

University of Michigan Journal of Law Reform

Volume 27
Issues 3&4

1994

Revitalizing our Cities or Restoring Ties to Them? Redirecting the Debate

Donald A. Hicks
University of Texas at Dallas

Follow this and additional works at: <https://repository.law.umich.edu/mjlr>



Part of the [Legal History Commons](#), and the [State and Local Government Law Commons](#)

Recommended Citation

Donald A. Hicks, *Revitalizing our Cities or Restoring Ties to Them? Redirecting the Debate*, 27 U. MICH. J. L. REFORM 813 (1994).

Available at: <https://repository.law.umich.edu/mjlr/vol27/iss3/8>

This Article is brought to you for free and open access by the University of Michigan Journal of Law Reform at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in University of Michigan Journal of Law Reform by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact mLaw.repository@umich.edu.

REVITALIZING OUR CITIES OR RESTORING TIES TO THEM? REDIRECTING THE DEBATE

Donald A. Hicks*

1896 sends greetings to 1996. We of today reach forth our hands across the gulf of 100 years to clasp your hands. We make you heirs to all we have and enjoin you to improve your heritage. We bequeath to you a city of a century, prosperous and beautiful and yet far from our ideal. Some of our streets are not well lighted. Some are unpaved. Many are unclean. Many of the people are poor and some are vainly seeking work at living wages.

.....
Yet the world family is better and happier than it was 100 years ago. This hundred years has given to the world the locomotive and the steamboat, the telegraph, telephone, photograph, electric light, electric motor and many other wise and beneficent discoveries.

Have you invented a flying machine or found the North Pole? What have you done?¹

INTRODUCTION

The belief in an urban crisis rooted in the presumed “decline” of our cities—and especially our inner cities—continues to be widespread. For the past three decades, grim medical metaphors have been used routinely to diagnose our cities as either sick or dying. Today, their afflictions—as demoralizing as they are daunting—often are considered their defining features: poverty perpetuated as often by low-paying employment as by unemployment and expressed by hopelessness as well as homelessness; welfare and controlled substance dependency;

* Professor of Political Economy and Vice Chair of the Bruton Center for Development Studies, University of Texas at Dallas. B.A. 1969, Indiana University; Ph.D. 1976, University of North Carolina at Chapel Hill.

1. Chris Kelley, *Cleveland Time Capsule's Message Proves Timeless*, DALLAS MORNING NEWS, May 12, 1994, at 25A (reporting excerpts from a letter written by Mrs. Elroy M. Avery, chairman of Cleveland's First Centennial Commission and placed in a time capsule in 1896).

family and personal dysfunction; intergroup tensions spawned by both race- and class-based segregation; low educational attainment brought on as much by attending poor public schools as by dropping out of them; and vulnerability to crime.

Because our cities are judged to be failing us so badly, the recurrent impulse is to discover ways of bringing about their fundamental *revitalization*. The clear implication is that our cities no longer work as they once did, and because of their dysfunction and diminished capacity we are all the worse for it. With this premise as a starting point, this Symposium's papers seek to identify how specific legal reforms might contribute to such an urban revitalization.

In this Article I generally concur that certain legal reforms do hold considerable potential for ameliorating some of the desperate circumstances we find in our cities today. My view is rooted in the recognition that past reforms which dismantled legal barriers to equal opportunity were of monumental significance in broadening social and economic access to our urban arrangements. But it also is rooted in the conviction that a new wave of legal reform might well be required in order to reconsider other past reforms that, however unintentionally, have made many matters worse. Above all, any proposed legal reform should be decoupled from the notion that achieving broad social gains requires that we must somehow first restore a general vitality to our cities. I suggest that our cities continue to show remarkable vitality. Instead, what does need revitalization are the prospects that individuals who were left behind by a transforming economy or held back by personal circumstances—wherever they may live—can have greater access to the opportunities which our evolving economic and settlement arrangements offer—wherever they may be.

In the view of many, the problems of our cities can be traced to the belief that they are forgotten and forsaken. But is this view justified? Certainly America's cities today are undeniably the settings for circumstances that are an affront to our nation. Complex webs of these afflictions have their greatest visibility in our inner cities and therefore confront us with unavoidable challenges. Nonetheless, does it necessarily follow that our cities are failing us because we find in them broad and deep pools of personal or community distress? After all, cities always have been repositories of illiteracy, illegitimacy, and inequality. Is there not an important distinction to be drawn between the problems pooled *in* our cities and those *of* cities themselves?

What has been forgotten is that it is in the nature of cities to pool the forsaken. In large part that is what cities do. That is their *modus operandi*. Not only is that an important part of the work of cities, but it has been so since cities first appeared.²

From our nation's infancy, accelerating urbanization and industrialization were twin engines of our nation's first century of development. The result was an emerging system of urban areas. Yet there was remarkably little appreciation of or affection for them.³

Ever since observers first despaired of the degenerative influence of early towns and cities on the character of our infant nation, there has been a steady accounting of Dickensian conditions found in them. This tradition gathered momentum with the publication of Lincoln Steffens' *The Shame of the Cities*,⁴ as industrializing cities struggled with the task of balancing the assimilation of successive waves of foreign immigrants with surging in-migration from our own rural areas. Yet, people kept flocking to our industrial-era cities. Why? They did so because it was apparent that despite their wretchedness, cities welcomed the distressed, which was not the same as causing that distress.

Today, when we focus on individual cities, we typically see only their problems. Relatively transparent is the fact that for generations our cities have primarily offered solutions for individuals and their families. To many, our cities represented

2. Plato spoke of it long ago. "[F]or each of them is not one state, but many: two at least, which are at war with one another, one of the rich, the other of the poor To treat them all as a single state is a complete mistake." PLATO, *THE REPUBLIC* 113 (Francis M. Cornford trans., Oxford Univ. Press 1965) (circa 380 B.C.).

3. The ingrained anti-urban bias in American culture since the nation's founding is characterized by de Tocqueville's observations of New York and Philadelphia:

The lower ranks which inhabit these cities constitute a rabble even more formidable than the populace of European towns. They consist of freed blacks, in the first place, who are condemned by the laws and by public opinion to a hereditary state of misery and degradation. They also contain a multitude of Europeans who have been driven to the shores of the New World by their misfortunes or their misconduct; and they bring to the United States all our greatest vices, without any of those interests which counteract their baneful influence. As inhabitants of a country where they have no civil rights, they are ready to turn all the passions which agitate the community to their own advantage

MORTON WHITE & LUCIA WHITE, *THE INTELLECTUAL VERSUS THE CITY: FROM THOMAS JEFFERSON TO FRANK LLOYD WRIGHT* 23-24 (1962) (quoting ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 299 (Phillips Bradley ed., Vintage Books 1945) (1835)).

4. LINCOLN STEFFENS, *THE SHAME OF THE CITIES* (1904).

elegant pieces of social technology capable of dispensing rising wealth, health, and welfare to their inhabitants. As mechanization and rising productivity rendered ever larger percentages of workers redundant in the farm-centered economy, opportunities drew them to the cities. By the early twentieth century, the factory-centered industrial economy taking root in our cities offered jobs at wages higher than those available in the countryside. The inauguration of municipal services such as public sanitation, chlorination of water supplies, and public health programs led to declines in the infant mortality rates and in occurrence of infectious diseases such as cholera, smallpox, and typhoid. The principal alchemy taking place in American cities for centuries has been the initial pooling of poverty and its gradual transformation into prosperity. That transformation is what cities are supposed to do, and for the most part, ours have performed it very well.

In the nineteenth century most of our living and working was spent in ways that led to the emergence of our industrial-era cities.⁵ Historically, these cities were more useful to us because of their social and economic designs than their physical or architectural ones. However, much of the twentieth century has witnessed the transit to a new paradigm characterized by declining city populations. For example, the City of Detroit lost twenty-eight percent of its population between 1950 and 1975.⁶ Indeed, during the 1970s alone, of the nation's fifty-six central cities⁷ with populations of 250,000 or more in 1970, thirty-two lost population.⁸ Of the twenty cities of this size in the industrial Northeast and Midwest, eighteen lost population.⁹ Moreover, during the same decade, of the twenty-nine largest metropolitan areas¹⁰ in 1970, the central cities accounted for

5. By 1820 New York City reached the 50,000 population threshold, with Chicago passing the same milestone in 1860 and Detroit in 1870.

6. R.D. NORTON, *CITY LIFE-CYCLES AND AMERICAN URBAN POLICY* 2 tbl. 1-1 (1979).

7. A central city is a political jurisdiction anchoring a metropolitan area, such as Dallas. A suburban city is a suburban municipality elsewhere in a metropolitan area, such as Plano or Richardson, Texas.

8. Donald A. Hicks, *Urban and Economic Adjustment to the Postindustrial Era, in TRANSITION TO THE 21ST CENTURY: PROSPECTS AND POLICIES FOR ECONOMIC AND URBAN-REGIONAL TRANSFORMATION* 345, 351-52 (Donald A. Hicks & Norman J. Glickman eds., 1983).

9. *Id.*

10. In general, a metropolitan area consists of one or more central cities with a combined population of at least 50,000 together with those counties (or equivalents) that are socially and economically linked to it. DONALD E. STARSINIC & RICHARD L. FORSTALL, *BUREAU OF THE CENSUS, U.S. DEPT OF COMMERCE, PATTERNS OF METROPOLITAN*

a declining share of the area's population in all but two of them.¹¹

This counter-urbanization dynamic, while building for decades, only became apparent after midcentury. The big story has been the way in which a newly scaled urban economy has relentlessly spilled out over the boundaries of our large industrial-era cities. Compact industrial-era cities began to spread out via suburbanization creating larger-scale metropolitan areas. The urban policy impulse—the need of urban centers somehow to restore their hold over the major shaping forces of the time—was born of the confusion and concern associated with this steady decoupling of our settlement and production patterns from our historical political jurisdictions.¹² Our early industrial-era cities were created through processes of concentration: a sort of centripetal force in which most social and economic life was drawn to central and compact locations. As industrial-era technologies emerged to permit a more expansive use of space, these forces began to wane, thus permitting population and production to “leave town.” Industrial-era cities—and their political caretakers—did not much care for these new dynamics that together sapped their cities' economic hegemony and political bases. As a result, the early urban policy impulses in the late 1940s were motivated by a desire to stem these erosions.

Of course, today there is little patience for viewing our so-called “urban crisis” through the lens of such abstract processes. However, we cannot expect to be served well by outdated mental maps of urban areas as compact population centers which were slowly, and later more rapidly, being unraveled all through the twentieth century. Fortunately, the idea that many of our older industrial arrangements—our factories, farms, and even our urban centers—are in flux encounters less resistance today than it did even a decade or so ago. A greater degree of acceptance and even curiosity about how best to derive the broadest possible benefits from the passing of these former arrangements is detectable. Indeed, even the short-lived and misguided notion

AREA AND COUNTY POPULATION GROWTH: 1980 TO 1987, at 29 (Current Population Reports, Series P-25, No. 1039, 1989); see also WILLIAM H. FREY & ALDEN SPEARE, JR., REGIONAL AND METROPOLITAN GROWTH AND DECLINE IN THE UNITED STATES 18–36 (1988) (discussing the use of metropolitan areas as units of analysis).

11. Hicks, *supra* note 8, at 353.

12. See W.R. Barnes & L.C. Ledebur, *Toward a New Political Economy of Metropolitan Regions*, 9 ENV'T & PLAN. C.: GOV'T & POL'Y 127, 127–39 (1991).

of a "national urban policy," itself, reflects increasing acknowledgement that the changes underway in our cities, once instinctively interpreted as decline and deterioration, may well be integral to a more fundamental ongoing transformation after all.¹³

Now it is time to take the next step. It is time to recognize that we misdirect our energies when we call for the revitalization or restoration of our cities. For the most part, it is not our cities, or the natural development processes that continuously rework and recreate them, that have failed us. Rather, the real task before us is to find ways to reattach those people left in poverty within cities transforming around them. Ways must be found to remove barriers limiting the access of distressed communities to the social and economic rearrangements taking place in their cities. Part of that task will likely involve discovering that many of the problems we find brewing in our cities are ones we have created ourselves. For, in the course of past efforts to insulate people and places from the effects of changes they faced, we have often unwittingly undermined the adaptive capacities of both.

A new era of legal reforms, guided by a deeper understanding of the forces of urban change, offers prospects superior to reforms likely to result from the resurrection of a national urban policy. This new era should begin with a recommitment to the swift and certain enforcement of the civil rights laws set in place three decades ago. It should then extend to the redesign of those features of welfare and immigration policies that exacerbate urban poverty by overburdening the absorptive capacities of our inner cities. The process should include education and housing policy reforms that promote social and residential mobility options. Finally, it should decrease the regulatory burden on the larger economy in order to improve employment and enterprise opportunities for the poor and minority communities.

In this Article, Part I addresses the tension between two very different perspectives of urban America. A "development" perspective with its emphasis on the incessant dynamics of a variety of demographic, economic, and cultural processes that continually shape settlement patterns and economic arrange-

13. See Michael A. Stegman, *National Urban Policy Revisited*, 71 N.C. L. REV. 1737, 1751-62 (1993) (summarizing the evolution of national urban policies from 1970 to 1993).

ments is contrasted with a "governance" perspective with its primary concern for containing and channeling those dynamics so as to sustain extant geo-political forms. While the latter perspective typically enjoys the support of current constituencies, the former perspective, often viewed as representing a challenge to them, sets the stage for the emergence of new constituencies.

Part II suggests that so-called urban "decline" is better understood as the continuing development of a larger urban system and of the individual cities that compose it. City forms and functions both continue to mirror the evolving economy, technologies, and cultural values that define the transit between industrial eras. As dynamics that had long concentrated population and employment have been overtaken gradually by those that disperse them, the spatial and skill-based urban arrangements that made them superior to what had come before also worked to limit access among certain social groups.

Part III revisits the major legal landmarks arrayed across the past half century as successive efforts to revitalize our cities were proposed and implemented. This section offers assessments of why they were largely unsuccessful. In many respects those revitalization efforts will be viewed as both defensive and backward-looking, inadvertently seeking to prop up a fading urban-industrial order increasingly unable to provide for new realities.

Part IV challenges the original and underlying assumptions of urban revitalization efforts. It seeks to demonstrate that despite their continued transformations—and in many respects precisely because of them—our urban areas actually continue to work quite well. Moreover, they continue to work well for those urban poor and even those ghetto poor who are able to retain access to the reworked opportunities around them.

Part V addresses why such access is increasingly problematic for large numbers of urban poor. It finds answers both in how urban poverty itself has been transformed and in how urban economies have done so.

Part VI argues that we should redirect the half-century old national urban policy impulse that may well be stirring once again. Campaigns to revitalize our cities are misdirected because the emphases of such efforts are misplaced. It is not our cities that need restoration or revitalization of a sort that would not otherwise occur in the absence of general economic

expansion. Rather, it is the ties to them of marginal populations that need restoration.

Part VII proposes potential urban legal reforms that would be instrumental in reattaching marginal populations to their cities. In some instances this requires redirecting or abandoning some of the social engineering logic and mechanisms embodied in earlier legislation that have proven tragically counterproductive.

I. URBAN PROCESS AND URBAN POLICY: A COLLISION COURSE

*National development policy must address uneven economic performance, disparities in unemployment rates, and income inequities between city and suburban residents and between minority groups and whites.*¹⁴

Many readers might expect a social scientist to feel a ritual obligation to use his technical skills to deepen the evidentiary base that so indicts our cities, thereby joining in a general urban policy call-to-arms. This Article, however, seeks to contribute in another way. It offers a reorganization and reinterpretation of this evidence by reaching beyond conventional city-by-city accounting approaches, seeking to distinguish between the circumstances in individual cities and the condition of the larger urban *system* which they comprise. When viewed from a broader systems perspective, it is no longer clear that the conventional indictment of our cities—or even our inner cities—can be sustained. Moreover, the uncritical acceptance of premises equating our cities with crisis merits reexamination.

What motivates this seemingly contrary view? In part it involves recognition of the inevitable tensions between urban development and urban governance and how each views cities. The urban *development* perspective tends to assign primacy to the relatively spontaneous processes whereby social and economic activities continuously shape and sustain our urban

14. Harold Wolman et al., *National Urban Economic Development Policy*, 14 J. URB. AFF. 217, 217 (1992).

areas as part of an urban system.¹⁵ The elasticity of settlements and their role in delivering rising levels and wider distributions of wealth, health, and welfare are viewed positively.

In contrast, the urban *governance* perspective tends to focus on the power of strategic policies that emerge from the architecture and authority of national, state, and local governmental jurisdictions in pursuit of the same goals. The fundamental problem is that many of the strategic policies, typically justified on the grounds of market failure presumed evident in individual cities, fail to see the compensatory mechanisms at work in the larger urban system.

An urban development perspective expects investment flows to be spatially patterned and uneven. For example, as the growing information-exchange function of central business districts (CBDs) presented new frontiers of opportunity, this view would expect that investments in office and supporting

15. As August Losch wrote:

Enforced perpetuation of an originally profitable combination of interests, and the perfect preservation of old conditions in particular, creates a museum, which, like all such institutions, requires large sums for its maintenance. As soon as the breaking up of old combinations is economically justified, every attempt to obstruct it means a sacrifice. A sacrifice, however, that may be vindicated now and then by the fact that it helps to preserve the political and cultural existence of an economic landscape for a while even though it has passed its economic prime. Those who have to bear the burden in this case are the inhabitants, who, prevented from migrating, are forced to put up with a lower standard of living. In the long run they are also politically endangered thereby. If it is a case merely of a depressed area within a country, the prosperous areas generally bear the cost. This is not always a wise policy, even when the importance of extra-economic causes is freely admitted. It would often be much better to facilitate the breaking up of an old combination of land, people, and economic activities and seek systematically for a new and vital one; that is, to promote adaptation rather than to obstruct it.

