost half the black families living in metropolitan ghetto tracts.*[39]

We cannot, of course, assume that half of all black families in metropolitan ghettos would choose to participate (though they might). But neither would it require the departure of every other black household to change radically the black ghetto as we know it. With enough

---

Seliga, *Gautreaux a Generation Later: Remedying the Second Ghetto or Creating the Third?*, 94 Nw. U. L. Rev. 1049, 1056 (2000).

[39] Figure derived by dividing 2.8 million blacks living in metropolitan census tracts with poverty populations of 40% or more by 2.73, the average size of a black family in 2000. U.S. Census Bureau, 2000 Census Summary File 3, P6, RACE [8] - Universe: Total population.

participants, radical change would be inevitable. Whatever the time frame, we would at last be treating a disease that has festered untreated in the body politic for over a century.

The hypothetical is merely intended to show that a national Gautreaux program could operate at a meaningful scale; it is not a real-life working model. Metropolitan areas vary in the size — in 2000, the 35 largest of the 331 metropolitan areas contained over half the metropolitan ghetto tracts.[40] An actual program would be tailored to these variations, operating at greater scale in big ghetto areas and at lesser (or not at all) in metropolitan areas with small black ghettos.[41]

Four Questions

The hypothetical raises several threshold questions. Would 50,000 vouchers a year be feasible? Would enough families volunteer to participate? Could 50,000 private homes and apartments be found each year? Could such an enlarged mobility program be administered responsibly?

Though the answers are speculative because mobility on such a scale has never been tried, I believe the answers are affirmative. The 50,000 annual vouchers could be provided without issuing any new vouchers at all. Currently, there are some 2.1 million vouchers in circulation.[42] The annual "turnover rate" is about 11%,[43] meaning that for various reasons (for example, a family's income rises above the eligibility ceiling) some 230,000 vouchers are turned

---

[40] PAUL A. JARGOWSKY, POVERTY AND PLACE: GHETTOS, BARRIOS, AND THE AMERICAN CITY (1997).

[41] The hypothetical is also limited to census tracts with 40 percent or more poverty. Neighborhoods with 39 percent poverty can be pretty bad places too. Some of the literature even suggests that many neighborhoods in the 30-39 percent range are likely to be on their way to higher poverty. The response is that we must begin somewhere; once extreme poverty neighborhoods are dealt with, the mobility program could be expanded into lower poverty areas.

[42] CTR. ON BUDGET AND POLICY PRIORITIES, INTRODUCTION TO THE HOUSING VOUCHER PROGRAM 2 (2003), http://www.cbpp.org/5-15-03hous.pdf.

[43] *Id*. at 3.

back to housing authorities each year for reissuance to other families. A Congressional enactment could direct 50,000 of these turnover vouchers to my hypothetical program.

The cost of assisting mobility moves must of course be included in the calculus. But at an average of $4,000 per family – a generous figure based on the Gautreaux experience – we are talking about $200 million a year, $2 billion total over ten years (excluding inflation). To put that figure in perspective and address the question of whether we could "afford" it, consider that for a recent fiscal year the Bush Administration proposed a military budget of some $400 billion[44], which (again excluding inflation) would amount to $4000 billion over ten years.

It is true that almost any program can be viewed as affordable by comparison with our military budget. But we aren't talking about "any" program. We are talking about a program to end the successor to slavery and Jim Crow that is perpetuating a caste structure in the United States and threatening incalculable harm to American society. Achieving that, for a negligible fraction –.0005 – of our military budget, would be our best bargain since the Louisiana Purchase.

Would enough families volunteer to participate? We will not know until we try, but the Gautreaux experience suggests that they may. An average of 400 families moving each year in each participating metropolitan area would be required to reach the hypothetical goal (a smaller average number if more metropolitan areas were used). The 400-per-year number was surpassed more than once by the Gautreaux Program[45] even though the number of entering families was artificially limited, not by market factors but by the funding and staff that could be extracted from HUD in the Gautreaux consent decree bargaining process.

---

[44] The Executive Office of the President of the United States of America, Office of Management and Budget, http://www.whitehouse.gov/omb/budget/fy2007/defense.html (last visited June 16, 2006).