AUGUST LOSCH, *ECONOMICS OF LOCATION* 326–27 (William H. Woglom trans., 2d ed. 1954) (footnote omitted); see also NORTON, *supra* note 6, at 23–30 (stating that regional transitions between urban areas are more important than the transitions of individual cities); PANEL ON POLICIES AND PROSPECTS FOR METROPOLITAN AND NON METROPOLITAN AMERICA IN THE EIGHTIES, PRESIDENT'S COMMISSION FOR A NATIONAL AGENDA FOR THE EIGHTIES, *URBAN AMERICA IN THE EIGHTIES: PERSPECTIVES AND PROSPECTS* 4–5 (1980) [hereinafter *PRESIDENT'S COMMISSION REPORT*] (suggesting that the federal government should aid cities in adjusting to redistributive processes rather than attempting to reverse the processes); Jack Sommer, *Renewing a Dialogue on Urban America*, in U.S. DEPT OF HOUSING & URBAN DEVELOPMENT, *REDISCOVERING URBAN AMERICA: PERSPECTIVES ON THE 1980S*, at 1-1, 1-4 to 1-5 (Jack Sommer & Donald A. Hicks eds., 1993) [hereinafter *REDISCOVERING URBAN AMERICA*] (describing the urban systems perspective of viewing the nation's cities as a whole).

structures be regarded as instrumental to the recycling of older urban centers. Similarly, as new residential and production arrangements offered complementary roles to suburban areas, it would likewise expect that the bulk of new residential, industrial, and commercial investment would be steered to locations well removed from older inner-city areas. Such selective disinvestment from central cities, then, is viewed as equally integral to the recycling of industrial-era cities as would be selected investments. After all, neither the United States nor the world needs the Detroit and the Dallas that were originally built to serve an earlier economic era. Increasingly, metropolitan-scale regions are the building blocks of national and global economic structures. It is important, then, that more localized investments contribute to the emergence of these new economic arrangements so that local enterprise and residents can remain relevant to the newly scaled economy and society developing around them.

The governance perspective, however, strains to eliminate the unevenness that sets these flows in motion. Such flows threaten to diminish the dominance of established jurisdictions in the new arrangements. This perspective urges that we strive to protect older central cities from forms of reconstruction that would require them to relinquish to broader metropolitan structures the economic roles that were the bases for the cultural hegemony, economic centrality, and political dominance they enjoyed historically.

It is all but inevitable that any political consensus required to devise and implement some form of urban policy will tend to discount or otherwise distrust precisely those naturally occurring developmental remedies that might offer the greatest prospects for alleviating place-based poverty and disadvantage. This is especially true if part of the larger solution involves the continued geographical redistribution of people and enterprise. Not surprisingly, government initiatives typically have been crafted, explicitly or unwittingly, in ways that seek to retard or otherwise redirect development dynamics. This was evident in policy efforts as diverse as urban renewal, Model Cities, and Urban Development Action Grants (UDAGs) targeted to improve the lives of people indirectly by upgrading places directly.

It is not at all clear that urban America requires resuscitation of the kind that is commonly proposed. It is undeniable that our cities as political jurisdictions, especially some of our

older industrial centers, are under tremendous pressure to accommodate the dominant forces shaping the lives of individuals and their institutions. In general, however, urban settlements continue to exhibit a remarkable flexibility and capacity for continuous adjustment. Moreover, if the recent record is any indication, our cities retain the capacity to create immense opportunity and to distribute it broadly. Much more capacity, however, currently constrained by the unintended impacts of past policy initiatives, could potentially be unleashed through new legal reform efforts.

Assigning primacy to an explicit urban policy generally has led to discussions of how urban development dynamics can be channeled in ways that lead to outcomes we value, such as stable neighborhoods, real estate development, and settlement patterns that provide predictable tax revenue streams, and commuting patterns that permit bold mass transit options. By contrast, assigning primacy to urban processes is more likely to lead to increased appreciation for how the outcomes we get spontaneously, however unfamiliar and unwelcome at first, are ones in which we later come to invest enormous value. Thus, we come to value the residential and recreational areas which were constructed on land made available by the demolition of empty factories and warehouses, the opportunity for homeownership and decent schools that first required that we move out of familiar neighborhoods, and the employment prospects in newly emerging industries and enterprises made possible by the demise of older, less competitive ones.

Regrettably, in recent decades the tensions between these two perspectives often have led to intellectual stalemate. The developmental process camp often has failed to appreciate the importance of legal sanctions in providing the stability and predictability necessary to encourage the investment and innovation required by urban America's ceaseless adjustments to new demographic trends, new technologies, and new relationships to a global-scale economy. At the same time, the governance camp often has felt the need to defend cities by first declaring a crisis and then responding in ways that threaten to turn them into museums for the preservation of a more familiar way of life. We can do better.

This Article urges thoughtful legal reforms which must build bridges from our cities to new industrial and settlement arrangements, rather than seeking to perpetuate historical functions of cities or rebuild them according to older social

blueprints. Most important are reforms that would promote fairness and opportunity by expanding social access to a changing world. While a detailed description of those reforms is beyond the scope of this Article, Part VII offers some general guidelines for where we might begin efforts to develop these new reforms.

II. URBAN DEVELOPMENT AS URBAN DECLINE

How is it that today America's cities have come to be identified so closely with the ills of a nation? Cities are considered not just settings for these problems, but in many respects their causes. For the most part, as our nation's urban system has developed since the 1950s, a variety of circumstances have created three major barriers to opportunity: the urban space barrier, the labor market skills barrier, and the segregation and poverty barrier. This Part discusses each barrier in turn, and examines the effects each has had on the presumed decline of America's cities.

A. Urban Space As a Barrier

The first of these barriers relates directly to patterns of population and employment distribution in the United States. For more than a century, our nation's industrial-era cities had grown large and powerful as urbanization swept people and jobs into them. The 1920 census was the first to report that the majority of Americans lived in urban areas, up from approximately five percent in 1790.¹⁶ Beginning in the 1950s, however, the centralizing dynamic was challenged visibly by something new and therefore threatening. For the first time, our marquee industrial-era cities—including New York, Detroit, Cleveland, and Pittsburgh—began to register population losses.¹⁷ By 1970, a majority of the nation's metropolitan population lived in suburbs, and by 1990, the majority of all Americans lived in

16. JOHN F. LONG, BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, POPULATION CONCENTRATION IN THE UNITED STATES 9 (Special Demographic Analysis No. CDS-81-5, 1981).

17. NORTON, *supra* note 6, at 2.

suburbs.¹⁸ Inexorably, the central cores of cities,¹⁹ like rural areas before them, had become increasingly detached from the lives of most Americans.

Production activities were redistributed in a similar way. As industries continued to accommodate shifting technological regimes, manufacturers began to filter out of older, less efficient production settings and into newer ones. What steam-powered technologies had once tethered tightly to central city locations, electricity-based technologies began to pry loose. As successive transportation and communication innovations combined to diminish the significance of physical distance, the importance of geographical proximity—the once-powerful centralizing influence on residence and production—began to decline.

Compact and centrally located multi-story factories gradually gave way to sprawling single-story plants located along interstate highways, near regional airports, with easier access to the suburban pools of skilled workers on whom they were increasingly dependent. Inside these plants, older forms of rigid work patterns yielded to clustered production tool sets and computer-assisted process controls tended by technically trained workers. Similarly, retail and related consumer services migrated away from downtown streets and out to enclosed suburban shopping malls. Indeed, between 1948 and 1977 employment losses in manufacturing, wholesale, and retail sectors mounted dramatically in our major central cities: New York, 662,000; Chicago, 454,000; Philadelphia, 261,000; and Detroit, 286,000.²⁰

As a result, a wide range of activities began to drift apart and away from our central cities. Some relocated to lower-cost settings or to be closer to where skilled workers lived, while others, which were more dependent on specialized services and face-to-face interactions, stayed behind. Metropolitan-scale urban economies restructured spatially. As relative population

18. David L. Ames et al., *Rethinking American Urban Policy*, 14 J. URB. AFF. 197, 198, 200 (1992).

19. Most of the central-city population lives outside the boundaries of marquee, older industrial-era cities such as New York, Detroit, Cleveland, and Pittsburgh which were made synonymous with decline from 1950 through the 1970s. See KATHERINE L. BRADBURY ET AL., *URBAN DECLINE AND THE FUTURE OF AMERICAN CITIES* 51, 237–39 (1982) (analyzing urban decline in Cleveland as typical of older industrial areas throughout the Northeast and Midwest).

20. John D. Kasarda, *Urban Change and Minority Opportunities*, in *THE NEW URBAN REALITY* 33, 34 (Paul E. Peterson ed., 1985).

and employment losses grew to become absolute ones, our oldest and largest central cities began to contract dramatically.

From the beginning, the process of suburbanization was viewed from a city-centric perspective. Predictably, the focus was on how decentralization was undermining established central cities, or in other words, on what was being lost rather than on what was being gained. From this perspective, these population and employment redistributions inevitably came to be viewed as problematic rather than developmental.²¹

Suburbanization also was perceived as a political and cultural threat.²² To those tied to established political arrangements and assigned urban administrative responsibilities, these demographic shifts represented the start of something sinister indeed.²³ Big-city mayors faced the prospect of having to meet rising urban service burdens as tax base growth slowed. Local elected officials viewed with alarm the growth in the ranks of registered voters in suburbs as central-city political clout began to wane.

There was little appreciation for the fact that these shifts represented a continuation of urban exodus already underway for more than half a century. Although early evidence of the dispersal and decentralization within the nation's settlement patterns actually was detectable as early as the 1880s,²⁴ it took

21. Dominant cultural values pulling new linking technologies (e.g., transportation and communications) into use, unintentional public sector government encouragement (e.g., interstate highway construction funding), and stages of economic development all make identifiable contributions to the complex etiology of suburbanization. Moreover, suburbanization is a dynamic evident in advanced industrial countries around the world. Its extent and pace tend to vary with local circumstances. Indeed, while the suburbanization phenomenon is evident throughout advanced industrial countries, it is perhaps nowhere as marked as in the United States. Daniel R. Vining, Jr., *Migration between the Core and the Periphery*, *SCI. AM.*, Dec. 1982, at 45, 45-53; Daniel R. Vining, Jr. & Thomas Kontuly, *Population Dispersal from Major Metropolitan Regions: An International Comparison*, 3 *INT'L REGIONAL SCI. REV.* 49, 49-73 (1978); Daniel R. Vining, Jr. et al., *Population Dispersal from Core Regions: A Description and Tentative Explanation of the Patterns in Twenty-One Countries*, in *TRANSITION TO THE 21ST CENTURY: PROSPECTS AND POLICIES FOR ECONOMIC AND URBAN-REGIONAL TRANSFORMATION*, *supra* note 8, at 81, 81-111.

22. See Barry Schwartz, *Images of Suburbia: Some Revisionist Commentary and Conclusions*, in *THE CHANGING FACE OF THE SUBURBS* 325, 331 (Barry Schwartz ed., 1976).

23. See CONSTANCE PERIN, *EVERYTHING IN ITS PLACE: SOCIAL ORDER AND LAND USE IN AMERICA* 86 (1977); Matthew Edel, *Land Policy, Economic Cycles, and Social Conflict*, in *THE LAND USE POLICY DEBATE IN THE UNITED STATES* 127, 130, 132 (Judith I. de Neufville ed., 1981).

24. DONALD A. HICKS, *ADVANCED INDUSTRIAL DEVELOPMENT: RESTRUCTURING, RELOCATION, AND RENEWAL* 125 (1985).

decades for the forces of counter-urbanization to reach the point where they began to overwhelm the forces of urbanization. Since 1950, settlements larger than 100,000 have steadily been declining as a share of the population in the United States, and this same trend has been evident since 1930 for settlements of over one million.²⁵

The movement of population and employment away from central cities also was viewed as fueling social catastrophe. As investment and employment growth moved to the suburbs, many who remained in central cities found it increasingly difficult to accommodate these new dispersed arrangements.²⁶ As John Kain identified three decades ago, space itself had emerged as a barrier to suburban employment prospects for many central-city residents.²⁷ Special angst was generated by the outmigration of entry-level manufacturing jobs which required only modest education or training. Early urban policies, therefore, placed heavy emphasis on efforts to steer development back into central cities.²⁸ Even if it had been possible to bring development back to central cities, however, another barrier was diminishing the utility of this general solution.

B. Labor Market Skills As a Barrier

By the 1970s, it became apparent that shifts of another sort were challenging the industrial-era city. A structural transformation of the urban economy was underway, the spatial impacts of which were far more complex than simple suburbanization. As our central cities became centers of information processing and administration rather than goods production, new patterns of sourcing, production and distribution arose and new flatter,

25. *Id.* More recently, of the nation's 56 metropolitan areas with populations larger than 250,000 in 1980, the central city share of metropolitan population had declined in all but the largest (New York City) and the smallest (Virginia Beach, Va.) areas. EDWIN MILLS, *STUDIES IN THE STRUCTURE OF THE URBAN ECONOMY* 22-29 (1972).

26. See John F. Kain, *Housing Segregation, Negro Unemployment, and Metropolitan Decentralization*, 82 Q.J. ECON. 175, 191-92 (1968) (noting that suburbanization of employment reduced job opportunities for central-city residents, and in particular, for black residents).

27. *Id.*

28. See ROYCE HANSON, NATIONAL RESEARCH COUNCIL, *THE EVOLUTION OF NATIONAL URBAN POLICY 1970-1980: LESSONS FROM THE PAST* 1-2 (1982).

less hierarchical corporate structures emerged.²⁹ Increasingly, many kinds of entry-level production jobs previously available as the lower rungs on ladders of opportunity for central-city residents were as likely to evaporate as to emigrate to the suburbs. Factory and office automation and workplace restructuring meant that software could share the spotlight with suburbs as culprits in what widely was viewed as the decline of urban America.

In reality, the broader economy, including the new diverse services sector, like manufacturing before it, slowly was adjusting to new cultural possibilities and technological regimes. As the ties between workers and workplaces were transformed, the ties between workers and work began to change as well. There was no way of insulating the fundamental notion of mono-centric industrial-era settlement patterns from these shifts. As new labor markets placed increased emphasis on education-related competencies, public policies focussed primarily on eliminating spatial mismatches between distressed urban residents and opportunity could be expected to accomplish little.

C. Segregation and the Urban Underclass: The Inner City As a Poverty Machine

The interaction of these space and skill barriers with the demographics of inner-city neighborhoods resulted in the most devastating effects on what has come to be widely regarded as an urban underclass.³⁰ It is here that the presumed decline of our cities became entwined with the issues surrounding race and ethnicity, social class, and group culture. Poverty concentration rooted in residential segregation led to psychic barriers that powerfully reinforced and perpetuated a physical separation from the mainstream society and economy.³¹ For poor

29. See John D. Kasarda, *Structural Factors Affecting the Location and Timing of Urban Underclass Growth*, 11 *URB. GEOGRAPHY* 234, 240-46 (1990).

30. For a detailed treatment of how the restructuring of the urban economy, namely, the decline of high-wage low-skill employment opportunities in the inner city, reached all the way down into black family life, see WILLIAM J. WILSON, *THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY* (1987).

31. See Douglas S. Massey et al., *Segregation, the Concentration of Poverty, and the Life Chances of Individuals*, 20 *SOC. SCI. RES.* 397, 399 (1991).

youth surrounded by poverty, the contextual influence could be truly devastating.³² "High concentrations of poverty create an environment in which unwed childbearing, male joblessness, and welfare dependency not only cease to be deviant, but become the norm."³³ It is in this manner that the social isolation of poor people transformed poverty areas into true ghettos. Being poor was less pernicious than living in a neighborhood in which the bulk of one's neighbors were also poor.

Inner-city areas began to exhibit the self-perpetuating features of rural Appalachia or the Third World. As a result, their primary problem was no longer simply poverty. Rather, it was the prospect of persistent poverty throughout one's life that then would be passed on to successive generations. For residents in these areas, poverty was less episodic than endemic. These neighborhoods no longer simply pooled the poor, as our central cities—indeed all cities—have traditionally done; they produced the poor. As selective migration enabled some to translate material success into mobility options, those people who remained grew poorer along with their neighborhoods.³⁴

This developmental irony is not an isolated case. At times, the concentrative force of such poverty has been strengthened unwittingly by the very policy efforts designed to combat it. For example, the construction of massive public housing complexes in inner-city neighborhoods functioned to further segregate blacks, and therefore concentrate the poor.³⁵ Public housing often so heavily concentrated inner-city poverty that the transit of a host neighborhood along a development cycle over time was severely obstructed.³⁶ That is, not only were the economic prospects of an individual severely reduced by living in a

32. Dropping out of school, for example, sets in motion a devastating downward spiral in the ability of a youngster to negotiate urban settings. Rebecca Clark has reported that particularly in low-income areas, school dropout rates among boys rise rapidly as the percentage of poor people within a community rises from only zero to five percent. *Neighborhood Influence on Teenage Boy Dropouts*, URB. INST. POLY & RES. REP., Fall 1992, at 9, 10 (discussing Rebecca Clark's analysis of the correlation between various neighborhood characteristics and the neighborhood's high school dropout rate).

33. Massey et al., *supra* note 31, at 399.

34. The power of neighborhoods to mediate the influences of the larger world are indicated by Massey et al.: "Since people who occupy the same space are likely to interact frequently and intensively, neighborhoods have a profound effect on the values, beliefs, and knowledge of the people who grow up and live within them . . ." *Id.* at 398.

35. See Douglas S. Massey & Shawn M. Kanaiaupuni, *Public Housing and the Concentration of Poverty*, 74 SOC. SCI. Q. 109 (1993).

36. *Id.*

poverty neighborhood, but the economic prospects of upgrading that neighborhood were reduced as well. In effect poor people and poor neighborhoods were locked in a fateful embrace.

In addition, there has been widespread concern that efforts to provide income support through welfare programs can aggravate the individual and institutional deficits that keep the inner-city poor in a state of poverty.³⁷ Recent research, for example, indicates that among the urban poor, there is a positive relationship between the generosity of welfare payments and the prevalence of female-headed households.³⁸

At the same time, however, inner-city neighborhoods cannot be said to have become so barren of opportunity that their residents find it impossible to help themselves. Despite much evidence that the environment plays a powerful role in reinforcing poverty, the very same physical environment may present very different opportunity structures to some groups.³⁹

37. On the logic of this causal sequence whereby ever easier access to rising federal welfare benefits has undermined the more mainstream and traditional importance of marriage before childbearing, see CHARLES MURRAY, *LOSING GROUND: AMERICAN SOCIAL POLICY, 1950-1980* (1984).

38. Robert Moffitt, *The Effect of the U.S. Welfare System on Marital Status*, 41 J. PUB. ECON. 101, 121-22 (1990). Eggers and Massey find that welfare may well discourage employment even while it encourages the rise of female-headed households. They note, however, that the relative importance of welfare effects against effects related to the restructuring of the inner-city economy are difficult to deduce from cross-sectional research designs. In other words, unless we can observe effects over time, it is difficult to decide whether welfare payments or economic restructuring yields the more decisive effects on female-headed households. Mitchell L. Eggers & Douglas S. Massey, *The Structural Determinants of Urban Poverty: A Comparison of Whites, Blacks, and Hispanics*, 20 SOC. SCI. RES. 217, 249-50 (1991) [hereinafter Eggers & Massey, *Structural Determinants*]. In a subsequent study employing a longitudinal research design, these analysts found that rising levels of welfare payments between 1970 and 1980 accounted for little of the changes in either the level of black male employment, the formation of female-headed households, or rates of black poverty. Mitchell L. Eggers & Douglas S. Massey, *A Longitudinal Analysis of Urban Poverty: Blacks in U.S. Metropolitan Areas between 1970 and 1980*, 21 SOC. SCI. RES. 175, 175 (1992).

39. See Charles Hirschman & Morrison G. Wong, *Socioeconomic Gains of Asian Americans, Blacks, and Hispanics: 1960-1976*, 90 AM. J. SOC. 584 (1984) (analyzing socioeconomic inequality between ethnic groups); see also Kasarda, *supra* note 20, at 57 (noting racial disparity in central-city employment rates). Indeed, the role of group culture may well make an independent contribution to the intergenerational transmission of poverty. There is evidence indicating, for example, that black males tend to be substantially less likely than Anglo or Mexican males to wed the mothers of their children regardless of employment status or level of neighborhood poverty. Mark Testa et al., *Employment and Marriage among Inner-City Fathers*, 501 ANNALS AM. ACAD. POL. & SOC. SCI. 79, 83-84 (1989). In a similar vein, Sassen draws attention to the income-generating activities that take place outside the formal economy and thereby constitute a vibrant "informal economy" within postindustrial societies. Saskia Sassen, *The Informal Economy, in DUAL CITY: RESTRUCTURING NEW YORK* 79, 79-101 (John H. Mollenkopf & Manuel Castells eds., 1991).

For example, many Asian entrepreneurs—such as the South Korean shopkeepers depicted in the glare of the eruptions in South Los Angeles—manage to wrest remarkable opportunity out of the same neighborhoods generally regarded as economically barren by other residents.⁴⁰ The keys to their success appear to involve not only a group culture deeply supportive of higher educational attainment but also the leveraging of their extended family organization, a bootstrap strategy reminiscent of the immigrant experience a century ago.⁴¹ Moreover, the concentration of poverty alone need not lead to the creation of a ghetto underclass where strong counterforces operate. Indeed, as the foreign-born share of concentrated poverty neighborhoods increased from 3.5% in 1970 to 10.1% in 1990, it became apparent that the contextual “drag” of neighborhood poverty can affect different social groups differently.⁴² Recent research at the Urban Institute has revealed that despite the generally lower educational levels of foreign-born residents relative to the native-born, residents in predominantly “immigrant” neighborhoods were more likely to be employed, have higher incomes and were less likely to be in single-parent or welfare-receiving families than were those in predominantly “native” neighborhoods.⁴³ This suggests that while concentrated poverty can have a corrosive effect on a community, a culture of poverty is not a necessary consequence. Poverty alone may predispose, but it cannot predict, the life chances of individuals.

The dynamics sustaining inner-city ghettos are extremely complex, and seeking to reverse them poses a monumental challenge. The key question here, however, is whether or not the very existence of inner-city ghettos constitutes an indictment of our cities. Does the presence of poverty concentrations in our cities indicate that our cities no longer work and therefore need revitalizing? What should we make of the possibility that concentrated poverty may be as much a threat to our cities as our cities are to the poor?

40. John D. Kasarda, *Why Asians Can Prosper Where Blacks Fail*, WALL ST. J., May 28, 1992, at A20.

41. *Id.*

42. See *Immigrants in High Poverty Areas*, URB. INST. POL'Y & RES. REP., Summer 1994, at 22 (highlighting Wendy Zimmermann and Mitchell Tobin's research comparing high poverty neighborhoods consisting of a majority of foreign-born residents with those that have few foreign-born residents).

43. *Id.*

III. PAST URBAN REVITALIZATION AND RENEWAL EFFORTS: A SUCCESSION OF FEDERAL INITIATIVES

Federal programs aimed at directly influencing urban development patterns or their consequences began in earnest nearly a half century ago. The earliest efforts attempted to eradicate local slums.⁴⁴ Under the rubric of urban renewal and downtown revitalization, slums often were bulldozed in the certainty that the programs were addressing the declining capacity of cities to deliver adequate housing.⁴⁵

These early efforts were directed at the housing conditions in inner-city areas largely because their conditions were an affront to the middle class.⁴⁶ Many years went by before we began to appreciate that, in fact, these efforts crippled the capacity of cities to accommodate the urban poor—to move them up and along socially.⁴⁷ These early programs of urban renewal succeeded in destroying the lower tiers of city housing options which were deemed unacceptable to middle class sensibilities, but which were needed to accommodate new arrivals and the temporarily down and out.⁴⁸

It was not until later that America's cities as breeding grounds for all manner of social distress became objects of explicit concern and federal government initiative. Beginning with the Great Society and War on Poverty efforts, increasingly the aim was to eradicate poverty by addressing its spatial determinants. It became natural to look for linkages between circumstance and context, because we found so much poverty concentrated in cities, and these links were not difficult to find.

As new demographic and industrial forces unravelled older urban centers across the country, new central-city oriented

44. This impulse was embodied in the 1949 Housing Act, and especially Title I of that legislation which established the federal urban renewal program in close cooperation with local communities. Housing Act of 1949, Pub. L. No. 81-171, ch. 338, tit. I, §§ 101-110, 63 Stat. 413, 414-21 (originally codified at 42 U.S.C. §§ 1451-1460), *omitted by* Housing and Community Development Act of 1974, Pub. L. No. 93-383, tit. I, § 116(a), 88 Stat. 633, 652 (codified as amended at 42 U.S.C. § 5316 (1988)). See Catherine Bauer, *Redevelopment: A Misfit in the Fifties*, in *THE FUTURE OF CITIES AND URBAN REDEVELOPMENT* 7, 7-18 (Coleman Woodbury ed., 1953).

45. MARTIN ANDERSON, *THE FEDERAL BULLDOZER: A CRITICAL ANALYSIS OF URBAN RENEWAL, 1949-1962*, at 1-14 (1964).

46. *See id.* at 3.

47. *See id.* at 52-72.

48. *See id.* at 67.

political coalitions concerned with the declining political and economic dominance of cities arose to join forces with smaller coalitions concerned with the physical deterioration of inner cities. Through the early 1960s, federal attention was drawn to the social as well as physical correlates of poverty.⁴⁹

The next quarter century yielded a succession of urban policy initiatives. During the mid-1960s, a pair of urban and community development initiatives, the Community Action Program⁵⁰ and Model Cities Program,⁵¹ responded to the impulse for political inclusiveness. These programs aimed at the neighborhood circumstances that defined the lives of inner-city residents. The Department of Housing and Urban Development was established in 1965 to serve as the administrative coordinator of these federal efforts.⁵² Later, the Housing and Urban Development Act of 1968,⁵³ which aimed to stimulate low-income housing construction, was passed alongside the Fair Housing Act of 1968.⁵⁴

By the mid-1970s, a new policy logic had emerged which held that even though a considerable amount of funding flowed into our urban areas, its effectiveness was limited because it flowed from too many federal spigots. Refuge was sought in program consolidation and better coordination. The resulting Community

49. This is evidenced by the establishment by President Johnson of the Office of Economic Opportunity (OEO) to coordinate the War on Poverty. Economic Opportunity Act of 1964, Pub. L. No. 88-452, § 601, 78 Stat. 508, 528 (originally codified at 42 U.S.C. § 2941), *repealed by* Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, § 683(a), 95 Stat. 357, 519 (codified at 42 U.S.C. § 9912(a) (1982)). Other examples include the establishment of the Head Start program, Pub. L. No. 88-452, 78 Stat. 508, 516-20 (1964), *repealed and replaced by* Pub. L. No. 97-35, 95 Stat. 499-508 (codified at 42 U.S.C. §§ 9831-9852 (1988 & Supp. V 1993)), and the Job Corps, designed to connect disadvantaged youth to both education and later, to employment. Economic Opportunity Act of 1964, Pub. L. No. 88-452, tit. I, § 102, 78 Stat. 508, 508 (codified as amended at 29 U.S.C. §§ 1693-1707 (1988 & Supp. V 1993)).

50. Economic Opportunity Act of 1964, Pub. L. No. 88-452, tit. II, 78 Stat. 508, 516, *repealed by* Omnibus Reconciliation Act of 1981, Pub. L. No. 97-35, § 683(a), 95 Stat. 357, 519 (codified at 42 U.S.C. § 9912(a) (1982)).

51. Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. No. 89-754, 80 Stat. 1255, *omitted by* Housing and Community Development Act of 1974, Pub. L. No. 93-383, tit. I, § 116(a), 88 Stat. 633, 652 (codified as amended at 42 U.S.C. § 5316 (1988)); *see also* HANSON, *supra* note 28, at 3-5 (reviewing the history and content of the Great Society's urban program).

52. Department of Housing and Urban Development Act, Pub. L. No. 89-174, § 3, 79 Stat. 667 (1975) (codified as amended at 42 U.S.C. § 3352 (1988 & Supp. V 1993)).

53. Pub. L. No. 90-448, 82 Stat. 476 (codified as amended primarily in scattered sections of 12 U.S.C., 15 U.S.C., and 42 U.S.C.).

54. Pub. L. No. 90-284, tit. VIII, 82 Stat. 73 (codified as amended at 42 U.S.C. §§ 3601-3631 (1988)).

Development Block Grants⁵⁵ and Urban Development Action Grants (UDAGs)⁵⁶ continued to aim for the eradication of slums and its social supports. This new tack also represented a response to concern over the rising fiscal and political costs of these efforts. The politics surrounding urban aid funding had grown increasingly vocal. By evidencing the notion that "local folk" know best how to diagnose and respond to their own problems, this new approach was also a convenient way to shift much of the political decision making back to the local level. A block of federal funding was given to local officials, and they were responsible for allocating and prioritizing the funds. Most importantly, they could also take the heat.

The arrival of the 1980s brought a hiatus of sorts. The political climate had changed along with the ascendance of a new political philosophy. The Reagan and Bush administrations were less beholden to urban political coalitions, and interest in ambitious new federal urban policy initiatives fizzled. The only new urban-oriented policy initiative, urban enterprise zones, was proposed but not enacted by either administration.⁵⁷ Many states and localities did, however, seize upon the idea of enterprise zones, and have experimented with it in both urban and rural settings.

55. Housing and Community Development Act of 1974, Pub. L. No. 93-383, tit. I, 88 Stat. 633 (codified as amended at 42 U.S.C. §§ 5301-5317 (1988 & Supp. V 1993)).

56. Housing and Community Development Act of 1977, Pub. L. No. 95-128, tit. I, § 119, 91 Stat. 1125 (codified as amended at 42 U.S.C. § 5318 (1988 & Supp. V 1993)).

57. See OFFICE OF POLY DEV. & RESEARCH, U.S. DEPT OF HOUSING & URBAN DEVELOPMENT, *THE PRESIDENT'S NATIONAL URBAN POLICY REPORT 27-36* (1991). The logic of the federal enterprise zone involves using incentives to stimulate entrepreneurship and economic development within a relatively small, explicitly designated geographical area. Among the incentives included in the Bush administration fiscal year 1992 budget, for example, were: the abolition of the capital gains tax on tangible assets used to operate a business; the deferral of a portion of the personal income taxes assessed on investors in qualified enterprises; and a refundable tax credit on personal income taxes that could be applied to the wages earned by low-income workers employed within qualified enterprises.

Following yet another political climate shift, the same basic idea has been rewrapped and offered by the Clinton administration as a combination of enterprise and "empowerment" zones in the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, tit. XIII, ch. 1, § 13301, 107 Stat. 543 (codified at 26 U.S.C. §§ 1391-1397D (Supp. V 1993)).

A. *Taking Stock: How Successful
Have These Efforts Been?*

For the most part the track record of these federal urban policy initiatives is disappointing. The conventional response is that the nation made a valiant effort but became exhausted far short of the goal. Much evidence supports this view. A list of the typical excuses follows:

1. *The Nation Lost Its Resolve*—Many would suggest that because past efforts were ineffective and even destructive, our political will flagged. Moreover, the dormancy of any explicit national urban policy during the 1980s is viewed widely as the regrettable consequence of a mean-spirited Reagan-Bush political era.⁵⁸

Since the late 1960s, our cities have become politicized in new ways. Liberals began to regard our cities as a litmus test of our social and domestic policies. Motivated by the persistence of poverty and its correlates, and firm in the belief that the generous application of public resources and political will could ameliorate urban problems, liberals often urged redoubled efforts and budgets. By contrast, conservatives generally cautioned against expanding yet another new arena for government activism. For them, silence often became a policy strategy. Ironically, in such a cartoonish setting both ideologies generally remained unventilated, and as a result, few common lessons can be derived from the experience.

2. *Policymakers Were Not Single-Minded*—Many claim that the federal, state, and local governments inadvertently aided and even accelerated the very forces threatening central-city dominance.⁵⁹ This is doubtless true.⁶⁰ It is widely appreciated

58. See, e.g., Peter Drier, *America's Urban Crisis: Symptoms, Causes, and Solutions*, 71 N.C. L. REV. 1351, 1383–86 (1993).

59. See Katherine Lyall, *Comments*, in URBAN LAND POLICY FOR THE 1980S: THE MESSAGE FOR STATE AND LOCAL GOVERNMENT 41, 41–42 (George Lefcoe ed., 1993) (commenting on Donald A. Hicks, *National Urban Land Policy: Facing the Inevitability of City and Regional Evolution*, in URBAN LAND POLICY FOR THE 1980S, *supra*, at 21). See generally U.S. DEPT OF HOUSING & URBAN DEVELOPMENT, THE PRESIDENT'S NATIONAL URBAN POLICY REPORT: 1980, at 3-12 to 3-19, 11-1 to 11-27 (1980) [hereinafter HUD REPORT 1980] (discussing the effects of federal and state policies on central cities).

60. While the list of possible federal influences is endless, among the more frequently mentioned are federal tax policies such as investment tax credits that have the effect of steering investment and employment either into or away from specific activities and locations. Similarly, federal highway and infrastructure policy, as evidenced in the construction of the interstate highway system, often had the

that the spatial influences accompanying otherwise nonurban federal programs wield far more influence than do explicitly urban-oriented policies and programs.⁶¹ Federal government efforts to build infrastructure above ground, such as interstate highways, and below ground, such as waste-water treatment facilities, clearly facilitated dispersal from our cities. General revenue sharing, which distributed eighty-five billion dollars over the fourteen years of its existence, extended a fiscal lifeline to even the smallest struggling jurisdictions.

It also is commonly noted that our efforts were erratic, uncoordinated, and backward-looking. Like the Pentagon's national defense policy, federal urban policy frequently was criticized as oriented toward fighting the last war.