[45] RUBINOWITZ & ROSENBAUM, *supra* note 38, at 187-188.

Could 50,000 homes and apartments be found each year? The Gautreaux Program placed families in over 100 cities, towns and villages in the Chicago area,[46] while the hypothetical assumes an average of only 40. The Census Bureau counts 331 metropolitan areas in the country[47], while the hypothetical assumes that the mobility program would operate in only 125. Each assumption is conservative with respect to unit supply.

Most importantly, the potential supply of units is not a fixed-sum. More fine-tuning of fair market rents (increasing them in low vacancy times and places, reducing them where they exceed market rents) and more creativity about responding to landlord concerns (for example, paying rent for the several weeks it sometimes takes a housing authority to "clear" a family for an apartment being held off the market), can make a big difference. For areas in which low fair market rents remained a serious problem, the law creating the mobility program should direct HUD to approve whatever rents were demonstrated to be reasonable (based on comparable community rents) for participating families. If the 50,000 annual goal were made a bureaucratic imperative, and if local administrators were given the right tools, it is possible – indeed, likely – that the 50,000 goal would be achieved.

What about administration? Under a consent decree in a housing desegregation case, the Dallas housing authority in a little over two years assisted some 2,200 families, most of them black, to move to "non-impacted" areas (census tracts in which few Section 8 vouchers were already in use, but in practice the receiving areas turned out to be predominantly non-black).[48] Dallas was a case of direct administration by a housing authority. The Gautreaux Program was

---

[46] *See id.* at 51-52.

[47] U.S. Census Bureau, Census 2000, Summary File 1 (2000).

[48] Alexander Polikoff, *Housing Policy and Urban Poverty*, *in* NEW BEGINNINGS PROJECT: A FIRST REPORT 94 (Center for Housing Policy ed., 1994) (citing Walker v. HUD, 734 F. Supp. 1231, 1242 n.39 (N.D. Tex. 1989)).

administered by a nonprofit organization. Moving to Opportunity, HUD's five-city Gautreaux-like demonstration program (using poverty, however, not race, as the measure), involves partnerships between housing authorities and nonprofits. These varied and largely positive experiences suggest that we could handle the administrative challenge of a nationwide Gautreaux-type program.

One often expressed administrative concern is that moving families will cluster in specific, perhaps "fragile," areas and lead to new poverty enclaves, even suburban ghettos. My proposal that program families move to very low poverty, non-racially impacted communities, distant from high poverty areas, and the low annual ceiling on the number of mobility families entering any city, town, or village, makes that unlikely. But this potential problem is easily resolved by the direction included in the Leadership Council's Gautreaux Program contract to place families in a dispersed fashion. In practice, this provision gave the Council authority which it exercised (consistently, indeed, with an "anti-concentration of voucher families" provision in the underlying Section 8 statute[49]) to avoid clustering of moving families.

A Legal Question

A different kind of question is prompted by the notion of setting aside 50,000 vouchers each year for black families. How can one justify denying poor whites, poor Latinos, and poor Asians, many also living in high poverty neighborhoods, an opportunity to participate in the mobility program? Would it even be legal?

[49] 42 U.S.C. § 1437n(a)(3), v(a)(3) (2006).

A dual justification can be offered. The first is that the proposal is designed to help the nation confront its "most formidable evil,"[50] an evil that results in significant degree from fears and conduct generated by confining black Americans, not others, to ghettos.

The second is that the country is responsible for the confinement of blacks to ghettos in a manner and degree that is not the case with other groups. This is obviously so as to poor whites, who already live mostly among the non-poor.[51] Latinos and Asians do not have slavery or Jim Crow in their histories. Nor have they been confined among their own to a comparable degree. Devoting 50,000 vouchers exclusively to blacks in ghettos can thus be justified both by the purpose of the proposal and by the unique history and current situation of black Americans.

As for legality, no one can be certain in a time when 5-4 Supreme Court decisions are routine. But when in 1988 Congress authorized compensation to Japanese citizens who had been herded into World War II detention camps, no serious legal question was even raised.[52] In the Civil War era Congress created the Freedmen's Bureau to help out freed slaves.[53] Though both analogies are obviously imperfect, housing choice vouchers as "compensation" for confining blacks to ghettos is not a bad rationale. It is unlikely that even today's Supreme Court would upset an express Congressional determination to make partial amends in this way for a history of slavery, Jim Crow and ghettoization.

Yet one can readily imagine that, for reasons of policy, politics or legal doctrine, Congress would choose to offer the mobility program to all residents of urban ghettos. This

---

[50] DE TOCQUEVILLE, *supra* note 2, at 340.

[51] DAVID RUSK, INSIDE GAME OUTSIDE GAME: WINNING STRATEGIES FOR SAVING URBAN AMERICA 71 (1999).

[52] LESLIE T. HATAMIYA, RIGHTING A WRONG : JAPANESE AMERICANS AND THE PASSAGE OF THE CIVIL LIBERTIES ACT OF 1988 38–56 (1993).

[53] PAUL A. CIMBALA, THE FREEDMEN'S BUREAU AND RECONSTRUCTION, at xv (1999).

would require reworking my numbers, and possibly prioritizing poverty families, but it should not affect the basic structure or feasibility of the proposed program.

What About the Objections?

Even if a national Gautreaux-type program were doable and legal, objections remain to be addressed. One is that the program would be harmful to the moving families, severing them from family, friends, and institutional support systems, and subjecting them to hostility and racial discrimination. An answer is to ask who are "we" to withhold a purely voluntary, escape-the-ghetto opportunity from "them" on the ground that we know better than they what is in their interest. I am reminded of what New York Times columnist Brent Staples once wrote about "butchery" in ghetto streets:

Remember how Britons shipped their children out of London during the blitzkrieg? What American cities need are evacuation plans to spirit at least some black boys out of harm's way before it's too late. Inner-city parents who can afford it ship their children to safety in the homes of relatives. Those who are without that resource deserve the same option extended to parents in London during World War II.[54] Moreover, studies of the Gautreaux program show that "evacuation" works well for many participating families.[55]

A variation on the bad-for-them argument is that dismantling the ghetto will undermine black institutions, political power, and ghetto communities that have values deserving preservation. As for black institutional and political strength, Italians, Irish, Jews and others have survived far more mobility than black Americans are likely to experience; it is absurd to

---

[54] Brent Staples, *Editorial Notebook: Confronting Slaughter in the Street*, N.Y. TIMES, Nov. 5, 1993, at A34.

[55] *See generally* Leonard S. Rubinowitz, *Metropolitan Public Housing Desegregation Remedies: Chicago's Privatization Program*, 12 N. ILL. U. L. REV. 589, 624-645 (1992); RUBINOWITZ & ROSENBAUM, *supra* note 38, at 73-172.

contend that the strong, resilient black American culture has anything to fear from a Gautreaux-type program. As for values in ghetto communities, even apart from the butchery of which Staples writes it is plain to any objective observer that the bad far outweighs the good.

A further variation on the bad-for-them argument is that non-movers will be worse off once some of the ablest and most motivated among ghetto residents leave. Even if true, this is not a sufficient reason to reject the approach. Should we not have passed the Fair Housing Act because the departure of better off ghetto residents may have left those who remained worse off? Moreover, the likelihood that deconcentration will foster redevelopment means that even many of those who choose to remain will be benefited over time.

The latter point may raise eyebrows. Why will redevelopment be fostered? And if it is, won't gentrification simply drive out remaining ghetto residents? The answer to the first question is a matter of pressure: When, like a balloon being filled, migrants poured in, the ghetto expanded outward; as deconcentration lets out some of the air, the pressure will be reversed.

When ghettos are located near prime areas, redevelopment pressures will be strong. When they are not, the redevelopment pump may need to be primed with government assistance of one sort or another. In both circumstances the concern that gentrification will drive out the remaining poor can be addressed. Where government assists the redevelopment process, the assistance should be conditioned on housing for the poor as part of the mix. Where is does not (although usually some form of assistance will be involved), inclusionary zoning can mandate that some low-income housing be included in all new residential development above a threshold number of units. Other techniques – for example, property tax caps – are also available.