3. *The Government Did Not Spend Enough Money*—Finally, some would suggest that failures could be traced to the lack of sufficient funding. Although today the 1980s are thought of as a decade of greed and neglect, the evidence that urban poverty efforts failed because we did not spend enough is unpersuasive. In fact, since the late 1960s, more than \$2.5 trillion has been spent on urban renewal and poverty efforts directed at our cities.⁶²

During the 1980s, of the explicit federal programs that aided cities directly, only the general revenue sharing⁶³ and UDAGs were terminated.⁶⁴ While both of these programs satisfied the

unintended effect of raising the attractiveness of locations outside central cities. The income tax deductibility of mortgage interest is believed to have facilitated movement of middle-class residents to suburban areas. State policy influences are felt in highway planning and facility siting involving institutions of higher education, airports, and medical facilities. Finally, local policies with potentially anti-urban effects include everything from tax incentives that lure enterprise between locations to municipal service delivery inequities. See Lyall, *supra* note 59, at 42.

61. See, e.g., Edwin S. Mills, *Non-Urban Policies as Urban Policies*, 24 URB. STUD. 561 (1987).

62. Stephen Moore & Dean Stansel, *The Myth of America's Underfunded Cities*, 188 CATO INST. 2 (1993).

63. Act of Sept. 13, 1982, Pub. L. No. 97-258, ch. 67, §§ 6701-6724, 96 Stat. 1010 (originally codified at 31 U.S.C. §§ 6701-6724), repealed by Consolidated Omnibus Budget Reconciliation Act of 1986, Pub. L. No. 99-272, tit. XIV, § 14001(a)(1), 100 Stat. 327.

64. 42 U.S.C. § 5318 (1988).

In 1977, Congress authorized the Secretary of HUD "to make urban development action grants to severely distressed cities and urban counties." Housing and Community Development Act of 1977, Pub. L. No. 95-128, tit. I, § 119(a), 91 Stat. 1125. The amounts of these grants were limited to \$500 million in 1982 and 1983, Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, tit. III, § 308(a), 95 Stat. 392, \$440 million in 1984-1986, Supplemental Appropriations Act of 1984; Domestic Housing and International Recovery and Financial Stability Act, Pub. L. No. 98-181,

primal political impulse to demonstrate concern by dispersing funds directly to cities, neither amassed a record of obvious achievement. The federal resources flowing directly to people from other urban-oriented programs more than compensated for the terminated funds. Indeed, during the Bush term the rate of growth of general domestic spending (24.5%) exceeded that of either Reagan (4.0%) or Carter (12.0%).⁶⁵ Moreover, during the 1980s, the real dollar value of federal aid flowing directly to the urban poor increased more than ten percent to \$285 billion, while the direct federal aid to cities was halved.⁶⁶

Today, the federal government contributes approximately one-sixth of the resources expended by states and localities.⁶⁷ These distributive bureaucracies are estimated to absorb fully two-thirds of every dollar of federal aid intended for the urban poor.⁶⁸ Our federal response structures have calcified, larded down by layer upon layer of vested interest and outdated world views. Ironically, the urban-oriented federal bureaucracies established in the 1950s–1970s have shown nowhere near the flexibility in mission and response that our urban areas have.

It is also fair to ask the question: How much is enough? Absolute dollar amounts of federal spending are an easy political target. When we note that per capita spending in our cities doubled between 1965 and 1990—not counting federal funds for education, health, and welfare programs—it is difficult to conclude that any failure was the consequence of inadequate funding.⁶⁹ Rather, it would be even more specious to have spent such considerable sums guided by the best of intentions in the pursuit of such noble goals and then not ask at some point what has come of it all. That would constitute public policy malpractice of a most egregious sort. It is time to look elsewhere for an understanding of why such massive funding failed to register anything like the results sought.

tit. I, § 121(a), 97 Stat. 1168–69, and \$225 million in 1988 and 1989. Housing and Community Development Act of 1987, Pub. L. No. 100-242, tit. V, § 501(c), 101 Stat. 1923. Allocations for the UDAG program were not included within the 1989 Budget. This, in a sense, was a deliberate commission by an omission.

65. Scott A. Hodge & Robert Rector, *What George Bush Is Not Being Told about Federal Spending*, BACKGROUND (Heritage Found., Washington, D.C.), Mar. 4, 1992, at 4.

66. Moore & Stansel, *supra* note 62, at 33.

67. Information provided by the Office of Assistant Secretary, Office of Planning, Development, and Research, U.S. Department of Housing and Urban Development.

68. *Hell is a Dying City*, *ECONOMIST*, Nov. 6, 1993, at 13, 13.

69. Moore & Stansel, *supra* note 62, at 32.

B. Cities versus System: Misapplied Urban Arithmetic

*How to eliminate or transform . . . damaged communities, bringing all to a decent standard, is the object of an urban development policy.*⁷⁰

Typically, past analyses of the circumstances defining our nation's urban areas focused nearly exclusively on the experiences of individual jurisdictions.⁷¹ From this perspective, each community is judged to have its own past and future worthy of public concern. Each also is judged to have its own developmental trajectory and pace for moving into the future. Early urban policy efforts, in particular, assigned primacy to identifying those barriers hindering the progress of individual cities along their respective paths of historical development.⁷² One of the goals of past efforts to articulate a national urban policy has been to develop a responsiveness whereby local public officials and private citizens in thousands of communities across the country might elicit federal moral and material support for their localized development efforts.

Assessing the condition of our cities typically has involved measuring, documenting, and inventorying these barriers one by one, city by city.⁷³ This view is fundamentally misguided. The health care analogy breaks down here, because efforts to view cities as patients, with the goal of designing remedial strategies for treating each individually, inevitably prove counterproductive. The result has been a conventional mindset that would have us view our cities as concentrations of problems. The overall assessment of the state of urban America

70. Ames et al., *supra* note 18, at 198-99.

71. This is abundantly clear when examining HUD REPORT 1980, *supra* note 59. This was the first such report which offered extensive empirical support documenting the economic transformations besetting United States central cities, metropolitan areas, and multistate regions. See also, e.g., BRADBURY ET AL., *supra* note 19, at 28-67 (describing the actual extent of urban decline based upon empirical data for the 53 largest cities).

72. See generally HUD REPORT 1980, *supra* note 59, at I-1 to I-12 (summarizing the 1978 urban policy process).

73. See generally *id.* at 11-1 to 11-14 (discussing how the federal government supports cities).

often has been uncritically equated with the sum of the problems which face individual cities.

Certainly, it is important to examine closely the unique experiences and problems associated with individual cities. There is more to urban development, however, than simply understanding how resources—population, tax base, socio-cultural groupings, and public and private capital—are being reorganized within individual urban areas. At any one time, individual urban areas function together as an urban system. There is a considerable amount to be learned from examining how individual urban areas relate to one another and how these relationships change over time. While assessing the condition of cities individually has obvious political appeal, it remains seriously flawed.

Reorganization among parts of a national, and increasingly global, urban system powerfully influences the potential for redistribution of resources, growth, and development within individual urban areas. While the prospects of larger urban economic systems are shaped by the performances of individual communities, we also must acknowledge that realistically the global, national, and regional forces extending into local economies from outside are very powerful and in many ways establish outer bounds to the aspirations we might have for individual cities. Increasingly, these forces channel the evolution of the economies of individual localities and thereby shape the opportunities available to those who live there.

Tallying measurements on the conditions and performances of individual cities one by one does little to deepen our understanding of how the larger urban system is performing and how it is being reorganized over time. Ultimately, assessing the performance and condition of America's urban system requires an arithmetic that goes beyond simply adding up the local scores. It also involves the kind of subtraction reflected in developments where growth in one part of the system precludes comparable growth elsewhere. For example, while the United States has developed major financial and industrial centers through its history, the steady rise of Los Angeles as a world financial center has to some extent come at the expense of New York, just as the rise of Dallas as a center of advanced manufacturing has come partly at the expense of Detroit.⁷⁴ In each

74. See Douglas E. Booth, *Regional Long Waves and Urban Policy*, 24 *URB. STUD.* 447, 449–52 (1987) (arguing that industrial growth in various regions fluctuates above

case, the experience in one city may look like decline even though at a larger systems level it is not.

While the upgrading of the technical bases and even industry mixes of local economies continues across the nation, the unique recipes for success which have resulted in the Silicon Valley in Northern California, the leisure-tourist complex in Orlando, Florida, or the higher education complex in Greater Boston, cannot be recreated through the exertion of any amount of federal government effort. Many forms of investment capital—physical, human, and financial—become self-perpetuating. This is particularly true in regional complexes like the legendary Silicon Valley in which technology-intensive industries are clustered. The resulting productivity advantages create a strong pull on new investment, which in turn provides high wages that reflect the occupational specialization capable of being supported by a region's industry base. This, in turn, attracts more such investment capital in all its forms which accelerates new enterprise formation, rapid technology cycles and transfer. The resulting economic metabolism of such regions becomes an internal source of development and often growth.⁷⁵

IV. DO OUR CITIES STILL WORK?

Any answer to this question will have to involve assessments of whether or not our urban areas—and the central cities at their core—continue to demonstrate an ability to respond to the world around them. If they have lost their capacities to do so, then that would justify deep concern. Should the evidence indicate that our urban arrangements have grown so incompatible with the dominant features of our economic and cultural

and below the national average and that industrial growth activity shifts from region to region); see also Donald A. Hicks, *Geo-Industrial Shifts in Advanced Metropolitan Economies*, 24 URB. STUD. 460, 463–65 (1987) (arguing that there are regional differences, but that in general, manufacturing-related employment is falling as the industry becomes dominated by newer, research-driven industries and as older, rekindled industries become increasingly capital intensive); Mitchell L. Moss, *Telecommunications, World Cities, and Urban Policy*, 24 URB. STUD. 534, 540–44 (1987) (arguing that the telecommunications industry strongly impacts the urban hierarchy by imposing new demands on urban infrastructures that are different from those imposed by the manufacturing industry).

75. For a review of recent related literature, see EDWARD J. MALECKI, *TECHNOLOGY AND ECONOMIC DEVELOPMENT: THE DYNAMICS OF LOCAL, REGIONAL, AND NATIONAL CHANGE* (1991).

arrangements that they hinder our prospects, or that they have become islands of despair in a sea of prosperity, then a strong case for federally initiated revitalization could perhaps be made.

On the other hand, if our urban arrangements demonstrate a continuing capacity to respond, and even to initiate or accelerate, larger structural changes, such as the incubation of new industries, job creation, rising education-mediated wages, and rising real incomes, then the case for federal intervention for the purpose of revitalizing urban areas is less persuasive. Instead, it would suggest that problems of poverty have more to do with the inability of the poor to gain access to and derive benefits from what is happening around them, than with some general decline of cities. The terrain of the debate can then be narrowed to finding strategies aimed directly at linking those left behind to opportunities offered today, instead of seeking such goals indirectly through first attempting to rejuvenate our cities.

Larger trends in a metropolitan area-dominated nation cannot be ignored. The 1980s, characterized by a ninety-two month economic expansion, was the setting for enormous broad-based gains.⁷⁶ Between 1982 and 1989, the nation's gross domestic product (GDP) expanded by 31.1%, and real GDP per capita rose 17.8% between 1980 and 1990.⁷⁷ Capital investment

76. According to the Bureau of the Census, real average household income grew for all income classes during the 1982–1989 period, compared to both the 1978–1982 and 1989–1990 periods during which real incomes declined across the board. BUREAU OF THE CENSUS, U.S. DEPT OF COMMERCE, MONEY INCOME OF HOUSEHOLDS, FAMILIES, AND PERSONS IN THE UNITED STATES: 1990, at 202 (Current Population Reports, Consumer Income, Series P-60, No. 174, 1991) (using 1990 CPI-U adjusted dollars). Levy and Michel show that women's earnings, although lower than men's, grew more rapidly than men's after 1979. FRANK S. LEVY & RICHARD C. MICHEL, *THE ECONOMIC FUTURE OF AMERICAN FAMILIES: INCOME AND WEALTH TRENDS* 18 (1991). They also reflect—through the one-third decline in black poverty during 1982–1986—the powerful negative effect of female-headed households on income gains. During the 1973–1986 period, the income of households headed by black females actually declined 9.2%, while the income of those headed by white females increased 5.1%. *Id.* at 40. In general, minority populations benefitted broadly from the economic growth of the 1980s. During the 1982–1986 period, median black family income rose 14%. While 28% of all black families—both single and two parent—were officially designated as “poor” families, only 10.8% of two-parent black families were below the poverty threshold. Kate W. O'Beirne, *U.S. Income Data: Good Numbers Hiding Excellent News*, BACKGROUNDERS (Heritage Found., Washington, D.C.), Aug. 19, 1988.

77. Donald A. Hicks & John Rees, *Cities and Beyond: A New Look at the Nation's Urban Economy*, in REDISCOVERING URBAN AMERICA, *supra* note 15, at 2-1, 2-3.

soared, new business formation surged, and manufacturing output and productivity made sharp gains.⁷⁸

How did this broad economic growth register in America's urban areas? Vulnerability to business cycle fluctuations were distributed unevenly across urban areas during both the 1970s and the early 1980s.⁷⁹ On measures of income growth, non-metropolitan areas were more vulnerable to downturns in the economy than were metropolitan areas, suburbs more so than central cities.⁸⁰ When unemployment rates are considered, however, central cities were more vulnerable than the suburban areas. For that reason, if for no other, the extended expansion during the 1980s was relatively kind to our major cities. Therefore, if central cities were more vulnerable to unemployment than suburbs during recessionary periods, then the extended expansion of the 1980s tended to hold down the unemployment experienced by central cities to levels below what they would have experienced had the economy not expanded so dramatically during the 1980s.⁸¹ In fact, the 1980s saw a marked abatement of unemployment: national unemployment fell from 10.8% in December 1982 to 6.1% eight years later.⁸² Even with the brief and mild recession of the early 1990s, the unemployment rate during the spring of 1992 was only 7.6%.⁸³

Meanwhile, in the wake of a return to urbanization, both population and employment growth surged inside our urban areas during the 1980s.⁸⁴ Fully 90.1% of the decade's population growth took place inside our metropolitan areas, up sharply from 73.4% during the previous decade.⁸⁵ By 1990, 77.7% of Americans resided in the more than three hundred

78. *Id.* at 2-3, 2-4.

79. See George E. Peterson, *Urban Policy and the Cyclical Behavior of Cities*, in REAGAN AND THE CITIES 11, 14-15 (George E. Peterson & Carol W. Lewis eds., 1986).

80. *Id.* at 14-15, 17-18.

81. Analyses of the influence of business cycles on measures of urban economic performance can be found in the following articles: Marie Howland, *Age of Capital and Regional Business Cycles*, GROWTH & CHANGE, Apr. 1984, at 29; Marie Howland & George E. Peterson, *The Response of City Economies to National Business Cycles*, 23 J. URB. ECON. 71 (1988); Donald Manson et al., *The Effects of Business Cycles on Metropolitan Suburbanization*, 60 ECON. GEOGRAPHY 71 (1984); Paul Waddell & Vibhooti Shukla, *Employment Dynamics, Spatial Restructuring, and the Business Cycle*, 25 GEOGRAPHICAL ANALYSIS 35 (1993).

82. Hicks & Rees, *supra* note 77, at 2-3.

83. *Id.*

84. For a discussion of this trend, see William H. Frey, *People in Places: Demographic Trends in Urban America*, in REDISCOVERING URBAN AMERICA, *supra* note 15, at 3-1, 3-7.

85. Hicks & Rees, *supra* note 77, at 2-1, 2-4.

metropolitan areas.⁸⁶ Moreover, of the more than nineteen million new jobs added during the 1980s, 87.2% were added inside the metropolitan areas, up from 80.8% during the 1970s.⁸⁷ By 1990, 80.8% of the nation's employment was located in metropolitan areas.⁸⁸

In addition, the nation's largest urban areas revealed a solid capacity to create new jobs. In urban areas with populations greater than one million during the 1980s, employment growth proceeded at a rate faster than that for the nation at-large.⁸⁹ Geographically, however, this employment growth was distributed very unevenly. The Los Angeles metropolitan area accounted for approximately ten percent of the decade's metropolitan employment growth, and the top ten metropolitan areas accounted for forty-four percent.⁹⁰

How did this growth affect economic disparities across urban areas? Using an index measure of resident need that combines rates of poverty, unemployment, and income growth, the evidence from the 1980s suggests that this process of presumed urban decline, feared irreversible in the 1970s, was anything but that.⁹¹ The majority of the most severely distressed cities in the 1970s had improved by 1990, largely because during the 1980s, employment growth in these cities outpaced population growth.⁹²

It should be emphasized that the problem in such areas is not necessarily an overall shortage of jobs. Overall, numbers of private sector jobs per city resident have actually risen over the years in most central cities *Jobs per resident have increased in all types of big cities, including high need cities. As of 1990, there were about as many private jobs per resident in high need, declining cities as in low need, growing places.*⁹³

86. *Id.*

87. *Id.* at 2-6 to 2-7.

88. *Id.* at 2-7.

89. *Id.* at 2-67.

90. *Id.* at 2-28 to 2-29. The Consolidated Metropolitan Statistical Areas include in order: New York, Los Angeles, Chicago, San Francisco, Philadelphia, Detroit, Houston, Boston, Dallas-Fort Worth, and Cleveland. *Id.* at 2-98.

91. See Franklin J. James, *Urban Economies: Trends, Forces and Implications for the President's National Urban Policy* (Feb. 15, 1994) (unpublished manuscript, on file with the *University of Michigan Journal of Law Reform*).

92. *Id.*

93. *Id.* at 29-30 (emphasis added).

This surge in employment growth in America's urban areas during the 1980s reflected dominant structural developments as well. The private sector dominated the decade's employment creation.⁹⁴ Service industries expanded their employment by 31.1% in the 1980s, while goods-producing industries expanded by only 1.1%.⁹⁵ As a result, the goods-production share of urban employment declined from 27.6% in 1970 to 20.3% in 1990.⁹⁶

It appears that our cities, including many of our older industrial ones judged during the 1970s to be permanently disadvantaged by larger structural changes in the economy, responded to the 1980s in ways that led to rising levels of population, employment, and income. That this turnaround was not universal is probably due to the special industrial and demographic circumstances defining particular places rather than to the categorical weakening of our cities.⁹⁷

A. Do Our Cities Still Work for the Poor?

While this nation's cities, central as well as suburban, continue to appear responsive to dominant cyclical and structural influences, has that responsiveness extended to the poor living in them?

On the surface, the long-term trends look discouraging. Complex barriers block access to opportunities for many urban residents, and central cities appear to have become increasingly the province of the poor. In the quarter century between 1959 to 1985, the share of the nation's poor residing in central

94. Private sector employment growth (24.1%) was nearly double that of public sector employment growth (12.5%). Hicks & Rees, *supra* note 77, at 2-65. By 1990, 84.6% of all urban jobs were in the private sector, up from 81.8% in 1970. *Id.* at 2-66.

95. *Id.* at 2-65.

96. *Id.* at 2-66.

97. While this rebound was evident by examining conventional indicators, it is also true that the usefulness of some of these indicators was diminishing. Ironically, over the same period, employment growth per se was losing its capacity to define the overall economic well-being of an urban area. Indeed, the 1980s offered clear evidence that simple employment growth could well impoverish a region. Increasingly the quality, rather than the quantity, of employment determined an urban area's economic fortunes. See Donald A. Hicks & Steven R. Nivin, *The Tertiary Crisis Revisited: Regional Restructuring and Economic Performance* (Nov. 11-14, 1993) (paper presented at the Annual Regional Science Association International Meetings in Houston, Texas) (draft on file with the *University of Michigan Journal of Law Reform*); see also Hicks & Rees, *supra* note 77, at 2-40 to 2-45 (using Dallas as a case study to examine employment growth more closely).

cities rose from twenty-seven percent to forty-three percent.⁹⁸ It is on the strength of this trend that the tight linkage between central cities and poverty has been firmly fixed in the public view.

But is this discouraging conclusion entirely justified? That our central cities house substantial shares of the nation's poor should no more imply that they are failing than should the fact that a majority of all deaths take place in hospitals today indicate that our hospitals are failing. After all, for most of this century, rural areas were associated with poverty, and cities were associated with opportunities of all kinds. These opportunities lured many generations to our cities from rural areas, the South, and from abroad. Many of these same millions, or their offspring, continued this journey even as it has led to the suburbs.⁹⁹ Central cities, rather than rural areas, became the staging ground for millions of individual quests for prosperity. That not all poor have found success—or that some may never do so—is no more an indictment of our cities than it would have been for our rural areas decades ago.

Moreover, the circumstances of poverty appear to remain broadly responsive to dominant economic and social forces. Since the middle of the twentieth century, the long-term poverty trend has been downward.¹⁰⁰ During the 1960s alone, and before the official declaration of the War on Poverty, poverty rates were almost cut in half.¹⁰¹ Progress on this front stagnated during the late 1960s and 1970s; ironically, this occurred even as massive federal spending programs targeted at the eradication of poverty were commenced.¹⁰² Then, in the wake of tax cuts during the 1980s, including the systematic removal from the tax rolls of six million poor families, and the nation's longest peacetime economic expansion of the century, poverty resumed its decline until the recession in 1990.¹⁰³

More recently, the cyclical influences on poverty have become evident. From the depths of the severe double-dip recession of

98. John D. Kasarda, *Inner-City Poverty and Economic Access*, in REDISCOVERING URBAN AMERICA, *supra* note 15, at 4-2.

99. For a discussion of the historical sequencing of population dispersal across several spatial scales, see HICKS, *supra* note 24, at 113-52.

100. BUREAU OF THE CENSUS, U.S. DEPT OF COMMERCE, *POVERTY IN THE UNITED STATES: 1990*, at 3 (Current Population Reports, Consumer Income, Series P-60, No. 175, 1991).

101. *Id.*

102. *Id.*

103. *Id.*

the early 1980s, the overall United States poverty rate rose steadily, peaking at 15.2% in 1984.¹⁰⁴ As the rapid recovery and extended expansion continued, however, the national poverty rate steadily declined, reaching 12.8% by 1989.¹⁰⁵ With the economic downturn at the end of the 1980s, poverty rose again, reaching 14.2% in 1991.¹⁰⁶ Even so, poverty rates exceed the national level only in smaller and nonmetropolitan areas of the South and West.¹⁰⁷

Despite the multiple and complex linkages between poverty and place, our central cities may have begun to lose their hold on poverty. No longer can our inner cities be considered the special province of poverty, as suburban areas increasingly house the poor.¹⁰⁸ Increasingly, poverty appears to have a dynamic of its own that is no longer inextricably confined to our inner cities in the way that it was during the 1970s.

B. Do Our Cities Work for the Ghetto Poor?¹⁰⁹

Poverty derives much of its destructive power when it is concentrated.¹¹⁰ The special form of poverty that is bound up with race and ethnicity is relatively concentrated in poor communities. During the 1980s, more than half of the United States' minority population growth was concentrated in just nine metropolitan areas,¹¹¹ and roughly half of the ghetto poor resided in just ten metropolitan areas.¹¹² Consequently, while

104. James, *supra* note 91, at 3.

105. *Id.*

106. *Id.*

107. Frey, *supra* note 84, at 3-28.

108. Ames et al., *supra* note 18, at 205 ("By 1990, 42% of all metropolitan poor lived in the suburbs.")

109. The "poor" are not confined to any particular geography. The "urban poor" are those poor in our nation's urban areas, or metropolitan areas including central cities and suburbs. The term "ghetto poor" should be used here because its members constitute a subset of both the poor and the urban poor based on circumstances which can be traced at least partly to their cultural isolation.

110. Kasarda, *supra* note 98, at 4-3 to 4-11.

111. Los Angeles, New York, San Francisco, Miami, Houston, Dallas-Fort Worth, Washington, D.C., San Diego, and Chicago. Frey, *supra* note 84, at 3-22, 3-83. Moreover, more than one-third of the nation's metropolitan areas remained over 90% white. *Id.* at 3-3.

112. William H. Frey, *Metropolitan America: Beyond the Transition*, POPULATION BULL., July 1990, at 1, 37 ("The majority of the nation's concentrated poverty house-

much of the vulnerability to poverty can be described in aspatial terms, what can we say about the special circumstances of poor people, especially the minority poor, in poor places? This question shifts the focus from poverty per se to the persistence of poverty in specific places and to the factors that tighten the grip of poor places on people so that they either remain poor or become poor.

As the place-related correlates of poverty came to shape our understanding of urban poverty, the prevailing view had been that the spatial dimension of poverty, especially its concentration, primarily is responsible for magnifying poverty's debilitating effects. Today, however, it is not just poverty's concentration but also its increasing dispersion with which we must contend.¹¹³

1. *The Shifting Footprint of Urban Poverty*—The share of metropolitan black population living in neighborhoods in which the poverty rate was at least 40% increased from 20.2% in 1980 to 23.7% in 1990, while the proportion of poor blacks in these neighborhoods increased from 37.2% to 45.4%.¹¹⁴ The tie between blacks, and especially black poor, and declining urban neighborhoods seemingly tightened. In large part, however, this was due to the fact that the number of census tracts classified as ghettos increased fifty-four percent between 1980 and 1990.¹¹⁵ As a result, minority residents—even when able to move to the suburbs—were being overtaken by the rapid expansion of the newly classified ghettos.

While urban poverty remained more concentrated in central cities than elsewhere during the 1980s, poverty actually increased more rapidly in the suburban areas than in central

holds are located in only about 10 of the largest central cities.”). These areas ordered by descending share are: New York, Chicago, Philadelphia, Baltimore, McAllen-Pharr-Edinburg (Tex.), Memphis, New Orleans, Newark, Detroit, and Los Angeles. These areas are CMSAs (Consolidated Metropolitan Statistical Areas) as officially defined by the Office of Management and Budget (OMB), Executive Office of the President.

113. While the poverty population in the nation's largest central cities has thinned out in some census tracts and increased in others, the number of census tracts defined as “poverty,” “extreme poverty,” and “underclass” increased steadily throughout the 1970–1990 period. Kasarda, *supra* note 98, at 4-39 to 4-40.

114. Paul A. Jargowsky, *Ghetto Poverty Among Blacks in the 1980s*, 13 J. POL'Y ANALYSIS & MGMT. 288, 289–91 (1994). Beneath this aggregate trend, however, lies significant variation. Although this general trend was evident in two-thirds of the nation's metropolitan areas, in the remaining one-third the proportion of black residents living in ghettos declined. *Id.* at 295.

115. “Ghetto” is not an official Census Bureau term. It is defined in multiple ways by scholars who study especially-concentrated poverty. Both Kasarda and Jargowsky discuss their multiple criteria for the definition in their respective studies. *See, e.g.*, Kasarda, *supra* note 98, at 4-3 to 4-4; Jargowsky, *supra* note 114, at 290–91.

cities.¹¹⁶ While the notion of spatial mismatch between the existence of and the need for jobs continued to account for much inner-city poverty among minority populations, the minority poor were no longer landlocked inside central cities. Indeed, while many believed that minority poor were at a permanent disadvantage because they could not exploit the opportunities made available by suburbanization, in many senses this view lagged behind reality.

No longer did the suburbanization dynamic so simply reinforce a black-white racial divide. During the 1970s, central city blacks began to move into the suburbs against heavy odds.¹¹⁷ By the 1980s, vaguely reminiscent of the more massive migration of southern blacks to northern industrial cities earlier in the century, that movement accelerated.¹¹⁸ During the 1980s, and in all regions of the country, blacks, along with Asians and Hispanics, suburbanized.¹¹⁹ While the numbers remained relatively small, the growth rate of minority populations in the suburbs began to exceed that of whites.¹²⁰

While more well-to-do blacks led the way, they were not alone.¹²¹ Even though poor blacks and other minorities often remained in older central cities, many others successfully moved out.¹²² Importantly, recent suburbanization patterns suggest that a racial divide is not being exchanged for a class-based one. Migration flows from central cities are not limited to higher-income minorities. While the destinations within those suburbs are often different and in no way indicate that suburbs are a setting for dramatic residential integration by race, blacks from all income categories are managing to leave inner-city neighborhoods behind.¹²³

116. Jargowsky, *supra* note 114, at 296.

117. See Frey, *supra* note 84, at 3-31. Indicative of the way in which education and income (or social class) have come to eclipse race as the principal steering factor, interstate migration patterns of black college graduates were more likely to resemble those of well-educated whites than of the black poor. See William H. Frey, *Black College Grads, Those in Poverty Take Different Migration Paths*, POPULATION TODAY, Feb. 1994, at 1-2.

118. Frey, *supra* note 84, at 3-32.

119. *Id.* at 3-33.

120. *Id.* at 3-21 to 3-22.

121. On race and class dimensions of suburbanization, see Reynolds Farley, *Residential Segregation of Social and Economic Groups among Blacks, 1970-80*, in THE URBAN UNDERCLASS 274, 283-93 (Christopher Jencks & Paul E. Peterson eds., 1991) (discussing race and class dimensions of suburbanization).

122. *Id.*

123. *Id.*

2. *The Decline in Residential Segregation*—If the key to ghetto poverty is pervasive residential segregation,¹²⁴ then there is reason for modest optimism. During the 1980s, black-white residential segregation declined in 204 of 232, or 88% of metropolitan areas.¹²⁵ Moreover, with the exception of Detroit it declined in all forty-seven metropolitan areas with populations in 1990 of one million or more.¹²⁶ Declining residential segregation, however, often does not necessarily imply declining social segregation.¹²⁷

The social restructuring of poor neighborhoods has begun to challenge our conventional understanding of the link between race, place, and poverty. Galster and Mincy have reported that during 1979–1989, the number of whites in high-poverty areas increased by twenty-nine percent while the number of blacks declined by twenty percent.¹²⁸ Shifts of this kind turn our attention to the larger forces of economic restructuring. “Declining employment prospects in any neighborhood—regardless of racial or ethnic majorities—leads to a higher poverty rate.”¹²⁹ Such shifts in both circumstances and the locational features of urban poverty, demonstrate the continued responsiveness

124. Douglas S. Massey, *American Apartheid: Segregation and the Making of the Underclass*, 96 AM. J. SOC. 329, 354 (1990).

125. Reynolds Farley & William H. Frey, *Latino, Asian, and Black Segregation in Multi-Ethnic Metro Areas: Findings from the 1990 Census* 9 (Population Studies Center, University of Michigan, Res. Rep. No. 93-278, 1993). Over the 1980s, Latino segregation increased in 52% and Asian segregation increased in 74% of the areas. *Id.* at 2.

126. For a discussion of segregation in Detroit, see Reynolds Farley et al., *Continued Racial Residential Segregation in Detroit: ‘Chocolate City, Vanilla Suburbs’ Revisited*, 4 J. HOUSING RES. 1, 2 (1993).

127. Jargowsky, *supra* note 114, at 288–89. Using a Neighborhood Sorting Index (NSI) to measure and monitor economic segregation in inner-city neighborhoods, Jargowsky reports steady increases in segregation among all racial and ethnic groups during the 1980s, with those for blacks and Hispanics especially rapid. See Paul A. Jargowsky, *Take the Money and Run: Economic Segregation in U.S. Metropolitan Areas* (May 13, 1994) (paper presented to the IRP-ASPE Poverty Research Seminar Series, Small Grants Research Seminar, Washington, D.C.) (on file with the *University of Michigan Journal of Law Reform*). Nevertheless, at a more intimate level, some progress is indicated. Interracial marriages more than tripled from 310,000 to 994,000 between 1970 and 1991, with black-white marriages increasing 355% from 65,000 in 1970 to 231,000 in 1991. ARLENE F. SALUTER, BUREAU OF THE CENSUS, U.S. DEP’T OF COMMERCE, *MARITAL STATUS AND LIVING ARRANGEMENTS: MARCH 1991*, at 6–7 (Current Population Reports, Population Characteristics, Series P-20, No. 261, 1992). The report qualifies this result, however, because the 1991 survey is based on a much smaller sample as compared to the 1970 data. *Id.*

128. *Poverty in Urban Neighborhoods*, URB. INST. POL’Y & RES. REP., Fall 1993, at 11, 11–13 (discussing the research of George C. Galster and Ronald B. Mincy).

129. *Id.* at 12.

of urban poverty to broader economic influences. The evidence suggests that as inner cities loosened their poverty grip on their residents during the 1980s, the more conventional understanding of the relationship between urban poverty and the urban underclass began to shift.

Even as inner-city conditions worsened, many poor residents were able to leave.¹³⁰ Despite the prevailing cultural imagery of the growing calcification within our urban neighborhoods and the fear that its residents are generally so insulated from larger trends that they have been rendered prosperity-proof, available evidence suggests otherwise.

The benefits of economic expansion can indeed trickle down to the poor, even those residing in some of our nation's most desperate inner cities. In recent research on underclass poverty in urban ghettos, Paul Jargowsky has documented a remarkable responsiveness of ghettos and many of those who live in them to the economic expansion of the 1980s.¹³¹ As job markets strengthened, poverty among inner-city black Americans was reduced substantially.¹³² This suggests not only that spatial bounds of ghettos are capable of both expanding and contracting, but also that broad economic growth can extricate the once-poor from harsh circumstances, a process revealed in declining inner-city population densities.¹³³ It further suggests that despite the fact that family and community-related dysfunction can increase the incidence of poverty, any resulting urban culture need not necessarily preclude dramatic rises in the economic status of resident minorities of poor communities.¹³⁴

If we seek to improve the lives of and expand opportunities for those in the so-called urban underclass, we should begin by

130. This was true during the 1970s as well as the 1980s. See Edward Gramlich et al., *Moving Into and Out of Poor Urban Areas*, 11 J. POL'Y ANALYSIS & MGMT. 273, 281-83 (1992); Paul A. Jargowsky & Mary J. Bane, *Ghetto Poverty in the United States, 1970-1980*, in THE URBAN UNDERCLASS, *supra* note 121, at 235, 252-53.

131. See Jargowsky, *supra* note 114, at 303.

132. Kasarda, *supra* note 98, at 4-1, 4-5 to 4-10.

133. *Id.*

134. In a study of the longitudinal adjustments of a portfolio of 10 major urban areas distributed across all United States census regions, Kasarda has reported that the spread of urban poverty across central-city census tracts was generally more vigorous during the 1970s than during the 1980s. During the 1970s, the proportion of central-city census tracts characterized by relatively high rates of poverty increased in all cities in his sample, especially in older industrial cities of the Northeast and Midwest. During the 1980s, by contrast, poverty's footprint actually contracted in two cities, New York and Atlanta, while its pace slowed in older industrial cities and quickened in major Southern cities. *Id.* at 4-5 to 4-11.

recognizing that an expanding economy remains a potent policy tool. The central debate during the 1980s over the determinants of urban poverty focused on the role of welfare as a system of distorted incentives versus the restructuring of the urban economy. This was a valid concern for certain segments of the ghetto poverty population. The debate, however, was misguided to the extent that it overlooked the importance of broader economic conditions.