Others reject the Gautreaux approach in favor of preferred alternatives. A major one is "revitalization," but analysis discloses that, absent poverty deconcentration, this is an inadequate

alternative. A rudimentary form of revitalization is simply to go in – without worrying about poverty deconcentration through housing mobility – and improve shelter and services for present residents. But with the suburbs having become the locus of metropolitan employment growth, with the opportunity engine the ghetto once was now a destructive, jobless environment, it is hubris to think we could reverse decades-old economic forces through improved shelter and services alone. William Julius Wilson concludes, correctly I think, that without increasing economic opportunities for poor blacks and reducing their segregation, programs that target ghettos are unlikely to have much success.[56]

A more sophisticated revitalization approach is community redevelopment. With a non-profit community development corporation generally leading the way, the idea is to attack all of a depressed community's needs comprehensively and simultaneously – not just housing, but commercial development, job creation, school improvement, health facilities, public and social services, credit supply, crime and drug control. This form of revitalization is almost always aided by government funding of one sort or another.

The attraction of community revitalization is considerable. Residents of depressed neighborhoods need hope; the revitalizing possibility may supply it. Cities need redevelopment; the prospect of revitalizing offers it. Democracy requires a strong citizenry; community-based revitalizing builds strong citizens. No wonder community revitalization is the darling of philanthropy, supported by a growing national movement.

But cautions are in order. First, community redevelopment does not generally focus on ghettos, for few black ghettos boast the key instrument — a strong community development corporation. Second, even in the neighborhoods in which most revitalization has been attempted,

---

[56] WILLIAM JULIUS WILSON, THE TRULY DISADVANTAGED 149–159 (1987).

the record is distinctly mixed. Revitalizing is a difficult, multi-faceted, long-term undertaking. Numerous studies make it clear that even after decades of stupendously hard work and much achievement, jobs may still be scarce, neighborhood schools still problematic, poverty still widespread, crime and drugs still unvanquished.[57] One of revitalization's most enthusiastic supporters, writing about one of its most notable successes — the South Bronx — acknowledges that the poverty rate there did not decline, that employment was mostly unchanged, and that "substantial racial segregation and isolation will continue."[58]

The reason has to do with six decades of metropolitan development patterns which David Rusk examines in his 1999 book, *Inside Game Outside Game*.[59] The "inside game" is being played in many large cities and – increasingly – in many older, inner-ring suburbs as well. Relative to their metropolitan regions, these "inside" places face declining employment, middle-class populations, buying power, relative incomes, and tax bases, along with increasing, disproportionately poor, minority populations. The "outside game" is of course the reverse of these patterns, with most of the suburbs, particularly the newer, farther-out ones, garnering a steadily growing share of the region's jobs, as well as middle-class families with their incomes, buying power, and tax-paying capacities, while housing a disproportionately low fraction of the region's poor.

Inside Game Outside Game analyzes the powerful social and economic forces that generate these metropolitan development patterns, and the institutional – including governmental

---

[57] *See, e.g.*, PAUL S. GROGAN & TONY PROSCIO, COMEBACK CITIES 30 (2000) (noting the weight of scholarly authority concluding that revitalization projects cannot be fully successful in all situations); JON C. TEAFORD, THE ROUGH ROAD TO RENAISSANCE 8 (1990) (discussing the failure of many revitalization projects to alleviate poverty and crime).

[58] GROGAN & PROSCIO, *supra* note 57, at 55.

[59] RUSK, *supra* note 51, at 1-15.

– arrangements that foster them. The result is what Rusk calls the "tragic dilemma" of community-based redevelopment programs.[60] "It is like helping a crowd of people run up a down escalator."[61] No matter how hard they run, Rusk writes, the escalator keeps coming down.[62] A few run so fast they reach the top, but most weary and are carried back down.

To be sure, no effort to improve housing and services for poor families should be gainsaid. Some revitalizing activity may actually prevent marginal neighborhoods from becoming ghettos. Yet there is a danger that the appeal of community revitalizing will lead to plans that leave ghettos intact by focusing exclusively on improving conditions within them for their impoverished populations. We should not be about the business of fostering self-contained ghetto communities apart from the mainstream. We should instead be trying to bring the ghetto poor into the mainstream. The critical point is that only by enabling the poor to live among the non-poor will significant, long-term improvements be made possible in the life circumstances of most impoverished families trapped in ghettos.