V. THE POVERTY OF POVERTY POLICY

Our cities continue to reveal an impressive actual and potential capacity to link people with opportunity. As the experiences of the 1980s reveal, even inner-city ghettos may be penetrated by sustained economic growth.¹³⁵ For many people, however, moving up has meant moving out.¹³⁶ The irony of this dynamic is that such instances of success are not reflected directly in urban poverty accounting schema.¹³⁷ Inner-city ghettos are unlikely ever to register gains in economic growth on the conventional indicators. Indeed, as inner-city ghettos remain the home to those who cannot or have not yet been able to move up, the aggregate condition of poor places actually will decline as the more successful steadily escape them.

At the core of much—though by no means all—of today's ghetto poverty lies the growing irrelevance of employment and related opportunities more so than their absence. While an expanding economy continues to extricate large numbers of urban poor from poverty, a large and growing share of the ghetto poor are beyond its reach. Much of this can be traced to ill-conceived post-World War II poverty policy. Past efforts predicated on notions of assisting poor people within their communities have so concentrated and incentivized ghetto poverty that we have ended up unintentionally producing more of it. Moreover, the forms and conditions of this assistance have tended to encourage the proliferation of the economically

135. See *supra* notes 128–34 and accompanying text.

136. See Gramlich et al., *supra* note 130, at 281–83.

137. *Id.* at 284; Kasarda, *supra* note 98, at 4-5 to 4-10.

marginal and unemployable. A spiral of individual and institutional deficits has created in their wake distorted world views and dysfunctional behaviors that have undermined the abilities of schools, churches, communities, and families to serve as springboards to improved economic prospects. As a result, they perpetuate a culture that breeds a variety of problem populations that lie beyond the reach of today's cities, and perhaps those of any era.

By emphasizing primarily the poverty-pooling function of our cities, however, we often have created the impression that our cities no longer work as they once did. We have diverted attention away from more fundamental questions concerning what poverty is and how its expression may have transformed over time. Therefore, it is useful to examine the larger historical context within which our cities have functioned to create and distribute prosperity.

[M]ost "poor" Americans today are better housed, better fed, and own more personal property than average Americans throughout most of the century . . . [I]n 1991, the per capita expenditures of the lowest income one-fifth of the U.S. population exceeded the per capita income of the average American household in 1960, after adjusting for inflation.¹³⁸

As much as we may have come to despair about the persistence of urban poverty during recent decades, there is little in the impulses behind past national urban policy agendas to remind us of the remarkable gains that have been made. It has been precisely during the post-1950s era, as urban arrangements have been reshaped and extended, that such broad welfare gains have been made.¹³⁹ For this reason, it is difficult to see

138. Robert Rector, *The Facts About America's Poor*, F.Y.I. (Heritage Found., Washington, D.C.), Dec. 23, 1993, at 1 [hereinafter Rector, *The Facts*]; see Robert Rector et al., *How "Poor" Are America's Poor*, BACKGROUND (Heritage Found., Washington, D.C.), Sept. 21, 1990, at 2 [hereinafter Rector et al., *How "Poor"*]. In addition, there is much justifiable concern that the conceptual focus of official Census Bureau poverty measures rendered them less useful in understanding general welfare. Official measures of family income do not include in-kind government benefits such as food stamps and housing aid, undercount income derived from the underground economy, and ignore household assets. For a discussion of some of these deficiencies, see Rector, *The Facts*, *supra*, at 4-5; Rector et al., *How "Poor"*, *supra*, at 3-7.

139. HICKS, *supra* note 24, at 2-4.

how suburbanization and related urban developments have disadvantaged the nation. We routinely lose track of this reality, partially because the meaning of poverty has changed just as surely as have its determinants.

A. Rethinking Urban Poverty

When we ask who are the poor, it is often as though we seek to identify some discrete group "out there" whose membership can be defined and bounded. In a broader sense, however, potentially we all are the poor. As the footprint of poverty expands, it is becoming clearer that at any one time, many of us, regardless of where we live, are one pink slip, divorce decree, death certificate, or severe health problem away from slipping into the ranks of poverty, however temporarily.¹⁴⁰ There are junctures in the lives of most people when they are more vulnerable to falling into the official ranks of the poor than at other times.

Perhaps the most fundamental reality about poverty, then, is that the ranks of the poor are ever in motion.¹⁴¹ This is evident in both longer and shorter time frames. There is substantial intergenerational turnover within poverty ranks.¹⁴² Much of that involves substantial income mobility. A study based on The University of Michigan's Panel Study of Income Dynamics reported evidence of substantial upward and downward mobility. Fifty-six percent of the persons in the lowest income category in 1967 had escaped to a higher income category by 1976.¹⁴³ Meanwhile, forty-eight percent of those in the highest income category in 1967 moved to a lower income category by 1976.¹⁴⁴ In addition, virtually the same shifts occurred between 1977 and 1986.¹⁴⁵ When individuals are followed over time, an even more important trend emerges. Across the 1967-1986 period, the poor grew richer faster than

140. See Ames et al., *supra* note 18, at 205-06.

141. Isabel V. Sawhill & Mark Condon, *Is U.S. Income Inequality Really Growing?*, POLICY BITES (Urban Inst., Washington, D.C.), June 1992, at 1, 1-4. For a similar study from the 1970s, see GREGORY J. DUNCAN ET AL., *YEARS OF POVERTY, YEARS OF PLENTY: THE CHANGING ECONOMIC FUTURES OF AMERICAN WORKERS AND FAMILIES* (1984).

142. Sawhill & Condon, *supra* note 141, at 2-3.

143. *Id.*

144. *Id.*

145. *Id.*

did the rich.¹⁴⁶ Moreover, according to analyses of Census Bureau data, considerable intragenerational churning is also evident. Each year during the 1984–1988 period alone, approximately seventeen percent of those in the lowest quintile moved up the following year.¹⁴⁷

Who then are the urban poor? Typically, they are those who by virtue of relative youth or old age, labor force inexperience or dislocation, or changing marital status are at least temporarily unable to negotiate the urban economy. Their stay in a poverty status may well be extended or exacerbated by other factors related to their residence, but, as we have seen, those settings increasingly involve suburbs as well as inner-city and rural areas.¹⁴⁸ While formidable roadblocks to educational, employment, or marital avenues out of personal poverty often may confront city residents, it is not justified to suggest that our cities cause the poverty of their residents.

Part of the reality of poverty is that it is not simply a set of circumstances to which only some people are vulnerable. At any one time, the bulk of the poor are people simply passing through.¹⁴⁹ While such life events often are unavoidable, there are many individuals and families whose prospects for rebounding from poverty episodes are especially low. It is on these individuals and families that the bulk of our efforts should be focused.

B. Poverty As Income Inequality

The search for ways to alleviate the incidence and duration of poverty often is confused with the quest for income equality.¹⁵⁰ Because urban areas almost by definition register

146. *Id.* at 1–2.

147. Bruce Bartlett, *A Class Structure That Won't Stay Put*, WALL ST. J., Nov. 20, 1991, at A16.

148. *See supra* Part IV.B.1.

149. This parallels the vulnerability associated with losing or not having health insurance in the current health care reform debate. "Most are temporarily uninsured: almost half of those without coverage regain it within four months, and 75% within a year. A majority are low-wage workers who are either self-employed or working for small, low-margin businesses." Ann R. Dowd, *Fixing Clinton's Health Care Plan*, FORTUNE, Apr. 4, 1994, at 83, 85.

150. Indeed, the general quest for equality of a broader sort faces enormous barriers of an even more fundamental nature. In a recent address, Charles Murray noted:

spatially a variety of dimensions of inequality, the "problems" associated with our urban areas appear to take on a special urgency. As with the nature of poverty itself, however, the notion of income inequality needs closer examination.

Empirical evidence suggests that income inequality measured at the level of individuals and households increased during the 1980s.¹⁵¹ While this increase may have symbolic significance, against the background of the entire post-World War II period, the degree of increase actually has been very slight.¹⁵² The decade's economic expansion explains part of it. In a larger context, cyclical gains and losses seldom are distributed uniformly. There are always enterprises, industries and occupations, and households and regions that are more vulnerable to economic downturns and more likely to benefit from subsequent recoveries than others. It is constantly *unequal* rates of change that lie beneath urban development dynamics. Within that context we can see that the cyclical trends of the 1980s tended to accelerate and increase the visibility of a number of extant development patterns.

What else accounted for this shift in income equality? According to Frank Levy, shifting patterns of household

[O]ur worst social problems do not strike randomly. About half of those in poverty, for example, have IQs under ninety. About three-quarters of high school dropouts have IQs under ninety. The average IQ of convicted felons is about ninety-two. About a third of the mothers of illegitimate children have IQs of eighty and under. . . .

For most of the twentieth century, government has tried to create the equality of condition that society has neglected to produce on its own.

Charles Murray, *The Ideal of Equality, the Reality of Difference*, Address at the Bradley Lecture Series, American Enterprise Institute (Apr. 11, 1994).

151. Indeed, from a longer-term perspective, income inequality among families generally rose during the 1969–1989 period. See Lynn Karoly, *The Trend in Inequality among Families, Individuals, and Workers in the United States: A Twenty-Five Year Perspective*, in *UNEVEN TIDES: RISING INEQUALITY IN AMERICA* 19, 27 (Sheldon Danziger & Peter Gottschalk eds., 1993). Because wage data do not cover government workers or the self-employed, however, they do not provide a definitive picture of income trends. Analyses of Social Security data indicate that during the 1980s, after-inflation wages actually *grew* from \$17,092 to \$18,778, for an average annual increase of 1.1%. Robert J. Myers, *Real Wages Went Up in the 1980s*, WALL ST. J., Aug. 21, 1990, at A14. Moreover, unpublished analyses of Commerce Department data on real per capita personal disposable income rose 41% during 1970–1990. *Living Well*, FORTUNE, Oct. 7, 1991, at 188. From a very different perspective, examination of consumption data indicates that per capita consumer spending rose 21% during both the 1970s and the 1980s. *Id.*

152. FRANK LEVY, *DOLLARS AND DREAMS: THE CHANGING AMERICAN INCOME DISTRIBUTION* 14, 227–29 (1987).

structure, together with wage stagnation and decline since 1973 were largely responsible.¹⁵³ Indeed, an estimated eighty-eight percent of income inequality was tied to purely demographic shifts, with only the remaining twelve percent due to policy-manipulable variables such as macroeconomic activity.¹⁵⁴ Income inequality could be expected to increase as the proportion of young and female workers, who commanded lower wages by virtue of their relative work inexperience, increased. This increase, however, also could be expected to be transitory.¹⁵⁵ As these workers continue to gain experience, successive smaller cohorts of labor force entrants appear, and wages recover, income inequalities might be expected to settle back to pre-1980s levels.

In the end, judging America's cities by the absence of poverty and disparity on all manner of economic indices is misguided. Our cities succeed if they are able to move individuals and households through poverty over time. Failure involves neither the existence of poverty populations nor even the perpetual existence of poverty areas in our cities. Rather, failure is evident when people are permanently stranded in poverty or prevented from deriving benefits from urban development processes. Although it is abundantly clear that this stagnation describes the circumstances of many Americans today, it is far from clear that our cities are predominantly to blame.

VI. BEYOND CITIES: SHOULD WE RENEW AN EFFORT TO DEVELOP A NATIONAL URBAN POLICY?

Today the greatest shares of this nation's wealth and welfare are created in and distributed through our expansive urban economy. By focusing on individual communities and the changes they exhibit, though, one can easily lose sight of

153. *Id.* at 196-99, 204-07. "The most striking development is in families' connections to the economy In the top two quintiles, 60 percent of all families now have two earners. In the bottom quintile 44 percent of families now have no earner." *Id.* at 198.

154. Joseph H. Haslag et al., *The Haves and Have-Nots: A Study of Income Inequality*, SOUTHWEST ECON. (Federal Reserve Bank of Dallas), Sept.-Oct., 1992, at 1, 3.

155. LEVY, *supra* note 152, at 208 ("If wages begin to grow again, the issue of the vanishing middle class will itself vanish.").

the importance of the relationships that bind communities together and that transmit changes experienced in one place to countless places elsewhere throughout the urban system.¹⁵⁶

One's view of the nation's larger urban system easily can be obscured by the more visible and more salient features of its individual cities. Integral to an urban economy is the ability of the larger system to make spatial adjustments, to disinvest in some places as surely and as flexibly as it invests in others. It is unwise to limit our attention to changes underway within specific places, because "place" itself is a large part of the flexibility of larger urban economic change. We also must explore the changes that are taking place among places as well. The development of the nation's urban economic system rests as much on the patterns of shifting assignments it makes among settlements as it does on the transformations internal to specific settlements.¹⁵⁷

Does the United States need a "national urban policy"? Could an explicit urban policy be a convenient way of organizing many aspects of social policy by fixing such policies to real places, or is there a reason to identify urban places as something separate that demand our public attention? Do any public initiatives called for by a national urban policy hold the promise of expanding individual opportunities while at the same time facilitating the continuing transformation of the nation's urban economies? Or would such a policy focus tend to increase the friction of such developments or be used subtly to justify the allocation of public resources to efforts seeking to retard or reverse these developments?

To date, conventional national urban policy reports have tended to focus on the fates and fortunes of specific places.¹⁵⁸ The unstated assumption has been that each place has an autonomy that must somehow be respected by national, and even global, patterns of development and change.¹⁵⁹ In the eyes of many, the proper federal role in urban policy is somehow to be a broad advocate for all places and all people. Conventional policy urges that federal responsibility should be

156. For a discussion of the development of the United States system of cities, see THIERRY J. NOYELLE & THOMAS M. STANBACK, JR., *THE ECONOMIC TRANSFORMATION OF AMERICAN CITIES* (1983).

157. *See supra* Part III.B.

158. *Id.*

159. *See* PRESIDENT'S COMMISSION REPORT, *supra* note 15, at 71-86.

defined as assisting individual communities to realize their individual and localized goals of growth and development.¹⁶⁰

The guiding assumptions made by this view are insupportable. The wisdom of this policy tack is belied by all evidence of how real economies perform and transform over time.¹⁶¹ Places, and people in places, are ever "in play" as the development of larger economic systems proceeds. Had a poll been taken as part of our first official census in 1790, it is unlikely that the residents of this new nation would have opted to leave their land and homesteads and migrate physically to new places or psychically to new notions of community, new arrangements for wealth creation, or new arrangements for security. They did not view themselves as being on an inevitable journey into cities and urban areas of the future. Yet, over time, that is precisely what happened and will always continue to happen. The destinations will change, but the journeys will continue.

Any federal government presence in urban policy, whether or not in the form of an explicitly articulated national urban policy, must recognize that the locational features of residence and economic activity are pliant and can be expected to change over time. The spatial arrangements of a nation's people and its economic activities will reflect new developments in cultural values, new visions of the desirable among distributed opportunities, and new enabling technologies.¹⁶² Neither the architectural, industrial, nor land use features of urban America in the 1950s and 1960s embodied an urban ideal. Rather, the great virtue of urban America in any era always has been the relative ease with which it could shift from one settlement pattern to another as circumstances permitted or required.¹⁶³ A national urban policy cannot avoid the presumption that it is proper to array the moral and fiscal authority of the federal government against such transitions. It is precisely this adaptability which has delivered the United States over the past two centuries to its present position of ever-rising wealth and unsurpassed living standards. This suggests that relatively unrestricted mobility of capital in all its forms—human, material, and

160. *Id.*

161. See discussion *supra* Part II.

162. The basic theme of the plasticity of urban arrangements is developed in HICKS, *supra* note 24, at 113–52; Donald A. Hicks, "Plastic Land" in the Post-Industrial Era, 2 CATO J. 437, 437–68 (1982).

163. Hicks, *supra* note 162, at 40.

financial—is critical to economic development and adjustment. Like any recombinant phenomenon, opportunity and innovative possibility should be permitted to emerge spontaneously. Because both people and places are in transit incessantly, the defining feature of settlement patterns has come to be expressions of the fluidity of economic and cultural change, rather than monuments to some bygone era deemed more alluring than it ever really was.

The goal should instead be to expand the number of options available to Americans and enable choices among these options, while doing what is necessary to help people and places navigate these transitions. Federal policy stances should not be used to attempt to insulate either people or places from the changes each inflict on the other.

National interests no longer can be easily reconciled with local ones. No longer can it be considered in the nation's best interests to overlook the long-term gains associated with people and their resources moving between jobs and communities, and urban areas exchanging older economic bases for newer ones. Far greater concern should be reserved for those who for whatever reasons are unable to participate fully in these developments through which both the larger economy and society continuously revitalize and reorder themselves.

Some of these adjustments undoubtedly present daunting challenges to specific places in the form of rapid population or employment loss or gain.¹⁶⁴ While changes can be disruptive, the national responsibility is to facilitate these adjustments by removing barriers and mitigating their more disruptive impacts on individuals and communities. The essence of the federal response, however, will come in the form of policies that are not explicitly "urban" and are instead characterized by the absence of explicit spatially-sensitive interventions. It is becoming increasingly apparent that the more substantive contributions that the federal government can make to the prospects of our cities and their residents involve interventions early on in the causal sequences that specify how urban areas create and distribute opportunities. These contributions include commitments to macroeconomic policies that encourage investment and growth, regulatory policies that encourage flexible

164. Specific environmental costs associated with too-rapid growth during the past decade are discussed in Andrew Kirby & A. Karen Lynch, *A Ghost in the Growth Machine: The Aftermath of Rapid Population Growth in Houston*, 24 URB. STUD. 587 (1987).

adjustments, and judicious human and physical capital investment policies that underwrite, rather than undermine, family and community responses.

VII. REDIRECTING LEGAL REFORM

In the search for a new focus for legal reform, we should take our cues from the recent past. More than three decades ago, deepening discontent with societal arrangements and outcomes launched two broad reform strategies. One strategy has served us well; the other largely has failed us. The different outcomes can be attributed to the very different conceptions of (1) what the fundamental problem is and (2) what an appropriate reform response to that problem should be.

The first strategy focused on a changing society and the barriers facing many Americans in gaining access to it. The response was a legal reform movement expressed as a civil rights policy. Passage of the Civil Rights Act of 1964,¹⁶⁵ the Voting Rights Act of 1965,¹⁶⁶ and the Fair Housing Act of 1968,¹⁶⁷ laid the legal foundation for opposing discrimination in employment, electoral access and participation, and housing. By delineating the rights of individuals and the responsibilities of institutions, these reforms largely eradicated the legal barriers to equal access. Other more subtle barriers still remain, but, while continuing debate largely has revolved around definitions of inclusiveness and coverage, the larger effort can be regarded as a success.

The second broad strategy that took root in the early 1960s involved successive attempts to tackle "urban" problems. By the early 1970s this effort had led to a series of attempts to articulate a national urban policy.¹⁶⁸ This strategy has generally failed, largely due to the unavoidable temptation to steer urban economic development patterns rather than to develop strategies to expand Americans' access to them wherever these

165. Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 28 U.S.C. § 1447 (1988 & Supp. V 1993), 42 U.S.C. §§ 1971, 2000a-2000h-6 (1988 & Supp. V 1993)).

166. Pub. L. No. 89-110, 79 Stat. 437 (codified as amended at 42 U.S.C. §§ 1971, 1973-1973ff-6 (1988)).

167. Pub. L. No. 90-284, tit. VIII, 82 Stat. 73 (codified as amended at 42 U.S.C. §§ 3601-3631 (1988)).

168. See Stegman, *supra* note 13, at 1751-62.

patterns might lead. In that sense, urban policy goals often have run directly counter to broad social welfare and related poverty policy goals. This national policy has specified preferences for particular social and economic organizations into which—and then out of which—the nation has been in transit across the past two centuries.

As a result, a national urban policy has been a catch-all for nearly every cultural grievance associated with an evolving urban economy. Included in the list of so-called solutions have been ill-conceived visions of preserving broad-based central-city dominance of urban areas, restoring historical downtown functions, blunting the effects of adopted transportation and communication technologies, confusing uneven development rates across political jurisdictions with more pernicious and willful forms of inequality and injustice, applying one-size-fits-all policy responses to the idiosyncrasies of local development dynamics, and depicting the transformation of a manufacturing economy into a services-dominated economy as somehow regrettable.¹⁶⁹ More fundamentally, however, a national urban policy is based on the presumption that the federal government, in partnership with state and local governments, is capable of channeling the evolution of national settlement patterns. A national urban policy also presumes that it can steer a course leading to rising levels of national wealth, health, and welfare which is unattainable by more spontaneous adjustments. Yet, there is precious little evidence in support of these presumptions.

If the poverty and attendant social ills found today in our inner cities, and increasingly in our suburbs, are to be addressed, we should not begin by fanning the embers of a past national urban policy debate. The problems in our cities should not be assumed to be the problems of our cities. Rather, they are primarily the problems faced by individuals and households in the process of gaining access to the urban economy transforming around them. There is a demonstrable need for policy planning guided by a deeper understanding of the developmental forces shaping urban social and economic outcomes, and a new era of legal reform will require this kind of guidance.

169. All these criticisms are leveled at the national urban policy genre in general. See Drier, *supra* note 58 (addressing America's neglect of the urban crisis and proposing policy solutions aimed at revitalizing America's cities). See generally HUD REPORT 1980, *supra* note 59, at 3-16 to 3-17 (encouraging a national role in efforts by localities to retain manufacturing industries).

"Cities, like the people who live in them, have a natural cycle. Yet the decline of America's inner cities is far from irreversible. Much of what is wrong with these places can be traced to plain bad government. That can be changed."¹⁷⁰ The guiding premise of a new era of legal reform should not be driven by assumptions that our cities no longer work and must therefore be rejuvenated. Rather, it should be to find ways to let our cities work and to broaden the access of distressed communities and households to the outcomes they provide. Reformers should be open to the possibility that much of what we associate with the decline of our inner cities largely may be traced to burdens placed on the inner cities as a consequence of past and continuing efforts to intervene in development processes which are not well understood. The following sections consider a partial list of urban ills widely attributed to the failure of our cities and briefly indicate how they might be reinterpreted in light of this proposed new framework of legal reform.

A. Employment and Enterprise Opportunity

The image of an urban economy perniciously redistributing employment opportunities to suburban areas beyond the reach of the inner-city poor is being overtaken rapidly by a new reality. Increasingly, the consequential gaps separating people from employment opportunities are less related to the problems of overcoming physical space and more related to a lack of marketable skills and other barriers.¹⁷¹ During the past decade, as the number of jobs per central city resident has risen,¹⁷² skill mismatches have come to present at least as much of a problem for our urban poor as the spatial mismatches emphasized three decades ago.¹⁷³ The slow transformation of suburban labor markets and the dispersion of poverty into the suburbs during the 1980s suggests that suburbs are by no means exempt from the dynamics increasingly linking unemployment to unemployability.

170. *Hell Is a Dying City*, *supra* note 68, at 13.

171. See Kasarda, *supra* note 20, at 33-67; Kasarda, *supra* note 98, at 4-1 to 4-60.

172. See James, *supra* note 91, at 8.

173. See Kain, *supra* note 26, at 183-84.

Employment options are related to enterprise opportunities. Among the reasons many of our inner-city residents have grown prosperity-proof is that the business climates serving them have been rendered investment-adverse.¹⁷⁴ High rates of municipal taxation and spending, inefficient urban service delivery systems, burdensome regulations and restrictions, and bloated public bureaucracies place an enormous burden on the capacities of our central cities to incubate new enterprise.¹⁷⁵

In the pursuit of other worthwhile goals, we often have raised the business costs of existing enterprises in ways that are likely to diminish employment opportunities generally. The regulation impulse often imposes costs so onerous as to stifle economic growth and enterprise development and thereby burden the entire economy.¹⁷⁶ Recent estimates, for example, suggest that the aggregate cost of federal regulation ranges between \$881 billion and \$1.66 trillion annually.¹⁷⁷ The issue is not simply whether or not funds expended on regulation help our society realize gains in health, wealth, and overall welfare; rather, it is whether or not the gains necessarily outweigh what would be attainable in the absence of such expenditures. Increasingly, the assumption that such gains do outweigh the costs merits skepticism.

The affirmative action extension of the Civil Rights Act of 1964 also illustrates the issue.¹⁷⁸ The purpose of requiring

174. See *Have Capital, Will Flourish*, *ECONOMIST*, Feb. 27, 1993, at 33, 33-34.

175. See, e.g., Moore & Stansel, *supra* note 62, at 2-4. The counterproductive impact of rising local taxes is clearly illustrated in Robert P. Inman, *Can Philadelphia Escape Its Fiscal Crisis with Another Tax Increase?*, *BUS. REV.* (Federal Reserve Bank of Philadelphia), Sept.-Oct. 1992, at 5. A 20% increase in the city's effective property tax rate can be expected to reduce city property values by 12%; a similar increase in business taxes will reduce the business tax base by 8.2%; and a similar increase in the average wage tax rate can be expected to lead to a 12.7% decline in the tax base per resident. *Id.* at 5 app. Finally, the National League of Cities reported that 72% of its members either raised taxes or fees, or imposed new ones. Henry Tatum, *A Crisis for America's Cities*, *DALLAS MORNING NEWS*, Sept. 30, 1992, at 25A.

176. For example, in the case of the future development of the much-heralded "information superhighway", concern is building that federal regulation is likely to stifle, or at least substantially delay, the organizational changes and capital flows required to accomplish the development of this critical infrastructure. In the wake of recent back-to-back FCC regulations trimming rates 10% and 7%, respectively, on cable television services, multibillion dollar mergers involving Bell Atlantic-Telecommunications Inc. (TCI) and Cox-Southwestern Bell have been called off.

177. William G. Laffer III & Nancy A. Bord, *George Bush's Hidden Tax: The Explosion in Regulation*, *BACKGROUNDERS* (Heritage Found., Washington, D.C.), July 10, 1992.

178. Affirmative action, which was instituted in 1965 by means of Exec. Order 11,246, 30 Fed. Reg. 12,319 (1965), extends the protection against employment

federal contractors to take "affirmative action" was to ensure that their workforces look like local labor forces. While the goal may be worthwhile, and evidence of some benefits is available,¹⁷⁹ these benefits must be judged against the costs of compliance. To date, relatively little empirical evidence exists on this latter question. Nonetheless, what evidence there is suggests that for firms subject to affirmative action regulations, the cost of hiring workers is at a minimum six percent greater than where such regulations do not apply.¹⁸⁰ Businesses in demographically less diverse regions and in service industries, where labor costs tend to drive business costs, are at a particular disadvantage. Moreover, for some time, evidence has indicated that self-employment via entrepreneurship has become a less viable option for black men and women.¹⁸¹ Lower rates of self-employment effectively reduce the options of

discrimination offered by Title VII of the Civil Rights Act of 1964. 42 U.S.C. §§ 2000e-2000e-17 (1988 & Supp. V 1993). It requires that all private sector federal contractors covered by Title VII take "affirmative action" to ensure employment equality. Affirmative action, despite its salutary intentions, functions as a labor market regulation. While some regulations are both desirable and effective, empirical evidence suggests that the costs imposed on employers may be so great that the net effect is to dampen employment creation and growth. See notes 175-77 and accompanying text.

179. Evidence of the expansion of employment opportunities for racial minorities and women has been demonstrated in part by Orley Ashenfelter & James Heckman, *Measuring the Effect of an Anti-Discrimination Program*, in *EVALUATING THE LABOR MARKET EFFECTS OF SOCIAL PROGRAMS* 46, 76-77 (Orley Ashenfelter & James Blum eds., 1976); Jonathan S. Leonard, *Employment and Occupational Advance under Affirmative Action*, 66 *REV. ECON. & STAT.* 377, 381-84 (1984); Jonathan S. Leonard, *The Impact of Affirmative Action on Employment*, 2 *J. LAB. ECON.* 439, 459 (1984); James P. Smith & Finis Welch, *Affirmative Action and Labor Markets*, 2 *J. LAB. ECON.* 269, 280-83 (1984).

180. Peter Griffin estimates that these costs range between six and seven percent of total production. Peter Griffin, *The Impact of Affirmative Action on Labor Demand: A Test of Some Implications of the Le Chatelier Principle*, 74 *REV. ECON. & STAT.* 251 (1992). More recently, estimates as high as 22% have been reported. Peter Griffin et al., *Occupational, Demographic, and Regional Patterns of Affirmative Action Compliance Costs* 13 (Feb. 24, 1994) (paper presented at the Western Regional Science Association meetings in Tucson, Ariz.) (on file with the *University of Michigan Journal of Law Reform*).

181. By 1980, black men could expect 34.3% lower annual earnings and black women, 45.0% lower annual earnings from self-employment than from payrolls. Franklin J. James & Thomas A. Clark, *Minority Business in Urban Economies*, 24 *URB. STUD.* 489, 494-95 (1987). Of course, the discrepancy may reflect in part increasing employment alternatives for minorities during this period. Indeed, the earnings differential of black men relative to white men narrowed substantially throughout the 1970s. *Id.* at 495.

minority poor seeking to follow a well-worn path out of personal or neighborhood poverty.

B. Educational Opportunity

One key to success in restructuring urban labor markets is education. Technological changes restructuring the demand for labor led to above-average wage increases for more educated workers during the 1980s.¹⁸² Indeed, the returns of education, especially a college degree, have never been greater. Evidence suggests that education may be a more powerful explanatory variable than race in accessing this new economy.¹⁸³ June O'Neill has reported that after controlling for educational attainment, math and language skills, and years of work experience, the gap in earnings between black men and white men is virtually eliminated.¹⁸⁴

Despite the rising importance of marketable skills and worker competencies in transforming urban labor markets, education reforms such as vouchers and related ways of expanding school choice for parents and entire communities still are viewed as threats by school bureaucracies. Yet, there needs to be new delivery systems devised by which to provide education and training. It is far from clear that the uncertain outcomes of a wholesale reformation of selected public school

182. See John Bound & George Johnson, *Changes in the Structure of Wages in the 1980's: An Evaluation of Alternative Explanations*, 82 AM. ECON. REV. 371, 389 (1992). According to Bound and Johnson, during 1979–1988 the wage gap between high school and college graduates widened for both men and women at all levels of work experience, but especially for young men with less than 10 years of work experience. *Id.* at 373; see also Kevin M. Murphy & Finis Welch, *Industrial Change and the Rising Importance of Skill*, in UNEVEN TIDES: RISING INEQUALITY IN AMERICA 101, 129 (Sheldon Danziger & Peter Gottschalk eds., 1993) (finding that “demand for college-trained employees has increased”); Kevin M. Murphy & Finis Welch, *The Structure of Wages*, 107 Q.J. ECON. 285, 287 (1992) (“By the late 1980s school-related wage differences are larger than in any of the earlier years.”). For an analysis of the increasing returns to education as a phenomenon across advanced industrial nations, see *Earnings Inequality: Changes in the 1980s*, EMPLOYMENT OUTLOOK (Organization for Economic Cooperation and Development, Paris, France), July 1993, at 157, 170–73.

183. June O'Neill, *The Role of Human Capital in Earnings Differences Between Black and White Men*, J. ECON. PERSP., Fall 1990, at 25, 25–45.

184. See *id.* at 42.

bureaucracies are really that much more of a gamble than the known outcomes of the current system.

C. Housing Quality, Affordability, and Homelessness

As is the case with urban poverty, discussions of housing frequently overlook the gains made concurrently with the urban development trends of the past half-century. During the 1980s, the physical quality of the nation's housing stock continued a pattern of long-term improvements, while overcrowding was reduced.¹⁸⁵ As local housing policy strategies and markets have eliminated much substandard housing,¹⁸⁶ and most Americans have improved their housing situation; homelessness may represent, at least in part, an unintended consequence of these efforts. Homelessness represents a condition maintained primarily by both rising affordability problems among the poor and widespread personal problems in the form of mental illness and substance abuse. The affordability issue stems more from low income (demand) than from federal housing programs (supply) that are widely believed to have been cut massively during the 1980s.¹⁸⁷

However, a broad variety of regulations including restrictions on location of low-cost housing, building restrictions, rent control, and even environmental regulations such as the Endangered Species Act¹⁸⁸ operate to drive up housing costs in urban areas. Similarly, exclusionary zoning, growth controls, excessive development fees, and restrictive subdivision controls represent special threats to affordable housing in suburbs and other affluent areas.¹⁸⁹ At a time when homelessness and related housing problems increasingly reflect demand-side concerns related to low incomes rather than supply problems, bureaucracy and red tape can add tens of thousands of dollars to the cost of building a home. For example, in 1989, the cost

185. See Richard Peiser et al., *Housing Markets and Patterns*, in REDISCOVERING URBAN AMERICA, *supra* note 15, at 5-1, 5-2 to 5-4.

186. "Physical quality has improved so much that the traditional measures of inadequate housing—such as units lacking complete plumbing or overcrowding—are increasingly irrelevant." *Id.* at 5-2.

187. See CHRISTOPHER JENCKS, *THE HOMELESS* 81-93 (1994).

188. ADVISORY COMMISSION ON REGULATORY BARRIERS TO AFFORDABLE HOUSING, U.S. DEPT OF HOUSING & URBAN DEVELOPMENT, "NOT IN MY BACK YARD": REMOVING BARRIERS TO AFFORDABLE HOUSING 3-5 to 3-9, 4-7 to 4-11 (1991).

189. *Id.* at 2-1 to 2-12.

of permits and approvals for a single family home in Orange County, California was estimated to be \$20,000.¹⁹⁰

*D. Dual Illegitimacies: Welfare
and Immigration Policies*

Ultimately, the redistribution of population to suburbs and beyond may not be as consequential for distressed urban communities as shifts in the influx of people into the communities in the first place. There are two distinct domains where the net effect of current policies actually may work to aggravate poverty and distress in our urban areas and overburden the abilities of these areas to deal with their problems: (1) illegitimacy through birth and (2) illegitimacy through immigration. The resulting burden of these dual illegitimacies may well disrupt the adaptive capacities of entire communities. These two sources pose special problems, and both involve the stigma of illegitimacy.