Experience demonstrates that community revitalizing can best be achieved through a mixed-income approach that attracts higher-income families to (formerly) poverty neighborhoods, thereby creating an incentive for private profit and investment. Like housing mobility, mixed-income development also brings with it the crucial benefit of enabling the poor to live among the non-poor. Community revitalization should thus be seen not as an opposing or alternate strategy but as a follow-on, mixed-income complement to housing mobility.

What About the Politics?

---

[60] *Id*. at 59.

[61] *Id*.

[62] *Id*.

A final objection is that my entire proposal looks like an indulgent fantasy. Don't we clearly lack the political stomach for allowing large numbers of black families to move from inner-city ghettos to white neighborhoods? What on earth makes me think that a nation that has treated blacks the way America has through most of its history — the way it still treats the black poor — would give a moment's consideration to the course I am proposing?

My answer is that I am not sure, but history is full of close calls and surprises. England might have succumbed to the Nazis if Roosevelt had not dreamed up lend-lease and persuaded a reluctant, America First Congress to go along. In 1941, selective service survived by a 203 to 202 vote in the House of Representatives. Truman beat Dewey. Nixon went to China. The Soviet Union collapsed. In one decade the Civil Rights Movement ended seemingly impregnable Jim Crow. In a single fair housing enactment Congress stripped historically sacred private property rights from American landowners. Even with respect to black Americans, history tells us that we can sometimes manage forward steps. Leadership is key, but we will not have a Bush in the White House forever.

In his book *The Status Syndrome*, Sir Michael Marmot, a professor of epidemiology and public health, relates how for many years a small group of scientists carried out research on health inequalities throughout the world.[63] Marmot calls the research "pure" because the conservative Thatcher Administration could not have been more disinterested.[64] When Tony Blair came to power in 1997, the "pure" research was taken down from the dusty shelves to which it had been relegated and a number of its recommendations became national policy.[65]

We Confront Two Courses

[63] MICHAEL MARMOT, THE STATUS SYNDROME 1-12 (2004).

[64] *Id.* at 250.

[65] *Id.*

America confronts two courses. The first is to continue to co-exist with black ghettos. The second is to dismantle and transform them. The prospect along the first course, as Tocqueville prophesied, is that the evil of racial inequality will not be solved.[66] Integration of some middle-class and affluent blacks will not change the prospect. Until the vast proportion of black Americans is securely middle-class, so long will whites continue to treat middle-class blacks as surrogates for the poor who might move in behind them. So long as black ghettos exist, threatening inundation should there be a break in any neighborhood's dike, most white Americans will fear the entry of blacks, any blacks, into their communities. And so long as that is the case, America's "most formidable evil" will continue to afflict the nation.

The other part of Tocqueville's prophecy – result in disaster – is less certain. Yet so long as we continue to tolerate the black ghetto, the prospect is for continued fear of blacks by white Americans. As long as that fear persists, whites will continue to treat black Americans as the feared Other. They are likely to continue to act fearfully and repressively, possibly to incarcerate still more black Americans in still more prisons. In that event, the Tocqueville prophecy of disaster may indeed become the American reality.

In the pessimistic epilogue to his book on the black image in the white mind, historian George M. Fredrickson allows that Tocqueville may have been right in describing the American race problem as insoluble and certain to result in disaster.[67] He then advances the "slightly more hopeful view" that the problem could be solved by a radical change in basic institutions and values – "perhaps because the social anxieties fueling prejudiced thought and action have been

---

[66] DE TOCQUEVILLE, *supra* note 2, at 340-363.

[67] GEORGE M. FREDRICKSON, THE BLACK IMAGE IN THE WHITE MIND 332 (1972).

removed."[68] If that is possible, he continues, then it is the responsibility of Americans who believe in the ideal of racial equality to indulge in some serious Utopian thinking, for "there is always the slender but precious hope that today's Utopia can be tomorrow's society."[69]

My proposal that we begin serious research on a national Gautreaux program – to remove a major source of the social anxieties that fuel prejudiced thought and action in America– should be viewed as way to help us realize that slender but precious hope.

[68] *Id.*

[69] *Id.*