The first kind of illegitimacy involves people who are brought into the population by unwed parents. Although many nontraditional family forms can and do demonstrate the remarkable flexibility of the very notion of family, this sociological diversity often camouflages economic marginality. This is nowhere truer than when households are composed of young, generally poor, uneducated, unwed women with children. While widely regarded as a minority issue, in fact, this issue is of growing concern across all demographic groups in the nation today.¹⁹¹ An estimated 30% of all children born in the United States are born to single women, up from only 5.3% in 1960. Meanwhile, one child in seven (12.9% in 1991) is supported by Aid to Families with Dependent Children (AFDC), up from only 3.5%

190. *Id.* at 2-12.

191. The preoccupation with the ominous increase in minority children being born out of wedlock has virtually obscured the features of the rest of the black community. "Middle-class blacks have stable husband-wife unions, very low fertility, and probably the lowest rate of illegitimacy of any major group in America." William Alonso, *The Connectedness and the Limits of Demography*, BUS. CONTEMP. WORLD, Winter 1991, at 29, 32. Beneath the surface of rising numbers of black children being born out of wedlock are actual declines in black fertility rates generally. "The birth rates of unmarried black women have actually declined by 13% since 1970, but because married black women's childbearing rates have dropped much more sharply, by 38%, statistics show an increase in the proportion of total births out of wedlock." Stephanie T. Coontz, *Pro-Family but Divorced from the Facts*, WALL ST. J., Aug. 9, 1989, at A10.

in 1960.¹⁹² Hill and O'Neill have reported a strong positive effect of increases in the value of AFDC and Food Stamp benefits on the number of illegitimate births while controlling for a variety of personal, income and education, and contextual, urban and neighborhood, circumstances.¹⁹³ Yet, even leaving the issue of illegitimacy aside for the moment, the child poverty rate has risen sharply during the past quarter century among all family types. Indeed, the larger the number of children in a family, the higher the child poverty rate, controlling for race and family structure.¹⁹⁴

There has been much moral speculation that children being born out of wedlock represents a fraying of the cultural forces critical to social and economic order. While there may be some truth to that position, it need not be the motivating factor here.

Legitimacy is nothing more nor less than the orderly transfer of social meaning across the generations. . . . [C]hildren are the ultimate illegal aliens. They are undocumented immigrants to our world, who must be socialized and invested with identity, a culture and an estate. By conferring legitimacy marriage keeps this process from becoming chaos.¹⁹⁵

More practically, while the major source of poverty is low wages, a major reason why poverty for some is permanent and even intergenerational relates to the fact that many families are formed in ways that render them irrelevant to the economy around them. The circularity of this process is evident in studies that report that the longer a black man resides in a poor neighborhood, the lower his chances of finding a job, and the higher the likelihood that a black woman will bear children out of wedlock.¹⁹⁶ Yet, the surge of unwed pregnancy among those least able to rebound from its consequences poses a major

192. WILLIAM J. BENNETT, *THE INDEX OF LEADING CULTURAL INDICATORS 6* (Heritage Found. & Empower America eds., 1993).

193. See M. ANNE HILL & JUNE O'NEILL, *UNDERCLASS BEHAVIORS IN THE UNITED STATES: MEASUREMENT AND ANALYSIS OF DETERMINANTS* (1993).

194. Peter Gottschalk & Sheldon Danziger, *Family Structure, Family Size, and Family Income: Accounting for Changes in the Economic Well-Being of Children, 1968-1986*, in *UNEVEN TIDES: RISING INEQUALITY IN AMERICA*, *supra* note 182, at 167, 176.

195. David W. Murray, *Poor Suffering Bastards: An Anthropologist Looks at Illegitimacy*, *POL'Y REV.*, Spring 1994, at 9, 10.

196. Massey et al., *supra* note 31, at 416-17.

threat to the larger capacity of urban neighborhoods to serve as staging areas for families to rise out of poverty.

Of course, while many households are weakened economically by the misfortunes of divorce or death, many others are the byproduct of a welfare dependency that has been eroding the adaptive capacity of both the nuclear and extended family as well as the larger community.¹⁹⁷ Unwittingly, we have created a welfare system that produces problem families faster than poor neighborhoods can absorb them and in forms that mightily constrain their options for rising out of poverty. By artificially decreasing the social price of illegitimacy, we have purchased more of it. And in the process, we have reduced the attractiveness or accessibility of stable marriages and steady employment as routes out of poverty.¹⁹⁸ While the causal sequences among these factors are doubtless complex, available evidence suggests that the welfare dependency so highly associated with illegitimate births among unwed young women reduces the attractiveness of both marriage and employment. Hill and O'Neill report that increases in the value of welfare benefits reduce the labor force participation of young males in a community, thereby making them less attractive potential marriage partners. This finding appears consistent with those indicating a strong anti-work effect across comparison groups in the Seattle/Denver Income Maintenance Experiments (SIME/DIME) conducted by the Office of Economic Opportunity during the 1971–1978 period.¹⁹⁹

A second kind of illegitimacy placing a heavy burden on many of our largest urban areas is related to the influx of immigrants. During the 1980s alone, an estimated 9.9 million legal immigrants settled in the United States along with two million undocumented ones, bringing the foreign-born population residing in the United States to a level one-third (thirty-

197. For a well-documented summary of the impacts of illegitimacy on health, physical well-being, emotional development, education, behavior of illegitimate children, as well as community related impacts, including crime and welfare, see Patrick F. Fagan, *Rising Illegitimacy: America's Social Catastrophe*, F.Y.I. (Heritage Found., Washington, D.C.), June 29, 1994, at 1, 1–10.

198. "[P]oor people are to a large degree created by low wages. . . . [However,] welfare does appear to discourage employment to a limited extent, and acts especially to encourage the formation of female-headed families." Eggers & Massey, *Structural Determinants*, *supra* note 38, at 250–51.

199. Results reported in Gregory B. Christiansen & Walter E. Williams, *Welfare, Family Cohesiveness, and Out-of-Wedlock Births*, in *THE AMERICAN FAMILY AND THE STATE* 381, 398 (Joseph R. Peden & Fred R. Glahe eds., 1986).

four percent) higher than 1980.²⁰⁰ Moreover, foreign immigration accounted for nearly forty percent of the growth in the nation's total population in the 1980s while accounting for only twenty-five percent in the growth of the labor market.²⁰¹ The composition of recent immigrant waves has been changing as well.²⁰² While the share of foreign immigrants possessing advanced educational credentials rose during the 1980s, an estimated one-quarter of workers in the United States with less than a high school education are foreign immigrants. As a result, rising shares of foreign immigrants have become mired in urban poverty.

Despite cogent arguments to the contrary,²⁰³ rising levels of foreign immigration during the decade have come to be associated with rising fiscal and social burdens on the economy at-large.²⁰⁴ Efforts to assimilate the influx of foreign-born immigrants during the 1980s were accompanied by diverse patterns of impacts. In those metropolitan areas in which post-1980 foreign-born arrivals comprised a relatively large portion of total population growth—akin to a heavy “dose” of foreign immigration—economic growth was relatively rapid. The proper causal relationship is not certain here, however, because new immigrants could well have been drawn selectively to a few of the nation's fastest-growing metropolitan areas during the decade. At the same time, however, these heavy “doses” of foreign immigration across metropolitan areas were associated with dampened real income and wage growth as well as relatively slow shifts to higher-productivity industrial mixes. These patterns lend credence to the view that major urban centers may well be paying a steep price for having to assimilate

200. *A Sourcebook for the Immigration Debate*, URB. INST. POLY & RES. REP., Summer 1994, at 20, 20 (discussing a report by Michael Fix and Jeffrey Passel).

201. See George J. Borjas, *Immigration*, in *THE FORTUNE ENCYCLOPEDIA OF ECONOMICS* 484, 484 (David R. Henderson ed., 1993).

202. For a discussion of the overall deterioration in the skill level of immigrants, see GEORGE J. BORJAS, *FRIENDS OR STRANGERS: THE IMPACT OF IMMIGRANTS ON THE U.S. ECONOMY* 142–49, 218–28 (1990).

203. *A Sourcebook for the Immigration Debate*, *supra* note 200, at 21; JULIAN L. SIMON, *THE ECONOMIC CONSEQUENCES OF IMMIGRATION* (1989).

204. See *Immigrants and Welfare*, URB. INST. POLY & RES. REP., Fall 1993, at 7, 7–8 (summarizing research by Michael Fix and Jeffrey Passel concluding that the economic and social welfare costs associated with immigration are overstated); George J. Borjas & Marta Tienda, *The Economic Consequences of Immigration* 21 (July 1986) (unpublished manuscript prepared for the Institute on Research on Poverty, Discussion Paper No. 816–86, on file with the *University of Michigan Journal of Law Reform*) (concluding that although immigration has increased, “there is no basis for concluding that it has exceeded the growth rate or absorptive capacity of the U.S. labor force”).

late relatively large numbers of recent arrivals even during a period of relatively rapid national economic expansion.²⁰⁵

While the sheer volume and changing composition of recent immigration flows may impede their eventual integration into rapidly-transforming urban economies, part of the special burden of illegal immigration is that rising shares of foreign immigrants have become mired in poverty.²⁰⁶ According to United States Census data, the 1990 poverty rate of post-1980 arrivals was twenty-three percent, up from only eleven percent in 1980.²⁰⁷ For the most part, only a relatively few urban areas across the nation have had to accommodate the bulk of these new arrivals. Six states were the destinations for over fifty percent of the immigrants during the 1980s, and California alone was the destination of fully one-third of them.²⁰⁸ The local impacts have been especially significant. For example, while more than one-third of the 1980 population of the Miami-Fort Lauderdale region were immigrants from abroad, during the 1980s new arrivals from foreign countries accounted for an increment equal to fully 17.5% of the size of the region's 1980 population base.²⁰⁹ Questions can be raised concerning the capacities of these receiving areas to assimilate growing cultural diversity, to educate school-age children who share little cultural or linguistic common ground, and to offer employment opportunities to new arrivals.²¹⁰

CONCLUSION

There is a pervasive sentiment that our cities are beset by such interdependent crises that saving them will require a renewed commitment to a national urban policy. Central to

205. Donald A. Hicks & Steven R. Nivin, *Technology-Related Capital Investment and Regional Economic Performance* 30-31 (Dec. 30, 1994) (unpublished manuscript, on file with the *University of Michigan Journal of Law Reform*).

206. Michael J. Mandel, *America's Newest Immigrants are Poorer—But Smarter*, *BUS. WK.*, Oct. 11, 1993, at 26.

207. *Id.*

208. See *A Sourcebook for the Immigration Debate*, *supra* note 200, at 21. While this represents the highest immigration level for any decade since the 1901-1910 period, the immigration experienced in this century's first decade constituted a far larger relative addition to the nation's population. See Borjas, *supra* note 201, at 485.

209. See Hicks & Nivin, *supra* note 205, at 42.

210. *Id.* at 30-31.

this vision is that our cities, especially our central cities, are failing not only because of what, and who, have been leaving them but also because of what, and who, have been left behind.

This Article has sought to redirect this sentiment. A reinvigorated national urban policy effort that attempts to fix our cities so they work like they have previously misses the point. Picking up where we left off in the late 1970s would be counterproductive at best. The implementation of development-oriented national urban policies is neither wise nor even possible. Implementing policies aimed at expanding opportunity and achieving the broadest possible wealth, health, and welfare gains by attempting to ensure that any gains be delivered through the geospatial and settlement arrangements of a bygone era is ill-advised.

The economy of this nation and its ties to each of us have been transformed dramatically in recent decades. Not surprisingly, many of the accompaniments of these changes have unorganized political or cultural constituencies and therefore continue to invite considerable skepticism, if not undiluted hostility. It would be unwise to assume that this latest chapter in a centuries-long, industrial-era story has somehow caused us to overshoot a golden age of urban America that we are now leaving behind at our peril.

Because urban areas concentrate people and their activities, those circumstances which trouble us most—poverty, illiteracy, unemployment, crime, and intergroup tensions—command a heightened visibility. As a result, observers often equate cities with these problems in a causal sense. This is especially ironic since urban areas around the world have been precisely the instruments by which health, wealth, and welfare levels are improved over time.

Today, as we first measure the performance of the nation's economy and the broad social gains we have come to expect, we encounter thousands of urban areas organized into, or neighboring, hundreds of metropolitan areas. Only later in our analyses do we begin to see the outlines of a larger coherent urban system. The emergence of this sprawling urban economy, and its ascendance as the core of our contribution to a global-scale economy, represents a series of ceaseless structural adjustments.

There is abundant evidence that local economies, like people, can and do face adversity and rebound from it. This capacity should be strengthened and reinforced. Our nation's densest

settlements will remain the sites of difficult adjustments to be sure. This is true, however, in large part because the opportunities offered by transforming new industrial cities are often irrelevant and inaccessible to legions of inner-city poor. The more troublesome gulfs defining the nation's new economic geography are defined less by urban-rural, city-suburb, North-South distinctions, and more by the barriers that divide those who do and those who do not have access to these new emerging economic arrangements.

It also is increasingly apparent that many of these problems are clustered around individual and institutional deficits, such as economically fragile and vulnerable single-parent households; insufficient educational or occupational skills to negotiate rapidly changing labor markets; and often inappropriate behaviors and values of the kind that relate to the absence of solid community role models, the relative attractiveness of illegal activities, and little experience with the world of work. These make it difficult for cities and neighborhoods to function. That is, characteristics of *people* diminish the capacity of *places* to perform the economic upgrading function they have in the past. In order for cities to work for people in the face of these multiple afflictions, we must devise policies that begin to eliminate these afflictions. A national urban policy which focuses on how cities perform cannot do the work of policies focusing on reintegrating people into the world of work and raising the costs of discrimination, illegitimacy and welfare dependency so that ultimately, we may reduce them. Most of these circumstances lie well beyond the direct reach of any conceivable national urban policy in which the guiding vision is the need somehow to "fix" our cities.

There is enough evidence to suggest that people can and routinely do escape poverty-stricken neighborhoods to encourage us to look beyond the simple mechanism of geographic concentration alone when trying to explain persistent ghetto poverty. What we invariably see is that the handholds available for use in their rise out of poverty include interlocking networks of local institutions radiating outward from the nuclear family. Regrettably, however, a phalanx of poverty policies and cultural worldviews unleashed in the 1960s has had the tragic and unintended effect of systematically debilitating many of those institutional resources that have served

poor people in the past.²¹¹ Not the least of these effects has been the diminishment of the moral authority of these institutions in the face of material obstacles.

And so while the economic structures of our urban economies have been transformed substantially during the past four decades, the structures of families and households, schools, and neighborhood communities have been altered even faster. Even though the poverty-pooling function is a time honored role of cities, in recent decades we have witnessed—and even encouraged through public subsidy—the creation and expansion of populations on whom poverty's grip is far more than material. In effect, many of the problems pooled in inner-city areas—and increasingly beyond—today are those of our own making. We have pursued a variety of social policy, legislative, and cultural recipes that have often inadvertently victimized those we have sought to help. This has left us with a calcified underclass, much of which is inassimilable. And so, much of the urban poverty that today would energize a return to some form of a national urban policy reflects far more a form of economic and social "indigestion" than the deterioration of cities per se.

Nearly all of the best features of our nation's urban system today are the consequence of a free and open economy with appropriate legal and regulatory safeguards enforced by government. The federal policy stance offering the greatest possible prospects for distressed communities is one which places the greatest emphasis on sound fiscal and monetary policies, effective enforcement of civil rights legislation, increased educational expectations and performance, the expansion of mobility options, and a general cessation of subsidizing behaviors among the most vulnerable that hinder their reattachment to the larger society and economy.

A new era of legal reform must acknowledge the nation's larger urban system as more than a collection of discrete places. It must recognize that policy responses to changing internal and external circumstances cannot be viewed in isolation from one another, and it must free itself from the impulse to define problems in cities as problems *of* cities. This broader view requires conveying a sense of appreciation of the prospects for continuous adjustment and spontaneous order. The role of legal reforms can be promising to the extent that

211. For a recent expression of this perspective, see MYRON MAGNET, *THE DREAM AND THE NIGHTMARE: THE SIXTIES' LEGACY TO THE UNDERCLASS* (1993).

they work to reduce the barriers to full social and economic participation facing many people in our society. In order to reduce these barriers, we need to recognize the diversity present across inner cities as well as within the ranks of the urban poor. Some can be—and routinely are—rescued from episodic poverty through an expanding economy as well as through their own educational and entrepreneurial efforts to escape their circumstances. For them, rigorous enforcement of civil rights legislation, functioning criminal justice and educational systems, and a thinning out of the regulatory underbrush that clogs urban economies outweigh more city-oriented initiatives.

For those others for whom poverty is more endemic and even intergenerational, other kinds of policy responses are likely to be more productive. They include fundamental welfare reform which reinforces the links between work and rewards and ceases subsidizing child and partner abandonment among young males and childbearing among young females. Such reforms should be guided by compassion born of an honest reassessment of the welfare statecraft practiced during the last three decades rather than a niggardliness born of frustration. This means that those programs that promote reentry into the labor force, family stability, and experimentation with educational and health care delivery systems should have benefits increased, while those that promote childbearing among unwed teens, school dropouts, and inactivity rather than work should have benefits reduced or eliminated. Ultimately, it means that leaving ghettos—physically, psychically, or both—be accorded equal value. After all, we should have learned by now that the “urban” dimension of the world in which we live is ever in flux, and settlement form and function are ever in transit. Legislation is best—new or reformed—which reduces obstacles for those who might otherwise have difficulty making the transit along with others. Once these things are recognized, one-size-fits-all urban policy responses orchestrated by the federal government begin to appear less intellectually or morally compelling.

